

NATURAL RESOURCES CODE

TITLE 4. MINES AND MINING

CHAPTER 131. URANIUM SURFACE MINING AND RECLAMATION ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 131.001. SHORT TITLE. This chapter may be cited as the Texas Uranium Exploration, Surface Mining, and Reclamation Act. Acts 1977, 65th Leg., p. 2607, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, Sec. 39, eff. May 9, 1979; Acts 1979, 66th Leg., p. 849, ch. 379, Sec. 1, eff. June 6, 1979.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 1, eff. September 1, 2007.

Sec. 131.002. DECLARATION OF POLICY. The legislature finds and declares that:

(1) the extraction of minerals by surface mining operations is a basic and essential activity making an important contribution to the economic well-being of the state and nation;

(2) proper reclamation of land explored for minerals and surface-mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, and property rights of the citizens of this state;

(3) surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications for reclamation operations must vary accordingly;

(4) it is not always possible to explore for or to extract minerals required by our society without disturbing the earth and producing waste materials, and the very character of certain types of surface mining operations occasionally precludes complete restoration of the affected land to its original condition;

(5) unregulated surface mining may destroy or diminish

the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources, which results are declared to be inimical to the public interest and destructive to the public health, safety, welfare, and economy of the State of Texas;

(6) due to its unique character or location, some land within the state may be unsuitable for all or certain types of surface mining operations;

(7) reclamation of land explored for minerals and surface-mined land as provided by this chapter will allow the mining of valuable minerals in a manner designed for the protection and subsequent beneficial use of land; and

(8) the requirements of this chapter for reclamation and maintenance of affected land are necessary for the public health and safety and thus constitute a valid application of the police power of this state.

Acts 1977, 65th Leg., p. 2607, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 849, ch. 379, Sec. 1, eff. June 6, 1979.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 1, eff. September 1, 2007.

Sec. 131.003. PURPOSES. It is declared to be the purpose of this chapter:

(1) to prevent the adverse effects to society and the environment resulting from unregulated surface mining operations as defined in this chapter;

(2) to assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are protected from unregulated surface mining

operations;

(3) to assure that surface mining operations are not conducted where reclamation as required by this chapter is not possible;

(4) to assure that exploration and surface mining operations are conducted in a manner that will prevent unreasonable degradation of land and water resources; and

(5) to assure that reclamation of all explored land and surface-mined land is accomplished as contemporaneously as practicable with the exploration or surface mining, recognizing that the exploration for and extraction of minerals by responsible operations is an essential and beneficial economic activity.

Acts 1977, 65th Leg., p. 2608, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 1, eff. September 1, 2007.

Sec. 131.004. DEFINITIONS. In this chapter:

(1) "Minerals" means uranium and uranium ore.

(2) "Surface mining" means the mining of minerals by removing the overburden lying above the natural deposit of minerals and mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface; provided, this definition shall not be construed to include in situ mining activities associated with the removal of uranium or uranium ore.

(3) "Exploration activity" means the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a mineral deposit.

(4) "Affected land" or "land affected" means:

(A) the area from which any materials are to be or have been displaced in a surface mining operation;

(B) the area on which any materials that are displaced are to be or have been deposited;

(C) the haul roads and impoundment basins within

the surface mining area; and

(D) other land whose natural state has been or will be disturbed as a result of the surface mining operations.

(5) "Surface mining operation" means those activities conducted at or near the mining site and concomitant with the surface mining, including extraction, storage, processing, and shipping of minerals and reclamation of the land affected.

(6) "Operator" means the individual or entity, including any public or governmental agency, that is to engage or that is engaged in a surface mining operation, including any individual or entity whose permit has expired or been suspended or revoked.

(7) "Overburden" means all materials displaced in a mining operation which are not, or will not be, removed from the affected area.

(8) "Reclamation" means the process of restoring an area affected by a surface mining operation to its original or other substantially beneficial condition, considering past and possible future uses of the area and the surrounding topography.

(9) "Topsoil" means the unconsolidated mineral matter naturally present on the surface of the earth which has been subjected to and influenced by genetic and environmental factors of parent material, climate, macroorganisms and microorganisms, and topography, all acting over a period of time, and which is necessary for the growth and regeneration of vegetation on the surface of the earth.

(10) "Surface mining permit" or "permit" means the written certification by the commission that the named operator may conduct the surface mining operations described in the certification during the term of the surface mining permit and in the manner established in the certification. These terms do not include:

(A) a discharge permit issued by the commission pursuant to Subchapter H of this chapter; or

(B) an exploration permit issued by the commission pursuant to Subchapter I of this chapter.

(11) "Person affected" means any person who is a

resident of a county or any county adjacent or contiguous to the county in which a mining operation is or is proposed to be located, including any person who is doing business or owns land in the county or adjacent or contiguous county and any local government and who demonstrates that he has suffered or will suffer actual injury or economic damage.

(12) "Commission" means the Railroad Commission of Texas.

(13) "Fund" means the Land Reclamation Fund.

(14) "Toxic material" means any substance present in sufficient concentration or amount to cause injury or illness to plant, animal, or human life.

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the surface-mined area so that it resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated, although the new contour may subsequently be at a moderately lower or higher elevation than existed prior to the surface mining operation.

(16) "Person" means an individual, partnership, society, joint-stock company, firm, company, corporation, business organization, government or governmental subdivision or agency, business trust, estate, trust, organization or association of citizens, or any other legal entity.

(17) "Party to the administrative proceedings" means any person who has participated in a public hearing or filed a valid petition or timely objection pursuant to any provision of this chapter.

(18) "Permit area" means all the area designated as such in the permit application and shall include all land affected by the surface mining operations during the term of the permit and may include any contiguous area that the operator proposes to surface mine after that time.

Acts 1977, 65th Leg., p. 2608, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 308, ch. 141, Sec. 42, eff. May 9, 1979; Acts 1979, 66th Leg., p. 853, ch. 379, Sec. 3,

eff. June 6, 1979; Acts 1979, 66th Leg., p. 1989, ch. 784, Sec. 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 413, ch. 171, Sec. 1, eff. May 20, 1981; Acts 1985, 69th Leg., ch. 921, Sec. 5, 6, eff. June 15, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 2, eff. September 1, 2007.

Sec. 131.005. RECLAMATION. (a) The basic objective of reclamation is to reestablish on a continuing basis, where required, vegetation and other natural conditions consistent with the anticipated subsequent use of the affected land.

(b) The process of reclamation may require contouring, terracing, grading, backfilling, resoiling, revegetation, compaction and stabilization and settling ponds, water impoundments, diversion ditches, and other water treatment facilities in order to minimize water diminution to existing water sources, pollution, soil and wind erosion, or flooding resulting from mining or any other activity that may be considered necessary to accomplish the reclamation of the land affected to a substantially beneficial condition.

Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.006. EXCLUSIONS AND EXEMPTIONS. The provisions of this chapter do not apply to the following:

(1) surface mining operations conducted on public land regulated by the General Land Office if the land is reclaimed in a manner consistent with this chapter; and

(2) land on which the overburden has been removed and minerals have been produced before June 21, 1975.

Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION

Sec. 131.021. GENERAL AUTHORITY OF COMMISSION. In seeking

to accomplish the purposes of this chapter, the commission shall have the authority:

(1) to adopt and amend rules pertaining to exploration, surface mining, and reclamation operations consistent with the general intent and purposes of this chapter;

(2) to issue permits pursuant to the provisions of this chapter;

(3) to conduct hearings pursuant to the provisions of this chapter;

(4) to issue orders requiring an operator to take actions that are necessary to comply with this chapter and with rules adopted under this chapter;

(5) to issue orders modifying previous orders;

(6) to issue a final order revoking the permit of an operator who has failed to comply with an order of the commission to take action required by this chapter or rules adopted under this chapter;

(7) to order the immediate cessation of an ongoing exploration or surface mining operation if the commission finds that the operation creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, and to take other action or make changes in a permit that are reasonably necessary to avoid or alleviate these conditions;

(8) to hire employees, adopt standards for employment of these persons, and hire and authorize the hiring of outside contractors to assist in carrying out the requirements of this chapter;

(9) to enter on and inspect, in person or by its agents, an exploration or a surface mining operation that is subject to the provisions of this chapter to assure compliance with the terms of this chapter;

(10) to conduct, encourage, request, and participate in studies, surveys, investigations, research, experiments, training, and demonstrations by contract, grant, or otherwise;

(11) to prepare reports and to require persons who

hold exploration or surface mining permits to prepare reports;

(12) to collect and disseminate to the public information considered reasonable and necessary for the proper enforcement of this chapter;

(13) to accept, receive, and administer grants, gifts, loans, or other funds made available from any source for the purposes of this chapter;

(14) to enter into contracts with state boards and agencies that have pertinent expertise to obtain professional and technical services necessary to carry out the provisions of this chapter; and

(15) to perform other duties and acts required by and provided for in this chapter.

Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 3, eff. September 1, 2007.

Sec. 131.022. JURISDICTION OF COMMISSION. (a) The commission is the mining and reclamation authority for the State of Texas and has exclusive jurisdiction for establishing reclamation requirements for mining and exploration operations in this state, except for in situ recovery processes.

(b) Except as provided by Section 131.354, the commission has exclusive jurisdiction and is solely responsible for the regulation of all exploration activities.

Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 3, eff. September 1, 2007.

Sec. 131.023. COMMISSION PROCEDURE. The commission shall seek the accomplishment of the purposes of this chapter by all practicable methods.

Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, Sec. 1, eff. Sept. 1,

1977.

Sec. 131.024. COMPLIANCE WITH FEDERAL SURFACE MINING LAWS.

(a) On passage of federal surface mining legislation, the commission shall take actions necessary to establish the exclusive jurisdiction of this state over the regulation of surface mining and reclamation operations.

(b) If the federal administrative agency disapproves the regulatory program of this state as submitted, the commission shall take all necessary and appropriate action, including making recommendations for remedial legislation, to clarify, alter, or amend the program to comply with the requirements of the federal act.

Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.025. HEARING PROCEDURE. At a hearing under this chapter, the commission may:

- (1) administer oaths or affirmations;
- (2) subpoena witnesses and compel their attendance;
- (3) take evidence; and

(4) require production of books, papers, correspondence, memoranda, agreements, or other documents or records that are considered relevant or material to the administration of this chapter.

Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.033. DIFFERING TERMS AND PROVISIONS OF RULES. A rule or an amendment of a rule adopted by the commission may differ in its terms and provisions between particular conditions, particular mining techniques, particular areas of the state, or any other conditions that appear relevant and necessary so long as the action taken is consistent with attainment of the general intent and purposes of this chapter.

Acts 1977, 65th Leg., p. 2612, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, Sec. 39,

eff. May 9, 1979; Acts 1979, 66th Leg., p. 849, ch. 379, Sec. 1, eff. June 6, 1979.

Sec. 131.034. EXPLORATION ACTIVITIES. The commission shall promulgate rules governing uranium exploration activity.

Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. 3837), Sec. 3, eff. September 1, 2007.

Sec. 131.035. RULES DESIGNATING UNSUITABLE LAND. (a) The commission shall develop rules that adopt appropriate procedures for identifying and designating land in this state as unsuitable for all or certain types of surface mining in accordance with Sections 131.036 through 131.041 of this code.

(b) The rules shall be in sufficient detail to provide reasonable notice to prospective operators of areas that might be designated as unsuitable for surface mining.

Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.036. SURVEY OF LAND. (a) When application is made to conduct surface mining operations and before a permit is issued, the commission shall immediately have the areas to be included in the proposed permit surveyed in accordance with the requirements of Sections 131.035 and 131.037 through 131.041 of this code.

(b) In conducting the survey and in declaring various areas to be unsuitable for mining, the commission shall employ competent and scientifically sound data and information as the basis for objective decisions with respect to each area surveyed.

Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.037. COMMISSION STATEMENT. Before designating a land area as unsuitable for surface mining operations, the commission shall prepare a detailed statement on the potential

mineral and other resources in the area, the demand for these resources, and the impact of the designation on the environment, the economy, and the supply of the mineral.

Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.038. REASONS FOR UNSUITABLE DESIGNATION. After the survey is made, an area may be designated unsuitable for all or certain types of surface mining if:

(1) the commission determines that reclamation under this chapter is not feasible;

(2) the operations will result in significant damage to important areas of historic, cultural, or archaeological value or to important natural systems;

(3) the operations will affect renewable resource land that includes aquifers and aquifer recharge areas, resulting in a substantial loss or reduction of long-range productivity of water supply or food or fiber products;

(4) the operations are located in an area subject to frequent flooding or an area that is geologically unstable and may reasonably be expected to endanger life and property;

(5) the operations will adversely affect any national park, national monument, national historic landmark, property listed on the national register of historic places, national forest, national wilderness area, national wildlife refuge, national wild and scenic river area, state park, state wildlife refuge, state forest, recorded Texas historic landmark, state historic site, state archaeological landmark, or city or county park; or

(6) the operations would endanger any public road, public building, cemetery, school, church, or similar structure or existing dwelling outside the permit area.

Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.039. PETITION AND HEARING ON DESIGNATION. (a) Any person is entitled to petition the commission to have an area

designated as unsuitable for surface mining operations or to have the designation terminated.

(b) The petition shall include allegations of facts with supporting evidence that in the opinion of the commission would tend to establish the allegations.

(c) The commission shall make a determination of the validity of the petition, and if the petition is found to be valid, it shall be kept on file by the commission and made available for public inspection.

(d) On application for a surface mining permit for which a valid petition has been filed, the commission shall hold a public hearing as provided in Section 131.163 of this code in the locality of the proposed mining operation.

(e) Any person affected may intervene before the public hearing by filing allegations of facts with supporting evidence that would tend to establish the allegations.

(f) If all the petitioners and the applicant stipulate agreement before the requested hearing, the hearing does not have to be held.

Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, Sec. 2, eff. Aug. 27, 1979.

Sec. 131.040. MODIFYING, AMENDING, AND TERMINATING DESIGNATIONS. The commission may modify, amend, or terminate a designation pursuant to the requirements of Sections 131.035 through 131.039 of this code.

Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.041. APPLICABILITY OF SUBCHAPTER. The provisions of Sections 131.035 through 131.040 of this code do not apply to land on which surface mining operations were being conducted on June 21, 1975.

Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.042. RECORDS, REPORTS, MONITORING EQUIPMENT, AND INFORMATION. The commission shall require each permittee to:

- (1) establish and maintain appropriate records;
- (2) make reports as frequently as the commission may prescribe;
- (3) install, use, and maintain necessary monitoring equipment for observing and determining relevant surface or subsurface effects of the mining operation and reclamation program; and
- (4) provide other information relative to mining and reclamation operations the commission determines to be reasonable and necessary.

Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.043. INSPECTION BY COMMISSION. Without advance notice and on presentation of appropriate credentials to the operation supervisor, if present, the authorized representatives of the commission are entitled to enter in, on, or through a surface mining operation or premises in which any records required under Section 131.042 of this code are located, and may at reasonable times and without delay have access to and copy any records and inspect monitoring equipment or methods of operation required under this chapter.

Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.044. TIME AND PROCEDURES FOR INSPECTIONS. (a) The inspections by the commission shall occur on an irregular basis at a frequency necessary to insure compliance with the intent and purposes of this chapter and the commission's rules for the surface mining and reclamation operations covered by each permit.

(b) The inspections shall occur only during normal operating hours if practicable and without prior notice to the permittee or his agents or employees.

(c) An inspection shall include the filing of an inspection report adequate to enforce the requirements of and to carry out the

terms and purposes of this chapter. The commission shall make each report a part of the record and furnish one copy of the report to the operator.

(d) Insofar as practicable, the commission shall establish a system of rotation of inspectors.

Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.045. SIGN. Each permittee shall maintain at the entrances to the surface mining and reclamation operations a clearly visible sign that sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and reclamation operations.

Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.046. PROCEDURE ON DETECTION OF VIOLATION. On detection of each violation of a requirement of this chapter, each inspector shall inform the operator of the violation orally at the time of the detection and in writing at a later time and shall report the violation in writing to the commission.

Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.047. JUDICIAL REVIEW. (a) Any party to the administrative proceedings whose interest is or may be adversely affected by a ruling, order, decision, or other act of the commission may appeal by filing a petition in a district court of Travis County or in the county in which the greater portion of the land in question is located.

(b) The plaintiff shall pursue his action with reasonable diligence, and if the plaintiff does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(c) The court shall hear the complaint solely on the record made before the commission. The findings of the commission, if supported by substantial evidence on the record considered as a whole, shall be upheld.

(d) The court may, under conditions it may prescribe, grant temporary relief that it considers appropriate pending final determination of the proceedings.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the commission.

(f) Repealed by Acts 1981, 67th Leg., p. 2647, ch. 707, Sec. 4(48), eff. Aug. 31, 1981.

Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, Sec. 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2646, ch. 707, Sec. 4(48), eff. Aug. 31, 1981.

Sec. 131.048. CONFIDENTIALITY. Information submitted to the commission concerning mineral deposits, including test borings, core samplings, geophysical logs, or trade secrets or privileged commercial or financial information relating to the competitive rights of the applicant for an exploration permit or surface mining permit and specifically identified as confidential by the applicant, if not essential for public review as determined by the commission, shall not be disclosed by any member, agent, or employee of the commission.

Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 3, eff. September 1, 2007.

Sec. 131.049. TEMPORARY ORDERS PRIOR TO NOTICE AND HEARING.

(a) The commission may issue temporary orders relating to a surface mining operation without notice and hearing, or with the notice and hearing as the commission considers practical under the circumstances, when necessary to enable action to be taken more

expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter.

(b) If the commission issues a temporary order under this authority without a hearing, and if the subject matter of the order is such as to require a public hearing under Section 131.163 of this code or under any rule of the commission, the order shall set a time and place for a public hearing to be held. The hearing shall be held as soon after the temporary order is issued as is practical.

(c) At the hearing, the commission shall affirm, modify, or set aside the temporary order. If the nature of the commission's action requires, further proceedings shall be conducted as appropriate under provisions of Chapter 2001, Government Code.

(d) The requirements of Sections 131.159 and 131.160 of this code relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to the hearing, but general notice of the hearing shall be given that the commission considers practical under the circumstances.

Added by Acts 1979, 66th Leg., p. 853, ch. 379, Sec. 6, eff. June 6, 1979. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

SUBCHAPTER C. PLANS AND STANDARDS

Sec. 131.101. RECLAMATION PLAN. (a) A reclamation plan shall be developed in a manner consistent with local, physical, environmental, and climatological conditions and current mining and reclamation technologies.

(b) A reclamation plan submitted as part of a permit application shall include:

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation;

(2) the condition of the land to be covered by the permit prior to any mining, including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses, if reasonably ascertainable, that immediately preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(3) the capacity of the land to support its anticipated use following reclamation, including a discussion of the capacity of the reclaimed land to support alternative uses;

(4) a description of how the proposed postmining land condition is to be achieved and the necessary support activities that may be needed to achieve the condition, including an estimate of the cost per acre of the reclamation;

(5) the steps taken to comply with applicable air and water quality and water rights laws and regulations and any applicable health and safety standards, including copies of any pertinent permit applications;

(6) a general timetable that the operator estimates will be necessary for accomplishing the major events included in the reclamation plan; and

(7) other information the commission, by rule, determines to be reasonably necessary to effectuate the purposes of this chapter.

(c) The operator may revise or amend the reclamation plan at any time in accordance with the requirements of this code.

Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.102. RECLAMATION STANDARDS. (a) A permit issued under this chapter to conduct surface mining operations shall require that the surface mining operations meet all applicable reclamation standards of this chapter and any other requirements that the commission establishes by rule.

(b) Reclamation standards shall apply to all surface mining and reclamation operations that are not exempted or excluded and shall require the operator as a minimum to:

(1) conduct surface mining operations in a manner consistent with prudent mining practice, so as to maximize the utilization and conservation of the resource being recovered so that re-affecting the land in the future through surface mining can

be minimized;

(2) restore the land affected to the same or a substantially beneficial condition considering the present and past uses of the land, so long as the condition does not present any actual or probable hazard to public health or safety or pose an actual or probable threat of water diminution or pollution, and the permit applicants' declared anticipated land use following reclamation is not considered to be impractical or unreasonable, to involve unreasonable delay in implementation, or to violate federal, state, or local law, provided that a variety of postmining land conditions that differ from the land condition immediately preceding the surface mining operation, including but not limited to stock ponds, fishing or recreational lakes, school or park sites, industrial, commercial, or residential sites, or open space uses, may be approved by the commission if the proposed condition is determined to be substantially beneficial and complies with the provisions of this section;

(3) reduce all highwalls, spoil piles, and banks to a degree to control erosion effectively and sufficiently to sustain vegetation, where required, consistent with the anticipated subsequent use of the affected land, provided that backfilling, compacting, and grading shall be required to restore the approximate original contour where required by federal law and where the volume of overburden is large in comparison to the volume of mineral deposit and the commission considers the requirement to be practical;

(4) stabilize and protect all surface areas affected by the mining and reclamation operation effectively to control erosion and attendant air and water pollution;

(5) remove the topsoil, if any, from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plants or other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by toxic material, and is in a usable condition

for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation and if other strata can be shown to be as suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner the other strata which is best able to support vegetation, provided that the requirements of this provision shall not apply if a mixing of strata can be shown to be equally suitable for revegetation requirements;

(6) replace the topsoil or the best available subsoil, if any, on top of the land to be reclaimed;

(7) fill any auger holes with an impervious material in order to prevent drainage;

(8) minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation by:

(A) avoiding toxic mine drainage by such measures as:

(i) preventing or removing water from contact with toxic-producing deposits,

(ii) treating drainage to reduce toxic content,

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep toxic drainage from entering ground and surface water;

(B) conducting surface mining operations in a manner to prevent unreasonable additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions;

(C) removing temporary or large siltation structures from drainways consistent with good water conservation practices after disturbed areas are revegetated and stabilized; or

(D) other actions as the commission may prescribe pursuant to its rules;

(9) stabilize any waste piles;

(10) refrain from surface mining in proximity to

active and abandoned underground mines in which mining would cause breakthroughs or would endanger the health or safety of miners;

(11) incorporate with respect to the use of impoundments for the disposal of mine wastes, processing wastes, or other liquid or solid wastes current engineering practices for the design and construction of water retention facilities which, at a minimum, shall be compatible with the requirements of Section 6.0731, Water Code, and applicable federal laws, ensure that leachate will not pollute surface or groundwater, and locate impoundments so as not to endanger public health and safety should failure occur;

(12) ensure that all debris, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface water or combustion;

(13) ensure that any explosives are used only in accordance with existing state and federal law and rules promulgated by the commission;

(14) ensure that all reclamation efforts proceed as contemporaneously as practicable with the surface mining operations;

(15) ensure that construction, maintenance, and postmining conditions of access roads into and across the site of operations will minimize erosion and siltation, pollution of air and water, damage to fish or wildlife or their habitat, or public or private property, provided that the commission may permit the retention after mining of certain access roads if compatible with the approved reclamation plan;

(16) refrain from the construction of roads or other access ways up a streambed or drainage channel or in proximity to such channel where such construction would seriously alter the normal flow of water;

(17) establish on all affected land, where required in the approved reclamation plan, a diverse vegetative cover native to the affected land where vegetation existed prior to mining and capable of self-regeneration and plant succession equal in extent of cover to the natural vegetation of the area, except that

introduced species may be used in the revegetation process where desirable or necessary to achieve the approved reclamation plan;

(18) assume responsibility for successful revegetation for a period of four years beyond the first year in which the vegetation has been successfully established as evidenced by the land being used as anticipated in the reclamation plan;

(19) ensure with respect to permanent impoundments of water as part of the approved reclamation plan that:

(A) the size of the impoundment and the availability of water are adequate for its intended purpose;

(B) the impoundment dam construction will meet the requirements of Section 6.0731, Water Code, and applicable federal laws;

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

(D) final grading will provide adequate safety and access for anticipated water users; and

(E) the water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses; and

(20) meet other criteria pursuant to the commission's rules as are necessary to achieve reclamation in accordance with the purposes of this chapter, taking into consideration the physical, climatological, and other characteristics of the site.

