

By: Representative Moody

To: Conservation and Water Resources

HOUSE BILL NO. 573
(As Sent to Governor)

1 AN ACT TO REVISE THE "MISSISSIPPI SURFACE MINING AND
2 RECLAMATION LAW"; TO AMEND SECTION 53-7-5, MISSISSIPPI CODE OF
3 1972, TO DEFINE CERTAIN TERMS; TO AMEND SECTION 53-7-7,
4 MISSISSIPPI CODE OF 1972, TO REQUIRE A PERMIT BEFORE BEGINNING A
5 SURFACE MINING OPERATION AND TO CLARIFY EXEMPTIONS FROM THIS ACT;
6 TO AMEND SECTION 53-7-21, MISSISSIPPI CODE OF 1972, TO TRANSFER
7 PERMIT DUTIES TO THE PERMIT BOARD; TO AMEND SECTION 53-7-23,
8 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ISSUANCE OF A GENERAL
9 PERMIT AND TO ELIMINATE TEMPORARY PERMITS; TO REVISE SURFACE
10 MINING ADMINISTRATIVE PROCEDURES CONSISTENT WITH THE DEPARTMENT OF
11 ENVIRONMENTAL QUALITY ADMINISTRATIVE PROCEDURES; TO REQUIRE
12 COMPLIANCE WITH THE MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW; TO
13 CONFORM THE SURFACE MINING LAW TO REORGANIZATION NOMENCLATURE; TO
14 PROHIBIT MINING IN LOCATIONS UNDER CERTAIN CIRCUMSTANCES; TO
15 REVISE PENALTIES FOR VIOLATIONS; TO AMEND SECTIONS 53-7-1, 53-7-3,
16 53-7-9, 53-7-11, 53-7-17, 53-7-19, 53-7-25, 53-7-27, 53-7-29,
17 53-7-31, 53-7-35 THROUGH 53-7-71 AND 53-7-75, MISSISSIPPI CODE OF
18 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 53-7-13,
19 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE BOARD OF THE
20 GEOLOGICAL, ECONOMIC AND TOPOGRAPHICAL SURVEY TO ESTABLISH
21 REGULATIONS ON SURFACE MINING; TO REPEAL SECTION 53-7-15,
22 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE BOARD OF THE
23 GEOLOGICAL, ECONOMIC AND TOPOGRAPHICAL SURVEY TO HOLD CERTAIN
24 HEARINGS; TO REPEAL SECTION 53-7-33, MISSISSIPPI CODE OF 1972,
25 WHICH REQUIRES SOIL AND WATER CONSERVATION COMMISSIONERS TO SUBMIT
26 WRITTEN RECOMMENDATIONS ON RECLAMATION PLANS AFFECTING THEIR
27 DISTRICTS; TO REPEAL SECTION 53-7-73, MISSISSIPPI CODE OF 1972,
28 WHICH PROVIDES A TEMPORARY SUSPENSION FOR AN OPERATOR TO SUSPEND
29 MINING OPERATIONS FOR TWO YEARS AND TO RESUME OPERATIONS AFTER
30 GIVING NOTICE; AND FOR RELATED PURPOSES.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

32 **SECTION 1.** Section 53-7-1, Mississippi Code of 1972, is
33 amended as follows:

34 53-7-1. This chapter shall be known and may be cited as the
35 "Mississippi Surface Mining and Reclamation Act."

36 **SECTION 2.** Section 53-7-3, Mississippi Code of 1972, is
37 amended as follows:

38 53-7-3. (1) The Legislature of the State of Mississippi
39 finds and declares that:



40 (a) Mississippi is endowed with abundant varied natural
41 resources which serve as a source of recreation and economic
42 benefit to our people;

43 (b) The extraction of materials by surface mining is a
44 significant economic activity and is an integral part of the
45 growth and development of this state;

46 (c) The process of surface mining necessarily involves
47 the alteration * * * of the face of the land;

48 (d) The process of surface mining must be accomplished
49 in a manner to reduce the undesirable effects of surface mining to
50 a bare minimum, and to protect and preserve our land which is one
51 of our greatest natural resources; and

52 (e) The land whose face has been altered by surface
53 mining requires reclamation to prevent permanent damage to surface
54 water and the land so that it may be used by future generations,
55 to protect the safety and welfare of Mississippians, and to
56 preserve available natural resources.

57 (2) The Legislature, recognizing its duty and obligation to
58 foster the economic well-being of the state and nation, to
59 encourage the development of its natural resources and to preserve
60 the beauty of its lands, declares that the purpose of this chapter
61 is to:

62 (a) Provide for the regulation and control of surface
63 mining so as to minimize its injurious effects by requiring proper
64 reclamation of surface-mined lands;

65 (b) Establish a regulatory system of permits and
66 reclamation standards, supplemented by the knowledge, expertise
67 and concerns of mining operators, landowners and the general
68 public which is designed to achieve an acceptable, workable
69 balance between the economic necessities of developing our natural
70 resources and the public interest in protecting our birthright of
71 natural beauty and a pristine environment; and



72 (c) Establish a regulatory system of uniform standards
73 and procedures to govern the mining and reclamation of land,
74 accepting the proposition that varied types of mining, varied
75 types of materials being mined and varied geographical and
76 ecological areas of this state may require variations in methods
77 of surface mining and reclamation, but any variation shall be
78 designed to restore the affected area to a useful, productive and
79 beneficial purpose.

80 **SECTION 3.** Section 53-7-5, Mississippi Code of 1972, is
81 amended as follows:

82 53-7-5. For the purposes of this chapter, the following
83 terms shall have the meanings * * * ascribed in this section,
84 except where the context * * * otherwise requires:

85 (a) "Affected area" means any area * * * from which any
86 materials are removed or are to be removed in a surface mining
87 operation and upon which any materials are to be deposited. The
88 affected area includes all areas affected by the construction of
89 new roads, or the improvement or use of existing roads other than
90 public roads to gain access and to haul materials.

91 (b) "Appeal" means an appeal to an appropriate court of
92 the state taken from a final decision of the Permit Board or
93 commission made after a formal hearing before that body.

94 (c) "As recorded in the minutes of the Permit Board"
95 means the date of the Permit Board meeting at which the action
96 concerned is taken by the Permit Board.

97 (d) "Commission" means the Mississippi Commission on
98 Environmental Quality.

99 (e) "Department" means the Mississippi Department of
100 Environmental Quality, acting through the Office of Geology and
101 Energy Resources or a successor office.

102 (f) "Executive director" means the Executive Director
103 of the Mississippi Department of Environmental Quality.



104 (g) "Exploration activity" means the disturbance of the
105 surface or subsurface for the purpose of determining the location,
106 quantity or quality of a deposit of any material, except the
107 drilling of test holes or core holes of twelve (12) inches or less
108 in diameter.

109 (h) "Formal hearing" means a hearing on the record, as
110 recorded and transcribed by a court reporter, before the
111 commission or Permit Board where all parties to the hearing are
112 allowed to present witnesses, cross-examine witnesses and present
113 evidence for inclusion into the record, as appropriate under rules
114 promulgated by the commission or Permit Board.

115 (i) "Fund" means the Surface Mining and Reclamation
116 Fund created by Section 53-7-69.

117 (j) "General permit" means general permit as defined in
118 Section 49-17-5.

119 (k) "Highwall" means a wall created by * * * mining
120 having a slope steeper than two (2) to one (1).

121 (l) "Interested party" means interested party as
122 provided under Section 49-17-29.

123 (m) "Material" means bentonite, metallic ore, mineral
124 clay, dolomite, phosphate, sand, gravel, soil, clay, sand clay,
125 clay gravel, stone, chalk, and any other materials * * *
126 designated by the commission * * *.

127 (n) "Nearest approximate original contour" means that
128 surface configuration achieved by backfilling and grading of the
129 surface-mined area so that it substantially resembles the surface
130 configuration of the land before mining and blends into and
131 complements the drainage pattern of the surrounding terrain, with
132 all highwalls, spoil piles and water-collecting depressions
133 eliminated, to the extent practicable, unless contained in an
134 approved reclamation plan.

135 (o) "Operator" means the person * * * that is to engage
136 or that is engaged in a surface mining operation, whether on a



137 permanent, continuous basis, or for a limited period of time and
138 for a specific or ancillary purpose, including any person whose
139 permit or coverage under a general permit has expired or been
140 suspended or revoked.

141 (p) "Overburden" means all * * * materials which are
142 removed to gain access to other materials in the process of
143 surface mining, including the material before or after its removal
144 by surface mining.

145 (q) "Permit" means a permit to conduct surface mining
146 and reclamation operations under this chapter.

147 (r) "Permit area" means all the area designated * * *
148 in the permit application or application for coverage under a
149 general permit and shall include all land affected by the surface
150 mining operations during the term of the permit and may include
151 any contiguous area which the operator proposes to surface mine
152 thereafter.

153 (s) "Permit Board" means the Permit Board created by
154 Section 49-17-28.

155 (t) "Person" means any individual, trust, firm,
156 joint-stock company, public or private corporation, joint venture,
157 partnership, association, cooperative, state, or any agency or
158 institution thereof, municipality, commission, political
159 subdivision of a state or any interstate body, and includes any
160 officer or governing or managing body of any municipality,
161 political subdivision, or the United States or any officer or
162 employee of the United States.

163 (u) "Public hearing" means a public forum organized by
164 the commission, department or Permit Board for the purpose of
165 providing information to the public regarding a surface mining and
166 reclamation operation and at which members of the public are
167 allowed to make comments or ask questions or both of the
168 commission, department or the Permit Board regarding a proposed
169 operation or permit.



170 (v) "Reclamation" means work necessary to restore an
171 area of land affected by surface mining to a useful, productive
172 and beneficial purpose, the entire process being designed to
173 restore the land to a useful, productive and beneficial purpose,
174 suitable and amenable to surrounding land and consistent with
175 local environmental conditions in accordance with the standards
176 set forth in * * * this chapter.

