

By: Representative Ellington

To: Conservation and Water
Resources

HOUSE BILL NO. 1398

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 acknowledging that
230 no reclamation will be required; and

231 (iii) The public agency has notified the
232 department as required by the commission before the removal of any
233 materials.

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



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

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

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

242 (ii) The operator notified the commission of the
243 commencement, expansion or resumption of the operation before July
244 1, 2002; and

245 (e) Operations for any materials that affect four (4)
246 acres or less, are greater than one thousand three hundred twenty
247 (1,320) feet from any other affected area and commenced after July
248 1, 2002, if the operator notifies the department at least seven
249 (7) calendar days before commencement or expansion of the
250 operation as required in regulations adopted by the commission,
251 except as provided in this paragraph.

252 If the operator agrees in the notification to reclaim the
253 mine site in accordance with minimum standards adopted by the
254 commission or if the exempted operation is conducted for
255 Mississippi Department of Transportation projects or state aid
256 road construction projects funded in whole or in part by public
257 funds the operator may begin after notification of the department.
258 Exempt operations conducted under those projects shall be
259 reclaimed in accordance with the requirements of the Mississippi
260 Standard Specifications for Road and Bridge Construction,
261 Mississippi Department of Transportation or Division of State Aid
262 Road Construction, as applicable. If a landowner refuses to allow
263 the operator to complete reclamation in accordance with minimum
264 standards or interferes with or authorizes a third party to
265 disturb or interfere with reclamation in accordance with minimum
266 standards, the landowner shall assume the exempt notice and shall
267 be responsible for any reclamation.



268 (3) All operations exempted under Sections 53-7-7(2)(d) and
269 53-7-7(2)(e) shall be subject to the prohibitions on mining in
270 certain areas contained in Sections 53-7-49 and 53-7-51 and may be
271 subject to the penalties in Section 53-7-59(2) for any violation
272 of those sections.

273 (4) Any operator conducting operations exempted under
274 Section 53-7-7(2)(b) or 53-7-7(2)(e) failing to notify the
275 department in accordance with the regulations of the commission,
276 may be subject to penalties provided in Section 53-7-59(2). Any
277 operator exempted under Section 53-7-7(2)(e) who agrees in the
278 notification to reclaim and fails to reclaim in accordance with
279 that paragraph may be subject to penalties provided in Section
280 53-7-59(2).

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

283 53-7-9. The department is designated as the agency to
284 administer this chapter. The commission is designated as the body
285 to enforce this chapter, including, but not limited to, the
286 issuance of administrative and penalty orders, promulgation of
287 regulations regarding matters addressed in this chapter, and
288 designation of lands unsuitable for surface mining. The Permit
289 Board is designated as the body to issue, deny, modify, revoke,
290 transfer, cancel, rescind, suspend and reissue permits under this
291 chapter.

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

294 53-7-11. (1) * * * The commission may adopt, modify,
295 repeal, after due notice and hearing, and where not otherwise
296 prohibited by federal or state law, make exceptions to and grant
297 exemptions and variances from and may enforce rules and
298 regulations pertaining to surface mining and reclamation
299 operations to implement the provisions of this chapter.



300 (2) * * * Adopting * * * rules and regulations, the
301 commission shall comply with the Mississippi Administrative
302 Procedures Law, and in addition, may hold a public hearing.
303 Notice of the date, time, place and purpose of the hearing shall
304 be given thirty (30) days before the scheduled date of the hearing
305 as follows:

306 (a) By mail to:

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

309 (ii) * * * Persons who request notification
310 of * * * proposed actions regarding rules and regulations and any
311 other person the commission deems appropriate; and

312 (iii) * * * The Mississippi Soil and Water
313 Conservation Commission, the Mississippi Department of
314 Environmental Quality, Mississippi Department of Wildlife,
315 Fisheries and Parks, Mississippi Forestry Commission, * * *
316 Mississippi Department of Archives and History, Mississippi
317 Department of Transportation and the Mississippi Department of
318 Agriculture and Commerce.

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

322 (3) Any person may submit written comments or * * * appear
323 and offer oral comments at the public hearing. The commission
324 shall consider all comments and relevant data presented at the
325 hearing before final adoption of rules and regulations under this
326 chapter. The failure of any person to submit comments within a
327 time period as established by the commission shall not preclude
328 action by the commission.

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

331 53-7-17. Upon the passage of any federal surface mining
332 legislation, the commission shall take steps necessary to



333 establish the exclusive jurisdiction of the commission over the
334 regulation of surface mining and reclamation operations in this
335 state.

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

338 53-7-19. The commission shall have the following powers and
339 duties regarding surface mining:

340 (a) To develop a statewide, comprehensive policy * * *
341 for the regulation of surface mining and reclamation consistent
342 with * * * this chapter;

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

351 * * *

352 (c) To issue, modify or revoke orders requiring an
353 operator to take any actions * * * necessary to comply with this
354 chapter, rules and regulations adopted under this chapter or any
355 permit or coverage under a general permit required by this
356 chapter;

357 * * *

358 (d) To enter on and inspect for the purpose of assuring
359 compliance with the terms of this chapter, in person or by an
360 authorized agent of the department, any surface mining
361 operation * * * subject to * * * this chapter;

362 (e) To conduct, or cause to be conducted, encourage,
363 request and participate in studies, surveys, investigations,
364 research, experiments, training and demonstrations by contract,
365 grant or otherwise; to prepare and require permittees to prepare



366 reports; and to collect information and disseminate to the
367 public * * * information such as is deemed reasonable and
368 necessary for the proper enforcement of this chapter;

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

372 (g) To advise, consult, cooperate with, or enter into
373 contracts or grants with federal, state and local boards and
374 agencies having pertinent expertise for the purpose of obtaining
375 professional and technical services necessary to carry out * * *
376 this chapter;

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

379 * * *

380 (i) To order the immediate cessation of any ongoing
381 surface mining operation being conducted with or without a permit
382 or coverage under a general permit if it finds that the operation
383 endangers the health or safety of the public or creates imminent
384 and significant environmental harm;

385 * * *

386 (j) To institute and maintain all * * * court
387 actions * * * necessary to obtain the enforcement of any written
388 order of the commission;

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

393 (l) To authorize the executive director * * * to
394 discharge or exercise any power or duty granted to the commission
395 by * * * this chapter; and

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

398 * * *



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

401 53-7-21. (1) Unless exempted under Section 53-7-7, no
402 operator shall engage in surface mining without having first
403 obtained coverage under a general permit or having obtained from
404 the Permit Board a permit for each operation. The * * * permit or
405 coverage under a general permit shall authorize the operator to
406 engage in surface mining upon the area of land described in the
407 application for a period of either five (5) years or longer period
408 of time as deemed appropriate by the Permit Board from the date
409 of * * * issuance or until reclamation of the affected area is
410 completed and the reclamation bond is finally released, whichever
411 comes first.

