

By: Senator(s) Dearing

To: Environment Prot, Cons  
and Water Res; Oil, Gas and  
Other Minerals

SENATE BILL NO. 2375

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,  
125 sand clay, clay gravel, stone, \* \* \* chalk, \* \* \* and any other  
126 materials \* \* \* 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  
158 or 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 June  
248 30, 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, may make exceptions to and  
297 grant exemptions and variances from, and may enforce rules and  
298 regulations pertaining to surface mining and reclamation  
299 operations to implement \* \* \* this chapter.



300       (2) \* \* \* In 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 public hearing  
304 shall be given thirty (30) days before the scheduled date of the  
305 hearing 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       \* \* \*

310               (ii) \* \* \* The Mississippi Soil and Water  
311 Conservation Commission, the Office of Pollution Control and  
312 Office of Land and Water Resources within the department, \* \* \*  
313 the Mississippi Forestry Commission, \* \* \* the Mississippi  
314 Department of Archives and History, the Mississippi Department of  
315 Transportation, the Mississippi Department of Wildlife, Fisheries  
316 and Parks, the Mississippi Department of Agriculture and  
317 Commerce \* \* \*; and

318               (iii) Persons who request notification of proposed  
319 actions regarding rules and regulations and any other person the  
320 commission deems appropriate.

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

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

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



333           53-7-17. Upon the passage of any federal surface mining  
334 legislation, the commission shall take steps necessary to  
335 establish the exclusive jurisdiction of the commission over the  
336 regulation of surface mining and reclamation operations in this  
337 state.

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

340           53-7-19. The commission \* \* \* shall have the following  
341 powers and duties regarding surface mining:

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

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

353           \* \* \*

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

359           \* \* \*

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

364           (e) To conduct, or cause to be conducted, encourage,  
365 request and participate in studies, surveys, investigations,



366 research, experiments, training and demonstrations by contract,  
367 grant or otherwise; to prepare and require permittees to prepare  
368 reports; and to collect information and disseminate to the  
369 public \* \* \* information such as is deemed reasonable and  
370 necessary for the proper enforcement of this chapter;

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

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

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

381 \* \* \*

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

387 \* \* \*

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

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

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



398           (m) To perform any other duties and acts \* \* \* required  
399 or provided for by this chapter.

400       \* \* \*

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

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

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

421       \* \* \*

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

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



431 properly reclaim the permit area. The Permit Board may include  
432 other conditions as required by the rules and regulations of the  
433 commission.

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

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



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

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

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

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



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

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

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

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

509       (2) \* \* \* The application shall be in the form prescribed by  
510 the commission and shall contain the following information \* \* \*:

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

518       (b) The approximate location and depth of the deposit  
519 in the permit area and the total number of acres in the permit  
520 area;

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

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





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

531 (f) Current or previous surface mining permits held by  
532 the applicant, including any revocations, suspensions or bond  
533 forfeitures;

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

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

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

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

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

558 (l) If the surface and mineral estates, or any part of  
559 those estates, in land covered by the application, have been  
560 severed and are owned by separate owners, the applicant shall  
561 provide a notarized statement subscribed to by each surface owner



562 and lessee of those lands, unless the lease or other conveyance to  
563 the applicant specifically states the material to be mined by the  
564 operator granting consent for the applicant to initiate and  
565 conduct surface mining, exploration and reclamation activities on  
566 the land;

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

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

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

583 The policy shall be maintained in full force and effect  
584 during the term of the permit \* \* \*, including the length of all  
585 reclamation operations.

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

588 (o) Any other information needed to clarify the  
589 required parts of the application.

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

592 53-7-29. (1) The department shall file a copy of each  
593 permit application \* \* \* for public inspection with the chancery  
594 clerk \* \* \* of the county where any \* \* \* portion of the operation



595 is proposed to occur. The department shall delete any  
596 confidential information in accordance with Section 53-7-75.

