

SECOND REGULAR SESSION

# HOUSE BILL NO. 2595

## 94TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES SCHAD (Sponsor), JONES (117),  
McGHEE AND BIVINS (Co-sponsors).

Read 1st time April 1, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5645L.01I

---

### AN ACT

To repeal sections 444.772, 444.773, and 444.774, RSMo, and to enact in lieu thereof four new sections relating to mines.

---

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

Section A. Sections 444.772, 444.773, and 444.774, RSMo, are repealed and four new  
2 sections enacted in lieu thereof, to be known as sections 444.768, 444.772, 444.773, and  
3 444.774, to read as follows:

**444.768. 1. (1) The commission shall establish a planning process enabling  
2 objective decisions based upon competent and scientifically sound data and information  
3 as to which, if any, land areas are unsuitable for all or certain types of surface mining  
4 operations under the standards set forth in subdivisions (2) and (3) of this subsection.**

**5 (2) Upon petition under subsection 2 of this section, the commission shall designate  
6 an area as unsuitable for all or certain types of surface mining operations if the commission  
7 determines that reclamation is not technologically and economically feasible.**

**8 (3) Upon petition under subsection 2 of this section, a surface area may be  
9 designated unsuitable for certain types of surface mining operations if such operations will:**

**10 (a) Be incompatible with existing state or local land use plans or programs; or**

**11 (b) Affect fragile or historic lands in which such operations could result in  
12 significant damage to important historic, cultural, scientific and esthetic values and natural  
13 systems; or**

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.

14           (c) Affect lands in which such operations could result in a substantial loss or  
15 reduction of long-range productivity of water, and such lands include aquifers and aquifer  
16 recharge areas; or

17           (d) Affect lands in which such operations could substantially endanger life and  
18 property.

19           (4) To provide for surface mining land review, the commission shall:

20           (a) Develop or utilize an existing database and an inventory system which will  
21 permit proper evaluation of the capacity of different land areas of the state to support and  
22 permit reclamation of surface mining operations;

23           (b) Develop a method or methods for implementing land use planning decisions  
24 concerning surface mining operations; and

25           (c) Provide proper notice and opportunities for public participation, including a  
26 public hearing prior to making any designation or redesignation under this section.

27           (5) Determinations of the unsuitability of land for surface mining shall be  
28 integrated as closely as possible with present and future land use planning and regulation  
29 processes at federal, state, and local levels.

30           (6) The requirements of this section shall not apply to lands on which surface  
31 mining operations were in existence or applied for prior to August 28, 2008.

32           2. Any person having an interest which is or may be adversely affected shall have  
33 the right to petition the commission to have an area designated as unsuitable for surface  
34 mining operations or to have such a designation terminated. Such a petition shall contain  
35 allegations of facts with supporting evidence which would tend to establish the allegations.  
36 Within ten months after receipt of the petition, the commission shall hold a public hearing  
37 in the locality of the affected area after appropriate notice of the date, time, and location  
38 of such hearing. After a person having an interest which is or may be adversely affected  
39 has filed a petition and before the hearing, any person may intervene by filing allegations  
40 of facts and with supporting evidence which would tend to establish allegations. Within  
41 sixty days after such hearing, the commission shall issue and furnish the petitioner and any  
42 other party to the hearing a written decision regarding the petition and the reasons  
43 therefore. In the event that all the petitioners stipulate agreement prior to the requested  
44 hearing and withdraw their request, such hearing need not be held.

45           3. Prior to designating any land areas as unsuitable for surface mining operations,  
46 the commission shall prepare a detailed statement on:

47           (1) The potential mineral resources of the area;

48           (2) The demand for mineral resources; and

49           (3) The impact of such designation on the environment, the economy, and the  
50 supply of those mineral resources.