177 (w) "State" means the State of Mississippi.

178 (x) "Spoil pile" means the overburden and other mined
179 waste material as it is piled or deposited in the process of
180 surface mining.

181 (y) "Surface mining" or "mining" means the extraction
182 of materials from the ground or water or from waste or stock piles
183 or from pits or banks or natural occurrences by methods including,
184 but not limited to, strip drift, open pit, contour or auger
185 mining, dredging, placering, quarrying and leaching, and
186 activities related thereto, which will * * * alter the
187 surface * * *.

188 (z) "Surface mining operation" or "operation" means the
189 activities conducted at a mining site, including extraction,
190 storage, processing and shipping of materials and reclamation of
191 the affected area. This term does not include the following: the
192 dredging and removal of oyster shells from navigable bodies of
193 water; the dredging and removal of any materials from the bed of
194 navigable streams, when the activity is regulated and permitted
195 under an individual permit by the United States Corps of
196 Engineers; the extraction of hydrocarbons in a liquid or gaseous
197 state by means of wells, pipe, or other on-site methods * * *; the
198 off-site transportation of materials; exploration activities;
199 construction activities at a construction site; or any other
200 exception adopted by the commission in its regulations.

201 (aa) "Topsoil" means the organic or inorganic matter
202 naturally present on the surface of the earth which has been



203 subjected to and influenced by genetic and environmental factors
204 of parent material, climate, macroorganisms and microorganisms,
205 and topography, all acting over a period of time, and that is
206 necessary for the growth and regeneration of vegetation on the
207 surface of the earth. * * *

208 (bb) "Toxic material" means any substance present in
209 sufficient concentration or amount to cause significant injury or
210 illness to plant, animal, aquatic or human life.

211 **SECTION 4.** Section 53-7-7, Mississippi Code of 1972, is
212 amended as follows:

213 53-7-7. (1) Except as provided in this section, it is
214 unlawful to commence an operation or operate a surface mine
215 without a permit or coverage under a general permit as provided by
216 this chapter.

217 (2) Except as expressly provided in this section, this
218 chapter shall not apply to:

219 (a) Excavations made by the owner of land for the
220 owner's own use and not for commercial purposes, where the
221 materials removed do not exceed one thousand (1,000) cubic yards
222 per year and where one (1) acre or less of land is affected;

223 (b) Excavations made by a public agency on a one-time
224 basis for emergency use at an emergency site if:

225 (i) The excavation lies in the vicinity of the
226 emergency site and affects less than one-fourth (1/4) acre of
227 mined surface area;

228 (ii) The landowner has signed a statement giving
229 approval for the removal of the materials; and

230 (iii) The public agency notifies the department as
231 required by the commission within two (2) working days of the
232 removal of the materials.

233 (c) Operations for any materials on any affected area
234 conducted before April 15, 1978, but this chapter shall apply to



235 any additional land which the operation extended to or encompassed
236 after April 15, 1978;

237 (d) Operations for any materials that affected four (4)
238 acres or less and were greater than one thousand three hundred
239 twenty (1,320) feet from any other affected area if:

240 (i) The operation began before July 1, 2002; and

241 (ii) The operator notified the commission of the
242 commencement, expansion or resumption of the operation before July
243 1, 2002; and

244 (e) Operations for any materials that affect four (4)
245 acres or less, are greater than one thousand three hundred twenty
246 (1,320) feet from any other affected area and commenced after July
247 1, 2002, if the operator notifies the department at least seven
248 (7) calendar days before commencement or expansion of the
249 operation as required in regulations adopted by the commission.
250 The seven-day notice prior to mining requirement shall be waived
251 and the operator may begin mining immediately after notifying the
252 department if:

253 (i) The operator agrees, in the notification, to
254 reclaim the mine site in accordance with the minimum standards
255 adopted by the commission; or

256 (ii) The exempted operation is conducted for
257 Mississippi Department of Transportation projects or state aid
258 road construction projects funded in whole or in part by public
259 funds.

260 (3) Exempt operations under paragraph (e) that are conducted
261 for the MDOT projects or state aid road construction projects
262 shall be reclaimed in accordance with the requirements of the
263 Mississippi Standard Specifications for Road and Bridge
264 Construction, Mississippi Department of Transportation or Division
265 of State Aid Road Construction, as applicable. Any operator
266 failing to reclaim as required under this subsection may be
267 subject to the penalties provided in Section 53-7-59(2).



268 (4) If a landowner refuses to allow the operator to complete
269 reclamation in accordance with minimum standards or interferes
270 with or authorizes a third party to disturb or interfere with
271 reclamation in accordance with minimum standards, the landowner
272 shall assume the exempt notice and shall be responsible for any
273 reclamation.

274 (5) All operations exempted under Sections 53-7-7(2)(d) and
275 53-7-7(2)(e) shall be subject to the prohibitions on mining in
276 certain areas contained in Sections 53-7-49 and 53-7-51 and may be
277 subject to the penalties in Section 53-7-59(2) for any violation
278 of those sections.

279 (6) Any operator conducting operations exempted under
280 Section 53-7-7(2)(b) or 53-7-7(2)(e) failing to notify the
281 department in accordance with the regulations of the commission,
282 may be subject to penalties provided in Section 53-7-59(2). Any
283 operator exempted under Section 53-7-7(2)(e) who agrees in the
284 notification to reclaim and fails to reclaim in accordance with
285 that paragraph may be subject to penalties provided in Section
286 53-7-59(2).

287 **SECTION 5.** Section 53-7-9, Mississippi Code of 1972, is
288 amended as follows:

289 53-7-9. The department is designated as the agency to
290 administer this chapter. The commission is designated as the body
291 to enforce this chapter, including, but not limited to, the
292 issuance of administrative and penalty orders, promulgation of
293 regulations regarding matters addressed in this chapter, and
294 designation of lands unsuitable for surface mining. The Permit
295 Board is designated as the body to issue, deny, modify, revoke,
296 transfer, cancel, rescind, suspend and reissue permits under this
297 chapter.

298 **SECTION 6.** Section 53-7-11, Mississippi Code of 1972, is
299 amended as follows:



300 53-7-11. (1) * * * The commission may adopt, modify,
301 repeal, after due notice and hearing, and where not otherwise
302 prohibited by federal or state law, make exceptions to and grant
303 exemptions and variances from and may enforce rules and
304 regulations pertaining to surface mining and reclamation
305 operations to implement the provisions of this chapter.

306 (2) * * * Adopting * * * rules and regulations, the
307 commission shall comply with the Mississippi Administrative
308 Procedures Law, and in addition, may hold a public hearing.
309 Notice of the date, time, place and purpose of the hearing shall
310 be given thirty (30) days before the scheduled date of the hearing
311 as follows:

312 (a) By mail to:

313 (i) All operators known by the commission to be
314 actively engaged in surface mining in the state;

315 (ii) * * * Persons who request notification
316 of * * * proposed actions regarding rules and regulations and any
317 other person the commission deems appropriate; and

318 (iii) * * * The Mississippi Soil and Water
319 Conservation Commission, the Mississippi Department of
320 Environmental Quality, Mississippi Department of Wildlife,
321 Fisheries and Parks, Mississippi Forestry Commission, * * *
322 Mississippi Department of Archives and History, Mississippi
323 Department of Transportation and the Mississippi Department of
324 Agriculture and Commerce.

325 (b) * * * By publication once weekly for three (3)
326 consecutive weeks in a newspaper having general circulation in the
327 State of Mississippi.

328 (3) Any person may submit written comments or * * * appear
329 and offer oral comments at the public hearing. The commission
330 shall consider all comments and relevant data presented at the
331 hearing before final adoption of rules and regulations under this
332 chapter. The failure of any person to submit comments within a



333 time period as established by the commission shall not preclude
334 action by the commission.

335 **SECTION 7.** Section 53-7-17, Mississippi Code of 1972, is
336 amended as follows:

337 53-7-17. Upon the passage of any federal surface mining
338 legislation, the commission shall take steps necessary to
339 establish the exclusive jurisdiction of the commission over the
340 regulation of surface mining and reclamation operations in this
341 state.

342 **SECTION 8.** Section 53-7-19, Mississippi Code of 1972, is
343 amended as follows:

344 53-7-19. The commission shall have the following powers and
345 duties regarding surface mining:

346 (a) To develop a statewide, comprehensive policy * * *
347 for the regulation of surface mining and reclamation consistent
348 with * * * this chapter;

349 (b) To hold public and formal hearings, to issue
350 notices of hearing, to administer oaths or affirmations, to issue
351 subpoenas requiring the appearance of witnesses requested by any
352 party and compel their attendance, * * * and to require production
353 of any books, papers, correspondence, memoranda, agreements or
354 other documents or records that are relevant or material to the
355 administration of this chapter and to take testimony as deemed
356 necessary;

357 * * *

358 (c) To issue, modify or revoke orders requiring an
359 operator to take any actions * * * necessary to comply with this
360 chapter, rules and regulations adopted under this chapter or any
361 permit or coverage under a general permit required by this
362 chapter;

363 * * *

364 (d) To enter on and inspect for the purpose of assuring
365 compliance with the terms of this chapter, in person or by an



366 authorized agent of the department, any surface mining
367 operation * * * subject to * * * this chapter;

368 (e) To conduct, or cause to be conducted, encourage,
369 request and participate in studies, surveys, investigations,
370 research, experiments, training and demonstrations by contract,
371 grant or otherwise; to prepare and require permittees to prepare
372 reports; and to collect information and disseminate to the
373 public * * * information such as is deemed reasonable and
374 necessary for the proper enforcement of this chapter;

375 (f) To apply for, receive and expend any grants, gifts,
376 loans or other funds made available from any source for the
377 purpose of this chapter * * *;

378 (g) To advise, consult, cooperate with, or enter into
379 contracts or grants with federal, state and local boards and
380 agencies having pertinent expertise for the purpose of obtaining
381 professional and technical services necessary to carry out * * *
382 this chapter;

383 (h) To enter into contracts with persons to reclaim
384 land under this chapter;

385 * * *

386 (i) To order the immediate cessation of any ongoing
387 surface mining operation being conducted with or without a permit
388 or coverage under a general permit if it finds that the operation
389 endangers the health or safety of the public or creates imminent
390 and significant environmental harm;

391 * * *

392 (j) To institute and maintain all * * * court
393 actions * * * necessary to obtain the enforcement of any written
394 order of the commission;

395 (k) To recognize the differences in the various
396 materials * * *, taking into consideration the commercial value of
397 the material and the nature and size of operation necessary to
398 extract the deposit, in regulating surface mining operations;



399 (1) To authorize the executive director * * * to
400 discharge or exercise any power or duty granted to the commission
401 by * * * this chapter; and

402 (m) To perform any other duties and acts * * * required
403 or provided for by this chapter.

