

By: Representative Franks

To: Conservation and Water
Resources

HOUSE BILL NO. 892

1 AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO
2 CHARGE FEES WHERE NO PROVISION OF LAW SETS A FEE; TO PROVIDE THAT
3 THE LEGISLATURE MAY REVOKE ANY FEE BY DULY ADOPTED LAW; TO AMEND
4 SECTION 49-17-86, MISSISSIPPI CODE OF 1972, TO REVISE HOW THE
5 WATER POLLUTION CONTROL EMERGENCY LOAN FUND IS ADMINISTERED BY THE
6 COMMISSION; TO AMEND SECTION 49-17-407, MISSISSIPPI CODE OF 1972,
7 TO REVISE HOW ENVIRONMENTAL FEES ON MOTOR FUELS ARE ASSESSED; TO
8 AMEND SECTION 49-17-421, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
9 THE COMMISSION TO SET TANK REGULATORY FEES; TO AMEND SECTION
10 49-17-507, MISSISSIPPI CODE OF 1972, TO REVISE THE POWERS AND
11 DUTIES OF THE COMMISSION REGULATING LEAD-BASED PAINT ACTIVITIES;
12 TO AMEND SECTION 49-17-525, MISSISSIPPI CODE OF 1972, TO REVISE
13 HOW THE LEAD-BASED PAINT PROGRAM OPERATIONS FUND IS ADMINISTERED
14 BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
15 QUALITY; TO AMEND SECTIONS 51-3-31, 53-7-7, 53-7-21, 53-7-25,
16 53-7-27 AND 53-7-69, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
17 DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL CHARGE FEES FOR CERTAIN
18 ACTIVITIES UNDER ITS JURISDICTION; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** (1) Beginning on July 1, 2006, in all instances
21 where no provision of law sets a fee, the Department of
22 Environmental Quality shall charge a fee for any general permit
23 that it issues to any permittee. For any other permit, any
24 activity associated with the monitoring of the activities of a
25 permittee or any other service provided to a private entity, where
26 no provision of law sets a fee, the department shall charge a fee.
27 All revenues collected from fees charged under the authority of
28 this section shall be used by the Department of Environmental
29 Quality to carry out the duties of the department.

30 (2) Any fee set by the Department of Environmental Quality
31 shall be published and provided to the Mississippi Legislature by
32 the first day of the regular legislative session immediately
33 following the creation or modification of the fee, and shall
34 remain effective unless the fee is revoked by law duly adopted by

35 the Mississippi Legislature during the regular legislative session
36 immediately following the creation or modification of the fee.

37 (3) This section shall stand repealed July 1, 2007.

38 **SECTION 2.** Section 49-17-86, Mississippi Code of 1972, is
39 amended as follows:

40 49-17-86. (1) (a) There is created a fund in the State
41 Treasury to be designated as the "Water Pollution Control
42 Emergency Loan Fund" hereinafter referred to as "emergency fund."

43 (b) The emergency fund may receive appropriations, bond
44 proceeds, grants, gifts, donations or funds from any source,
45 public or private. The emergency fund shall be credited with all
46 repayments of principal and interest derived from loans made from
47 the emergency fund.

48 (c) The monies in the emergency fund may be expended
49 only in amounts appropriated by the Legislature.

50 (d) The emergency fund shall be maintained in
51 perpetuity for the purposes established in Sections 49-17-81
52 through 49-17-89. Unexpended amounts remaining in the emergency
53 fund at the end of a fiscal year shall not lapse into the State
54 General Fund. Any interest earned on amounts in the emergency
55 fund shall be deposited to the credit of the fund.

56 (2) The commission shall establish a loan program to assist
57 political subdivisions in making emergency improvements such as
58 repairs to or replacement of machinery, equipment, materials,
59 structures or devices in existing water pollution abatement
60 projects or such other emergency water pollution abatement
61 projects as the commission deems necessary. Loans from the
62 emergency fund may be made to political subdivisions as set forth
63 in a loan agreement in amounts not exceeding one hundred percent
64 (100%) of eligible project costs as established by the commission.
65 The commission may require local participation or funding from
66 other sources, or otherwise limit the percentage of costs covered
67 by loans from the emergency fund. The commission may establish a

68 maximum amount for any loan not to exceed Three Hundred Fifty
69 Thousand Dollars (\$350,000.00).