51           4. After August 28, 2008, no surface mining operations except those which exist on  
52 or before such date shall be permitted:

53           (1) On any lands within the boundaries of units of the National Park System, the  
54 National Wildlife Refuge Systems, the National System of Trails, the National Wilderness  
55 Preservation System, the Wild and Scenic Rivers System, including study rivers;

56           (2) On any federal lands within the boundaries of any national forest, unless  
57 permitted by the United States Secretary of the Interior;

58           (3) On any land which will adversely affect any publicly owned park or places  
59 included in the National Register of Historic Sites, unless approved jointly by the  
60 commission and the federal, state, or local agency with jurisdiction over the park or  
61 historic site;

62           (4) On any land within one hundred feet of the outside right-of-way line of any  
63 public road, except where mine access roads or haulage roads join such right-of-way line;  
64 except that the commission may permit such roads to be relocated or the area affected to  
65 lie within one hundred feet of such road, if after public notice and opportunity for public  
66 hearing in the locality, a written finding is made that the interests of the public and the  
67 landowners affected thereby will be protected; or

68           (5) On any land within three hundred feet from any occupied dwelling, unless  
69 waived by the owner thereof, or within three hundred feet of any public building, school,  
70 church, community, or institutional building, or public park, or within one hundred feet  
71 of a cemetery;

72           (6) On lands that harbor federal or state threatened or endangered species as  
73 determined by the Missouri department of conservation heritage review;

74           (7) On lands that have habitats or unique natural areas that threatened or  
75 endangered species depend on for survival as identified by the Missouri department of  
76 conservation heritage review;

77           5. The commission shall not approve the application for a permit to conduct surface  
78 mining where such mining would endanger a residence, public building, school, church,  
79 cemetery, commercial or residential building, stream, lake, public road, or other property.

2           444.772. 1. Any operator desiring to engage in surface mining shall make written  
3 application to the director for a permit.

4           2. Application for permit shall be made on a form prescribed by the commission and  
5 shall include:

5           (1) The name of all persons with any interest in the land to be mined;

6 (2) The source of the applicant's legal right to mine the land affected by the permit;

7 (3) The permanent and temporary post office address of the applicant;

8 (4) Whether the applicant or any person associated with the applicant holds or has held  
9 any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;

10 (5) The written consent of the applicant and any other persons necessary to grant access  
11 to the commission or the director to the area of land affected under application from the date of  
12 application until the expiration of any permit granted under the application and thereafter for  
13 such time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790  
14 or any rule or regulation promulgated pursuant to them. Permit applications submitted by  
15 operators who mine an annual tonnage of less than ten thousand tons shall be required to include  
16 written consent from the operator to grant access to the commission or the director to the area  
17 of land affected;

18 (6) A description of the tract or tracts of land and the estimated number of acres thereof  
19 to be affected by the surface mining of the applicant for the next succeeding twelve months; and

20 (7) Such other information that the commission may require [as such information applies  
21 to land reclamation].

22 3. The application for a permit shall be accompanied by a map in a scale and form  
23 specified by the commission by regulation.

24 4. The application shall be accompanied by a bond, security or certificate meeting the  
25 requirements of section 444.778, a geologic resources fee authorized under section 256.700,  
26 RSMo, and a permit fee approved by the commission not to exceed one thousand dollars. The  
27 commission may also require a fee for each site listed on a permit not to exceed four hundred  
28 dollars for each site. If mining operations are not conducted at a site for six months or more  
29 during any year, the fee for such site for that year shall be reduced by fifty percent. The  
30 commission may also require a fee for each acre bonded by the operator pursuant to section  
31 444.778 not to exceed twenty dollars per acre. If such fee is assessed, the per-acre fee on all  
32 acres bonded by a single operator that exceed a total of two hundred acres shall be reduced by  
33 fifty percent. In no case shall the total fee for any permit be more than three thousand dollars.  
34 Permit and renewal fees shall be established by rule, except for the initial fees as set forth in this  
35 subsection, and shall be set at levels that recover the cost of administering and enforcing sections  
36 444.760 to 444.790, making allowances for grants and other sources of funds. The director shall  
37 submit a report to the commission and the public each year that describes the number of  
38 employees and the activities performed the previous calendar year to administer sections 444.760  
39 to 444.790. For any operator of a gravel mining operation where the annual tonnage of gravel  
40 mined by such operator is less than five thousand tons, the total cost of submitting an application  
41 shall be three hundred dollars. The issued permit shall be valid from the date of its issuance until