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

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

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



628           53-7-31. (1) A reclamation plan shall be developed in a  
629 manner consistent with local, physical, environmental and  
630 climatological conditions and current mining and reclamation  
631 technology. A proposed initial reclamation plan submitted as part  
632 of a permit application shall include the following information:

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

698 53-7-35. (1) Any permit issued under this chapter \* \* \*  
699 shall require \* \* \* operations to comply with all applicable  
700 reclamation standards of this chapter. Reclamation standards  
701 shall apply to all operations, exploration activities and  
702 reclamation operations covered by this chapter and shall \* \* \*  
703 require the operator at a minimum to:

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

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

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



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

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

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

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

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

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

756 \* \* \*



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

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

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

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

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

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

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

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

782           (j) Stabilize any waste piles;

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





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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



919           53-7-37. (1) \* \* \* Before \* \* \* a permit is issued by the  
920 Permit Board, the applicant shall file with the department in the  
921 manner and form required by the commission a bond for performance  
922 payable to the commission and conditioned on full and satisfactory  
923 performance of \* \* \* the requirements of this chapter and the  
924 permit. The bond shall not be less than Five Hundred Dollars  
925 (\$500.00) nor more than Two Thousand Five Hundred Dollars  
926 (\$2,500.00) for each estimated acre of the permit area of the  
927 respective operation. \* \* \*

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

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



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

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

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

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

971       \* \* \*

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

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

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

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



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

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

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

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

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

1002 (f) The operation will likely adversely affect any  
1003 public highway or road unless the operation is intended to  
1004 stabilize or repair the public road or highway; or

1005 (g) The applicant is unable to meet the public  
1006 liability insurance or performance bonding requirements of this  
1007 chapter.

1008 (4) The Permit Board shall deny a permit if the Permit Board  
1009 finds by clear and convincing evidence on the basis of the  
1010 information contained in the permit application or obtained by  
1011 on-site inspection that the proposed operation cannot comply with  
1012 this chapter or rules and regulations adopted under this chapter  
1013 or that the proposed method of operation, road system  
1014 construction, shaping or revegetation of the affected area cannot  
1015 be carried out in a manner consistent with this chapter and  
1016 applicable state and federal laws, rules and regulations.



1017       (5) The Permit Board may hold a public hearing to obtain  
1018 comments from the public on its proposed action. If the Permit  
1019 Board holds a public hearing, the Permit Board shall publish  
1020 notice and conduct the hearing as provided in Section 49-17-29.

1021       (6) The Permit Board may authorize the executive director,  
1022 under any conditions the Permit Board may prescribe, to make  
1023 decisions on permit issuance, reissuance, modification, rescission  
1024 or cancellation under this chapter. A decision by the executive  
1025 director is a decision of the Permit Board and shall be subject to  
1026 formal hearing and appeal as provided in Section 49-17-29. The  
1027 executive director shall report all permit decisions to the Permit  
1028 Board at its next regularly scheduled meeting and those decisions  
1029 shall be deemed as recorded in the minutes of the Permit Board at  
1030 that time.

1031       (7) The Permit Board may cancel a permit at the request of  
1032 the operator, if the operator does not commence operations under  
1033 the permit by stripping, grubbing or mining any part of the permit  
1034 area. The Permit Board may rescind a permit, if, because of a  
1035 change in post-mining use of the land by the landowner, the  
1036 completion of the approved reclamation plan by the operator is no  
1037 longer feasible. If a permit is canceled or rescinded, the  
1038 remaining portion of the bond or deposit required under Section  
1039 53-7-37 shall be returned to the operator as soon as possible.

1040       **SECTION 19.** Section 53-7-43, Mississippi Code of 1972, is  
1041 amended as follows:

1042       53-7-43. (1) Applications for the modification, transfer or  
1043 reissuance of any surface mining permit issued under this chapter  
1044 may be filed with the department. The Permit Board may modify any  
1045 surface mining permit to increase or decrease the permit area and  
1046 shall require an increase in the performance bond and a modified  
1047 reclamation plan for any expanded area.

1048       (2) Any permit issued under this chapter shall carry with it  
1049 the right of successive reissuance upon expiration for areas





1050 within the boundaries of the existing permit. The operator may  
1051 apply for reissuance and that permit shall be reissued, except as  
1052 provided in this subsection. On application for reissuance the  
1053 burden of proving that the permit should not be reissued shall be  
1054 on the opponents of reissuance or the department. If the  
1055 opponents to reissuance or the department establish and the Permit  
1056 Board finds, in writing, that the operator is not satisfactorily  
1057 meeting the terms and conditions of the existing permit or the  
1058 present surface mining and reclamation operation is not in  
1059 compliance with this chapter and the rules and regulations issued  
1060 under this chapter, the Permit Board shall not reissue the permit.

