

FIRST REGULAR SESSION

HOUSE BILL NO. 842

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (158) (Sponsor) AND MCGHEE (Co-sponsor).

Read 1st time February 13, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2012L.011

AN ACT

To repeal section 444.368, RSMo, and to enact in lieu thereof one new section relating to metallic minerals waste management.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 444.368, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 444.368, to read as follows:

444.368. 1. Before a permit can be issued, the operator shall file a demonstration of financial assurance in the form of a bond, certificate of deposit, letter of credit, insurance, [company guarantee,] **or** escrow agreement [or other form of financial assurance] as approved by the director. **Any person who obtained a permit issued under this section which was issued prior to August 28, 2007, shall be required to comply with the provisions of this section within six months of August 28, 2007.**

2. Any financial assurance instrument shall be in such form as the director prescribes, to the benefit of the state of Missouri, conditioned that the operator shall faithfully perform all terms of the permit and all requirements of sections 444.352 to 444.380. The financial assurance instrument shall be signed by the operator and shall be in the penal sum of one thousand dollars for each acre or fraction of an acre of the metallic minerals waste management area, but not less than twenty thousand dollars for each permit. In a particular instance where the circumstances are such as to warrant an exception, the director, in his discretion, may reduce the amount of the bond for a particular operation to less than the required amount, but in no event less than the minimum of twenty thousand dollars for each permit.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 3. The financial assurance instrument shall remain in effect until the area has been
17 closed, approved and released by the director.

18 4. If a bond is furnished, it shall be signed by the operator as principal, and by a good and
19 sufficient corporate surety, licensed to do business in this state as surety.

20 5. No financial assurance instrument shall be canceled or terminated by the operator
21 except after no less than ninety days' notice and substitution by some other financial assurance
22 approved by the director. An operator shall not operate a metallic minerals waste management
23 area at any time without adequate financial assurance approved by the director.

24 6. [In the event a company guarantee is furnished, it shall be in the form of a letter, duly
25 executed by an officer of the company, guaranteeing the required amount of financial assurance,
26 accompanied by a financial test statement demonstrating ownership of real property or mining
27 rights in the state of Missouri of an assessed valuation of at least three times the amount of the
28 required financial assurance.

29 7. In the event a company furnishes an "other form of financial assurance" as provided
30 in subsection 1 of this section, which is in the form of a financial test based on information such
31 as income, net worth, assets, liabilities, or working capital, and such information is not
32 customarily disclosed by the company to the general public, such information, at the written
33 request of the company, shall be confidential and shall not be disclosed by the director or
34 employees of the department of natural resources.

35 8.] The director shall give written notice to the operator of any violation of sections
36 444.352 to 444.380 and if corrective measures are not commenced within ninety days, the
37 director may proceed as provided in section 444.378 to request forfeiture of the financial
38 assurance.

39 [9.] 7. The director may conduct remedial measures in keeping with provisions of
40 sections 444.352 to 444.380 with respect to land upon which financial assurance has been
41 forfeited.

42 [10.] 8. Whenever an operator has completed all requirements for closure and
43 inspection-maintenance under the conditions of this permit and the provisions of sections
44 444.352 to 444.380 as to any area, he shall notify the director. If the director determines that the
45 operator has completed the requirements for any area or portion of an area, the director shall
46 release the operator from further obligations regarding the affected land and the financial
47 assurance shall be released or reduced proportionately.

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