70 (3) Except as otherwise provided in this section, the
71 emergency fund may be used only:

72 (a) To make loans on the condition that:

73 (i) Loans are made at or below market interest
74 rates, at terms not to exceed ten (10) years after project
75 completion; the interest rate may vary from time to time and from
76 loan to loan at the discretion of the commission.

77 (ii) Periodic principal and interest payments will
78 commence when required by the commission but not later than one
79 (1) year after project completion and all loans will be fully
80 amortized when required by the commission but not later than ten
81 (10) years after project completion.

82 (iii) The recipient of a loan shall establish a
83 dedicated source of revenue for repayment of loans. In addition,
84 the commission may require any loan recipient to impose a per
85 connection surcharge on each customer for repayment of any loan
86 funds provided under this section.

87 (iv) The recipient of the loan is not in arrears
88 in repayments to the Water Pollution Control Revolving Fund, the
89 Water Pollution Control Emergency Loan Fund or under the Water
90 Pollution Abatement Loan Program.

91 (b) To provide financial assistance to political
92 subdivisions in making emergency improvements such as repairs to
93 or replacement of machinery, equipment, materials, structures or
94 devices in existing water pollution abatement projects or such
95 other emergency water pollution abatement projects as the
96 commission deems necessary.

97 (c) To defray the reasonable costs of administering the
98 emergency fund and conducting activities under this section,
99 subject to annual appropriation by the Legislature.

100 (4) The commission shall establish a system of evaluating
101 the eligibility of projects, including a determination of the
102 emergency nature of a situation for which funding is sought.

103 (5) The fund will be credited with all payments of principal
104 and interest derived from the fund uses described in subsection
105 (3) of this section. However, notwithstanding any other provision
106 of law to the contrary, all or any portion of payments of
107 principal and interest derived from the fund uses described in
108 subsection (3) of this section may be designated or pledged for
109 repayment of a loan as provided for in Section 31-25-28 in
110 connection with a loan from the Mississippi Development Bank.

111 (6) In addition to any amounts allowed under subsection
112 (3)(c), the commission may establish and collect fees to further
113 defray the * * * costs of administering the emergency fund.
114 Any * * * fees may be included in loan amounts to political
115 subdivisions for the purpose of facilitating payment to the
116 commission * * *. The commission may also use administrative fees
117 collected pursuant to Section 49-17-85 to defray the reasonable
118 costs of administering the emergency fund.

119 (7) This section shall stand repealed July 1, 2007.

120 **SECTION 3.** Section 49-17-407, Mississippi Code of 1972, is
121 amended as follows:

122 49-17-407. (1) (a) An environmental protection fee
123 assessed and collected by the commission is hereby levied upon any
124 bonded distributor, as defined by Sections 49-17-401 through
125 49-17-433, who sells or delivers motor fuels to a retailer or user
126 in this state.

127 (b) Every person, other than a bonded distributor, who
128 shall purchase or acquire motor fuels within this state on which
129 the environmental protection fee has not accrued, shall be liable
130 for the environmental protection fee.

131 (c) The environmental protection fee shall be
132 imposed * * *.

133 (d) The environmental protection fee shall be collected
134 by the State Tax Commission and shall be designated separately
135 from the excise taxes on fuels.

136 (e) Any person liable for the environmental protection
137 fee shall be subject to the same requirements and penalties as
138 distributors under the provisions of the Mississippi Special Fuel
139 Tax Law.

140 (f) Any person liable for the environmental protection
141 fee shall file a report and remit any fees due at the same time
142 provided for filing reports under Section 27-55-523, on forms
143 prescribed by the State Tax Commission.

144 (g) The State Tax Commission is hereby authorized and
145 empowered to promulgate all rules and regulations necessary for
146 the administration of the environmental protection fee.

147 (2) (a) On or before the fifteenth day of each month the
148 environmental protection fees collected during the previous month
149 shall be deposited into the Mississippi Groundwater Protection
150 Trust Fund established in Section 49-17-405. When the unobligated
151 balance in the fund reaches or exceeds Ten Million Dollars
152 (\$10,000,000.00), the administrator of the fund shall notify the
153 Executive Director of the Department of Environmental Quality and
154 distribute such excess monies to the department for operation of
155 the department. All environmental protection fees accrued shall
156 be reported and paid.