(c) The purpose of this section is to have land affected restored to the same condition as the land that existed enjoyed before the mining or some substantially beneficial condition.

(d) A method of reclamation other than that provided in this section may be approved by the commission after public hearing if the commission determines that any method of reclamation required by this section is not practical and that the alternative method will provide for the affected land to be restored to a substantially beneficial condition.

(e) If an alternative method of reclamation is generally

applicable to all surface mining operations involving a particular mineral, the commission shall promulgate rules in the manner provided in Section 131.033 of this code.

(f) The operator is entitled to access to the land affected to the extent necessary to carry out the reclamation and maintenance required under this chapter.

Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, Sec. 40, eff. May 9, 1979; Acts 1979, 66th Leg., p. 850, ch. 379, Sec. 2, eff. June 6, 1979.

SUBCHAPTER D. SURFACE MINING PERMITS

Sec. 131.131. PERMIT REQUIRED FOR OPERATION. (a) No person shall conduct a surface mining operation unless he first obtains a surface mining permit issued by the commission under this subchapter; provided, any operator conducting a surface mining operation in this state before September 20, 1976, who has filed a permit application pursuant to this chapter, may continue to conduct that surface mining operation until the commission approves or denies his application.

(b) An operator who was conducting a surface mining operation in this state after the expiration of 180 days following the promulgation of the initial rules under Section 131.026 of this code and who has filed a permit application in accordance with the provisions of this subchapter may continue to conduct the surface mining operation until the commission approves or denies his application.

Acts 1977, 65th Leg., p. 2619, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1990, ch. 784, Sec. 3, eff. Aug. 27, 1979.

Sec. 131.132. FORM OF PERMIT APPLICATION. On application to the commission for a surface mining permit, an operator shall submit three copies of a permit application on a form prescribed by the commission, and the commission shall require in the form the information it considers reasonably necessary to process the

application and to ensure compliance with the provisions of this chapter.

Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.133. REQUIRED INFORMATION. The permit application shall include information concerning:

(1) the name, address, ownership, and management officers of the permit applicant and affiliated persons engaged in surface mining;

(2) legal and equitable interests of record, if reasonably ascertainable, in the surface and mineral estates of the permit area and in the surface estate of land located within 500 feet of the permit area, provided that the mineral estate includes only minerals as defined in this chapter;

(3) persons residing on the property at the time of the application;

(4) current or previous surface mining permits held by the applicant, including any revocations, suspensions, or bond forfeitures;

(5) the type and method of surface mining operation, the engineering techniques, and the equipment that is proposed to be used, including mining schedules, the nature and expected amount of overburden to be removed, the depth of excavations, a description of the affected land and permit area, the results of any test borings, test pits, or core samplings that have been gathered from the permit area, and the anticipated hydrologic consequences of the mining operation;

(6) the applicant's legal right to surface mine the affected land; and

(7) other pertinent matters that the commission considers reasonably necessary to effectuate the provisions of this chapter.

Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.134. DOCUMENTS TO BE INCLUDED WITH APPLICATION.

An applicant shall include with his permit application a copy of a reclamation plan prepared as provided in Section 131.101 of this code and a copy of the notice published in compliance with the requirement of Section 131.159 of this code.

Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.135. APPLICATION FEES. (a) Each application for a surface mining permit shall be accompanied by an initial application fee as determined by the commission in accordance with a published fee schedule.

(b) An initial application fee shall be based as nearly as possible on the actual or anticipated cost of reviewing the application, but shall not exceed \$400.

(c) After approval but before issuance of the surface mining permit, the applicant shall pay an approved application fee in the amount of \$10 per acre of the permit area, which may be paid in annual installments apportioned over the term of the permit.

Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1991, ch. 784, Sec. 4, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 358, ch. 81, Sec. 2(b), eff. Sept. 1, 1983.

Sec. 131.136. AMENDMENT TO PERMIT APPLICATION. A permit application may be amended to exclude the part of an operation that lies within an area designated as unsuitable for surface mining under Sections 131.035 through 131.041 of this code.

Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.137. COMBINED PERMIT APPLICATION. (a) The commission shall adopt rules permitting an operator of more than one noncontiguous surface mining operation to submit a single application for a combined surface mining permit covering all his mining operations.

(b) A combined permit application shall require the same detailing of information as required by this subchapter for each

separate location.

(c) An operator desiring to operate under a combined permit may submit a consolidated reclamation plan covering all his operations under rules prescribed by the commission, but he may be required to furnish specific information relating to reclamation of a single operating area if the commission determines that this is necessary to carry out the purposes of this chapter.

(d) Except as provided in this section, each surface mining operation submitted as part of a combined permit application shall be separate and independent of all other surface mining operations included in the same permit application.

(e) The commission may approve or deny an individual surface mining operation and the reclamation plan that relates to an individual surface mining operation without affecting other portions of the same permit application.

Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.138. FILING APPLICATION WITH COUNTY CLERK. After deleting confidential information as provided in Section [131.048](#) of this code, the commission shall file for public inspection with the county clerk at the county courthouse of the county in which any portion of the mining is proposed to occur a copy of each application.

Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.139. SUBMISSION OF APPLICATION TO AGENCIES FOR COMMENT. (a) The commission immediately shall submit copies of the permit application to the Parks and Wildlife Department, Texas Natural Resource Conservation Commission, General Land Office, Texas Historical Commission, State Soil and Water Conservation Board, Bureau of Economic Geology, Texas Department of Health, and other state agencies whose jurisdiction the commission feels the particular mining operation may affect.

(b) Each of these agencies shall review the permit application and submit any comments the agency cares to make within

30 days of receipt of the application.

(c) An agency's comments shall include an enumeration of permits or licenses required under the agency's jurisdiction.

(d) The comments of each agency shall be made a part of the record and a copy shall be furnished to the applicant.

Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 795, Sec. 1.154, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 11.274, eff. Sept. 1, 1995.

Sec. 131.140. APPROVAL OF PERMIT. (a) The commission shall grant a surface mining permit if it is established that the permit application complies with the requirements of this chapter and applicable federal and state laws.

(b) The commission may approve a surface mining permit conditioned on the approval of other state permits or licenses that may be required.

Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.141. DENIAL OF A PERMIT. The commission shall deny a permit if:

(1) it finds that the reclamation as required by this chapter cannot be accomplished by means of the proposed reclamation plan;

(2) part of the proposed operation lies within an area designated as unsuitable for surface mining in Sections [131.035](#) through [131.041](#) of this code;

(3) it is advised by the Texas Natural Resource Conservation Commission that the proposed mining operation will cause pollution of water of the state, or that the proposed mining operation will cause pollution of the ambient air of the state, in violation of the laws of this state;

(4) the applicant has had another permit issued under this chapter revoked or any bond posted to comply with this chapter forfeited and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of

the commission;

(5) it determines that the proposed operation will endanger the health and safety of the public;

(6) the surface mining operation will adversely affect a public highway or road; or

(7) the operator is unable to produce the bonds or otherwise meet the requirements of Sections [131.201](#) through [131.206](#) of this code.

Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, Sec. 2, eff. Aug. 27, 1979; Acts 1995, 74th Leg., ch. 76, Sec. 11.275, eff. Sept. 1, 1995.

Sec. 131.142. TERM AND TRANSFERABILITY OF PERMIT. (a) A surface mining permit issued under this chapter for uranium and uranium ore shall be issued for a term of not more than 10 years.

(b) Except as provided in Sections [131.155](#) through [131.158](#) of this code, a surface mining permit is nontransferable.

Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 308, ch. 141, Sec. 41, eff. May 9, 1979; Acts 1979, 66th Leg., p. 853, ch. 379, Sec. 4, eff. June 6, 1979.

Sec. 131.143. LIABILITY INSURANCE POLICY. (a) After a permit application is approved but before the permit is issued, the applicant shall file a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized to conduct business in this state or, if the applicant is unable to obtain coverage from an insurance carrier authorized to do business in this state, file, with the commission's approval, such a certificate of insurance from a surplus lines insurer that meets the requirements of Chapter [981](#), Insurance Code, and rules adopted by the commissioner of insurance under that chapter.

(b) The liability insurance policy required by Subsection (a) of this section shall cover all surface mining operations of the applicant in this state and shall afford bodily injury protection

and accidental business property damage protection in an amount determined by the commission to compensate adequately any persons damaged as a result of surface mining and reclamation operations.

(c) The liability insurance policy shall be maintained in full force and effect during the term of the permit or the renewal of the permit, including the length of all reclamation operations. Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1987, 70th Leg., ch. 1050, Sec. 3, eff. June 19, 1987; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.539, eff. Sept. 1, 2003.

Sec. 131.144. RULES FOR REVISION, TRANSFER, AND RENEWAL OF PERMITS. The commission shall promulgate rules for renewal, revision, and transfer of surface mining permits. Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.145. RIGHT TO RENEWAL. A valid surface mining permit issued under this chapter carries with it the right of successive renewal on expiration with respect to area within the boundaries of the existing permit. Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.146. APPLICATION FOR AND ISSUANCE OF RENEWAL. The holder of a permit may apply for renewal and the renewal shall be issued on the basis of the following requirements and written findings by the commission that:

(1) the terms and conditions of the existing permit are being satisfactorily met;

(2) the performance bond or substitute collateral required under the terms of this chapter will continue in full force and effect and unimpaired for the requested renewal, revision, or transfer;

(3) the operator has provided additional or revised information as required by the commission; and

(4) notice under Section [131.159](#) of this code has been

provided with respect to the application for renewal, revision, or transfer.

Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.147. RENEWAL APPLICATION FEE. (a) Each application for renewal of a surface mining permit shall be accompanied by a renewal application fee as determined by the commission in accordance with a published fee schedule.

(b) The fee shall be based as nearly as possible on the actual or anticipated cost of reviewing the application, but in no event shall the amount exceed \$200.

(c) The approved application fee as provided in Section 131.135 of this code is not applicable to a renewal application except for the portion, if any, that addresses any new land areas.
Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.148. EXTENSION OF PERMIT COVERAGE. If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards, including application fees, applicable to new applications under this chapter.

Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.149. TERM OF RENEWAL PERMIT. A surface mining permit renewal shall be for a term not to exceed the period of the original permit established under this chapter.

Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.150. TIME LIMIT FOR RENEWAL APPLICATION. Application for permit renewal shall be made at least 90 days before the expiration of the valid permit.

Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.151. REVISION OF PERMIT. During the term of a surface mining permit, the permittee may submit an application, together with a revised reclamation plan, to the commission for a revision of the permit.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.152. APPROVAL OR DISAPPROVAL OF PERMIT REVISION. No application for a revision of a permit may be approved unless the commission finds that reclamation as required under this chapter can be accomplished under the revised reclamation plan.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, Sec. 2, eff. Aug. 27, 1979.

Sec. 131.153. GUIDELINES FOR REVISION. (a) The commission shall establish by rule guidelines for a determination of the scale or extent of a revision request to which all permit application information requirements and procedures, including notice and hearings, shall apply.

(b) A revision that proposes a substantial change in the intended future use of the land or significant alteration in the reclamation plan shall be subject at a minimum to the notice and hearing requirements provided in Sections [131.159](#) and [131.163](#) of this code.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.154. EXTENSIONS TO AREA. Except for incidental boundary revisions, an extension to the area covered by a permit must be made by application for another permit or for revision of a permit.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.155. TRANSFER OF PERMIT. (a) No transfer, assignment, or sale of the rights granted under a permit issued under this chapter shall be made without the written approval of the commission.

(b) A person desiring to succeed to the interests of a permittee under this chapter must file an application on a form prescribed by the commission and including any pertinent information the commission by rule may require.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.156. REQUIRED INFORMATION FOR TRANSFER. As part of the information for transfer, the commission shall require:

(1) the information required by Subdivisions (1) and (4) of Section 131.133 of this code relating to ownership and other mining activities of the applicant;

(2) proof that the public liability insurance requirement in Section 131.143 of this code will be fulfilled;

(3) proof that the performance bond or substitute collateral required by Sections 131.201 through 131.206 of this code will be furnished; and

(4) the statement of the applicant that he will faithfully carry out all of the requirements of the reclamation plan approved in the original application.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.157. APPROVAL OF TRANSFER. After notice and an opportunity for a public hearing, if required under Sections 131.159 and 131.163 of this code, and on a written finding by the commission that the requirements of Sections 131.146 through 131.150 of this code have been met, the application for transfer shall be approved.

Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.158. DENIAL OF APPLICATION FOR TRANSFER. An application for transfer shall be denied if the applicant has had a permit issued under this chapter revoked or a bond posted to comply with this chapter forfeited, and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the commission.

Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 849, ch. 379, Sec. 1, eff. June 6, 1979.

Sec. 131.159. NOTICE BY APPLICANT. (a) At the time an application for a surface mining permit or an application for revision, renewal, or transfer of an existing surface mining permit is submitted under this chapter, the applicant shall publish notice of the ownership, location, and boundaries of the permit area sufficiently detailed for local residents to locate readily the proposed operation and the location at which the application is available for public inspection.

(b) The notice shall be published in the local newspaper of greatest general circulation in the locality in which the proposed surface mine is to be located.

(c) The notice shall be published at least once a week for four consecutive weeks.

Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.160. NOTIFICATION BY COMMISSION. The commission shall contact various local governmental bodies, planning agencies, sewage, and water treatment authorities or water companies that have jurisdiction over or in the locality in which the proposed surface mining will occur, and the owners of record of surface areas within 500 feet of any part of the permit area and shall give them notice of the applicant's intention to surface mine a particularly described tract of land and indicate the applicant's permit number, if any, and the place at which a copy of the proposed mining and reclamation plan may be inspected.

Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, Sec. 1, eff. Sept. 1,

1977.

Sec. 131.161. COMMENTS. (a) Within 30 days after the last publication as provided in Section 131.159 of this code, each local body, agency, authority, or company may submit written comments with respect to the effect of the proposed operation on the environment within its area of responsibility.

(b) These comments shall be made part of the record, and one copy of the comments shall be furnished to the operator.

Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.162. WRITTEN OBJECTIONS. (a) Within 30 days after the last publication of notice under Section 131.159 of this code, a person affected or a federal, state, or local governmental agency or authority is entitled to file with the commission written objections to the application for a surface mining permit or to the application for the renewal, revision, or transfer of a surface mining permit.

(b) The written objections shall be made part of the record and one copy of the written objections shall be furnished to the operator.

Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.163. NOTICE AND PUBLIC HEARING. (a) If the commission determines that the application for a surface mining permit is of a significance sufficient to warrant a public hearing, the commission shall hold a public hearing in the locality of the proposed surface mining and reclamation operations.

(b) In determining whether to hold a public hearing, the commission shall consider any objections that have been filed, and if no substantial written objections have been filed, no hearing shall be required.

(c) The commission shall publish notice of the date, time, and location of the public hearing in the newspaper with the greatest general circulation in the locality at least once a week

for three consecutive weeks before the scheduled hearing date.

Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 853, ch. 379, Sec. 5, eff. June 6, 1979.

Sec. 131.165. PROCEDURE. The commission shall comply with the Administrative Procedure and Texas Register Act in all proceedings under this chapter except where inconsistent with this chapter.

Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, Sec. 2, eff. Aug. 27, 1979.

SUBCHAPTER E. BONDS AND DEPOSITS

Sec. 131.201. PERFORMANCE BOND REQUIREMENT. (a) After a surface mining permit application has been approved but before the permit is issued, the applicant shall file with the commission, on a form prescribed by rule, a bond for performance payable to the State of Texas and conditioned on full and faithful performance of all the requirements of this chapter and the permit.