404 * * *

405 **SECTION 9.** Section 53-7-21, Mississippi Code of 1972, is
406 amended as follows:

407 53-7-21. (1) Unless exempted under Section 53-7-7, no
408 operator shall engage in surface mining without having first
409 obtained coverage under a general permit or having obtained from
410 the Permit Board a permit for each operation. The * * * permit or
411 coverage under a general permit shall authorize the operator to
412 engage in surface mining upon the area of land described in the
413 application for a period of either five (5) years or longer period
414 of time as deemed appropriate by the Permit Board from the date
415 of * * * issuance or until reclamation of the affected area is
416 completed and the reclamation bond is finally released, whichever
417 comes first.

418 (2) * * * Each operator holding a permit shall annually,
419 before the anniversary date of the permit, file with the
420 department a certificate of compliance in which the operator,
421 under oath, shall declare that the operator is following the
422 approved mining and reclamation plan and is abiding by * * * this
423 chapter and the rules and regulations adopted under this chapter.

424 * * *

425 **SECTION 10.** Section 53-7-23, Mississippi Code of 1972, is
426 amended as follows:

427 53-7-23. (1) The Permit Board may issue general permits
428 consistent with regulations adopted by the commission to cover
429 those surface mining operations deemed appropriate by the Permit
430 Board. Conditions in any general permit shall provide that no
431 operation shall be conducted on lands designated as unsuitable for



432 mining and that each operator shall submit a proposed initial
433 reclamation plan and a performance bond in an amount sufficient to
434 properly reclaim the permit area. The Permit Board may include
435 other conditions as required by the rules and regulations of the
436 commission.

437 (2) Before commencing any operation for which coverage under
438 a general permit may be obtained, each applicant for coverage
439 under a general permit shall submit to the department an
440 application in the form and containing the information as the
441 department shall specify, including a copy of the proposed initial
442 reclamation plan and except as otherwise provided by this section,
443 a performance bond in an amount proposed by the applicant to be
444 sufficient to properly reclaim the permit area. As the operation
445 progresses, the applicant may revise the reclamation plan and
446 submit the revised plan to the department for approval. The
447 amount of the proposed performance bond shall not be less than the
448 minimum provided in Section 53-7-37.

449 (3) The Permit Board shall issue a general permit for
450 surface mining operations having a permitted area of more than
451 four (4) acres but less than ten (10) acres which are conducted
452 for projects funded in whole or in part by public funds for the
453 Mississippi Department of Transportation or the Division of State
454 Aid Road Construction. The general permit issued under this
455 subsection shall require that all materials obtained from an
456 operation covered under this general permit shall be used
457 exclusively on the Mississippi Department of Transportation or
458 Division of State Aid Road Construction project and that no
459 materials from an operation covered under this permit may be
460 provided or sold for any other purpose. The Permit Board shall
461 consult with the Mississippi Department of Transportation on the
462 development of this general permit. An applicant for a coverage
463 under a general permit issued under this subsection shall submit
464 an application for coverage and a proposed initial reclamation



465 plan as required by this section, but the applicant shall not be
466 required to post a performance bond under this section, if the
467 applicant submits a copy of the bond posted with the Mississippi
468 Department of Transportation or the Division of State Aid Road
469 Construction. The Mississippi Department of Transportation or the
470 Division of State Aid Road Construction shall not release the bond
471 until all reclamation requirements of the general permit issued
472 under this section have been met. No operation conducted under a
473 general permit issued under this subsection shall be conducted in
474 lands designated as unsuitable for mining under Section 53-7-49 or
475 53-7-51. The Permit Board may include other conditions as
476 required by the rules and regulations of the commission in the
477 general permit issued under this section.

478 (4) Within three (3) working days after receiving the
479 application for coverage under a general permit, the department
480 shall review the application, determine if the proposed surface
481 mining operation is eligible for coverage under a general permit,
482 and notify the applicant in writing accordingly. Operations may
483 commence at the mining site after the operator receives notice of
484 coverage.

485 **SECTION 11.** Section 53-7-25, Mississippi Code of 1972, is
486 amended as follows:

487 53-7-25. (1) Each application for a surface mining permit
488 and for coverage under a general permit shall be accompanied by
489 an * * * application fee in accordance with a published fee
490 schedule adopted by the commission. The application fee shall not
491 be less than One Hundred Dollars (\$100.00) plus Ten Dollars
492 (\$10.00) per acre included in the application. The total
493 application fee shall not * * * exceed * * * Five Hundred Dollars
494 (\$500.00). The commission, in considering regulations on the fee
495 schedule, shall recognize the difference in the various
496 materials * * *, taking into consideration the commercial value of



497 the material and the nature and size of operation necessary to
498 extract it.

499 (2) All state agencies, political subdivisions of the state,
500 and local governing bodies shall be exempt from all fees required
501 by this chapter.

502 (3) Upon submission of the certificate of compliance
503 required under Section 53-7-21, each operator shall pay a fee of
504 Fifty Dollars (\$50.00).

505 **SECTION 12.** Section 53-7-27, Mississippi Code of 1972, is
506 amended as follows:

507 53-7-27. (1) Before commencing any operation for which a
508 permit is required, each applicant for a permit shall submit to
509 the Permit Board an application, a proposed initial reclamation
510 plan and a performance bond in an amount proposed to be sufficient
511 by the applicant to reclaim the permit area.

512 (2) * * * The application shall be in the form prescribed by
513 the commission and shall contain the following information * * *:

514 (a) A legal description of the tract or tracts of land
515 in the affected area and * * * one or more maps or plats of
516 adequate scale to clearly portray the location of the affected
517 area * * *. The description shall contain sufficient information
518 so that the affected area may be located and distinguished from
519 other lands and shall identify the access from the nearest public
520 road;

521 (b) The approximate location and depth of the deposit
522 in the permit area and the total number of acres in the permit
523 area;

524 (c) The name, address and management officers of the
525 permit applicant and any affiliated persons who shall be engaged
526 in the operations;

527 (d) The name and address of any person holding legal
528 and equitable interests of record, if reasonably ascertainable, in
529 the surface estate of the permit area and in the surface estate of



530 land located within five hundred (500) feet of the exterior limits
531 of the permit area;

532 (e) The name and address of any person residing on the
533 property of the permit area at the time of application;

534 (f) Current or previous surface mining permits held by
535 the applicant, including any revocations, suspensions or bond
536 forfeitures;

537 (g) The type and method of operation, the engineering
538 techniques and the equipment that is proposed to be used,
539 including mining schedules, the nature and expected amount of
540 overburden to be removed, the depth of excavations, a description
541 of the * * * permit area, the anticipated hydrologic consequences
542 of the mining operation, and the proposed use of explosives for
543 blasting, including the nature of the explosive, the proposed
544 location of the blasting and the expected effect of the blasting;

545 (h) A notarized statement showing the applicant's legal
546 right to surface mine the affected area;

547 (i) The names and locations of all lakes, rivers,
548 reservoirs, streams, creeks and other bodies of water in the
549 vicinity of the contemplated operations which may be affected by
550 the operations and the types of existing vegetative cover on the
551 area affected thereby and on adjoining lands within five hundred
552 (500) feet of the exterior limits of the affected area;

553 (j) A topographical survey map showing the surface
554 drainage plan on and away from the permit area;

555 (k) The surface location and extent of all existing and
556 proposed waste and spoil piles, cuts, pits, tailing dumps, ponds,
557 borrow pits, evaporation and settling basins, roads, buildings,
558 access ways, workings and installations sufficient to provide a
559 reasonably clear and accurate portrayal of the existing surface
560 conditions and the proposed mining operations;

561 (l) If the surface and mineral estates, or any part of
562 those estates, in land covered by the application, have been



563 severed and are owned by separate owners, the applicant shall
564 provide a notarized statement subscribed to by each surface owner
565 and lessee of those lands, unless the lease or other conveyance to
566 the applicant specifically states the material to be mined by the
567 operator granting consent for the applicant to initiate and
568 conduct surface mining, exploration and reclamation activities on
569 the land;

570 (m) Except for governmental agencies, a certificate of
571 insurance certifying that the applicant has in force a public
572 liability insurance policy issued by an insurance company
573 authorized to conduct business in the State of Mississippi
574 covering all operations of the applicant in this state and
575 affording bodily injury protection and property damage protection
576 in an amount not less than the following:

577 (i) One Hundred Thousand Dollars (\$100,000.00) for
578 all damages because of bodily injury sustained by one (1) person
579 as the result of any one (1) occurrence, and Three Hundred
580 Thousand Dollars (\$300,000.00) for all damages because of bodily
581 injury sustained by two (2) or more persons as the result of any
582 one (1) occurrence; and

583 (ii) One Hundred Thousand Dollars (\$100,000.00)
584 for all claims arising out of damage to property as the result of
585 any one (1) occurrence including completed operations;

586 The policy shall be maintained in full force and effect
587 during the term of the permit * * *, including the length of all
588 reclamation operations.