157 (b) When the fund balance is reduced below Six Million
158 Dollars (\$6,000,000.00), the fee shall again be imposed at a rate
159 set by the commission and until such time as the fund shall reach
160 or exceed Ten Million Dollars (\$10,000,000.00). The administrator
161 of the fund shall notify, no later than the twenty-fifth day of
162 the month, the State Tax Commission to reimpose the environmental
163 protection fee. The imposition of the fee shall become effective
164 on the first day of the second month succeeding the month in which
165 the notice to reimpose the fee was given.

166 (3) This fund shall be used for the purposes set forth by
167 the commission and for no other * * * purposes, no portion hereof
168 shall ever be available to borrow from by any branch of
169 government; it being the intent of the Legislature that this fund
170 and its increments shall remain intact and inviolate. Any
171 interest earned on monies in this fund shall remain in this fund.

172 (4) Monies held in the fund established under Sections
173 49-17-401 through 49-17-435 shall be used only at an active site
174 and shall be disbursed in accordance with the commission
175 requirements and as follows:

176 (a) Payments shall be made to any third party who
177 brings a third-party claim against any owner of an underground
178 storage tank and the commission as trustee of the Mississippi
179 Groundwater Protection Trust Fund and who obtains a final judgment
180 in such action which is valid and enforceable in this state
181 against such parties. Payment shall be paid to the third party
182 upon filing by such party an application with the department
183 attaching the original or a certified copy of the final judgment.

184 (b) Payments shall be made in reasonable amounts to
185 approved response action contractors and other parties involved in
186 the site study and cleanup. Payment shall be made to the party
187 incurring the costs by filing of a sworn application with the
188 department indicating the fair and reasonable value of the costs
189 of site rehabilitation, subject to the regulations and limitations
190 as set by the department.

191 (5) Payments from the fund are limited as follows:

192 (a) For cleanup purposes, a maximum of One Million
193 Dollars (\$1,000,000.00) may be disbursed from the fund for any one
194 (1) site, per confirmed release occurrence.

195 (b) For third-party judgments, a maximum of One Million
196 Dollars (\$1,000,000.00) may be disbursed from the fund for any one
197 (1) site, per confirmed release occurrence.

198 (c) Nothing in Sections 49-17-401 through 49-17-435
199 shall establish or create any liability or responsibility on the
200 part of the department or the State of Mississippi to pay any
201 cleanup costs or third-party claims if the fund created herein is
202 insufficient to do so.

203 (6) Monies held in the fund established under Sections
204 49-17-401 through 49-17-435 shall not be used for purchases of
205 equipment needed to assist in cleanup operations.

206 (7) Nothing in Sections 49-17-401 through 49-17-435 shall
207 serve to limit any recovery against an owner of an underground
208 storage tank in excess of One Million Dollars (\$1,000,000.00).

209 (8) Substantial compliance shall in no way be construed to
210 be an absolute defense to civil liability.

211 (9) This section shall stand repealed July 1, 2007.

212 **SECTION 4.** Section 49-17-421, Mississippi Code of 1972, is
213 amended as follows:

214 49-17-421. The commission may assess and collect a tank
215 regulatory fee in an amount sufficient to administer Sections
216 49-17-401 through 49-17-435 * * * from the owner of each
217 underground storage tank in use in Mississippi on July 1, 1988, or
218 brought into use after that date, as provided in the Mississippi
219 Underground Storage Tank Act of 1988 (Sections 49-17-401 through
220 49-17-435). The tank regulatory fee assessed under this section
221 is a debt due by the owner of each underground storage tank in use
222 in Mississippi on July 1, 1988, or brought into use after that
223 date. The tank regulatory fee shall be due on a date established
224 by the commission. If any part of the tank regulatory fee is not
225 paid within thirty (30) days after the due date, a penalty of
226 fifty percent (50%) of the amount due shall accrue at once and be
227 added to the fee, unless the owner of the underground storage tank
228 demonstrates to the commission that the failure to make timely
229 payment was unavoidable due to financial hardship or otherwise
230 beyond the control of the owner. Monies collected under this

231 section shall be deposited in a special fund which is created in
232 the State Treasury. Unexpended amounts remaining in the special
233 fund at the end of the fiscal year shall not lapse into the
234 General Fund and any interest earned on amounts in the special
235 fund shall be credited to the special fund by the Treasurer. The
236 fund may receive monies from any available public or private
237 source, including, but not limited to, collection of fees,
238 interest, grants, taxes, public or private donations and judicial
239 actions. Monies in this special fund shall be expended by annual
240 appropriation approved by the Legislature to administer Sections
241 49-17-401 through 49-17-435.