(b) The bond shall cover that area of land within the permit area on which the operator will initiate and conduct surface mining and reclamation operations, and as succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the commission an additional bond or bonds to cover the increments in accordance with Sections [131.202](#) through [131.206](#) of this code.

Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.202. AMOUNT OF PERFORMANCE BOND. (a) The amount of the bond required for each bonded area depends on the reclamation requirements of the approved permit and shall be determined by the commission.

(b) The commission's determination shall be based on two estimates, one of which shall be submitted by the permit applicant

and the other prepared by the commission under procedures established by rule. Only the commission's estimate will be considered if the applicant waives the right to submit an estimate.

(c) The amount of the bond shall be determined by the commission and shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture.

Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 639, Sec. 1, eff. June 16, 1991.

Sec. 131.203. BOND WITHOUT SURETY. The commission may accept the bond of the operator itself, without separate surety, if the operator demonstrates to the satisfaction of the commission the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient to self-insure or bond the amount.

Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.204. EXTENT OF LIABILITY UNDER BOND. Liability under the bond shall be for the duration of surface mining and reclamation operations and for a period coincident with the operator's responsibility pursuant to Section [131.102](#) of this code. Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.205. SECURITY FOR BOND. (a) The bond shall be executed by the operator and a corporate surety licensed to do business in this state, or the operator may elect to deposit cash or negotiable securities acceptable to the commission, or an assignment of a savings account in a Texas bank on an assignment deposit form prescribed by the commission's rules.

(b) A cash deposit or market value of the substitute collateral shall be equal to or greater than the amount of the bond required for the bonded area.

(c) Cash or other substitute collateral shall be deposited

on the same terms as the terms on which surety bonds may be deposited.

Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.206. INCREASE OR DECREASE OF BOND. (a) The amount of the bond or deposit required and the terms of acceptance of the applicant's bond or substitute collateral may be increased or decreased from time to time to reflect changes in the cost of future reclamation of land mined or to be mined.

(b) The amount of the bond or substitute collateral may be reduced only in accordance with the provisions of Sections 131.208 through 131.213 of this code.

Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.207. FORFEITURE OF OPERATOR'S PERFORMANCE BOND. On issuance of a final order revoking an operator's permit for failure to comply with an order of the commission to take action as required by this chapter or rules adopted under this chapter, the operator's performance bond shall be forfeited if it is determined that forfeiture is necessary to reclaim land disturbed by the operator's surface mining operation.

Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.208. APPLICATION FOR RELEASE OF PERFORMANCE BOND OR DEPOSIT. (a) At any time, an operator may file an application with the commission for the release of all or part of the performance bond or deposit.

(b) The application shall be on a form prescribed by the commission and in addition to other information the commission may require, shall include the type and the approximate date of reclamation work performed and a description of the results achieved as they relate to the operator's reclamation plan.

(c) The commission shall file a copy of the bond release application for public inspection with the county clerk at the

county courthouse of the county in which the surface mining and reclamation operation is located.

Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.209. NOTICE. (a) The operator shall submit a copy of a notice that has been published once a week for four consecutive weeks in the newspaper of greatest general circulation in the locality of the surface mining and reclamation operation.

(b) The advertisement shall be considered part of any bond release application and shall include:

(1) notice of the location and boundaries of the land affected;

(2) the permit number and the date approved;

(3) the amount of the bond filed and the portion sought to be released; and

(4) the location at which the bond release application has been placed for public inspection.

Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.210. INSPECTION AND EVALUATION. (a) On receipt of the notice and request, the commission shall conduct an inspection and evaluation of the reclamation work involved, the inspection and evaluation to occur within a reasonable time not to exceed 45 days.

(b) The evaluation shall consider among other things:

(1) the degree of difficulty to complete remaining reclamation;

(2) whether pollution of surface and subsurface water is occurring;

(3) the probability of continuance or future occurrence of pollution; and

(4) the estimated cost of abating pollution.

Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.211. BASIS FOR RELEASE OF BOND OR DEPOSIT. The

commission may release in whole or part the bond or deposit if it is satisfied that reclamation covered by the bond or deposit or a portion of the bond or deposit has been accomplished as required by this chapter according to the following schedule:

(1) when the operator completes required backfilling, regrading, and drainage control of a bonded area as provided in his approved reclamation plan, the commission may authorize the release of up to 75 percent of the bond or substitute collateral for the applicable permit area, provided the amount of the unreleased portion of the bond or substitute collateral is not less than the amount necessary to assure completion of the reclamation work by a third party in the event of forfeiture; and

(2) when the operator has successfully completed the remaining reclamation activities, but not before the expiration of the period specified for operator responsibility in Section [131.102](#) of this code, the commission may release the remaining portion of the bond or substitute collateral, provided that no bond is fully released until all reclamation requirements of this chapter are fully met.

Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.212. DISAPPROVAL OF APPLICATION FOR BOND OR DEPOSIT RELEASE. If the commission disapproves the application for release of the bond or deposit or a portion of the bond or deposit, it shall notify the operator in writing of the reasons for disapproval and recommend corrective actions necessary to secure the release.

Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.213. NOTICE OF RELEASE TO LOCAL GOVERNMENTAL AGENCY. Within 30 days after an application for total or partial bond or deposit release is filed with the commission, the commission shall notify the local governmental agency in which the surface mining operation is located by certified mail.

Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, Sec. 1, eff. Sept. 1,

1977.

Sec. 131.214. OBJECTIONS TO RELEASE. (a) Any person or the officer or head of a federal, state, or local governmental agency is entitled to file written objections to the proposed release from the bond or deposit.

(b) The objections must be filed with the commission within 30 days after the last publication of notice as provided in Section 131.209 of this code.

(c) If the commission determines that the application is of a significance sufficient to warrant a public hearing considering the objections that have been filed, the commission shall hold a public hearing.

(d) The commission shall give notice to all interested parties of the time and place of the hearing which shall be conducted as provided in Sections 131.160 through 131.164 of this code.

(e) The hearing shall be held in the locality of the surface mining operation proposed for bond or deposit release.

(f) Notice of the date, time, and location of the public hearing shall be published by the commission as provided in Section 131.163 of this code.

Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER F. FUNDS

Sec. 131.231. LAND RECLAMATION FUND. (a) Money received through the payment of fees, loans, grants, gifts, penalties, bond forfeitures, and other money received by the commission shall be deposited in the State Treasury and credited to a special account to be designated the land reclamation fund.

(b) The fund shall be available to the commission and may be spent for the administration and enforcement of this chapter and for the reclamation of land affected by surface mining operations.

Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.232. APPROPRIATION. Money for the operation of the commission under this chapter shall be appropriated by the legislature.

Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.233. USE OF PROCEEDS FROM BOND FORFEITURES AND PENALTIES. Proceeds from the forfeiture of bonds and penalties recovered shall be spent to reclaim land as provided in this chapter with respect to which the bonds were provided and the penalties assessed.

Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.234. RECLAMATION OF LAND. (a) In the reclamation of land affected by surface mining for which funds are available, the commission may use services of other state agencies or the federal government and may compensate them for the services.

(b) The commission may have reclamation work done by its own employees or by employees of other governmental agencies or through contracts with qualified persons.

(c) The contracts shall be awarded to the lowest bidder on competitive bids after reasonable advertisement.

(d) The commission and any other agency and any contractor under a contract are entitled to access to the land affected to carry out the reclamation.

Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER G. ENFORCEMENT

Sec. 131.261. CONDITIONS, PRACTICES, AND VIOLATIONS CREATING IMMINENT DANGER OR CAUSING IMMINENT HARM. (a) On the basis of any inspection, if the commission or its authorized representative or agent determines that a condition or practice exists or that a permittee is in violation of a requirement of this

chapter or a permit condition required by this chapter, and that this condition, practice, or violation also creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant imminent harm to land, air, or water resources, a member of the commission shall immediately order a cessation of exploration or surface mining operations on the portion of the area relevant to the condition, practice, or violation.