589 (n) A copy of a proposed initial reclamation plan
590 prepared under Section 53-7-31; and

591 (o) Any other information needed to clarify the
592 required parts of the application.

593 **SECTION 13.** Section 53-7-29, Mississippi Code of 1972, is
594 amended as follows:



595 53-7-29. (1) The department shall file a copy of each
596 permit application * * * for public inspection with the chancery
597 clerk * * * of the county where any * * * portion of the operation
598 is proposed to occur after deleting the confidential information
599 according to Section 53-7-75.

600 (2) The department shall * * * submit copies, excluding all
601 confidential information, of the permit application as soon as
602 possible to: (a) the Mississippi Soil and Water Conservation
603 Commission, Mississippi Department of Wildlife, Fisheries and
604 Parks, Mississippi Forestry Commission, Mississippi Department of
605 Environmental Quality, Mississippi Department of Archives and
606 History, Mississippi Department of Transportation * * *,
607 Mississippi State Oil and Gas Board and * * * Mississippi
608 Department of Agriculture and Commerce; (b) any other state agency
609 whose jurisdiction the department believes the particular mining
610 operation may affect; and (c) any person who requests in writing a
611 copy of the application; and (d) the owner of the land. The
612 department shall require payment of a reasonable fee established
613 by the commission for reimbursement of the costs of reproducing
614 and providing the copy.

615 (3) Each * * * agency shall review the permit
616 application * * * and submit, within fifteen (15) days of receipt
617 of the application, any comments, recommendations and evaluations
618 as the agency deems necessary and proper based only upon the
619 effect of the proposed operation on matters within the agency's
620 jurisdiction. The comments shall include a listing of permits or
621 licenses required under the agency's jurisdiction. * * * Comments
622 and recommendations shall be made a part of the record and one (1)
623 copy shall be furnished to the applicant. All comments and
624 recommendations shall be considered by, but shall not be binding
625 upon, the Permit Board. The failure of any agency to submit
626 comments shall not preclude action by the Permit Board.



627 **SECTION 14.** Section 53-7-31, Mississippi Code of 1972, is
628 amended as follows:

629 53-7-31. (1) A reclamation plan shall be developed in a
630 manner consistent with local, physical, environmental and
631 climatological conditions and current mining and reclamation
632 technology. A proposed initial reclamation plan submitted as part
633 of a permit application shall include the following information:

634 (a) The identification of the proposed affected
635 area * * *, accompanied by a detailed topographic map on a scale
636 required by regulation showing:

637 (i) The proposed affected area, the location of
638 any stream or * * * standing body of water into which the area
639 drains, the location of drainways and any planned siltation traps
640 and other impoundments, and the location of * * * access roads to
641 be prepared or used by the operator in the mining operation;

642 (ii) The location of any buildings, cemeteries,
643 public highways, railroad tracks, gas and oil wells, publicly
644 owned land, sanitary landfills, officially designated scenic
645 areas, utility lines, underground mines, transmission lines or
646 pipelines within the affected area or within five hundred (500)
647 feet of the exterior limits of the affected area;

648 (iii) The approximate location of the cuts or
649 excavations to be made in the surface and the estimated location
650 and height of spoil banks, and the total number of acres involved
651 in the affected area;

652 (iv) The date the map was prepared and a statement
653 of its accuracy by the person responsible for its preparation.

654 (b) The condition of the land to be covered by the
655 permit before any mining, including:

656 (i) The land use existing at the time of the
657 application, and if the land has a history of previous mining, the
658 land use, if reasonably ascertainable, which immediately preceded
659 any mining; and



660 (ii) The capability of the land before any mining
661 to support a variety of uses, giving consideration to soil and
662 foundation characteristics, topography and vegetative cover.

663 (c) The capacity of the land to support its anticipated
664 use following reclamation, including a discussion of the capacity
665 of the reclaimed land to support alternative uses.

666 (d) A description of how the proposed postmining land
667 condition is to be achieved and the necessary support activities
668 that may be needed to achieve the condition, including an estimate
669 of the cost per acre of the reclamation.

670 (e) The steps taken to comply with applicable air and
671 water quality and water rights laws and regulations and any
672 applicable health and safety standards, including copies of any
673 pertinent permit applications.

674 (f) A general timetable that the applicant estimates
675 will be necessary for accomplishing the major events contained in
676 the reclamation plan.

677 (g) Any other information as the Permit Board * * *
678 shall determine to be reasonably necessary to effectuate the
679 purposes of this chapter.

680 (2) The Permit Board may, in its discretion, authorize the
681 reclamation of lands in lieu of the lands included in the permit
682 application. The acreage of the authorized lieu lands reclaimed
683 shall not be less than the acreage of the lands in the permit
684 application. Any applicant who proposes to reclaim lands in lieu
685 of those lands included in the permit application shall * * *
686 state that fact in the application or subsequent or amended
687 application and shall submit the reclamation plan accordingly.
688 The Permit Board shall not authorize the reclamation of lieu lands
689 unless the applicant submits with the reclamation plan a notarized
690 statement of each surface owner and lessee of all lands included
691 in the permit application. The statement shall contain the
692 consent of each surface owner and lessee * * * for the reclamation



693 of the proposed lieu lands. If the Permit Board does not
694 authorize the reclamation of the lieu lands, the applicant shall
695 submit a reclamation plan for the lands contained in the permit
696 application.

697 **SECTION 15.** Section 53-7-35, Mississippi Code of 1972, is
698 amended as follows:

699 53-7-35. (1) Any permit issued under this chapter * * *
700 shall require * * * operations to comply with all applicable
701 reclamation standards of this chapter. Reclamation standards
702 shall apply to all operations, exploration activities and
703 reclamation operations covered by this chapter and shall * * *
704 require the operator at a minimum to:

705 (a) Conduct operations in a manner consistent with
706 prudent mining practice, so as to maximize the utilization and
707 conservation of the resource being recovered; and, in keeping with
708 the intent of maximizing the value of mined land, stockpiles of
709 commercially valuable material may remain, if they are
710 ecologically stable. * * * Stockpiling shall be subject to * * *
711 rules and regulations adopted by the commission * * *;

712 (b) Restore the affected area so that it may be used
713 for a useful, productive and beneficial purpose, including an
714 agricultural, grazing, commercial, * * * residential or
715 recreational purpose, including lakes, ponds, wetlands, wildlife
716 habitat, or other natural or forested areas;

717 (c) Conduct water drainage and silt control for * * *
718 the affected area to strictly control soil erosion, damage to
719 adjacent lands and pollution of * * * waters of the state, both
720 during and following the mining operations. Before, during and
721 for a reasonable period after mining, all drainways for the
722 affected area shall be protected with silt traps or dams of
723 approved design as directed by the regulations. The operator
724 may * * * impound water to provide wetlands, lakes or ponds of



725 approved design for wildlife, recreational or water supply
726 purposes, if it is a part of the approved reclamation plan;

727 (d) Remove or cover all metal, lumber and other refuse,
728 except vegetation, resulting from the operation;

729 (e) Regrade the area to the nearest approximate
730 original contour or rolling topography, and eliminate all
731 highwalls and spoil piles, except as provided in an approved
732 reclamation plan. Lakes, ponds or wetlands may be constructed, if
733 part of an approved reclamation plan;

734 (f) Stabilize and protect all * * * affected
735 areas * * * sufficiently to control erosion and attendant air and
736 water pollution;

737 (g) Remove the topsoil, if any, from the affected area
738 in a separate layer, and place it on any authorized lieu lands to
739 be reclaimed or replace it on the backfill area. If not utilized
740 immediately, the topsoil shall be segregated in a separate pile
741 from other spoil. If the topsoil is not replaced on a backfill
742 area of authorized lieu lands within a time short enough to avoid
743 deterioration, the topsoil shall be protected by a successful
744 cover of plants or by other means approved by the Permit Board.
745 If topsoil is of insufficient quantity or of poor quality for
746 sustaining vegetation and if other strata can be shown to be as
747 suitable for vegetation requirements, then the operator may
748 petition the Permit Board for permission to be exempt from the
749 requirements for the removal, segregation and preservation of
750 topsoil and to remove, segregate and preserve in a like
751 manner * * * other strata which is best able to support vegetation
752 or to mix strata, if that mixing can be shown to be equally
753 suitable for revegetation requirements;

754 (h) Replace, if required * * *, available topsoil or
755 the best available subsoil * * * on top of the land to be
756 reclaimed or on top of authorized lieu lands being reclaimed;

757 * * *



758 (i) Minimize the disturbances to the prevailing
759 hydrologic balance at the mine site and in associated off-site
760 areas and to the quality and quantity of water in surface and
761 groundwater systems both during and after surface mining
762 operations and during reclamation by:

763 (i) Avoiding acid or other toxic mine drainage by
764 using measures such as, but not limited to:

765 1. Preventing or removing water from contact
766 with toxic-material producing deposits;

767 2. Treating drainage to reduce toxic material
768 content; and

769 3. Casing, sealing or otherwise managing
770 boreholes, shafts and wells to keep acid or other toxic material
771 drainage from entering ground and surface waters;

772 (ii) Conducting operations * * * to prevent
773 unreasonable additional levels of suspended solids to streamflow
774 or runoff outside the permit area above natural levels under
775 seasonal flow conditions;

776 (iii) * * * Removing * * * temporary or large
777 siltation structures from drainways, consistent with good water
778 conservation practices, after disturbed areas are revegetated and
779 stabilized;

780 (iv) Performing any other actions as the
781 commission may prescribe under rules and regulations adopted under
782 this chapter;