242 This section shall stand repealed July 1, 2007.

243 **SECTION 5.** Section 49-17-507, Mississippi Code of 1972, is
244 amended as follows:

245 49-17-507. In addition to any other powers and duties
246 authorized by law, the commission shall have the following powers
247 and duties regarding lead-based paint activities:

248 (a) To adopt, modify, repeal and promulgate, after due
249 notice and hearing, and where not otherwise prohibited by federal
250 or state law, to make exceptions to and grant exemptions and
251 variances from, and to enforce rules and regulations implementing
252 or effectuating the powers and duties of the commission under
253 Sections 49-17-501 through 49-17-531;

254 (b) To issue, reissue, suspend, revoke or deny the
255 issuance or reissuance of accreditation for lead-based paint
256 activity training programs and to require the modification of
257 those training programs;

258 (c) To issue, reissue, suspend, revoke or deny the
259 issuance or reissuance of certificates for risk assessors, project
260 designers, supervisors, inspectors and workers involved in
261 lead-based paint activities;

262 (d) To develop and require the use of work practice
263 standards for lead-based paint activities and to monitor
264 compliance with those work practice standards;

265 (e) To enforce and assess penalties for violations of
266 Sections 49-17-501 through 49-17-531;

267 (f) To assess and collect fees * * *;

268 (g) To develop an examination and grading system for
269 testing applicants to be administered by accredited training
270 programs;

271 (h) To establish requirements and procedures for the
272 administration of a third-party certification examination;

273 (i) To enter into reciprocal agreements for
274 accreditation of training programs and certification of risk
275 assessors, project designers, supervisors, inspectors and workers
276 with other states that have established accreditation and
277 certification programs that meet or exceed the accreditation and
278 certification requirements adopted under Sections 49-17-501
279 through 49-17-531;

280 (j) To apply for, receive and expend any contributions,
281 gifts, devises, bequests or funds from any source relating to
282 Sections 49-17-501 through 49-17-531;

283 (k) To enter into, and to authorize the executive
284 director to execute with the approval of the commission,
285 contracts, grants and cooperative agreements, except as limited
286 under Section 49-2-9, with any federal or state agency or
287 subdivision thereof, any public or private institution, or any
288 other person in connection with carrying out Sections 49-17-501
289 through 49-17-531; * * *

290 (l) To discharge other duties, responsibilities and
291 powers necessary to implement Sections 49-17-501 through
292 49-17-531; and

293 (m) This section shall stand repealed July 1, 2007.

294 **SECTION 6.** Section 49-17-525, Mississippi Code of 1972, is
295 amended as follows:

296 49-17-525. (1) (a) There is created in the State Treasury
297 a fund to be designated as the Lead-Based Paint Program Operations
298 Fund, referred to in this section as "fund," to be administered by
299 the executive director and expended by appropriation approved by
300 the Legislature.

301 (b) Monies in the fund shall be utilized to pay
302 reasonable direct and indirect costs associated with the
303 administration and enforcement of the lead-based paint activity
304 accreditation and certification program.

305 (c) Expenditures may be made from the fund upon
306 requisition by the executive director.

307 (d) The fund shall be treated as a special trust fund.
308 Interest earned on the principal therein shall be credited by the
309 Treasurer to the fund.

310 (e) The fund may receive monies from any available
311 public or private source, including, but not limited to,
312 collection of fees, interest, grants, taxes, public and private
313 donations, judicial actions and appropriated funds.

314 (f) Monies in the fund at the end of the fiscal year
315 shall be retained in the fund for use in the next succeeding
316 fiscal year to be expended by appropriation approved by the
317 Legislature.

318 (2) (a) The commission shall set by order a schedule of
319 fees * * *.

320 (b) All monies collected under this section shall be
321 deposited into the fund.