(b) The cessation order shall set a time and place for a hearing to be held before the commission and shall be held as soon after the order is issued as is practicable.

(c) The requirements of Section 131.159 of this code relating to time for notice, newspaper notice, and method of giving notice do not apply to a hearing under this section, but general notice shall be given in the manner that the commission judges to be practicable under the circumstances.

(d) No more than 24 hours after the commencement of the hearing and without adjournment, the commission shall affirm, modify, or set aside the order.

Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. 3837), Sec. 4, eff. September 1, 2007.

Sec. 131.262. VIOLATIONS NOT CREATING IMMINENT DANGER OR CAUSING IMMINENT HARM. (a) On the basis of an inspection, if the commission or its authorized representative or agent determines that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or is not causing or reasonably expected to cause significant imminent harm to land, air, or water resources, the commission shall issue a notice to the permittee or the permittee's agent setting a reasonable time not to exceed 30 days for the abatement of the violation. The commission may authorize an extension of the period of time for the abatement of the violation, for good cause as

determined by a written finding by the commission.

(b) If, on expiration of the period of time as originally set or subsequently extended, the commission finds that the violation has not been abated, it may order a cessation of exploration or surface mining operations on the portion of this area relevant to the violation. However, if requested by the operator, a hearing must be held prior to a commission finding or order.

(c) The cessation order shall remain in effect until the commission determines that the violation has been abated or until modified, vacated, or terminated by the commission under Section [131.263](#) of this code.

Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 5, eff. September 1, 2007.

Sec. 131.263. CONTINUOUS VIOLATIONS. (a) On the basis of an inspection, if the commission has reason to believe that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the commission also finds that these violations are caused by the unwarranted failure of the permittee to comply with requirements of this chapter or permit conditions or that the violations are wilfully caused by the permittee, the commission shall issue an order to the permittee forthwith to show cause as to why the permit should not be suspended or revoked.

(b) The order shall set a time and place for a public hearing to be held in accordance with the notice and procedural requirements of Sections [131.159](#) through [131.164](#) of this code.

(c) On failure of a permittee to show cause why the permit should not be suspended or revoked, the commission shall promptly suspend, or revoke the permit.

Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.264. FORM OF NOTICES AND ORDERS. (a) Notices and orders issued under Sections 131.261 through 131.263 of this code shall set forth with reasonable specificity:

(1) the nature of the violation and the remedial action required;

(2) the period of time established for abatement; and

(3) a reasonable description of the portion of the surface mining and reclamation operation to which the notice or order applies.

(b) Each notice or order issued under this section shall be given promptly to the permittee or his agent by the commission.

(c) Notices and orders shall be in writing and shall be signed by the commission or its authorized representative.

(d) A notice or order issued under Sections 131.261 through 131.263 of this code may be modified, vacated, or terminated by the commission.

Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.265. CIVIL ACTIONS. (a) The commission may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order, if the permittee:

(1) violates or fails or refuses to comply with an order or decision issued by the commission under this chapter;

(2) interferes with, hinders, or delays the commission or its authorized representative in carrying out the provisions of this chapter;

(3) refuses to admit an authorized representative to the mine;

(4) refuses to permit inspection of the mine by an authorized representative;

(5) refuses to furnish information or a report requested by the commission under the commission's rules; or

(6) refuses to permit access to and copying of records the commission determines reasonably necessary to carry out the provisions of this chapter.

(b) The action shall be brought in a district court in Travis County or in the county in which the greater portion of the surface mining and reclamation operation is located.

(c) The court has jurisdiction to provide the relief that is appropriate, and relief granted by the court to enforce Subdivision (1) of Subsection (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of the order under this chapter unless before that time the district court granting the relief sets the order aside or modifies it.

Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.266. INJUNCTIVE RELIEF AND CIVIL PENALTY. (a) The commission may have a civil suit instituted for injunctive relief to restrain a permittee from continuing a violation or threatening a violation or for the assessment of a civil penalty of not more than \$5,000 as the court considers proper for each day of violation, or for both.

(b) In determining the amount of the civil penalty, consideration shall be given to:

(1) the permittee's history of previous violations under this chapter;

(2) the appropriateness of the penalty to the size of the business of the permittee;

(3) the seriousness of the violation, including irreparable harm to the environment and hazard to the health or safety of the public;

(4) whether the permittee was negligent; and

(5) the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notice of the violation.

Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.2661. ADMINISTRATIVE PENALTY. (a) If a person violates a permit of this chapter and the violation results in pollution of the air or water of this state or poses a threat to the

public safety, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

Added by Acts 1983, 68th Leg., p. 1409, ch. 286, Sec. 2, eff. Aug. 29, 1983.

Sec. 131.2662. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 131.2661 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Added by Acts 1983, 68th Leg., p. 1409, ch. 286, Sec. 2, eff. Aug. 29, 1983.

Sec. 131.2663. PAYMENT OF PENALTY; REFUND. (a) On the issuance of notice or an order finding that a violation has occurred, the commission shall inform the person charged within 30 days of the proposed amount of the penalty.

(b) Within the 30-day period immediately following the day on which the notice or order is issued, the person charged with the penalty shall pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the commission for placement in an escrow account.

(c) If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Added by Acts 1983, 68th Leg., p. 1409, ch. 286, Sec. 2, eff. Aug. 29, 1983.

Sec. 131.2664. RECOVERY OF PENALTY. Civil penalties owed under Sections 131.2661-131.2663 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

Added by Acts 1983, 68th Leg., p. 1409, ch. 286, Sec. 2, eff. Aug. 29, 1983.

Sec. 131.267. CRIMINAL PENALTY FOR VIOLATING PERMITS AND ORDERS. A person who wilfully and knowingly violates a condition of a permit issued under this chapter or fails or refuses to comply with an order issued under Section [131.264](#) of this code or an order incorporated in a final decision issued by the commission under this chapter, on conviction by a district court, shall be punished by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.268. CRIMINAL PENALTY FOR CORPORATE PERMITTEE. If a corporate permittee violates a condition of a permit issued under this chapter or fails or refuses to comply with an order issued under Section 131.264 of this code or an order incorporated in a final decision issued by the commission under this chapter, a director, officer, or agent of the corporation who wilfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal, on conviction by a district court, is punishable by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.269. CRIMINAL PENALTY FOR FALSE STATEMENT, REPRESENTATION, OR CERTIFICATION. A person who knowingly makes a false statement, representation, or certification or who knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under this chapter, on conviction by a district court, is punishable by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 131.270. RECOVERY OF CIVIL PENALTIES. (a) The commission may request the attorney general to institute a suit to recover civil or criminal penalties or to obtain injunctive relief or for both as provided in Sections 131.265 through 131.269 of this code.

(b) Suit shall be brought in a district court in Travis County or in the county in which the greater portion of the surface mining and reclamation operation is located.

Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER H. DISCHARGES

Sec. 131.301. DISCHARGE RULES, ORDERS, AND PERMITS. To prevent the pollution of surface and subsurface water in the state, the commission has the exclusive authority to adopt rules and may issue orders and permits relating to the discharge or runoff of waste or any other substance or material from any permitted uranium exploration activity. Notwithstanding any provision of any other section of this chapter, a rule adopted, order issued, or permit issued by the commission under this subchapter shall be administered and enforced solely in the manner provided by this subchapter by the rule, order, or permit, or by Chapter 2001, Government Code.

Added by Acts 1985, 69th Leg., ch. 921, Sec. 7, eff. June 15, 1985.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. 3837), Sec. 3, eff. September 1, 2007.

Sec. 131.302. ACCESS TO PROPERTY AND RECORDS. Members and employees of the commission, on proper identification, may enter public or private property to inspect and investigate conditions associated with any uranium exploration activity and related to the quality of water in the state, to inspect and investigate conditions related to the development of rules, orders, or permits issuable by the commission under this subchapter, to monitor compliance with any rule, order, or permit issued by the commission under this subchapter, or to examine and copy, during reasonable working hours, any records required to be maintained under any rule, order, or permit issued by the commission under this subchapter. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

Added by Acts 1985, 69th Leg., ch. 921, Sec. 7, eff. June 15, 1985.