412 (2) * * * Each operator holding a permit shall annually,
413 before the anniversary date of the permit, file with the
414 department a certificate of compliance in which the operator,
415 under oath, shall declare that the operator is following the
416 approved mining and reclamation plan and is abiding by * * * this
417 chapter and the rules and regulations adopted under this chapter.

418 * * *

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

421 53-7-23. (1) The Permit Board may issue general permits
422 consistent with regulations adopted by the commission to cover
423 those surface mining operations deemed appropriate by the Permit
424 Board. Conditions in any general permit shall provide that no
425 operation shall be conducted on lands designated as unsuitable for
426 mining and that each operator shall submit a proposed initial
427 reclamation plan and a performance bond in an amount sufficient to
428 properly reclaim the permit area. The Permit Board may include
429 other conditions as required by the rules and regulations of the
430 commission.



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

443 (3) The Permit Board shall issue a general permit for
444 surface mining operations having a permitted area of more than
445 four (4) acres but less than ten (10) acres which are conducted
446 for projects funded in whole or in part by public funds for the
447 Mississippi Department of Transportation or the Division of State
448 Aid Road Construction. The general permit issued under this
449 subsection shall require that all materials obtained from an
450 operation covered under this general permit shall be used
451 exclusively on the Mississippi Department of Transportation or
452 Division of State Aid Road Construction project and that no
453 materials from an operation covered under this permit may be
454 provided or sold for any other purpose. The Permit Board shall
455 consult with the Mississippi Department of Transportation on the
456 development of this general permit. An applicant for a coverage
457 under a general permit issued under this subsection shall submit
458 an application for coverage and a proposed initial reclamation
459 plan as required by this section, but the applicant shall not be
460 required to post a performance bond under this section, if the
461 applicant submits a copy of the bond posted with the Mississippi
462 Department of Transportation or the Division of State Aid Road
463 Construction. The Mississippi Department of Transportation or the



464 Division of State Aid Road Construction shall not release the bond
465 until all reclamation requirements of the general permit issued
466 under this section have been met. No operation conducted under a
467 general permit issued under this subsection shall be conducted in
468 lands designated as unsuitable for mining under Sections 53-7-49
469 or 53-7-51. The Permit Board may include other conditions as
470 required by the rules and regulations of the commission in the
471 general permit issued under this section.

472 (4) Within three (3) working days after receiving the
473 application for coverage under a general permit, the department
474 shall review the application, determine if the proposed surface
475 mining operation is eligible for coverage under a general permit,
476 and notify the applicant in writing accordingly. Operations may
477 commence at the mining site after the operator receives notice of
478 coverage.

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

481 53-7-25. (1) Each application for a surface mining permit
482 and for coverage under a general permit shall be accompanied by
483 an * * * application fee in accordance with a published fee
484 schedule adopted by the commission. The application fee shall not
485 be less than One Hundred Dollars (\$100.00) plus Ten Dollars
486 (\$10.00) per acre included in the application. The total
487 application fee shall not * * * exceed * * * Five Hundred Dollars
488 (\$500.00). The commission, in considering regulations on the fee
489 schedule, shall recognize the difference in the various
490 materials * * *, taking into consideration the commercial value of
491 the material and the nature and size of operation necessary to
492 extract it.

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



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

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

501 53-7-27. (1) Before commencing any operation for which a
502 permit is required, each applicant for a permit shall submit to
503 the Permit Board an application, a proposed initial reclamation
504 plan and a performance bond in an amount proposed to be sufficient
505 by the applicant to reclaim the permit area.

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

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

515 (b) The approximate location and depth of the deposit
516 in the permit area and the total number of acres in the permit
517 area;

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

521 (d) The name and address of any person holding legal
522 and equitable interests of record, if reasonably ascertainable, in
523 the surface estate of the permit area and in the surface estate of
524 land located within five hundred (500) feet of the exterior limits
525 of the permit area;

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



528 (f) Current or previous surface mining permits held by
529 the applicant, including any revocations, suspensions or bond
530 forfeitures;

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

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

541 (i) The names and locations of all lakes, rivers,
542 reservoirs, streams, creeks and other bodies of water in the
543 vicinity of the contemplated operations which may be affected by
544 the operations and the types of existing vegetative cover on the
545 area affected thereby and on adjoining lands within five hundred
546 (500) feet of the exterior limits of the affected area;

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

549 (k) The surface location and extent of all existing and
550 proposed waste and spoil piles, cuts, pits, tailing dumps, ponds,
551 borrow pits, evaporation and settling basins, roads, buildings,
552 access ways, workings and installations sufficient to provide a
553 reasonably clear and accurate portrayal of the existing surface
554 conditions and the proposed mining operations;

555 (l) If the surface and mineral estates, or any part of
556 those estates, in land covered by the application, have been
557 severed and are owned by separate owners, the applicant shall
558 provide a notarized statement subscribed to by each surface owner
559 and lessee of those lands, unless the lease or other conveyance to
560 the applicant specifically states the material to be mined by the



561 operator granting consent for the applicant to initiate and
562 conduct surface mining, exploration and reclamation activities on
563 the land;

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

571 (i) One Hundred Thousand Dollars (\$100,000.00) for
572 all damages because of bodily injury sustained by one (1) person
573 as the result of any one occurrence, and Three Hundred Thousand
574 Dollars (\$300,000.00) for all damages because of bodily injury
575 sustained by two (2) or more persons as the result of any one
576 occurrence; and

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

580 The policy shall be maintained in full force and effect
581 during the term of the permit * * *, including the length of all
582 reclamation operations.

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

585 (o) Any other information needed to clarify the
586 required parts of the application.