322 (c) The commission may delegate to the department
323 responsibility for the collection of fees under this section.

324 (d) Any person required to pay a fee under this section
325 who disagrees with the calculation or applicability of the fee may
326 petition the commission for a hearing in accordance with Section

327 49-17-35, Mississippi Code of 1972. Any hearing shall be in
328 accordance with the provisions of Section 49-17-33, Mississippi
329 Code of 1972.

330 * * *

331 (3) This section shall stand repealed July 1, 2007.

332 **SECTION 7.** Section 51-3-31, Mississippi Code of 1972, is
333 amended as follows:

334 51-3-31. Any person desiring to use water for a beneficial
335 purpose shall apply to the board for a permit for such use on a
336 form prescribed by the board for such purpose. The application
337 shall be accompanied by a fee of Two Hundred Fifty Dollars
338 (\$250.00). The application shall provide such information as
339 deemed appropriate by the board to its decision to issue such
340 permit. The fees and applications required by this section also
341 shall apply to renewals of permits and any modifications to
342 permits. The board shall not charge any fees under this section
343 to animal feeding operations or confined animal feeding
344 operations.

345 All fees received by the board under this section shall be
346 deposited in the State Treasury to the credit of the Department of
347 Environmental Quality.

348 **SECTION 8.** Section 53-7-7, Mississippi Code of 1972, is
349 amended as follows:

350 53-7-7. (1) Except as provided in this section, it is
351 unlawful to commence an operation or operate a surface mine
352 without a permit or coverage under a general permit as provided by
353 this chapter.

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

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

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

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

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

367 (iii) The public agency notifies the department as
368 required by the commission within two (2) working days of the
369 removal of the materials;

370 (c) Operations for any materials on any affected area
371 conducted before April 15, 1978, but this chapter shall apply to
372 any additional land which the operation extended to or encompassed
373 after April 15, 1978;

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

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

378 (ii) The operator notified the commission of the
379 commencement, expansion or resumption of the operation before July
380 1, 2002; and

381 (e) Operations for any materials that affect four (4)
382 acres or less, are greater than one thousand three hundred twenty
383 (1,320) feet from any other affected area and commenced after July
384 1, 2002, if the operator notifies the department at least seven
385 (7) calendar days before commencement or expansion of the
386 operation as required in regulations adopted by the commission.
387 The seven-day notice prior to mining requirement shall be waived
388 and the operator may begin mining immediately after notifying the
389 department if:

390 (i) The operator agrees, in the notification, to
391 reclaim the mine site in accordance with the minimum standards
392 adopted by the commission; or

393 (ii) The exempted operation is conducted for
394 Mississippi Department of Transportation projects or state aid
395 road construction projects funded in whole or in part by public
396 funds.

397 (3) Exempt operations under paragraph (e) that are conducted
398 for the MDOT projects or state aid road construction projects
399 shall be reclaimed in accordance with the requirements of the
400 Mississippi Standard Specifications for Road and Bridge
401 Construction, Mississippi Department of Transportation or Division
402 of State Aid Road Construction, as applicable. Any operator
403 failing to reclaim as required under this subsection may be
404 subject to the penalties provided in Section 53-7-59(2).

405 (4) If a landowner refuses to allow the operator to complete
406 reclamation in accordance with minimum standards or interferes
407 with or authorizes a third party to disturb or interfere with
408 reclamation in accordance with minimum standards, the landowner
409 shall assume the exempt notice and shall be responsible for any
410 reclamation.

411 (5) All operations exempted under Sections 53-7-7(2)(d) and
412 53-7-7(2)(e) shall be subject to the prohibitions on mining in
413 certain areas contained in Sections 53-7-49 and 53-7-51 and may be
414 subject to the penalties in Section 53-7-59(2) for any violation
415 of those sections.

416 (6) Any operator conducting operations exempted under
417 Section 53-7-7(2)(b) or 53-7-7(2)(e) failing to notify the
418 department in accordance with the regulations of the commission,
419 may be subject to penalties provided in Section 53-7-59(2). Any
420 operator exempted under Section 53-7-7(2)(e) who agrees in the
421 notification to reclaim and fails to reclaim in accordance with
422 that paragraph may be subject to penalties provided in Section
423 53-7-59(2).