783 (j) Stabilize any waste piles;

784 (k) * * * Incorporate current engineering practices for
785 the design and construction of water retention structures for the
786 disposal of mine wastes, processing wastes or other liquid or
787 solid wastes which, at a minimum, shall be compatible with the
788 requirements of * * * applicable state and federal laws and
789 regulations, insure that leachate will not pollute surface or



790 ground water, and locate water retention structures so as not to
791 endanger public health and safety should failure occur;

792 (l) Insure that all debris, acid-forming materials,
793 toxic materials or materials constituting a fire hazard are
794 treated or disposed of in a manner designed to prevent
795 contamination of ground or surface waters or combustion;

796 (m) Insure that construction, maintenance and
797 postmining conditions of access roads into and across the permit
798 area will minimize erosion and siltation, pollution of air and
799 water, damage to fish or wildlife or their habitat, or public or
800 private property. The Permit Board may authorize the retention
801 after mining of certain access roads if compatible with the
802 approved reclamation plan;

803 (n) Refrain from the construction of roads or other
804 access ways up a stream bed or drainage channel or in proximity to
805 a channel where the construction would seriously alter the normal
806 flow of water;

807 (o) Revegetate the affected area with plants, approved
808 by the department, to attain a useful, productive and beneficial
809 purpose, including an agricultural, grazing, industrial,
810 commercial, residential or recreational purpose, including lakes,
811 ponds, wetlands, wildlife habitat or other natural or forested
812 areas;

813 (p) Assume responsibility for successful revegetation
814 for a period of two (2) years beyond the date of initial bond
815 release on any bond or deposit held by the department as provided
816 by Section 53-7-67;

817 (q) Assure with respect to permanent impoundments of
818 water as part of the approved reclamation plan * * * that:

819 (i) The size of the impoundment and the
820 availability of water are adequate for its intended purpose;

821 (ii) The impoundment dam construction will meet
822 the requirements of * * * applicable state and federal laws;



823 (iii) The quality of impounded water will be
824 suitable on a permanent basis for its intended use and the
825 discharges from the impoundment will not degrade the water quality
826 in the receiving stream;

827 (iv) Final grading will provide adequate safety
828 and access for anticipated water users;

829 (v) * * * Water impoundments will not result in
830 the diminution of the quality or quantity of water utilized by
831 adjacent or surrounding landowners; and

832 (r) Protect off-site areas from slides or damage
833 occurring during the surface mining and reclamation operations,
834 and not deposit spoil material or locate any part of the
835 operations or waste accumulations outside the permit area.

836 (2) The purpose of this section is to cause the affected
837 area to be restored to a useful, productive and beneficial
838 purpose. A method of reclamation other than that provided in this
839 section may be approved by the Permit Board if the Permit Board
840 determines that the method of reclamation required by this section
841 is not practical and that the alternative method will provide for
842 the affected area to be restored to a useful, productive and
843 beneficial purpose. If an alternative method of reclamation is
844 generally applicable to all operations involving a particular
845 material, the commission may promulgate appropriate rules and
846 regulations for use of the alternative method.

847 (3) Each operator, except as authorized by the Permit Board,
848 shall perform reclamation work concurrently with the conduct of
849 the mining operation where practical. The fact that an operator
850 will likely redisturb an area shall be cause for the Permit Board
851 to grant an exception from the requirement of concurrent
852 reclamation.

853 (4) The operator and, in case of bond forfeiture, the
854 department or its designee, shall have the continuing right to
855 enter and inspect the affected area * * * in the reclamation plan



856 and to perform any reclamation measures required properly to
857 complete the reclamation plan.

858 (5) (a) If * * * the commission finds that (i) reclamation
859 of the affected area is not proceeding in accordance with the
860 reclamation plan and that the operator has failed within thirty
861 (30) days after notice to commence corrective action or * * * (ii)
862 revegetation has not been properly completed in conformance with
863 the reclamation plan within two (2) years or longer, if required
864 by the commission, after termination of mining operations or upon
865 revocation of the permit, or if the Permit Board revokes a permit,
866 the commission may initiate proceedings against the bond or
867 deposit filed by the operator. The proceedings shall not be
868 commenced with respect to a surety bond until the surety has been
869 given sixty (60) days to commence and a reasonable opportunity to
870 begin and complete corrective action. * * *

871 (b) A forfeiture proceeding against any performance
872 bond or deposit shall be commenced and conducted according to
873 Sections 49-17-31 through 49-17-41.

874 (c) If the commission orders forfeiture of any
875 performance bond or deposit, the entire sum of the performance
876 bond or deposit shall be forfeited to the department. The funds
877 from the forfeited performance bond or deposit shall be placed in
878 the appropriate account in the fund and used to pay for
879 reclamation of the permit area and remediation of any off-site
880 damages resulting from the operation. Any surplus performance
881 bond or deposit funds shall be refunded to the operator or
882 corporate surety.

883 (d) Forfeiture proceedings shall be before the
884 commission and an order of the commission under this subsection is
885 a final order. If the commission determines that forfeiture of
886 the performance bond or deposit should be ordered, the department
887 shall have the immediate right to all funds of any performance



888 bond or deposit, subject only to review and appeals allowed under
889 Section 49-17-41.

890 (e) If the operator cannot be located for purposes of
891 notice, the department shall send notice of the forfeiture
892 proceeding, certified mail, return receipt requested, to the
893 operator's last known address. The department shall also publish
894 notice of the forfeiture proceeding in a manner as required in
895 regulation by the commission. Any formal hearing on the bond
896 forfeiture shall be set at least thirty (30) days after the last
897 notice publication.

898 (f) If the performance bond or deposit is insufficient
899 to cover the costs of reclamation of the permit area in accordance
900 with the approved reclamation plan or remediation of any off-site
901 damages, the commission may initiate a civil action to recover the
902 deficiency amount in the county in which the surface mining
903 operation is located.

904 (g) If the commission initiates a civil action under
905 this section, the commission shall be entitled to any sums
906 necessary to complete reclamation of the permit area in accordance
907 with the approved reclamation plan and remediate any off-site
908 damages resulting from that operation.

909 (6) If a landowner, upon termination or expiration of a
910 lease, refuses to allow the operator to enter onto the property
911 designated as the affected area to conduct or complete reclamation
912 in accordance with the approved reclamation plan, or if the
913 landowner interferes with or authorizes a third party to disturb
914 or interfere with reclamation in accordance with the approved
915 reclamation plan, the landowner shall assume the permit and shall
916 file a reclamation plan and post a performance bond as required
917 under this chapter.

918 **SECTION 16.** Section 53-7-37, Mississippi Code of 1972, is
919 amended as follows:



920 53-7-37. (1) * * * Before * * * a permit is issued by the
921 Permit Board, the applicant shall file with the department in the
922 manner and form required by the commission a bond for performance
923 payable to the commission and conditioned on full and satisfactory
924 performance of * * * the requirements of this chapter and the
925 permit. The bond shall not be less than Five Hundred Dollars
926 (\$500.00) nor more than Two Thousand Five Hundred Dollars
927 (\$2,500.00) for each estimated acre of the permit area of the
928 respective operation. * * *

929 (2) The bond shall be executed by the applicant and a
930 corporate surety licensed to do business in the state. The
931 applicant may elect to deposit the following in lieu of the surety
932 bond: cash, negotiable bonds of the United States government or
933 the state, assignment of real or personal property or a savings
934 account acceptable to the department, negotiable certificates of
935 deposit or a letter of credit of any bank organized or transacting
936 business in the state and insured by the Federal Deposit Insurance
937 Corporation (FDIC) or the Federal Savings and Loan Insurance
938 Corporation (FSLIC) or a similar federal banking or savings and
939 loan insurance organization. The cash deposit or market value of
940 the securities shall be equal to or greater than the amount of the
941 bond required for the permit area. Cash, negotiable bonds,
942 negotiable certificates of deposit, letter of credit, assignment
943 of real or personal property or a savings account or other
944 securities shall be deposited on the same terms as the terms on
945 which surety bonds may be deposited.

946 (3) The amount of the bond or deposit required and the terms
947 of acceptance of the applicant's bond or deposit may be increased
948 or decreased by the Permit Board from time to time to reflect
949 changes in the cost of future reclamation of land mined or to be
950 mined subject to the limitations on the amount of the bond set
951 forth in this section.



952 (4) All state agencies, political subdivisions of the state
953 and local governing bodies shall be exempt from the bonding
954 requirements of this section.

955 **SECTION 17.** Section 53-7-39, Mississippi Code of 1972, is
956 amended as follows:

957 53-7-39. (1) The department shall conduct an initial review
958 of a completed permit application within thirty (30) days
959 following receipt of the completed application. The department
960 shall make a recommendation to the Permit Board on the permit
961 application no later than the next regularly scheduled Permit
962 Board meeting following the thirty-day initial review period,
963 unless a public hearing is held on the application or the
964 applicant agrees in writing to an additional time frame. If a
965 public hearing is held, the department shall make its
966 recommendation at the next regularly scheduled Permit Board
967 meeting following the public hearing, if practicable.

968 (2) An on-site inspection of the proposed affected area
969 shall be made by the department within the thirty-day time period
970 specified in subsection (1) of this section, and before a
971 permit * * * is * * * issued * * *.

972 * * *

973 **SECTION 18.** Section 53-7-41, Mississippi Code of 1972, is
974 amended as follows:

975 53-7-41. (1) The Permit Board, based upon the provisions of
976 this chapter, may issue, reissue, deny, modify, revoke, cancel,
977 rescind, suspend or transfer a permit for a surface mining
978 operation. The head of the Office of Geology and Energy Resources
979 shall abstain in any action taken by the Permit Board under this
980 chapter.

981 (2) The Permit Board shall issue a permit if the Permit
982 Board determines that the applicant and completed application
983 comply with the requirements of this chapter.