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

589 53-7-29. (1) The department shall file a copy of each
590 permit application * * * for public inspection with the chancery
591 clerk * * * of the county where any * * * portion of the operation
592 is proposed to occur after deleting the confidential information
593 according to Section 53-7-75.



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

609 (3) Each * * * agency shall review the permit
610 application * * * and submit, within ten (10) days of receipt of
611 the application, any comments, recommendations and evaluations as
612 the agency deems necessary and proper based only upon the effect
613 of the proposed operation on matters within the agency's
614 jurisdiction. The comments shall include a listing of permits or
615 licenses required under the agency's jurisdiction. * * * Comments
616 and recommendations shall be made a part of the record and one (1)
617 copy shall be furnished to the applicant. All comments and
618 recommendations shall be considered by, but shall not be binding
619 upon, the Permit Board. The failure of any agency to submit
620 comments shall not preclude action by the Permit Board.

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

623 53-7-31. (1) A reclamation plan shall be developed in a
624 manner consistent with local, physical, environmental and
625 climatological conditions and current mining and reclamation



626 technology. A proposed initial reclamation plan submitted as part
627 of a permit application shall include the following information:

628 (a) The identification of the proposed affected
629 area * * *, accompanied by a detailed topographic map on a scale
630 required by regulation showing:

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

636 (ii) The location of any buildings, cemeteries,
637 public highways, railroad tracks, gas and oil wells, publicly
638 owned land, sanitary landfills, officially designated scenic
639 areas, utility lines, underground mines, transmission lines or
640 pipelines within the affected area or within five hundred (500)
641 feet of the exterior limits of the affected area;

642 (iii) The approximate location of the cuts or
643 excavations to be made in the surface and the estimated location
644 and height of spoil banks, and the total number of acres involved
645 in the affected area;

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

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

650 (i) The land use existing at the time of the
651 application, and if the land has a history of previous mining, the
652 land use, if reasonably ascertainable, which immediately preceded
653 any mining; and

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



657 (c) The capacity of the land to support its anticipated
658 use following reclamation, including a discussion of the capacity
659 of the reclaimed land to support alternative uses.

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

664 (e) The steps taken to comply with applicable air and
665 water quality and water rights laws and regulations and any
666 applicable health and safety standards, including copies of any
667 pertinent permit applications.

668 (f) A general timetable that the applicant estimates
669 will be necessary for accomplishing the major events contained in
670 the reclamation plan.

671 (g) Any other information as the Permit Board * * *
672 shall determine to be reasonably necessary to effectuate the
673 purposes of this chapter.

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



689 submit a reclamation plan for the lands contained in the permit
690 application.

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

693 53-7-35. (1) Any permit issued under this chapter * * *
694 shall require * * * operations to comply with all applicable
695 reclamation standards of this chapter. Reclamation standards
696 shall apply to all operations, exploration activities and
697 reclamation operations covered by this chapter and shall * * *
698 require the operator at a minimum to:

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

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

711 (c) Conduct water drainage and silt control for * * *
712 the affected area to strictly control soil erosion, damage to
713 adjacent lands and pollution of * * * waters of the state, both
714 during and following the mining operations. Before, during and
715 for a reasonable period after mining, all drainways for the
716 affected area shall be protected with silt traps or dams of
717 approved design as directed by the regulations. The operator
718 may * * * impound water to provide wetlands, lakes or ponds of
719 approved design for wildlife, recreational or water supply
720 purposes, if it is a part of the approved reclamation plan;



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

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

728 (f) Stabilize and protect all * * * affected
729 areas * * * sufficiently to control erosion and attendant air and
730 water pollution;

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

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

751 * * *

752 (i) Minimize the disturbances to the prevailing
753 hydrologic balance at the mine site and in associated off-site



754 areas and to the quality and quantity of water in surface and
755 groundwater systems both during and after surface mining
756 operations and during reclamation by:

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

759 1. Preventing or removing water from contact
760 with toxic-material producing deposits;

761 2. Treating drainage to reduce toxic material
762 content; and

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

766 (ii) Conducting operations * * * to prevent
767 unreasonable additional levels of suspended solids to streamflow
768 or runoff outside the permit area above natural levels under
769 seasonal flow conditions;

770 (iii) * * * Removing * * * temporary or large
771 siltation structures from drainways, consistent with good water
772 conservation practices, after disturbed areas are revegetated and
773 stabilized;

774 (iv) Performing any other actions as the
775 commission may prescribe under rules and regulations adopted under
776 this chapter;

777 (j) Stabilize any waste piles;

778 (k) * * * Incorporate current engineering practices for
779 the design and construction of water retention structures for the
780 disposal of mine wastes, processing wastes or other liquid or
781 solid wastes which, at a minimum, shall be compatible with the
782 requirements of * * * applicable state and federal laws and
783 regulations, insure that leachate will not pollute surface or
784 ground water, and locate water retention structures so as not to
785 endanger public health and safety should failure occur;



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

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

797 (n) Refrain from the construction of roads or other
798 access ways up a stream bed or drainage channel or in proximity to
799 a channel where the construction would seriously alter the normal
800 flow of water;

801 (o) Revegetate the affected area with plants, approved
802 by the department, to attain a useful, productive and beneficial
803 purpose, including an agricultural, grazing, industrial,
804 commercial, residential or recreational purpose, including lakes,
805 ponds, wetlands, wildlife habitat or other natural or forested
806 areas;

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

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

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

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

817 (iii) The quality of impounded water will be
818 suitable on a permanent basis for its intended use and the



819 discharges from the impoundment will not degrade the water quality
820 in the receiving stream;

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

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

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

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

841 (3) Each operator, except as authorized by the Permit Board,
842 shall perform reclamation work concurrently with the conduct of
843 the mining operation where practical. The fact that an operator
844 will likely redisturb an area shall be cause for the Permit Board
845 to grant an exception from the requirement of concurrent
846 reclamation.

847 (4) The operator and, in case of bond forfeiture, the
848 department or its designee, shall have the continuing right to
849 enter and inspect the affected area * * * in the reclamation plan
850 and to perform any reclamation measures required properly to
851 complete the reclamation plan.



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

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

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

877 (d) Forfeiture proceedings shall be before the
878 commission and an order of the commission under this subsection is
879 a final order. If the commission determines that forfeiture of
880 the performance bond or deposit should be ordered, the department
881 shall have the immediate right to all funds of any performance
882 bond or deposit, subject only to review and appeals allowed under
883 Section 49-17-41.