424 (7) The department shall collect from every operator granted
425 an exemption the amount of One Hundred Dollars (\$100.00) from any

426 operator whose mining operations are exempted under the authority
427 of this section. The department shall charge an annual monitoring
428 fee of One Hundred Dollars (\$100.00) to any exempted and
429 nonexempted operators to help defray the costs of monitoring
430 surface mining activity. All fees collected under this subsection
431 shall be deposited in the State Treasury to the credit of the
432 department.

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

435 53-7-21. (1) Unless exempted under Section 53-7-7, no
436 operator shall engage in surface mining without having first
437 obtained coverage under a general permit or having obtained from
438 the Permit Board a permit for each operation. The permit or
439 coverage under a general permit shall authorize the operator to
440 engage in surface mining upon the area of land described in the
441 application for a period of either five (5) years or longer period
442 of time as deemed appropriate by the Permit Board from the date of
443 issuance or until reclamation of the affected area is completed
444 and the reclamation bond is finally released, whichever comes
445 first.

446 (2) Each operator holding a permit shall annually, before
447 the anniversary date of the permit, file with the department a
448 certificate of compliance in which the operator, under oath, shall
449 declare that the operator is following the approved mining and
450 reclamation plan and is abiding by this chapter and the rules and
451 regulations adopted under this chapter.

452 (3) The department shall charge all permit holders an annual
453 permit monitoring fee of One Hundred Twenty-five Dollars
454 (\$125.00). All fees collected under this subsection shall be
455 deposited in the State Treasury to the credit of the department.

456 **SECTION 10.** Section 53-7-25, Mississippi Code of 1972, is
457 amended as follows:

458 53-7-25. (1) Each application for a surface mining permit
459 and for coverage under a general permit shall be accompanied by an
460 application fee in accordance with a published fee schedule
461 adopted by the commission. The application fee shall not be less
462 than One Hundred Dollars (\$100.00) plus Ten Dollars (\$10.00) per
463 acre included in the application. The total application fee shall
464 not exceed Five Hundred Dollars (\$500.00). The commission, in
465 considering regulations on the fee schedule, shall recognize the
466 difference in the various materials, taking into consideration the
467 commercial value of the material and the nature and size of
468 operation necessary to extract it.

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

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

475 (4) In addition to the fees provided for in this section,
476 the department shall charge a fee of One Hundred Dollars (\$100.00)
477 for any permit issued and for the renewal of permits. All funds
478 collected under this subsection shall be deposited in the State
479 Treasury to the credit of the department.

480 **SECTION 11.** Section 53-7-27, Mississippi Code of 1972, is
481 amended as follows:

482 53-7-27. (1) Before commencing any operation for which a
483 permit is required, each applicant for a permit shall submit to
484 the Permit Board an application, a proposed initial reclamation
485 plan and a performance bond in an amount proposed to be sufficient
486 by the applicant to reclaim the permit area.

487 (2) The application shall be in the form prescribed by the
488 commission and shall contain the following information:

489 (a) A legal description of the tract or tracts of land
490 in the affected area and one or more maps or plats of adequate

491 scale to clearly portray the location of the affected area. The
492 description shall contain sufficient information so that the
493 affected area may be located and distinguished from other lands
494 and shall identify the access from the nearest public road;

495 (b) The approximate location and depth of the deposit
496 in the permit area and the total number of acres in the permit
497 area;

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

501 (d) The name and address of any person holding legal
502 and equitable interests of record, if reasonably ascertainable, in
503 the surface estate of the permit area and in the surface estate of
504 land located within five hundred (500) feet of the exterior limits
505 of the permit area;

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

508 (f) Current or previous surface mining permits held by
509 the applicant, including any revocations, suspensions or bond
510 forfeitures;

511 (g) The type and method of operation, the engineering
512 techniques and the equipment that is proposed to be used,
513 including mining schedules, the nature and expected amount of
514 overburden to be removed, the depth of excavations, a description
515 of the permit area, the anticipated hydrologic consequences of the
516 mining operation, and the proposed use of explosives for blasting,
517 including the nature of the explosive, the proposed location of
518 the blasting and the expected effect of the blasting;

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

521 (i) The names and locations of all lakes, rivers,
522 reservoirs, streams, creeks and other bodies of water in the
523 vicinity of the contemplated operations which may be affected by