Sec. 131.303. INJUNCTIVE RELIEF AND CIVIL PENALTY. If a

person violates or threatens to violate a rule, order, or permit issued by the commission under this subchapter, the commission may request the attorney general to institute an action to obtain a permanent or temporary injunction, temporary restraining order, or other appropriate order enjoining the violation or threatened violation, or to recover a civil penalty of not more than \$10,000 a day for each violation or threatened violation, or for both injunctive relief and civil penalty. The action shall be brought in a court of competent jurisdiction in Travis County, in the county in which the violation occurred, or in the county of residence of any defendant.

Added by Acts 1985, 69th Leg., ch. 921, Sec. 7, eff. June 15, 1985.

Sec. 131.304. ADMINISTRATIVE PENALTY. A person who violates a rule, order, or permit issued by the commission under this subchapter may be assessed a civil penalty by the commission. The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments. In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. The penalty shall be assessed, recovered, and contested in accordance with the procedures provided in Sections 131.2662-131.2664 of Subchapter G of this chapter.

Added by Acts 1985, 69th Leg., ch. 921, Sec. 7, eff. June 15, 1985.

Sec. 131.305. CRIMINAL PENALTY. A person who knowingly, willfully, or with criminal negligence violates a rule, order, or permit issued by the commission under this subchapter commits an offense that is punishable by a fine of not more than \$10,000 a day for each violation. Venue for prosecution of an alleged violation is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

Added by Acts 1985, 69th Leg., ch. 921, Sec. 7, eff. June 15, 1985.

SUBCHAPTER I. PERMITS FOR EXPLORATION ACTIVITIES

Sec. 131.351. APPLICABILITY OF SUBCHAPTER. (a) If this subchapter conflicts with other law, this subchapter controls.

(b) Sections 131.037, 131.038, 131.039, 131.040, 131.041, 131.042, 131.043, 131.044, and 131.045 do not apply to exploration activity subject to an exploration permit issued under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. 3837), Sec. 6, eff. September 1, 2007.

Sec. 131.352. EXPLORATION PERMITS. (a) A person may not conduct exploration activity unless the person holds an exploration permit issued by the commission.

(b) An exploration permit issued by the commission may contain provisions and conditions necessary to implement the policies of this subchapter. The commission shall adopt rules governing the amendment, revocation, transfer, or suspension of an exploration permit.

(c) A person may conduct exploration activities under an exploration permit issued by the commission until the term expires or may apply for a new exploration permit issued under this subchapter if:

(1) the person has been exploring under an exploration permit issued before June 1, 2007; or

(2) the person has a pending application on file before June 1, 2007, and is issued the exploration permit after that date.

(d) On expiration of an exploration permit held by a person described by Subsection (c)(1) or (2), the person may apply for an exploration permit renewal under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. 3837), Sec. 6, eff. September 1, 2007.

Sec. 131.353. SCOPE OF EXPLORATION PERMIT. (a) An exploration permit may govern all activities associated with determining the location, quantity, or quality of uranium deposits.

(b) An exploration permit must contain provisions to govern:

(1) locating, drilling, plugging, and abandoning exploration holes;

(2) casing exploration holes for use in the exploration process;

(3) using cased exploration wells for rig supply purposes; and

(4) plugging and abandoning cased exploration wells.

(c) Except as provided by Section [131.354](#), a cased exploration well subject to an exploration permit issued under this subchapter is exempt from regulation by another agency, governmental entity, or political subdivision if the well is:

(1) used for exploration; or

(2) used for rig supply purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 6, eff. September 1, 2007.

Sec. 131.354. COMMISSION JURISDICTION. (a) The commission has jurisdiction over uranium exploration holes and cased exploration wells completed under an exploration permit issued under this subchapter until:

(1) exploration holes and cased exploration wells are properly plugged and abandoned; or

(2) cased exploration wells are:

(A) registered with the Texas Commission on Environmental Quality; or

(B) included in an area permit issued by the Texas Commission on Environmental Quality under Chapter [27](#), Water Code.

(b) A well described by Section [131.353\(c\)](#) is subject to a groundwater conservation district's rules regarding registration of wells if:

(1) the well is located in the groundwater conservation district and the well is used for monitoring purposes; and

(2) the cumulative amount of water produced from the

wells located inside the area subject to the exploration permit and completed under the exploration permit issued under this subchapter exceeds 40 acre feet in one year.

(c) A well described by Section [131.353\(c\)](#) is subject to a groundwater conservation district's rules for registration, production, and reporting if:

(1) the well is located in the groundwater conservation district and the well is used for rig supply purposes; and

(2) the cumulative amount of water produced from the wells located inside the area subject to the exploration permit and completed under the exploration permit issued under this subchapter exceeds 40 acre feet in one year.

(d) Each month, the holder of an exploration permit governing a well described by Section [131.353\(c\)](#) and located in a groundwater conservation district shall report to the district the total amount of water produced from each well described by Section [131.353\(c\)](#) and located inside the area subject to the exploration permit.

(e) Each groundwater conservation district shall use the number of acres described in the exploration permit in determining any district production requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 6, eff. September 1, 2007.

Sec. 131.355. APPLICATION FEES. (a) The commission may impose an application fee to recover the costs of administering this subchapter.

(b) Section [131.231](#) does not apply to a fee imposed under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 6, eff. September 1, 2007.

Sec. 131.356. NOTIFICATION BY COMMISSION. (a) At the time the commission receives an application for an exploration permit, the commission shall provide written notice of the exploration permit application to:

(1) each groundwater conservation district in the area in which the permitted exploration will occur;

(2) the mayor and health authority of each municipality in the area in which the permitted exploration will occur;

(3) the county judge and health authority of each county in the area in which the permitted exploration will occur; and

(4) each member of the legislature who represents the area in which the proposed exploration will occur.

(b) At the time the commission issues an exploration permit under this subchapter, the commission shall provide written notice of the exploration permit to:

(1) each groundwater conservation district in the area in which the permitted exploration will occur;

(2) the mayor and health authority of each municipality in the area in which the permitted exploration will occur;

(3) the county judge and health authority of each county in the area in which the permitted exploration will occur; and

(4) each member of the legislature who represents the area in which the proposed exploration will occur.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. [3837](#)), Sec. 6, eff. September 1, 2007.

Sec. 131.357. GEOLOGIC, HYDROLOGIC, WATER QUALITY, AND WELL INFORMATION. (a) A person issued an exploration permit under this subchapter that authorizes exploration in a groundwater conservation district shall provide to the district:

(1) pre-exploration water quality information from:

(A) each existing well located in the district that is tested by the person before exploration; and

(B) the following wells, as applicable:

(i) each existing well located inside the area subject to the exploration permit, if there are fewer than 10 existing wells located inside that area; or

(ii) 10 existing wells that are distributed as evenly as possible throughout the area subject to the exploration permit, if there are at least 10 existing wells located inside that area;

(2) pre-mining water quality information from:

(A) each existing well in the jurisdiction of the groundwater conservation district that the person tests during exploration; and

(B) cased exploration wells completed under the exploration permit issued under this subchapter; and

(3) well logs that do not contain confidential information as described by Section 131.048.

(b) A person may take not more than 90 days after the person receives the final information to perform standard quality control and quality assurance procedures before submitting the information as required by Subsection (a).

(c) If the commission issues to a person an exploration permit under this subchapter that governs wells described by Section 131.353(c) that are located inside a groundwater conservation district, the person shall provide to the district:

(1) the person's name, address, and telephone number; and

(2) the following information with regard to the wells described by Section 131.353(c):

(A) well completion information for each well in the district;

(B) the location of each well in the district, including a legal description and the acreage of the property where the well is located;

(C) verification that each well will be used for an industrial purpose; and

(D) the type and capacity of the pump used in each well.

Added by Acts 2007, 80th Leg., R.S., Ch. 1117 (H.B. 3837), Sec. 6, eff. September 1, 2007.