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

892 (f) If the performance bond or deposit is insufficient
893 to cover the costs of reclamation of the permit area in accordance
894 with the approved reclamation plan or remediation of any off-site
895 damages, the commission may initiate a civil action to recover the
896 deficiency amount in the county in which the surface mining
897 operation is located.

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

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

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

914 53-7-37. (1) * * * Before * * * a permit is issued by the
915 Permit Board, the applicant shall file with the department in the
916 manner and form required by the commission a bond for performance



917 payable to the commission and conditioned on full and satisfactory
918 performance of * * * the requirements of this chapter and the
919 permit. The bond shall not be less than Five Hundred Dollars
920 (\$500.00) nor more than Two Thousand Five Hundred Dollars
921 (\$2,500.00) for each estimated acre of the permit area of the
922 respective operation. * * *

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

940 (3) The amount of the bond or deposit required and the terms
941 of acceptance of the applicant's bond or deposit may be increased
942 or decreased by the Permit Board from time to time to reflect
943 changes in the cost of future reclamation of land mined or to be
944 mined subject to the limitations on the amount of the bond set
945 forth in this section.

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



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

951 53-7-39. (1) The department shall conduct an initial review
952 of a completed permit application within thirty (30) days
953 following receipt of the completed application. The department
954 shall make a recommendation to the Permit Board on the permit
955 application no later than the next regularly scheduled Permit
956 Board meeting following the thirty-day initial review period,
957 unless a public hearing is held on the application or the
958 applicant agrees in writing to an additional time frame. If a
959 public hearing is held, the department shall make its
960 recommendation at the next regularly scheduled Permit Board
961 meeting following the public hearing, if practicable.

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

966 * * *

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

969 53-7-41. (1) The Permit Board, based upon the provisions of
970 this chapter, may issue, reissue, deny, modify, revoke, cancel,
971 rescind, suspend or transfer a permit for a surface mining
972 operation. The head of the Office of Geology and Energy Resources
973 shall abstain in any action taken by the Permit Board under this
974 chapter.

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

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

979 (a) The Permit Board finds that the reclamation as
980 required by this chapter cannot be accomplished by means of the
981 proposed reclamation plan;



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

985 (c) The Permit Board finds that the proposed mining
986 operation will cause pollution of any water of the state or of the
987 ambient air of the state in violation of applicable state and
988 federal laws and regulations;

989 (d) The applicant has had any other permit issued under
990 this chapter revoked, or any bond or deposit posted to comply with
991 this chapter forfeited, and the conditions causing the permit to
992 be revoked or the bond or deposit to be forfeited have not been
993 corrected to the satisfaction of the Permit Board;

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

997 (f) The operation will likely adversely affect any
998 public highway or road unless the operation is intended to
999 stabilize or repair the public road or highway; or

1000 (g) The applicant is unable to meet the public
1001 liability insurance or performance bonding requirements of this
1002 chapter.

1003 (4) The Permit Board shall deny a permit if the Permit Board
1004 finds by clear and convincing evidence on the basis of the
1005 information contained in the permit application or obtained by
1006 on-site inspection that the proposed operation cannot comply with
1007 this chapter or rules and regulations adopted under this chapter
1008 or that the proposed method of operation, road system
1009 construction, shaping or revegetation of the affected area cannot
1010 be carried out in a manner consistent with this chapter and
1011 applicable state and federal laws, rules and regulations.

1012 (5) The Permit Board may hold a public hearing to obtain
1013 comments from the public on its proposed action. If the Permit



1014 Board holds a public hearing, the Permit Board shall publish
1015 notice and conduct the hearing as provided in Section 49-17-29.

1016 (6) The Permit Board may authorize the executive director,
1017 under any conditions the Permit Board may prescribe, to make
1018 decisions on permit issuance, reissuance, modification, rescission
1019 or cancellation under this chapter. A decision by the executive
1020 director is a decision of the Permit Board and shall be subject to
1021 formal hearing and appeal as provided in Section 49-17-29. The
1022 executive director shall report all permit decisions to the Permit
1023 Board at its next regularly scheduled meeting and those decisions
1024 shall be deemed as recorded in the minutes of the Permit Board at
1025 that time.

1026 (7) The Permit Board may cancel a permit at the request of
1027 the operator, if the operator does not commence operations under
1028 the permit by stripping, grubbing or mining any part of the permit
1029 area. The Permit Board may rescind a permit, if, because of a
1030 change in post-mining use of the land by the landowner, the
1031 completion of the approved reclamation plan by the operator is no
1032 longer feasible. If a permit is canceled or rescinded, the
1033 remaining portion of the bond or deposit required under Section
1034 53-7-37 shall be returned to the operator as soon as possible.

1035 **SECTION 19.** Section 53-7-43, Mississippi Code of 1972, is
1036 amended as follows:

1037 53-7-43. (1) Applications for the modification, transfer or
1038 reissuance of any surface mining permit issued under this chapter
1039 may be filed with the department. The Permit Board may modify any
1040 surface mining permit to increase or decrease the permit area and
1041 shall require an increase in the performance bond and a modified
1042 reclamation plan for any expanded area.

1043 (2) Any permit issued under this chapter shall carry with it
1044 the right of successive reissuance upon expiration for areas
1045 within the boundaries of the existing permit. The operator may
1046 apply for reissuance and that permit shall be reissued, except as



1047 provided in this subsection. On application for reissuance the
1048 burden of proving that the permit should not be reissued shall be
1049 on the opponents of reissuance or the department. If the
1050 opponents to reissuance or the department establish and the Permit
1051 Board finds, in writing, that the operator is not satisfactorily
1052 meeting the terms and conditions of the existing permit or the
1053 present surface mining and reclamation operation is not in
1054 compliance with this chapter and the rules and regulations issued
1055 under this chapter, the Permit Board shall not reissue the permit.

1056 (3) Any permit reissuance shall be for a term not to exceed
1057 the term of the original permit established by this chapter.
1058 Application for permit reissuance shall be filed with the Permit
1059 Board at least sixty (60) days before the expiration of the
1060 permit. If an application for reissuance is timely filed, the
1061 operator may continue surface mining operations under the existing
1062 permit until the Permit Board takes action on the reissuance
1063 application.