1061 (3) Any permit reissuance shall be for a term not to exceed  
1062 the term of the original permit established by this chapter.  
1063 Application for permit reissuance shall be filed with the Permit  
1064 Board at least sixty (60) days before the expiration of the  
1065 permit. If an application for reissuance is timely filed, the  
1066 operator may continue surface mining operations under the existing  
1067 permit until the Permit Board takes action on the reissuance  
1068 application.

1069 \* \* \*

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

1072 53-7-45. \* \* \*

1073 Any interested party may seek a review or an appeal of any  
1074 action or decision of the Permit Board under Sections 53-7-41 and  
1075 53-7-43 as provided in Section 49-17-29.

1076 **SECTION 21.** Section 53-7-47, Mississippi Code of 1972, is  
1077 amended as follows:

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



1083 national register of historic places, national forest, national  
1084 wilderness area, national wildlife refuge, national wild or scenic  
1085 river, state park, state wildlife refuge, state forest, recorded  
1086 state historical landmark, state historic site, state  
1087 archaeological landmark or city or county park, forest or  
1088 historical area. \* \* \* For good cause shown and after any public  
1089 hearing, the commission may make an exception to this section.

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

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

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

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

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

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

1114 (e) The operations will significantly and adversely  
1115 affect any national park, national monument, national historic



1116 landmark, property listed on the national register of historic  
1117 places, national forest, national wilderness area, national  
1118 wildlife refuge, national wild or scenic river area, state park,  
1119 state wildlife refuge, state forest, recorded state historical  
1120 landmark, state historic site, state archaeological landmark, or  
1121 city or county park;

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

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

1127 (2) Unless an operation is exempted under Section  
1128 53-7-7(2) (a) or 53-7-7(2) (b), it is unlawful to conduct surface  
1129 mining operations within an area designated as unsuitable for  
1130 surface mining under Section 53-7-49 or this section or to conduct  
1131 surface mining operations in rivers, lakes, bayous, intermittent  
1132 or perennial streams or navigable waterways, natural or manmade,  
1133 without a permit or coverage under a general permit issued or  
1134 reissued consistent with regulations adopted by the commission.

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

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

1145 (2) A petition shall contain allegations of facts with  
1146 supporting evidence. The commission shall make a determination  
1147 based upon the validity of the facts contained in the petition,



1148 and may designate, modify or terminate the designation of the  
1149 lands included in the petition as unsuitable for mining.

1150 (3) Any person aggrieved by an action of the commission  
1151 under this section may appeal as provided in Section 49-17-41.

1152 **SECTION 24.** Section 53-7-53, Mississippi Code of 1972, is  
1153 amended as follows:

1154 53-7-53. The Permit Board shall require each permittee to:

1155 (a) Establish and maintain appropriate records;

1156 (b) Make reports, the frequency and nature of which  
1157 shall be prescribed by the commission; and

1158 (c) Install, use and maintain any necessary monitoring  
1159 equipment for the purpose of observing and determining relevant  
1160 surface or subsurface effects of the mining operation or  
1161 reclamation program.

1162 **SECTION 25.** Section 53-7-55, Mississippi Code of 1972, is  
1163 amended as follows:

1164 53-7-55. (1) \* \* \* Authorized representatives of the  
1165 department, on presentation of appropriate credentials \* \* \*, may  
1166 enter and inspect any operation or any premises in which \* \* \*  
1167 records required to be maintained under Section 53-7-53 are  
1168 located and may at reasonable times, and without delay, have  
1169 access to and copy any records and inspect any monitoring  
1170 equipment or method of operation required under this chapter.

1171 (2) \* \* \* Inspections of operations with or without a permit  
1172 by the department shall occur on an irregular basis at a frequency  
1173 necessary to insure compliance with \* \* \* this chapter, \* \* \*  
1174 rules and regulations and the terms and conditions of any permit.  
1175 Inspections shall occur only during normal operating hours if  
1176 practical, may occur without prior notice to the permittee or the  
1177 agents or employees of the permittee, and shall include the filing  
1178 of an inspection report. \* \* \* The department shall make those  
1179 reports part of the record and shall provide one (1) copy of the



1180 report to the operator. The department shall, \* \* \* as practical,  
1181 establish a system of rotation of field inspectors.