984 (3) The Permit Board may deny a permit if:



985 (a) The Permit Board finds that the reclamation as
986 required by this chapter cannot be accomplished by means of the
987 proposed reclamation plan;

988 (b) Any part of the proposed operation lies within an
989 area designated as unsuitable for surface mining as designated by
990 Section 53-7-49 or 53-7-51;

991 (c) The Permit Board finds that the proposed mining
992 operation will cause pollution of any water of the state or of the
993 ambient air of the state in violation of applicable state and
994 federal laws and regulations;

995 (d) The applicant has had any other permit issued under
996 this chapter revoked, or any bond or deposit posted to comply with
997 this chapter forfeited, and the conditions causing the permit to
998 be revoked or the bond or deposit to be forfeited have not been
999 corrected to the satisfaction of the Permit Board;

1000 (e) The Permit Board determines that the proposed
1001 operation will endanger the health and safety of the public or
1002 will create imminent environmental harm;

1003 (f) The operation will likely adversely affect any
1004 public highway or road unless the operation is intended to
1005 stabilize or repair the public road or highway; or

1006 (g) The applicant is unable to meet the public
1007 liability insurance or performance bonding requirements of this
1008 chapter.

1009 (4) The Permit Board shall deny a permit if the Permit Board
1010 finds by clear and convincing evidence on the basis of the
1011 information contained in the permit application or obtained by
1012 on-site inspection that the proposed operation cannot comply with
1013 this chapter or rules and regulations adopted under this chapter
1014 or that the proposed method of operation, road system
1015 construction, shaping or revegetation of the affected area cannot
1016 be carried out in a manner consistent with this chapter and
1017 applicable state and federal laws, rules and regulations.



1018 (5) The Permit Board may hold a public hearing to obtain
1019 comments from the public on its proposed action. If the Permit
1020 Board holds a public hearing, the Permit Board shall publish
1021 notice and conduct the hearing as provided in Section 49-17-29.

1022 (6) The Permit Board may authorize the executive director,
1023 under any conditions the Permit Board may prescribe, to make
1024 decisions on permit issuance, reissuance, modification, rescission
1025 or cancellation under this chapter. A decision by the executive
1026 director is a decision of the Permit Board and shall be subject to
1027 formal hearing and appeal as provided in Section 49-17-29. The
1028 executive director shall report all permit decisions to the Permit
1029 Board at its next regularly scheduled meeting and those decisions
1030 shall be deemed as recorded in the minutes of the Permit Board at
1031 that time.

1032 (7) The Permit Board may cancel a permit at the request of
1033 the operator, if the operator does not commence operations under
1034 the permit by stripping, grubbing or mining any part of the permit
1035 area. The Permit Board may rescind a permit, if, because of a
1036 change in post-mining use of the land by the landowner, the
1037 completion of the approved reclamation plan by the operator is no
1038 longer feasible. If a permit is canceled or rescinded, the
1039 remaining portion of the bond or deposit required under Section
1040 53-7-37 shall be returned to the operator as soon as possible.

1041 **SECTION 19.** Section 53-7-43, Mississippi Code of 1972, is
1042 amended as follows:

1043 53-7-43. (1) Applications for the modification, transfer or
1044 reissuance of any surface mining permit issued under this chapter
1045 may be filed with the department. The Permit Board may modify any
1046 surface mining permit to increase or decrease the permit area and
1047 shall require an increase in the performance bond and a modified
1048 reclamation plan for any expanded area.

1049 (2) Any permit issued under this chapter shall carry with it
1050 the right of successive reissuance upon expiration for areas



1051 within the boundaries of the existing permit. The operator may
1052 apply for reissuance and that permit shall be reissued, except as
1053 provided in this subsection. On application for reissuance the
1054 burden of proving that the permit should not be reissued shall be
1055 on the opponents of reissuance or the department. If the
1056 opponents to reissuance or the department establish and the Permit
1057 Board finds, in writing, that the operator is not satisfactorily
1058 meeting the terms and conditions of the existing permit or the
1059 present surface mining and reclamation operation is not in
1060 compliance with this chapter and the rules and regulations issued
1061 under this chapter, the Permit Board shall not reissue the permit.

1062 (3) Any permit reissuance shall be for a term not to exceed
1063 the term of the original permit established by this chapter.
1064 Application for permit reissuance shall be filed with the Permit
1065 Board at least sixty (60) days before the expiration of the
1066 permit. If an application for reissuance is timely filed, the
1067 operator may continue surface mining operations under the existing
1068 permit until the Permit Board takes action on the reissuance
1069 application.

1070 **SECTION 20.** Section 53-7-45, Mississippi Code of 1972, is
1071 amended as follows:

1072 53-7-45. Any interested party may seek a review or an appeal
1073 of any action or decision of the Permit Board under Sections
1074 53-7-41 and 53-7-43 as provided in Section 49-17-29.

1075 **SECTION 21.** Section 53-7-47, Mississippi Code of 1972, is
1076 amended as follows:

1077 53-7-47. To the extent that the commission, the Permit Board
1078 and the department may exercise jurisdiction over the areas
1079 specified in this section, no surface mining operation * * * shall
1080 be conducted on lands which are part of a national park, national
1081 monument, national historic landmark, any property listed on the
1082 national register of historic places, national forest, national
1083 wilderness area, national wildlife refuge, national wild or scenic



1084 river, state scenic stream, state park, state wildlife refuge,
1085 state forest, recorded state historical landmark, state historic
1086 site, state archaeological landmark or city or county park, forest
1087 or historical area. * * * For good cause shown and after any
1088 public hearing the commission may elect to hold, the commission
1089 may make an exception to this section.

1090 **SECTION 22.** Section 53-7-49, Mississippi Code of 1972, is
1091 amended as follows:

1092 53-7-49. (1) With the assistance of the Mississippi
1093 Commission on Wildlife, Fisheries and Parks and the Mississippi
1094 Department of Marine Resources, the commission shall identify and
1095 designate as unsuitable certain lands for all or certain types of
1096 surface mining * * *. The commission shall adopt rules and
1097 regulations to provide reasonable notice to prospective operators
1098 and any other interested parties of areas which might be
1099 designated as unsuitable for surface mining. The commission may
1100 designate areas as unsuitable for surface mining lands if the
1101 commission determines:

1102 (a) The operations will result in significant damage to
1103 important areas of historic, cultural or archaeological value or
1104 to important natural systems;

1105 (b) The operations will affect renewable resource lands
1106 resulting in a substantial loss or reduction of long-range
1107 productivity of water supply or food or fiber products, including
1108 aquifers and aquifer recharge areas;

1109 (c) The operations are located in areas of unstable
1110 geological formations and may reasonably be expected to endanger
1111 life and property;

1112 (d) The operations will damage ecologically sensitive
1113 areas;

1114 (e) The operations will significantly and adversely
1115 affect any national park, national monument, national historic
1116 landmark, property listed on the national register of historic



1117 places, national forest, national wilderness area, national
1118 wildlife refuge, national wild or scenic river area, state scenic
1119 stream, state park, state wildlife refuge, state forest, recorded
1120 state historical landmark, state historic site, state
1121 archaeological landmark, or city or county park;

1122 (f) The operations will endanger any public road,
1123 public building, cemetery, school, church or similar structure or
1124 existing dwelling outside the permit area; or

1125 (g) The operations and the affected area cannot be
1126 reclaimed feasibly under the requirements of this chapter * * *.

1127 (2) Unless an operation is exempted under Section
1128 53-7-7(2)(a) or 53-7-7(2)(b), it is unlawful to conduct surface
1129 mining operations within an area designated as unsuitable for
1130 surface mining under Section 53-7-51 or this section or to conduct
1131 surface mining operations in rivers, lakes, bayous, intermittent
1132 or perennial streams or navigable waterways, natural or manmade,
1133 without a permit or coverage under a general permit issued or
1134 reissued consistent with regulations adopted by the commission.

1135 **SECTION 23.** Section 53-7-51, Mississippi Code of 1972, is
1136 amended as follows:

1137 53-7-51. (1) The commission, upon petition, may designate
1138 an area as unsuitable for mining or modify or terminate the
1139 designation of an area as unsuitable for surface mining. The
1140 commission, upon its own motion, may terminate the designation of
1141 an area as unsuitable for surface mining. The commission may
1142 conduct a public hearing on its proposed action in accordance with
1143 Section 49-17-33. Before terminating an area as unsuitable for
1144 surface mining, the commission shall provide notice as required
1145 under Section 53-7-11.

1146 (2) A petition shall contain allegations of facts with
1147 supporting evidence. The commission shall make a determination
1148 based upon the validity of the facts contained in the petition,



1149 and may designate, modify or terminate the designation of the
1150 lands included in the petition as unsuitable for mining.

1151 (3) Any person aggrieved by an action of the commission
1152 under this section may appeal as provided in Section 49-17-41.

1153 **SECTION 24.** Section 53-7-53, Mississippi Code of 1972, is
1154 amended as follows:

1155 53-7-53. The Permit Board shall require each permittee to:

1156 (a) Establish and maintain appropriate records;

1157 (b) Make reports, the frequency and nature of which
1158 shall be prescribed by the commission; and

1159 (c) Install, use and maintain any necessary monitoring
1160 equipment for the purpose of observing and determining relevant
1161 surface or subsurface effects of the mining operation or
1162 reclamation program.

1163 **SECTION 25.** Section 53-7-55, Mississippi Code of 1972, is
1164 amended as follows:

1165 53-7-55. (1) * * * Authorized representatives of the
1166 department, on presentation of appropriate credentials * * *, may
1167 enter and inspect any operation or any premises in which * * *
1168 records required to be maintained under Section 53-7-53 are
1169 located and may at reasonable times, and without delay, have
1170 access to and copy any records and inspect any monitoring
1171 equipment or method of operation required under this chapter.