1064 **SECTION 20.** Section 53-7-45, Mississippi Code of 1972, is
1065 amended as follows:

1066 53-7-45. Any interested party may seek a review or an appeal
1067 of any action or decision of the Permit Board under Sections
1068 53-7-41 and 53-7-43 as provided in Section 49-17-29.

1069 **SECTION 21.** Section 53-7-47, Mississippi Code of 1972, is
1070 amended as follows:

1071 53-7-47. To the extent that the commission, the Permit Board
1072 and the department may exercise jurisdiction over the areas
1073 specified in this section, no surface mining operation * * * shall
1074 be conducted on lands which are part of a national park, national
1075 monument, national historic landmark, any property listed on the
1076 national register of historic places, national forest, national
1077 wilderness area, national wildlife refuge, national wild or scenic
1078 river, state park, state wildlife refuge, state forest, recorded
1079 state historical landmark, state historic site, state



1080 archaeological landmark or city or county park, forest or
1081 historical area. * * * For good cause shown and after any public
1082 hearing the commission may elect to hold, the commission may make
1083 an exception to this section.

1084 **SECTION 22.** Section 53-7-49, Mississippi Code of 1972, is
1085 amended as follows:

1086 53-7-49. (1) With the assistance of the Mississippi
1087 Commission on Wildlife, Fisheries and Parks and the Mississippi
1088 Department of Marine Resources, the commission shall identify and
1089 designate as unsuitable certain lands for all or certain types of
1090 surface mining * * *. The commission shall adopt rules and
1091 regulations to provide reasonable notice to prospective operators
1092 and any other interested parties of areas which might be
1093 designated as unsuitable for surface mining. The commission may
1094 designate areas as unsuitable for surface mining lands if the
1095 commission determines:

1096 (a) The operations will result in significant damage to
1097 important areas of historic, cultural or archaeological value or
1098 to important natural systems;

1099 (b) The operations will affect renewable resource lands
1100 resulting in a substantial loss or reduction of long-range
1101 productivity of water supply or food or fiber products, including
1102 aquifers and aquifer recharge areas;

1103 (c) The operations are located in areas of unstable
1104 geological formations and may reasonably be expected to endanger
1105 life and property;

1106 (d) The operations will damage ecologically sensitive
1107 areas;

1108 (e) The operations will significantly and adversely
1109 affect any national park, national monument, national historic
1110 landmark, property listed on the national register of historic
1111 places, national forest, national wilderness area, national
1112 wildlife refuge, national wild or scenic river area, state park,



1113 state wildlife refuge, state forest, recorded state historical
1114 landmark, state historic site, state archaeological landmark, or
1115 city or county park;

1116 (f) The operations will endanger any public road,
1117 public building, cemetery, school, church or similar structure or
1118 existing dwelling outside the permit area; or

1119 (g) The operations and the affected area cannot be
1120 reclaimed feasibly under the requirements of this chapter * * *.

1121 (2) Unless an operation is exempted under Section
1122 53-7-7(2) (a) or 53-7-7(2) (b), it is unlawful to conduct surface
1123 mining operations within an area designated as unsuitable for
1124 surface mining under Section 53-7-49 or this section or to conduct
1125 surface mining operations in rivers, lakes, bayous, intermittent
1126 or perennial streams or navigable waterways, natural or manmade,
1127 without a permit or coverage under a general permit issued or
1128 reissued consistent with regulations adopted by the commission.

1129 **SECTION 23.** Section 53-7-51, Mississippi Code of 1972, is
1130 amended as follows:

1131 53-7-51. (1) The commission, upon petition, may designate,
1132 modify or terminate the designation of an area as unsuitable for
1133 surface mining. The commission, upon its own motion, may
1134 terminate the designation of an area as unsuitable for surface
1135 mining. The commission may conduct a public hearing on its
1136 proposed action in accordance with Section 49-17-33. Before
1137 terminating an area as unsuitable for surface mining, the
1138 commission shall provide notice as required under Section 53-7-11.

1139 (2) A petition shall contain allegations of facts with
1140 supporting evidence. The commission shall make a determination
1141 based upon the validity of the facts contained in the petition,
1142 and may designate, modify or terminate the designation of the
1143 lands included in the petition as unsuitable for mining.

1144 (3) Any person aggrieved by an action of the commission
1145 under this section may appeal as provided in Section 49-17-41.



1146 **SECTION 24.** Section 53-7-53, Mississippi Code of 1972, is
1147 amended as follows:

1148 53-7-53. The Permit Board shall require each permittee to:

1149 (a) Establish and maintain appropriate records;

1150 (b) Make reports, the frequency and nature of which
1151 shall be prescribed by the commission; and

1152 (c) Install, use and maintain any necessary monitoring
1153 equipment for the purpose of observing and determining relevant
1154 surface or subsurface effects of the mining operation or
1155 reclamation program.

1156 **SECTION 25.** Section 53-7-55, Mississippi Code of 1972, is
1157 amended as follows:

1158 53-7-55. (1) * * * Authorized representatives of the
1159 department, on presentation of appropriate credentials * * *, may
1160 enter and inspect any operation or any premises in which * * *
1161 records required to be maintained under Section 53-7-53 are
1162 located and may at reasonable times, and without delay, have
1163 access to and copy any records and inspect any monitoring
1164 equipment or method of operation required under this chapter.

1165 (2) * * * Inspections of operations with or without a permit
1166 by the department shall occur on an irregular basis at a frequency
1167 necessary to insure compliance with * * * this chapter, rules and
1168 regulations and the terms and conditions of any permit.
1169 Inspections shall occur only during normal operating hours if
1170 practical, may occur without prior notice to the permittee or the
1171 agents or employees of the permittee, and shall include the filing
1172 of an inspection report. The department shall make those reports
1173 part of the record and shall provide one (1) copy of the report to
1174 the operator. The department shall, * * * as practical, establish
1175 a system of rotation of field inspectors.

1176 (3) Each field inspector, on detection of each violation
1177 of * * * this chapter, rules and regulations adopted under this
1178 chapter or the permit for the operation, shall * * * inform the



1179 operator or the operator's agent orally at the time of the
1180 inspection and subsequently in writing and shall report * * *
1181 any * * * violation in writing to the commission.