1182 (3) Each field inspector, on detection of each violation  
1183 of \* \* \* this chapter, rules and regulations adopted under this  
1184 chapter or the permit for the operation, shall \* \* \* inform the  
1185 operator or the operator's agent orally at the time of the  
1186 inspection and subsequently in writing and shall report \* \* \*  
1187 any \* \* \* violation in writing to the commission.

1188 **SECTION 26.** Section 53-7-57, Mississippi Code of 1972, is  
1189 amended as follows:

1190 53-7-57. Any representative of the local soil and water  
1191 conservation district, upon presentation of appropriate  
1192 credentials \* \* \* may enter and inspect the operation for the  
1193 purpose of making recommendations regarding reclamation  
1194 activities \* \* \*. The representative shall make any  
1195 recommendations on the progress of reclamation activities in  
1196 writing to the Permit Board.

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

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



1212           (2) Any civil penalty assessed against a permitted, covered  
1213 or exempt operation and levied by the commission under this  
1214 section shall not exceed Five Hundred Dollars (\$500.00) for the  
1215 first violation; for subsequent violations committed within three  
1216 (3) years of the first violation the maximum penalties are: Two  
1217 Thousand Five Hundred Dollars (\$2,500.00) for the second  
1218 violation, Five Thousand Dollars (\$5,000.00) for the third  
1219 violation and Twenty-five Thousand Dollars (\$25,000.00) for the  
1220 fourth and subsequent violations by the same operator. Multiple  
1221 violations at a site during one (1) day shall not be cumulative.  
1222 A separate penalty shall not be assessed for each violation and  
1223 only one (1) penalty may be assessed for all violations occurring  
1224 at a site during one (1) day. Each day of a continuing violation  
1225 shall be a separate violation until corrective action is taken or  
1226 the operator after notice of the violation is diligently pursuing  
1227 efforts to achieve compliance in a timely manner. In assessing a  
1228 penalty under this subsection, the commission shall not consider  
1229 offenses occurring before July 1, 2002. In addition to the civil  
1230 penalty authorized under this subsection, the commission may order  
1231 an operator of a permitted, covered or exempt operation to reclaim  
1232 the affected area.

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

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

1243           (a) The willfulness of the violation;



1244           (b) Any damage to air, water, land or other natural  
1245 resources of the state or their uses;  
1246           (c) Costs of restoration and abatement;  
1247           (d) Economic benefit as a result of noncompliance;  
1248           (e) The seriousness of the violation, including any  
1249 harm to the environment and any hazard to the health, safety and  
1250 welfare of the public; and  
1251           (f) Past performance history.

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

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

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

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

1273           53-7-61. (1) Any person who knowingly makes any false  
1274 statement, representation or certification, or knowingly fails to  
1275 make any statement, representation or certification in any  
1276 application, record, report, plan or other document filed or



1277 required to be maintained under this chapter is guilty of a  
1278 misdemeanor and upon conviction, may be subject to a fine of not  
1279 more than Five Thousand Dollars (\$5,000.00).

1280 (2) Any person who \* \* \* knowingly violates, \* \* \* or fails  
1281 or refuses to comply with \* \* \* this chapter, any rule or  
1282 regulation or written order of the commission adopted or issued  
1283 under this chapter, or any condition of a permit issued under this  
1284 chapter, is guilty of a misdemeanor and, upon conviction, may be  
1285 subject to a fine of not more than Five Thousand Dollars  
1286 (\$5,000.00).

1287 **SECTION 29.** Section 53-7-63, Mississippi Code of 1972, is  
1288 amended as follows:

1289 53-7-63. (1) Unless otherwise expressly provided in this  
1290 chapter, any interested party aggrieved by any action of the  
1291 Permit Board taken under this chapter may request a formal hearing  
1292 before the Permit Board as provided in Section 49-17-29. Any  
1293 person aggrieved by any action of the commission taken under this  
1294 chapter may request a formal hearing before the commission as  
1295 provided in Section 49-17-41. Any person who participated as a  
1296 party in a formal hearing before the Permit Board may appeal from  
1297 a final decision of the Permit Board made under this chapter as  
1298 provided in Section 49-17-29. Any person who participated as a  
1299 party in a formal hearing before the commission may appeal from a  
1300 final decision of the commission made under this chapter as  
1301 provided in Section 49-17-41.