1172 (2) * * * Inspections of operations with or without a permit
1173 by the department shall occur on an irregular basis at a frequency
1174 necessary to insure compliance with * * * this chapter, rules and
1175 regulations and the terms and conditions of any permit.

1176 Inspections shall occur only during normal operating hours if
1177 practical, may occur without prior notice to the permittee or the
1178 agents or employees of the permittee, and shall include the filing
1179 of an inspection report. The department shall make those reports
1180 part of the record and shall provide one (1) copy of the report to



1181 the operator. The department shall, * * * as practical, establish
1182 a system of rotation of field inspectors.

1183 (3) Each field inspector, on detection of each violation
1184 of * * * this chapter, rules and regulations adopted under this
1185 chapter or the permit for the operation, shall * * * inform the
1186 operator or the operator's agent orally at the time of the
1187 inspection and subsequently in writing and shall report * * *
1188 any * * * violation in writing to the commission.

1189 **SECTION 26.** Section 53-7-57, Mississippi Code of 1972, is
1190 amended as follows:

1191 53-7-57. Any representative of the local soil and water
1192 conservation district, upon presentation of appropriate
1193 credentials may enter and inspect the operation for the purpose of
1194 making recommendations regarding reclamation activities * * *.
1195 The representative shall make any recommendations on the progress
1196 of reclamation activities in writing to the Permit Board.

1197 **SECTION 27.** Section 53-7-59, Mississippi Code of 1972, is
1198 amended as follows:

1199 53-7-59. (1) Any person who violates, or fails or refuses
1200 to comply with this chapter, any rule or regulation or written
1201 order of the commission adopted or issued under this chapter or
1202 any condition of a permit or coverage under a general permit
1203 issued under this chapter may be subject to a civil penalty to be
1204 assessed and levied by the commission after notice and opportunity
1205 for a formal hearing. In addition to assessing civil penalties
1206 under this section, the commission may submit a written statement
1207 to the Permit Board recommending that the Permit Board revoke the
1208 permit for any operation which is subject to the maximum penalty
1209 of Twenty-five Thousand Dollars (\$25,000.00). Appeals of any
1210 action or decision of the commission may be taken as provided in
1211 Section 49-17-41.

1212 (2) Any civil penalty assessed against a permitted, covered
1213 or exempt operation and levied by the commission under this



1214 section shall not exceed Five Hundred Dollars (\$500.00) for the
1215 first violation; for subsequent violations committed within three
1216 (3) years of the first violation the maximum penalties are: Two
1217 Thousand Five Hundred Dollars (\$2,500.00) for the second
1218 violation, Five Thousand Dollars (\$5,000.00) for the third
1219 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1220 fourth and subsequent violations by the same operator. Multiple
1221 violations at a site during one (1) day shall not be cumulative.
1222 A separate penalty shall not be assessed for each violation and
1223 only one (1) penalty may be assessed for all violations occurring
1224 at a site during one (1) day. Each day of a continuing violation
1225 shall be a separate violation until corrective action is taken or
1226 the operator after notice of the violation is diligently pursuing
1227 efforts to achieve compliance in a timely manner. In assessing a
1228 penalty under this subsection, the commission shall not consider
1229 offenses occurring before July 1, 2002. In addition to the civil
1230 penalty authorized under this subsection, the commission may order
1231 an operator of a permitted, covered or exempt operation to reclaim
1232 the affected area.

1233 (3) Any civil penalty assessed against an operator for
1234 mining without a permit and levied by the commission under this
1235 section shall not exceed Five Thousand Dollars (\$5,000.00) for the
1236 first violation, Ten Thousand Dollars (\$10,000.00) for the second
1237 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1238 third and subsequent violations by an operator. In assessing a
1239 penalty under this subsection, the commission shall not consider
1240 violations occurring before July 1, 2002.

1241 (4) In determining the amount of penalty under this chapter,
1242 the commission shall consider at a minimum:

1243 (a) The willfulness of the violation;

1244 (b) Any damage to air, water, land or other natural
1245 resources of the state or their uses;

1246 (c) Costs of restoration and abatement;



1247 (d) Economic benefit as a result of noncompliance;
1248 (e) The seriousness of the violation, including any
1249 harm to the environment and any hazard to the health, safety and
1250 welfare of the public; and

1251 (f) Past performance history.

1252 (5) The commission may institute and maintain a civil action
1253 for relief, including a permanent or temporary injunction or any
1254 other appropriate order, in the chancery court of the county in
1255 which the majority of the surface mining operation is located.
1256 The chancery court shall have jurisdiction to provide relief as
1257 may be appropriate. Any relief granted by the court to enforce a
1258 written order of the commission shall continue in effect until the
1259 completion of all proceedings for review of that order under this
1260 chapter, unless the chancery court granting the relief sets it
1261 aside or modifies it before that time.

1262 (6) Any provisions of this section and chapter regarding
1263 liability for the costs of cleanup, removal, remediation or
1264 abatement of any pollution, hazardous waste or solid waste shall
1265 be limited as provided in Section 49-17-42 and rules adopted under
1266 that section.

1267 (7) Any violation of this law and the Mississippi Air and
1268 Water Pollution Control Law or the Solid Wastes Disposal Law of
1269 1974 shall be assessed a civil penalty under only one (1) of these
1270 laws.

1271 **SECTION 28.** Section 53-7-61, Mississippi Code of 1972, is
1272 amended as follows:

1273 53-7-61. (1) Any person who knowingly makes any false
1274 statement, representation or certification, or knowingly fails to
1275 make any statement, representation or certification in any
1276 application, record, report, plan or other document filed or
1277 required to be maintained under this chapter is guilty of a
1278 misdemeanor and upon conviction, may be subject to a fine of not
1279 more than Five Thousand Dollars (\$5,000.00).



1280 (2) Any person who * * * knowingly violates, or fails or
1281 refuses to comply with this chapter, any rule or regulation or
1282 written order of the commission adopted or issued under this
1283 chapter, or any condition of a permit issued under this chapter,
1284 is guilty of a misdemeanor and, upon conviction, may be subject to
1285 a fine of not more than Five Thousand Dollars (\$5,000.00).

1286 **SECTION 29.** Section 53-7-63, Mississippi Code of 1972, is
1287 amended as follows:

1288 53-7-63. (1) Unless otherwise expressly provided in this
1289 chapter, any interested party aggrieved by any action of the
1290 Permit Board taken under this chapter may request a formal hearing
1291 before the Permit Board as provided in Section 49-17-29. Any
1292 person aggrieved by any action of the commission taken under this
1293 chapter may request a formal hearing before the commission as
1294 provided in Section 49-17-41. Any person who participated as a
1295 party in a formal hearing before the Permit Board may appeal from
1296 a final decision of the Permit Board made under this chapter as
1297 provided in Section 49-17-29. Any person who participated as a
1298 party in a formal hearing before the commission may appeal from a
1299 final decision of the commission made under this chapter as
1300 provided in Section 49-17-41.

1301 (2) (a) Any public hearing of the Permit Board provided for
1302 under this chapter shall be deemed to be the same hearing as
1303 otherwise afforded to any interested party by the Permit Board
1304 under Section 49-17-29. Any formal hearing of the Permit Board
1305 provided for under this chapter shall be deemed to be the same
1306 hearing as otherwise afforded to any interested party by the
1307 Permit Board under Section 49-17-29.

1308 (b) Any public hearing of the commission provided for
1309 under this chapter shall be deemed to be the same hearing as
1310 afforded under Section 49-17-35. Any formal hearing of the
1311 commission provided for under this chapter shall be deemed to be
1312 the same hearing as afforded under Section 49-17-41.



1313 (3) (a) In conducting any formal hearing under this
1314 chapter, the Permit Board shall have the same authority to
1315 subpoena witnesses, administer oaths, examine witnesses under oath
1316 and conduct the hearing as provided in Section 49-17-29.

1317 (b) In conducting any formal hearing under this chapter
1318 the commission shall have the same authority to subpoena
1319 witnesses, administer oaths, examine witnesses under oath and
1320 conduct the hearing as provided in Section 49-17-41.

1321 **SECTION 30.** Section 53-7-65, Mississippi Code of 1972, is
1322 amended as follows:

1323 53-7-65. (1) When an employee of the department files a
1324 report alleging a violation or when any person files a complaint
1325 with the commission alleging that any other person is in violation
1326 of this chapter, any rule and regulation issued under this
1327 chapter, or any condition of a permit issued under this chapter,
1328 the commission shall notify the alleged violator and conduct an
1329 investigation of the complaint. Upon finding a basis for the
1330 complaint, the commission shall cause written notice of the
1331 complaint, specifying the section of law, rule, regulation or
1332 permit alleged to be violated and the facts of the alleged
1333 violations, to be served upon that person. The commission may
1334 require the person to appear before the commission at a time and
1335 place specified in the notice to answer the charges. The time of
1336 appearance before the commission shall be not less than twenty
1337 (20) days from the date of the mailing or service of the
1338 complaint, whichever is earlier. If the commission finds no basis
1339 for the complaint, the commission shall dismiss the complaint.

1340 (2) The commission shall afford an opportunity for a formal
1341 hearing to the alleged violator at the time and place specified in
1342 the notice or at another time or place agreed to in writing by
1343 both the department and the alleged violator, and approved by the
1344 commission. On the basis of the evidence produced at the formal
1345 hearing, the commission may enter an order which in its opinion



1346 will best further the purposes of this chapter and shall give
1347 written notice of that order to the alleged violator and to any
1348 other persons which appeared at the formal hearing or made written
1349 request for notice of the order. The commission may assess
1350 penalties as provided in Section 53-7-59. Any formal hearing
1351 under this section shall be of record.