524 the operations and the types of existing vegetative cover on the
525 area affected thereby and on adjoining lands within five hundred
526 (500) feet of the exterior limits of the affected area;

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

529 (k) The surface location and extent of all existing and
530 proposed waste and spoil piles, cuts, pits, tailing dumps, ponds,
531 borrow pits, evaporation and settling basins, roads, buildings,
532 access ways, workings and installations sufficient to provide a
533 reasonably clear and accurate portrayal of the existing surface
534 conditions and the proposed mining operations;

535 (l) If the surface and mineral estates, or any part of
536 those estates, in land covered by the application, have been
537 severed and are owned by separate owners, the applicant shall
538 provide a notarized statement subscribed to by each surface owner
539 and lessee of those lands, unless the lease or other conveyance to
540 the applicant specifically states the material to be mined by the
541 operator granting consent for the applicant to initiate and
542 conduct surface mining, exploration and reclamation activities on
543 the land;

544 (m) Except for governmental agencies, a certificate of
545 insurance certifying that the applicant has in force a public
546 liability insurance policy issued by an insurance company
547 authorized to conduct business in the State of Mississippi
548 covering all operations of the applicant in this state and
549 affording bodily injury protection and property damage protection
550 in an amount not less than the following:

551 (i) One Hundred Thousand Dollars (\$100,000.00) for
552 all damages because of bodily injury sustained by one (1) person
553 as the result of any one (1) occurrence, and Three Hundred
554 Thousand Dollars (\$300,000.00) for all damages because of bodily
555 injury sustained by two (2) or more persons as the result of any
556 one (1) occurrence; * * *

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

560 (iii) In any case where the department releases
561 any permittee from the obligation of having the insurance or bond
562 required by this paragraph (m), the department shall charge the
563 permittee One Hundred Dollars (\$100.00). The fees collected under
564 this subparagraph (iii) shall be deposited in the State Treasury
565 to the credit of the department.

566 The policy shall be maintained in full force and effect
567 during the term of the permit, including the length of all
568 reclamation operations.

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

571 (o) Any other information needed to clarify the
572 required parts of the application.

573 **SECTION 12.** Section 53-7-69, Mississippi Code of 1972, is
574 amended as follows:

575 53-7-69. (1) There is created in the State Treasury a fund
576 to be designated as the "Surface Mining and Reclamation Fund,"
577 referred to hereinafter as the "fund." There is created in the
578 fund an account designated as the "Land Reclamation Account" and
579 an account designated as the "Surface Mining Program Operations
580 Account."

581 (2) The fund shall be treated as a special trust fund.
582 Interest earned on the principal therein shall be credited by the
583 Treasurer to the fund.

584 (3) The fund may receive monies from any available public or
585 private sources, including, but not limited to, collection of
586 fees, interest, grants, taxes, public and private donations,
587 judicial actions, penalties and forfeited performance bonds. Any
588 monies received from penalties, forfeited performance bonds,
589 judicial actions and the interest thereon, less enforcement and

590 collection costs, shall be credited to the Land Reclamation
591 Account. Except as otherwise provided by law, any monies received
592 from the collection of fees, grants, taxes, public or private
593 donations and the interest thereon shall be credited to the
594 Surface Mining Program Operations Account.

595 (4) The commission shall expend or utilize monies in the
596 fund by an annual appropriation by the Legislature as provided
597 herein. Monies in the Land Reclamation Account may be used to
598 defray any costs of reclamation of land affected by mining
599 operations. Monies in the Surface Mining Program Operations
600 Account may be used to defray the reasonable direct and indirect
601 costs associated with the administration and enforcement of this
602 chapter.

603 (5) Proceeds from the forfeiture of performance bonds or
604 deposits and penalties recovered shall be available to be expended
605 to reclaim, in accordance with this chapter, lands with respect to
606 which the performance bonds or deposits were provided and
607 penalties assessed. If the commission expends monies from the
608 fund for which the cost of reclamation exceeded the proceeds from
609 the forfeiture of performance bonds or deposits, the commission
610 may seek to recover any monies expended from the fund from any
611 responsible party.

612 **SECTION 13.** This act shall take effect and be in force from
613 and after July 1, 2006.