1302 (2) (a) Any public hearing of the Permit Board provided for  
1303 under this chapter shall be deemed to be the same hearing as  
1304 otherwise afforded to any interested party by the Permit Board  
1305 under Section 49-17-29. Any formal hearing of the Permit Board  
1306 provided for under this chapter shall be deemed to be the same  
1307 hearing as otherwise afforded to any interested party by the  
1308 Permit Board under Section 49-17-29.





1309           (b) Any public hearing of the commission provided for  
1310 under this chapter shall be deemed to be the same hearing as  
1311 afforded under Section 49-17-35. Any formal hearing of the  
1312 commission provided for under this chapter shall be deemed to be  
1313 the same hearing as afforded under Section 49-17-41.

1314           (3) (a) In conducting any formal hearing under this  
1315 chapter, the Permit Board shall have the same authority to  
1316 subpoena witnesses, administer oaths, examine witnesses under oath  
1317 and conduct the hearing as provided in Section 49-17-29.

1318           (b) In conducting any formal hearing under this chapter  
1319 the commission shall have the same authority to subpoena  
1320 witnesses, administer oaths, examine witnesses under oath and  
1321 conduct the hearing as provided in Section 49-17-41.

1322           **SECTION 30.** Section 53-7-65, Mississippi Code of 1972, is  
1323 amended as follows:

1324           53-7-65. (1) When an employee of the department files a  
1325 report alleging a violation or when any person files a complaint  
1326 with the commission alleging that any other person is in violation  
1327 of this chapter, any rule and regulation issued under this  
1328 chapter, or any condition of a permit issued under this chapter,  
1329 the commission shall notify the alleged violator and conduct an  
1330 investigation of the complaint. Upon finding a basis for the  
1331 complaint, the commission shall cause written notice of the  
1332 complaint, specifying the section of law, rule, regulation or  
1333 permit alleged to be violated and the facts of the alleged  
1334 violations, to be served upon that person. The commission may  
1335 require the person to appear before the commission at a time and  
1336 place specified in the notice to answer the charges. The time of  
1337 appearance before the commission shall be not less than twenty  
1338 (20) days from the date of the mailing or service of the  
1339 complaint, whichever is earlier. If the commission finds no basis  
1340 for the complaint, the commission shall dismiss the complaint.



1341           (2) The commission shall afford an opportunity for a formal  
1342 hearing to the alleged violator at the time and place specified in  
1343 the notice or at another time or place agreed to in writing by  
1344 both the department and the alleged violator, and approved by the  
1345 commission. On the basis of the evidence produced at the formal  
1346 hearing, the commission may enter an order which in its opinion  
1347 will best further the purposes of this chapter and shall give  
1348 written notice of that order to the alleged violator and to any  
1349 other persons which appeared at the formal hearing or made written  
1350 request for notice of the order. The commission may assess  
1351 penalties as provided in Section 53-7-59. Any formal hearing  
1352 under this section shall be of record.

1353           (3) Except as otherwise expressly provided, any notice or  
1354 other instrument issued by or under authority of the commission  
1355 may be served on any affected person personally or by publication,  
1356 and proof of that service may be made in the same manner as in  
1357 case of service of a summons in a civil action. The proof of  
1358 service shall be filed in the office of the commission. Service  
1359 may also be made by mailing a copy of the notice, order, or other  
1360 instrument by certified mail, directed to the person affected at  
1361 the person's last known post office address as shown by the files  
1362 or records of the commission. Proof of service may be made by the  
1363 affidavit of the person who did the mailing and shall be filed in  
1364 the office of the commission.

1365           (4) Any person who participated as a party in the formal  
1366 hearing may appeal a decision of the commission under this section  
1367 as provided in Section 49-17-41.

1368           **SECTION 31.** Section 53-7-67, Mississippi Code of 1972, is  
1369 amended as follows:

1370           53-7-67. (1) Upon completion of the operation in the permit  
1371 area \* \* \*, the operator may file an application with the Permit  
1372 Board for the release of the performance bond \* \* \* or deposit.  
1373 The application for performance bond release shall require a



1374 description of the results achieved in accordance with the  
1375 operator's reclamation plan, which includes revegetation and end  
1376 result plans, and any other information the Permit Board may  
1377 require in accordance with \* \* \* this chapter. The Permit Board  
1378 shall file a copy of the performance bond release application for  
1379 public inspection with the chancery clerk of the county \* \* \*  
1380 where the majority of the surface mining \* \* \* operation is  
1381 located and with the local soil and water conservation district.  
1382 The Permit Board shall give notice of the pending bond release  
1383 application by publication in the form as the commission by  
1384 regulation may require after inspecting and evaluating the  
1385 reclamation work as provided by subsection (2) of this  
1386 section. \* \* \*