42 the date specified in the mine plan unless sooner revoked or suspended as provided in sections  
43 444.760 to 444.790. Beginning August 28, 2007, the fees shall be set at a permit fee of eight  
44 hundred dollars, a site fee of four hundred dollars, and an acre fee of ten dollars, with a  
45 maximum fee of three thousand dollars. Fees may be raised as allowed in this subsection after  
46 a regulation change that demonstrates the need for increased fees.

47 5. An operator desiring to have his or her permit amended to cover additional land may  
48 file an amended application with the commission. Upon receipt of the amended application, and  
49 such additional fee and bond as may be required pursuant to the provisions of sections 444.760  
50 to 444.790, the director shall, if the applicant complies with all applicable regulatory  
51 requirements, issue an amendment to the original permit covering the additional land described  
52 in the amended application.

53 6. An operation may withdraw any land covered by a permit, excepting affected land,  
54 by notifying the commission thereof, in which case the penalty of the bond or security filed by  
55 the operator pursuant to the provisions of sections 444.760 to 444.790 shall be reduced  
56 proportionately.

57 7. Where mining or reclamation operations on acreage for which a permit has been  
58 issued have not been completed, the permit shall be renewed. The operator shall submit a permit  
59 renewal form furnished by the director for an additional permit year and pay a fee equal to an  
60 application fee calculated pursuant to subsection 4 of this section, but in no case shall the  
61 renewal fee for any operator be more than three thousand dollars. For any operator involved in  
62 any gravel mining operation where the annual tonnage of gravel mined by such operator is less  
63 than five thousand tons, the permit as to such acreage shall be renewed by applying on a permit  
64 renewal form furnished by the director for an additional permit year and payment of a fee of three  
65 hundred dollars. Upon receipt of the completed permit renewal form and fee from the operator,  
66 the director shall approve the renewal. With approval of the director and operator, the permit  
67 renewal may be extended for a portion of an additional year with a corresponding prorating of  
68 the renewal fee.

69 8. Where one operator succeeds another at any uncompleted operation, either by sale,  
70 assignment, lease or otherwise, the commission may release the first operator from all liability  
71 pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have  
72 been issued a permit and have otherwise complied with the requirements of sections 444.760 to  
73 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections  
74 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former  
75 operator.

76 9. The application for a permit shall be accompanied by a plan of reclamation that meets  
77 the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated

78 pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed  
79 method of operation, reclamation, and a conservation plan for the affected area including  
80 approximate dates and time of completion, and stating that the operation will meet the  
81 requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant  
82 to them.

83       10. At the time that a permit application is deemed complete by the director, the operator  
84 shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to  
85 section 493.050, RSMo, to publish legal notices in any county where the land is located. If the  
86 director does not respond to a permit application within forty-five calendar days, the application  
87 shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four  
88 consecutive weeks beginning no more than ten days after the application is deemed complete.  
89 The operator shall also send notice of intent to operate a surface mine by certified mail to the  
90 governing body of the counties or cities in which the proposed area is located, and to the last  
91 known addresses of all [record] **recorded** landowners of contiguous real property or real property  
92 [located adjacent to the proposed mine plan area] **adjoining the property of the proposed mine**  
93 **plan area. People who own property across a river or stream or on the other side of a**  
94 **right-of-way shall also receive, by certified mail, a notice of intent to operate a surface**  
95 **mine, unless such property is in another state. Certified mail of a notice of intent to**  
96 **operate a surface mine shall also be sent to all utilities and easement holders which are**  
97 **located within or adjoining the property of the proposed mine area.** The notices shall  
98 include the name and address of the operator, a legal description consisting of county, section,  
99 township and range, the number of acres involved, a statement that the operator plans to mine  
100 a specified mineral during a specified time, and the address of the commission. The notices shall  
101 also contain a statement that any person with a direct, personal interest in one or more of the  
102 factors the commission may consider in issuing a permit may request a public meeting, a public  
103 hearing or file written comments to the director no later than fifteen days following the final  
104 public notice publication date.