1352 (3) Except as otherwise expressly provided, any notice or
1353 other instrument issued by or under authority of the commission
1354 may be served on any affected person personally or by publication,
1355 and proof of that service may be made in the same manner as in
1356 case of service of a summons in a civil action. The proof of
1357 service shall be filed in the office of the commission. Service
1358 may also be made by mailing a copy of the notice, order, or other
1359 instrument by certified mail, directed to the person affected at
1360 the person's last known post office address as shown by the files
1361 or records of the commission. Proof of service may be made by the
1362 affidavit of the person who did the mailing and shall be filed in
1363 the office of the commission.

1364 (4) Any person who participated as a party in the formal
1365 hearing may appeal a decision of the commission under this section
1366 as provided in Section 49-17-41.

1367 **SECTION 31.** Section 53-7-67, Mississippi Code of 1972, is
1368 amended as follows:

1369 53-7-67. (1) Upon completion of the operation in the permit
1370 area * * *, the operator may file an application with the Permit
1371 Board for the release of the performance bond * * * or deposit.
1372 The application for performance bond release shall require a
1373 description of the results achieved in accordance with the
1374 operator's reclamation plan, which includes revegetation and end
1375 result plans, and any other information the Permit Board may
1376 require in accordance with * * * this chapter. The Permit Board
1377 shall file a copy of the performance bond release application for
1378 public inspection with the chancery clerk of the county * * *



1379 where the majority of the surface mining * * * operation is
1380 located and with the local soil and water conservation district.
1381 The Permit Board shall give notice of the pending bond release
1382 application by publication in the form as the commission by
1383 regulation may require after inspecting and evaluating the
1384 reclamation work as provided by subsection (2) of this
1385 section. * * *

1386 (2) After receipt of the application for bond release, the
1387 department shall, and the local soil and water district
1388 commissioners may, within * * * thirty (30) days, conduct an
1389 inspection and evaluation of the reclamation work involved. The
1390 evaluation shall consider, among other things, the occurrence of
1391 pollution of surface and subsurface water * * *, the probability
1392 of continuance or future occurrence of * * * pollution, and the
1393 estimated cost of abating the pollution. Results of the
1394 evaluation and findings of the department or the soil and water
1395 commissioners, or both, shall be provided within thirty (30) days
1396 after the inspection to the operator and other interested parties
1397 making written request for the evaluation and findings. The
1398 evaluation and findings of the soil and water commissioners, if
1399 any shall be forwarded to the department before the end of the
1400 thirty (30) days.

1401 (3) The Permit Board may release in whole or in part the
1402 performance bond * * * or deposit if it is satisfied that
1403 reclamation covered by the performance bond * * * or deposit or
1404 portion thereof has been accomplished as required by this chapter
1405 according to the following schedule:

1406 (a) When the operator or surety completes required
1407 backfilling, regrading, and drainage control of a bonded area in
1408 accordance with the approved reclamation plan, the Permit Board
1409 may release * * * up to ninety percent (90%) of the performance
1410 bond * * * or deposit for the applicable permit area. The amount
1411 of the unreleased portion of the performance bond * * * or deposit



1412 shall not be less than the amount necessary to assure completion
1413 of the reclamation work by a third party in the event of default
1414 by the operator; and

1415 (b) When the operator has successfully completed the
1416 remaining reclamation activities, but not before two (2) years
1417 beyond the date of the initial performance bond release, the
1418 Permit Board may release the remaining portion of the performance
1419 bond * * * or deposit. No performance bond * * * or deposit shall
1420 be fully released until all reclamation requirements of this
1421 chapter are fully met.

1422 (c) Notwithstanding the provisions of paragraphs (a)
1423 and (b) of this section, the Permit Board may release one hundred
1424 percent (100%) of the performance bond * * * or deposit to private
1425 contractors surface mining on areas provided to them by the United
1426 States Army Corps of Engineers. * * * The Permit Board may
1427 release the performance bond * * * or deposit only if the
1428 contractors have completed the reclamation work required in
1429 paragraph (a) of this subsection and the Corps of Engineers
1430 furnishes written assurance to the Permit Board that it accepts
1431 responsibility for restoration of the mined areas in accordance
1432 with all applicable reclamation standards of this chapter.

1433 (4) If the Permit Board denies the application for release
1434 of the performance bond * * * or deposit or portion thereof, it
1435 shall notify the operator, in writing, stating the reasons for
1436 denial and recommending corrective actions necessary to secure the
1437 release.

1438 (5) The Permit Board shall authorize the executive director
1439 under those conditions the Permit Board may prescribe to
1440 administratively release any performance bond or deposit provided
1441 by an operator for coverage under a general permit issued under
1442 Section 53-7-23. A decision of the executive director is a
1443 decision of the Permit Board and shall be subject to review and
1444 appeal as provided in Section 49-17-29.



1445 **SECTION 32.** Section 53-7-69, Mississippi Code of 1972, is
1446 amended as follows:

1447 53-7-69. (1) There is created in the State Treasury a fund
1448 to be designated as the "Surface Mining and Reclamation Fund,"
1449 referred to hereinafter as the "fund." There is created in the
1450 fund an account designated as the "Land Reclamation Account" and
1451 an account designated as the "Surface Mining Program Operations
1452 Account."

1453 (2) The fund shall be treated as a special trust fund.
1454 Interest earned on the principal therein shall be credited by the
1455 Treasurer to the fund.

1456 (3) The fund may receive monies from any available public or
1457 private sources, including, but not limited to, collection of
1458 fees, interest, grants, taxes, public and private donations,
1459 judicial actions, penalties and forfeited performance bonds. Any
1460 monies received from penalties, forfeited performance bonds,
1461 judicial actions and the interest thereon, less enforcement and
1462 collection costs, shall be credited to the Land Reclamation
1463 Account. Any monies received from the collection of fees, grants,
1464 taxes, public or private donations and the interest thereon shall
1465 be credited to the Surface Mining Program Operations Account.

1466 (4) The commission shall expend or utilize monies in the
1467 fund by an annual appropriation by the Legislature as provided
1468 herein. Monies in the Land Reclamation Account may be used to
1469 defray any costs of reclamation of land affected by mining
1470 operations. Monies in the Surface Mining Program Operations
1471 Account may be used to defray the reasonable direct and indirect
1472 costs associated with the administration and enforcement of this
1473 chapter.

1474 (5) Proceeds from the forfeiture of performance bonds * * *
1475 or deposits and penalties recovered shall be available to be
1476 expended to reclaim, in accordance with * * * this chapter, lands
1477 with respect to which the performance bonds * * * or deposits were



1478 provided and penalties assessed. If the commission expends monies
1479 from the fund for which the cost of reclamation exceeded the
1480 proceeds from the forfeiture of performance bonds or deposits, the
1481 commission may seek to recover any monies expended from the fund
1482 from any responsible party.

1483 **SECTION 33.** Section 53-7-71, Mississippi Code of 1972, is
1484 amended as follows:

1485 53-7-71. In the reclamation of land affected by surface
1486 mining for which it has funds available, the commission may avail
1487 itself of any services which may be provided by other state
1488 agencies, political subdivisions or the federal government, and
1489 may compensate them for the services. The commission may cause
1490 the reclamation work to be done through contract with other
1491 governmental agencies or * * * with qualified persons. The
1492 contracts shall be awarded as provided by state law and policies
1493 of the commission. Any person under * * * contract to the
1494 commission may enter onto the land affected to carry out the
1495 reclamation.

1496 **SECTION 34.** Section 53-7-75, Mississippi Code of 1972, is
1497 amended as follows:

1498 53-7-75. (1) Information submitted to the department,
1499 commission, Permit Board or local soil and water conservation
1500 district * * * pertaining to the deposits of materials, * * *
1501 trade secrets or privileged commercial or financial information
1502 relating to the competitive rights of the applicant and which is
1503 specifically identified as confidential, shall not be available
1504 for public examination and shall not be considered as a public
1505 record if:

1506 (a) The applicant submits a written confidentiality
1507 claim to the commission before submission of the information; and

1508 (b) The commission determines the confidentiality claim
1509 to be valid.



1510 (2) The confidentiality claim shall include a generic
1511 description of the nature of the information included in the
1512 submission. The commission shall adopt rules and regulations
1513 consistent with the Mississippi Public Records Act regarding
1514 access to confidential information. Any information for which a
1515 confidentiality claim is asserted shall not be disclosed pending
1516 the outcome of any formal hearing and all appeals.

1517 (3) Any person knowingly and willfully making unauthorized
1518 disclosures of any information determined to be confidential shall
1519 be liable for civil damages arising from the unauthorized
1520 disclosure and, upon conviction, shall be guilty of a misdemeanor
1521 and shall be fined a sum not to exceed One Thousand Dollars
1522 (\$1,000.00) and dismissed from public office or employment.

1523 (4) This section shall be supplemental to remedies for
1524 misappropriation of a trade secret provided in the Mississippi
1525 Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

1526 **SECTION 35.** Section 53-7-13, Mississippi Code of 1972, which
1527 requires the Board of the Geological, Economic and Topographical
1528 Survey to establish regulations on surface mining, is repealed.

1529 **SECTION 36.** Section 53-7-15, Mississippi Code of 1972, which
1530 requires the Board of the Geological, Economic and Topographical
1531 Survey to hold certain hearings, is repealed.

1532 **SECTION 37.** Section 53-7-33, Mississippi Code of 1972, which
1533 requires soil and water conservation commissioners to submit
1534 written recommendations on reclamation plans affecting their
1535 districts, is repealed.

1536 **SECTION 38.** Section 53-7-73, Mississippi Code of 1972, which
1537 provides a temporary suspension for an operator to suspend mining
1538 operations for two (2) years and to resume operations after giving
1539 notice, is repealed.

1540 **SECTION 39.** This act shall take effect and be in force from
1541 and after July 1, 2002.