1387 (2) After receipt of the application for bond release, the  
1388 department shall, and the local soil and water district  
1389 commissioners may, within \* \* \* thirty (30) days, conduct an  
1390 inspection and evaluation of the reclamation work involved. The  
1391 evaluation shall consider, among other things, the occurrence of  
1392 pollution of surface and subsurface water \* \* \*, the probability  
1393 of continuance or future occurrence of \* \* \* pollution, and the  
1394 estimated cost of abating the pollution. Results of the  
1395 evaluation and findings of the department or the soil and water  
1396 commissioners, or both, shall be provided within thirty (30) days  
1397 after the inspection to the operator and other interested parties  
1398 making written request for the evaluation and findings. The  
1399 evaluation and findings of the soil and water commissioners, if  
1400 any, shall be forwarded to the department before the end of the  
1401 thirty (30) days.

1402 (3) The Permit Board may release in whole or in part the  
1403 performance bond \* \* \* or deposit if it is satisfied that  
1404 reclamation covered by the performance bond \* \* \* or deposit or  
1405 portion thereof has been accomplished as required by this chapter  
1406 according to the following schedule:



1407 (a) When the operator or surety completes required  
1408 backfilling, regrading, and drainage control of a bonded area in  
1409 accordance with the approved reclamation plan, the Permit Board  
1410 may release \* \* \* up to ninety percent (90%) of the performance  
1411 bond \* \* \* or deposit for the applicable permit area. \* \* \* The  
1412 amount of the unreleased portion of the performance bond \* \* \* or  
1413 deposit shall not be less than the amount necessary to assure  
1414 completion of the reclamation work by a third party in the event  
1415 of default by the operator; and

1416 (b) When the operator has successfully completed the  
1417 remaining reclamation activities, but not before two (2) years  
1418 beyond the date of the initial performance bond release, the  
1419 Permit Board may release the remaining portion of the performance  
1420 bond \* \* \* or deposit. \* \* \* No performance bond \* \* \* or deposit  
1421 shall be fully released until all reclamation requirements of this  
1422 chapter are fully met.

1423 (c) Notwithstanding the provisions of paragraphs (a)  
1424 and (b) of this section, the Permit Board may release one hundred  
1425 percent (100%) of the performance bond \* \* \* or deposit to private  
1426 contractors surface mining on areas provided to them by the United  
1427 States Army Corps of Engineers. \* \* \* The Permit Board may  
1428 release the performance bond \* \* \* or deposit only if the  
1429 contractors have completed the reclamation work required in  
1430 paragraph (a) of this subsection and the Corps of Engineers  
1431 furnishes written assurance to the Permit Board that it accepts  
1432 responsibility for restoration of the mined areas in accordance  
1433 with all applicable reclamation standards of this chapter.

1434 (4) If the Permit Board denies the application for release  
1435 of the performance bond \* \* \* or deposit or portion thereof, it  
1436 shall notify the operator, in writing, stating the reasons for  
1437 denial and recommending corrective actions necessary to secure the  
1438 release.



1439       (5) The Permit Board shall authorize the executive director,  
1440 under those conditions the Permit Board may prescribe, to  
1441 administratively release any performance bond or deposit provided  
1442 by an operator for coverage under a general permit issued under  
1443 Section 53-7-23. A decision of the executive director is a  
1444 decision of the Permit Board and shall be subject to review and  
1445 appeal as provided in Section 49-17-29.

1446       **SECTION 32.** Section 53-7-69, Mississippi Code of 1972, is  
1447 amended as follows:

1448       53-7-69. (1) There is created in the State Treasury a fund  
1449 to be designated as the "Surface Mining and Reclamation Fund,"  
1450 referred to hereinafter as the "fund." There is created in the  
1451 fund an account designated as the "Land Reclamation Account" and  
1452 an account designated as the "Surface Mining Program Operations  
1453 Account."

1454       (2) The fund shall be treated as a special trust fund.  
1455 Interest earned on the principal therein shall be credited by the  
1456 Treasurer to the fund.