105       11. The commission may approve a permit application or permit amendment whose  
106 operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if  
107 it can be demonstrated by the operator that the conditions present at the surface mining location  
108 warrant an exception. The criteria accepted for consideration when evaluating the merits of an  
109 exception or variance to the requirements of sections 444.760 to 444.790 shall be established by  
110 regulations.

111       12. Fees imposed pursuant to this section shall become effective August 28, 2007, and  
112 shall expire on December 31, 2013. No other provisions of this section shall expire.

**13. All complete new permit applications received after August 28, 2008, shall contain an environmental impact assessment. The contents of the assessment shall include but not be limited to the following:**

- (1) Abstract;**
- (2) Introduction;**
- (3) Nature and scope of the issues;**
- (4) Process and procedural context;**
- (5) Description of the proposed project;**
- (6) Public participation;**
- (7) Geology and hydrogeology;**
- (8) Social and cultural dynamism;**
- (9) Prehistoric/archeology resource study;**
- (10) Results and implications;**
- (11) Lessons learned;**
- (12) List of relevant published papers or other source material.**

444.773. 1. All applications for a permit shall be filed with the director, who shall promptly investigate the application and make a recommendation to the commission within four weeks after the public notice period provided in section 444.772 expires as to whether the permit should be issued or denied. If the director determines that the application has not fully complied with the provisions of section 444.772 or any rule or regulation promulgated pursuant to that section, the director shall recommend denial of the permit. The director shall consider any written comments when making his or her recommendation to the commission on the issuance or denial of the permit.

2. If the recommendation of the director is to deny the permit, a hearing as provided in sections 444.760 to 444.790, if requested by the applicant within fifteen days of the date of notice of recommendation of the director, shall be held by the commission.

3. If the recommendation of the director is for issuance of the permit, the director shall issue the permit without a public meeting or a hearing except that upon petition, received prior to the date of the notice of recommendation, from any person whose health, safety or livelihood will be unduly impaired by the issuance of this permit, a public meeting or a hearing may be held. If a public meeting is requested pursuant to this chapter [and the applicant agrees], the director shall, within thirty days after the time for such request has passed, order that a public meeting be held. The meeting shall be held in a reasonably convenient location for all interested parties. The applicant shall cooperate with the director in making all necessary arrangements for the public meeting. Within thirty days after the close of the public meeting, the director shall recommend to the commission approval or denial of the permit. If the public meeting does not

22 resolve the concerns expressed by the public, any person whose health, safety or livelihood will  
23 be unduly impaired by the issuance of such permit may make a written request to the land  
24 reclamation commission for a formal public hearing. The land reclamation commission may  
25 grant a public hearing to formally resolve concerns of the public. Any public hearing before the  
26 commission shall address one or more of the factors set forth in this section.