1182 **SECTION 26.** Section 53-7-57, Mississippi Code of 1972, is
1183 amended as follows:

1184 53-7-57. Any representative of the local soil and water
1185 conservation district, upon presentation of appropriate
1186 credentials may enter and inspect the operation for the purpose of
1187 making recommendations regarding reclamation activities * * *.
1188 The representative shall make any recommendations on the progress
1189 of reclamation activities in writing to the Permit Board.

1190 **SECTION 27.** Section 53-7-59, Mississippi Code of 1972, is
1191 amended as follows:

1192 53-7-59. (1) Any person who violates, or fails or refuses
1193 to comply with this chapter, any rule or regulation or written
1194 order of the commission adopted or issued under this chapter or
1195 any condition of a permit or coverage under a general permit
1196 issued under this chapter may be subject to a civil penalty to be
1197 assessed and levied by the commission after notice and opportunity
1198 for a formal hearing. In addition to assessing civil penalties
1199 under this section, the commission may submit a written statement
1200 to the Permit Board recommending that the Permit Board revoke the
1201 permit for any operation which is subject to the maximum penalty
1202 of Twenty-five Thousand Dollars (\$25,000.00). Appeals of any
1203 action or decision of the commission may be taken as provided in
1204 Section 49-17-41.

1205 (2) Any civil penalty assessed against a permitted, covered
1206 or exempt operation and levied by the commission under this
1207 section shall not exceed Five Hundred Dollars (\$500.00) for the
1208 first violation; for subsequent violations committed within three
1209 (3) years of the first violation the maximum penalties are: Two
1210 Thousand Five Hundred Dollars (\$2,500.00) for the second
1211 violation, Five Thousand Dollars (\$5,000.00) for the third



1212 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1213 fourth and subsequent violations by the same operator. Multiple
1214 violations at a site during one (1) day shall not be cumulative.
1215 A separate penalty shall not be assessed for each violation and
1216 only one (1) penalty may be assessed for all violations occurring
1217 at a site during one (1) day. Each day of a continuing violation
1218 shall be a separate violation until corrective action is taken or
1219 the operator after notice of the violation is diligently pursuing
1220 efforts to achieve compliance in a timely manner. In assessing a
1221 penalty under this subsection, the commission shall not consider
1222 offenses occurring before July 1, 2002. In addition to the civil
1223 penalty authorized under this subsection, the commission may order
1224 an operator of a permitted, covered or exempt operation to reclaim
1225 the affected area.

1226 (3) Any civil penalty assessed against an operator for
1227 mining without a permit and levied by the commission under this
1228 section shall not exceed Five Thousand Dollars (\$5,000.00) for the
1229 first violation, Ten Thousand Dollars (\$10,000.00) for the second
1230 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1231 third and subsequent violations by an operator. In assessing a
1232 penalty under this subsection, the commission shall not consider
1233 violations occurring before July 1, 2002.

1234 (4) In determining the amount of penalty under this chapter,
1235 the commission shall consider at a minimum:

1236 (a) The willfulness of the violation;

1237 (b) Any damage to air, water, land or other natural
1238 resources of the state or their uses;

1239 (c) Costs of restoration and abatement;

1240 (d) Economic benefit as a result of noncompliance;

1241 (e) The seriousness of the violation, including any

1242 harm to the environment and any hazard to the health, safety and
1243 welfare of the public; and

1244 (f) Past performance history.



1245 (5) The commission may institute and maintain a civil action
1246 for relief, including a permanent or temporary injunction or any
1247 other appropriate order, in the chancery court of the county in
1248 which the majority of the surface mining operation is located.
1249 The chancery court shall have jurisdiction to provide relief as
1250 may be appropriate. Any relief granted by the court to enforce a
1251 written order of the commission shall continue in effect until the
1252 completion of all proceedings for review of that order under this
1253 chapter, unless the chancery court granting the relief sets it
1254 aside or modifies it before that time.

1255 (6) Any provisions of this section and chapter regarding
1256 liability for the costs of cleanup, removal, remediation or
1257 abatement of any pollution, hazardous waste or solid waste shall
1258 be limited as provided in Section 49-17-42 and rules adopted under
1259 that section.

1260 (7) Any violation of this law and the Mississippi Air and
1261 Water Pollution Control Law or the Solid Wastes Disposal Law of
1262 1974 shall be assessed a civil penalty under only one (1) of these
1263 laws.

1264 **SECTION 28.** Section 53-7-61, Mississippi Code of 1972, is
1265 amended as follows:

1266 53-7-61. (1) Any person who knowingly makes any false
1267 statement, representation or certification, or knowingly fails to
1268 make any statement, representation or certification in any
1269 application, record, report, plan or other document filed or
1270 required to be maintained under this chapter is guilty of a
1271 misdemeanor and upon conviction, may be subject to a fine of not
1272 more than Five Thousand Dollars (\$5,000.00).

1273 (2) Any person who * * * knowingly violates, or fails or
1274 refuses to comply with this chapter, any rule or regulation or
1275 written order of the commission adopted or issued under this
1276 chapter, or any condition of a permit issued under this chapter,



1277 is guilty of a misdemeanor and, upon conviction, may be subject to
1278 a fine of not more than Five Thousand Dollars (\$5,000.00).

1279 **SECTION 29.** Section 53-7-63, Mississippi Code of 1972, is
1280 amended as follows:

1281 53-7-63. (1) Unless otherwise expressly provided in this
1282 chapter, any interested party aggrieved by any action of the
1283 Permit Board taken under this chapter may request a formal hearing
1284 before the Permit Board as provided in Section 49-17-29. Any
1285 person aggrieved by any action of the commission taken under this
1286 chapter may request a formal hearing before the commission as
1287 provided in Section 49-17-41. Any person who participated as a
1288 party in a formal hearing before the Permit Board may appeal from
1289 a final decision of the Permit Board made under this chapter as
1290 provided in Section 49-17-29. Any person who participated as a
1291 party in a formal hearing before the commission may appeal from a
1292 final decision of the commission made under this chapter as
1293 provided in Section 49-17-41.