1457       (3) The fund may receive monies from any available public or  
1458 private sources, including, but not limited to, collection of  
1459 fees, interest, grants, taxes, public and private donations,  
1460 judicial actions, penalties and forfeited performance bonds. Any  
1461 monies received from penalties, forfeited performance bonds,  
1462 judicial actions and the interest thereon, less enforcement and  
1463 collection costs, shall be credited to the Land Reclamation  
1464 Account. Any monies received from the collection of fees, grants,  
1465 taxes, public or private donations and the interest thereon shall  
1466 be credited to the Surface Mining Program Operations Account.

1467       (4) The commission shall expend or utilize monies in the  
1468 fund by an annual appropriation by the Legislature as provided  
1469 herein. Monies in the Land Reclamation Account may be used to  
1470 defray any costs of reclamation of land affected by mining  
1471 operations. Monies in the Surface Mining Program Operations



1472 Account may be used to defray the reasonable direct and indirect  
1473 costs associated with the administration and enforcement of this  
1474 chapter.

1475 (5) Proceeds from the forfeiture of performance bonds \* \* \*  
1476 or deposits and penalties recovered shall be available to be  
1477 expended to reclaim, in accordance with \* \* \* this chapter, lands  
1478 with respect to which the performance bonds \* \* \* or deposits were  
1479 provided and penalties assessed. If the commission expends monies  
1480 from the fund for which the cost of reclamation exceeded the  
1481 proceeds from the forfeiture of performance bonds or deposits, the  
1482 commission may seek to recover any monies expended from the fund  
1483 from any responsible party.

1484 **SECTION 33.** Section 53-7-71, Mississippi Code of 1972, is  
1485 amended as follows:

1486 53-7-71. In the reclamation of land affected by surface  
1487 mining for which it has funds available, the commission may avail  
1488 itself of any services which may be provided by other state  
1489 agencies, political subdivisions or the federal government, and  
1490 may compensate them for the services. The commission may cause  
1491 the reclamation work to be done through contract with other  
1492 governmental agencies or \* \* \* with qualified persons. The  
1493 contracts shall be awarded as provided by state law and policies  
1494 of the commission. \* \* \* Any person under \* \* \* contract to the  
1495 commission may enter onto the land affected to carry out the  
1496 reclamation.

1497 **SECTION 34.** Section 53-7-75, Mississippi Code of 1972, is  
1498 amended as follows:

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



1505 available for public examination and shall not be considered as a  
1506 public record if:

1507 (a) The applicant submits a written confidentiality  
1508 claim to the commission before submission of the information; and

1509 (b) The commission determines the confidentiality claim  
1510 to be valid.

1511 (2) The confidentiality claim shall include a generic  
1512 description of the nature of the information included in the  
1513 submission. The commission shall adopt rules and regulations  
1514 consistent with the Mississippi Public Records Act regarding  
1515 access to confidential information. Any information for which a  
1516 confidentiality claim is asserted shall not be disclosed pending  
1517 the outcome of any formal hearing and all appeals.

1518 (3) Any person knowingly and willfully making unauthorized  
1519 disclosures of any information determined to be confidential shall  
1520 be liable for civil damages arising from the unauthorized  
1521 disclosure and, upon conviction, shall be guilty of a misdemeanor  
1522 and shall be fined a sum not to exceed One Thousand Dollars  
1523 (\$1,000.00) and dismissed from public office or employment.

1524 (4) This section shall be supplemental to remedies for  
1525 misappropriation of a trade secret provided in the Mississippi  
1526 Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

1527 **SECTION 35.** Section 53-7-13, Mississippi Code of 1972, which  
1528 requires the Board of the Geological, Economic and Topographical  
1529 Survey to establish regulations on surface mining, is repealed.

1530 **SECTION 36.** Section 53-7-15, Mississippi Code of 1972, which  
1531 requires the Board of the Geological, Economic and Topographical  
1532 Survey to hold certain hearings, is repealed.

1533 **SECTION 37.** Section 53-7-33, Mississippi Code of 1972, which  
1534 requires soil and water conservation commissioners to submit  
1535 written recommendations on reclamation plans affecting their  
1536 districts, is repealed.



1537           **SECTION 38.** Section 53-7-73, Mississippi Code of 1972, which  
1538 provides a temporary suspension for an operator to suspend mining  
1539 operations for two (2) years and to resume operations after giving  
1540 notice, is repealed.

1541           **SECTION 39.** This act shall take effect and be in force from  
1542 and after July 1, 2002.