1294 (2) (a) Any public hearing of the Permit Board provided for
1295 under this chapter shall be deemed to be the same hearing as
1296 otherwise afforded to any interested party by the Permit Board
1297 under Section 49-17-29. Any formal hearing of the Permit Board
1298 provided for under this chapter shall be deemed to be the same
1299 hearing as otherwise afforded to any interested party by the
1300 Permit Board under Section 49-17-29.

1301 (b) Any public hearing of the commission provided for
1302 under this chapter shall be deemed to be the same hearing as
1303 afforded under Section 49-17-35. Any formal hearing of the
1304 commission provided for under this chapter shall be deemed to be
1305 the same hearing as afforded under Section 49-17-41.

1306 (3) (a) In conducting any formal hearing under this
1307 chapter, the Permit Board shall have the same authority to
1308 subpoena witnesses, administer oaths, examine witnesses under oath
1309 and conduct the hearing as provided in Section 49-17-29.



1310 (b) In conducting any formal hearing under this chapter
1311 the commission shall have the same authority to subpoena
1312 witnesses, administer oaths, examine witnesses under oath and
1313 conduct the hearing as provided in Section 49-17-41.

1314 **SECTION 30.** Section 53-7-65, Mississippi Code of 1972, is
1315 amended as follows:

1316 53-7-65. (1) When an employee of the department files a
1317 report alleging a violation or when any person files a complaint
1318 with the commission alleging that any other person is in violation
1319 of this chapter, any rule and regulation issued under this
1320 chapter, or any condition of a permit issued under this chapter,
1321 the commission shall notify the alleged violator and conduct an
1322 investigation of the complaint. Upon finding a basis for the
1323 complaint, the commission shall cause written notice of the
1324 complaint, specifying the section of law, rule, regulation or
1325 permit alleged to be violated and the facts of the alleged
1326 violations, to be served upon that person. The commission may
1327 require the person to appear before the commission at a time and
1328 place specified in the notice to answer the charges. The time of
1329 appearance before the commission shall be not less than twenty
1330 (20) days from the date of the mailing or service of the
1331 complaint, whichever is earlier. If the commission finds no basis
1332 for the complaint, the commission shall dismiss the complaint.

1333 (2) The commission shall afford an opportunity for a formal
1334 hearing to the alleged violator at the time and place specified in
1335 the notice or at another time or place agreed to in writing by
1336 both the department and the alleged violator, and approved by the
1337 commission. On the basis of the evidence produced at the formal
1338 hearing, the commission may enter an order which in its opinion
1339 will best further the purposes of this chapter and shall give
1340 written notice of that order to the alleged violator and to any
1341 other persons which appeared at the formal hearing or made written
1342 request for notice of the order. The commission may assess



1343 penalties as provided in Section 53-7-59. Any formal hearing
1344 under this section shall be of record.

1345 (3) Except as otherwise expressly provided, any notice or
1346 other instrument issued by or under authority of the commission
1347 may be served on any affected person personally or by publication,
1348 and proof of that service may be made in the same manner as in
1349 case of service of a summons in a civil action. The proof of
1350 service shall be filed in the office of the commission. Service
1351 may also be made by mailing a copy of the notice, order, or other
1352 instrument by certified mail, directed to the person affected at
1353 the person's last known post office address as shown by the files
1354 or records of the commission. Proof of service may be made by the
1355 affidavit of the person who did the mailing and shall be filed in
1356 the office of the commission.

1357 (4) Any person who participated as a party in the formal
1358 hearing may appeal a decision of the commission under this section
1359 as provided in Section 49-17-41.

1360 **SECTION 31.** Section 53-7-67, Mississippi Code of 1972, is
1361 amended as follows:

1362 53-7-67. (1) Upon completion of the operation in the permit
1363 area * * *, the operator may file an application with the Permit
1364 Board for the release of the performance bond * * * or deposit.
1365 The application for performance bond release shall require a
1366 description of the results achieved in accordance with the
1367 operator's reclamation plan, which includes revegetation and end
1368 result plans, and any other information the Permit Board may
1369 require in accordance with * * * this chapter. The Permit Board
1370 shall file a copy of the performance bond release application for
1371 public inspection with the chancery clerk of the county * * *
1372 where the majority of the surface mining * * * operation is
1373 located and with the local soil and water conservation district.
1374 The Permit Board shall give notice of the pending bond release
1375 application by publication in the form as the commission by



1376 regulation may require after inspecting and evaluating the
1377 reclamation work as provided by subsection (2) of this
1378 section. * * *

1379 (2) After receipt of the application for bond release, the
1380 department shall, and the local soil and water district
1381 commissioners may, within * * * thirty (30) days, conduct an
1382 inspection and evaluation of the reclamation work involved. The
1383 evaluation shall consider, among other things, the occurrence of
1384 pollution of surface and subsurface water * * *, the probability
1385 of continuance or future occurrence of * * * pollution, and the
1386 estimated cost of abating the pollution. Results of the
1387 evaluation and findings of the department or the soil and water
1388 commissioners, or both, shall be provided within thirty (30) days
1389 after the inspection to the operator and other interested parties
1390 making written request for the evaluation and findings. The
1391 evaluation and findings of the soil and water commissioners, if
1392 any shall be forwarded to the department before the end of the
1393 thirty (30) days.

1394 (3) The Permit Board may release in whole or in part the
1395 performance bond * * * or deposit if it is satisfied that
1396 reclamation covered by the performance bond * * * or deposit or
1397 portion thereof has been accomplished as required by this chapter
1398 according to the following schedule:

1399 (a) When the operator or surety completes required
1400 backfilling, regrading, and drainage control of a bonded area in
1401 accordance with the approved reclamation plan, the Permit Board
1402 may release * * * up to ninety percent (90%) of the performance
1403 bond * * * or deposit for the applicable permit area. The amount
1404 of the unreleased portion of the performance bond * * * or deposit
1405 shall not be less than the amount necessary to assure completion
1406 of the reclamation work by a third party in the event of default
1407 by the operator; and



1408 (b) When the operator has successfully completed the
1409 remaining reclamation activities, but not before two (2) years
1410 beyond the date of the initial performance bond release, the
1411 Permit Board may release the remaining portion of the performance
1412 bond * * * or deposit. No performance bond * * * or deposit shall
1413 be fully released until all reclamation requirements of this
1414 chapter are fully met.

1415 (c) Notwithstanding the provisions of paragraphs (a)
1416 and (b) of this section, the Permit Board may release one hundred
1417 percent (100%) of the performance bond * * * or deposit to private
1418 contractors surface mining on areas provided to them by the United
1419 States Army Corps of Engineers. * * * The Permit Board may
1420 release the performance bond * * * or deposit only if the
1421 contractors have completed the reclamation work required in
1422 paragraph (a) of this subsection and the Corps of Engineers
1423 furnishes written assurance to the Permit Board that it accepts
1424 responsibility for restoration of the mined areas in accordance
1425 with all applicable reclamation standards of this chapter.

1426 (4) If the Permit Board denies the application for release
1427 of the performance bond * * * or deposit or portion thereof, it
1428 shall notify the operator, in writing, stating the reasons for
1429 denial and recommending corrective actions necessary to secure the
1430 release.

1431 (5) The Permit Board shall authorize the executive director
1432 under those conditions the Permit Board may prescribe to
1433 administratively release any performance bond or deposit provided
1434 by an operator for coverage under a general permit issued under
1435 Section 53-7-23. A decision of the executive director is a
1436 decision of the Permit Board and shall be subject to review and
1437 appeal as provided in Section 49-17-29.

1438 **SECTION 32.** Section 53-7-69, Mississippi Code of 1972, is
1439 amended as follows:



1440 53-7-69. (1) There is created in the State Treasury a fund
1441 to be designated as the "Surface Mining and Reclamation Fund,"
1442 referred to hereinafter as the "fund." There is created in the
1443 fund an account designated as the "Land Reclamation Account" and
1444 an account designated as the "Surface Mining Program Operations
1445 Account."

1446 (2) The fund shall be treated as a special trust fund.
1447 Interest earned on the principal therein shall be credited by the
1448 Treasurer to the fund.

1449 (3) The fund may receive monies from any available public or
1450 private sources, including, but not limited to, collection of
1451 fees, interest, grants, taxes, public and private donations,
1452 judicial actions, penalties and forfeited performance bonds. Any
1453 monies received from penalties, forfeited performance bonds,
1454 judicial actions and the interest thereon, less enforcement and
1455 collection costs, shall be credited to the Land Reclamation
1456 Account. Any monies received from the collection of fees, grants,
1457 taxes, public or private donations and the interest thereon shall
1458 be credited to the Surface Mining Program Operations Account.

1459 (4) The commission shall expend or utilize monies in the
1460 fund by an annual appropriation by the Legislature as provided
1461 herein. Monies in the Land Reclamation Account may be used to
1462 defray any costs of reclamation of land affected by mining
1463 operations. Monies in the Surface Mining Program Operations
1464 Account may be used to defray the reasonable direct and indirect
1465 costs associated with the administration and enforcement of this
1466 chapter.

1467 (5) Proceeds from the forfeiture of performance bonds * * *
1468 or deposits and penalties recovered shall be available to be
1469 expended to reclaim, in accordance with * * * this chapter, lands
1470 with respect to which the performance bonds * * * or deposits were
1471 provided and penalties assessed. If the commission expends monies
1472 from the fund for which the cost of reclamation exceeded the



1473 proceeds from the forfeiture of performance bonds or deposits, the
1474 commission may seek to recover any monies expended from the fund
1475 from any responsible party.

1476 **SECTION 33.** Section 53-7-71, Mississippi Code of 1972, is
1477 amended as follows:

1478 53-7-71. In the reclamation of land affected by surface
1479 mining for which it has funds available, the commission may avail
1480 itself of any services which may be provided by other state
1481 agencies, political subdivisions or the federal government, and
1482 may compensate them for the services. The commission may cause
1483 the reclamation work to be done through contract with other
1484 governmental agencies or * * * with qualified persons. The
1485 contracts shall be awarded as provided by state law and policies
1486 of the commission. Any person under * * * contract to the
1487 commission may enter onto the land affected to carry out the
1488 reclamation.

1489 **SECTION 34.** Section 53-7-75, Mississippi Code of 1972, is
1490 amended as follows:

1491 53-7-75. (1) Information submitted to the department,
1492 commission, Permit Board or local soil and water conservation
1493 district * * * pertaining to the deposits of materials, * * *
1494 trade secrets or privileged commercial or financial information
1495 relating to the competitive rights of the applicant and which is
1496 specifically identified as confidential, shall not be available
1497 for public examination and shall not be considered as a public
1498 record if:

1499 (a) The applicant submits a written confidentiality
1500 claim to the commission before submission of the information; and

1501 (b) The commission determines the confidentiality claim
1502 to be valid.

1503 (2) The confidentiality claim shall include a generic
1504 description of the nature of the information included in the
1505 submission. The commission shall adopt rules and regulations



1506 consistent with the Mississippi Public Records Act regarding
1507 access to confidential information. Any information for which a
1508 confidentiality claim is asserted shall not be disclosed pending
1509 the outcome of any formal hearing and all appeals.

1510 (3) Any person knowingly and willfully making unauthorized
1511 disclosures of any information determined to be confidential shall
1512 be liable for civil damages arising from the unauthorized
1513 disclosure and, upon conviction, shall be guilty of a misdemeanor
1514 and shall be fined a sum not to exceed One Thousand Dollars
1515 (\$1,000.00) and dismissed from public office or employment.

1516 (4) This section shall be supplemental to remedies for
1517 misappropriation of a trade secret provided in the Mississippi
1518 Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

1519 **SECTION 35.** Section 53-7-13, Mississippi Code of 1972, which
1520 requires the Board of the Geological, Economic and Topographical
1521 Survey to establish regulations on surface mining, is repealed.

1522 **SECTION 36.** Section 53-7-15, Mississippi Code of 1972, which
1523 requires the Board of the Geological, Economic and Topographical
1524 Survey to hold certain hearings, is repealed.

1525 **SECTION 37.** Section 53-7-33, Mississippi Code of 1972, which
1526 requires soil and water conservation commissioners to submit
1527 written recommendations on reclamation plans affecting their
1528 districts, is repealed.

1529 **SECTION 38.** Section 53-7-73, Mississippi Code of 1972, which
1530 provides a temporary suspension for an operator to suspend mining
1531 operations for two (2) years and to resume operations after giving
1532 notice, is repealed.

1533 **SECTION 39.** This act shall take effect and be in force from
1534 and after July 1, 2002.