27         4. In any hearing held pursuant to this section the burden of proof shall be on the  
28 applicant for a permit. If the commission finds, based on competent and substantial scientific  
29 evidence on the record, that an interested party's health, safety or livelihood will be unduly  
30 impaired by the issuance of the permit, the commission may deny such permit. If the  
31 commission finds, based on competent and substantial scientific evidence on the record, that the  
32 operator has demonstrated, during the five-year period immediately preceding the date of the  
33 permit application, a pattern of noncompliance at other locations in Missouri that suggests a  
34 reasonable likelihood of future acts of noncompliance, the commission may deny such permit.  
35 In determining whether a reasonable likelihood of noncompliance will exist in the future, the  
36 commission may look to past acts of noncompliance in Missouri, but only to the extent they  
37 suggest a reasonable likelihood of future acts of noncompliance. Such past acts of  
38 noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a  
39 reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be  
40 used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the  
41 noncompliance has caused or has the potential to cause, a risk to human health or to the  
42 environment, or has caused or has potential to cause pollution, or was knowingly committed, or  
43 is defined by the United States Environmental Protection Agency as other than minor. If a  
44 hearing petitioner or the commission demonstrates either present acts of noncompliance or a  
45 reasonable likelihood that the permit seeker or the operations of associated persons or  
46 corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the  
47 noncompliance requirement in this subsection. In addition, such basis must be developed by  
48 multiple noncompliances of any environmental law administered by the Missouri department of  
49 natural resources at any single facility in Missouri that resulted in harm to the environment or  
50 impaired the health, safety or livelihood of persons outside the facility. For any permit seeker  
51 that has not been in business in Missouri for the past five years, the commission may review the  
52 record of noncompliance in any state where the applicant has conducted business during the past  
53 five years. Any decision of the commission made pursuant to a hearing held pursuant to this  
54 section is subject to judicial review as provided in chapter 536, RSMo. No judicial review shall  
55 be available, however, until and unless all administrative remedies are exhausted.

444.774. 1. Every operator to whom a permit is issued pursuant to the provisions of  
2 sections 444.760 to 444.790 may engage in surface mining upon the lands described in the



3 permit upon the performance of and subject to the following requirements with respect to such  
4 lands:

5 (1) All ridges and peaks of overburden created by surface mining, except areas meeting  
6 the qualifications of subdivision (4) of this subsection, or where washing, cleaning or retaining  
7 ponds and reservoirs may be formed under subdivision (2) of this subsection, shall be graded to  
8 a rolling topography traversable by farm machinery, but such slopes need not be reduced to less  
9 than the original grade of that area prior to mining, and the slope of the ridge of overburden  
10 resulting from a box cut need not be reduced to less than twenty-five degrees from horizontal  
11 whenever the same cannot be practically incorporated into the land reclaimed for wildlife  
12 purposes pursuant to subdivision (4) of this subsection. In surface mining the operator shall  
13 remove all debris and materials not allowed by the reclamation plan before the bond or any  
14 portion thereof may be released;

15 (2) As a means of controlling damaging erosion, the director may require the operator  
16 to construct terraces or use such other measures and techniques as are necessary to control soil  
17 erosion and siltation on reclaimed land. Such erosion control measures and techniques may also  
18 be required on overburden stockpiles if the erosion is causing environmental damage outside the  
19 permit area. In determining the grading requirements to restore barite pit areas, the sidewalls of  
20 the excavation shall be graded to a point where it blends with the surrounding countryside, but  
21 in no case should the contour be such that erosion and siltation be increased;

22 (3) In the surface mining of tar sands, the operator shall recover and collect all spent  
23 sands and other refuse yielded from the processing of tar sands, whether such spent sands and  
24 refuse are produced at the surface mine or elsewhere, in the manner prescribed by the  
25 commission as conditions of the permit, and shall finally dispose of such spent sands and refuse  
26 in the manner prescribed by the commission as conditions of the permit and in accordance with  
27 the provisions of sections 444.760 to 444.790;

28 (4) Up to and including twenty-five percent of the total acreage to be reclaimed each year  
29 need not be graded to a rolling topography if the land is reclaimed for wildlife purposes as  
30 required by the commission, except that all peaks and ridges shall be leveled off to a minimum  
31 width of thirty feet or one-half the diameter of the base of the pile at the original ground surface  
32 whichever is less;

33 (5) Surface mining operations that remove and do not replace the lateral support shall  
34 not, unless mutually agreed upon by the operator and the adjacent property owner, remove the  
35 lateral support in the vicinity of any established right-of-way line of any public road, street or  
36 highway closer than a distance equal to twenty-five feet plus one and one-half times the depth  
37 of the unconsolidated material from such right-of-way line to the beginning of the excavation;  
38 except that, unless granted a variance by the commission, the minimum distance is fifty feet.

39 The provisions of this subdivision shall apply to all existing surface mining operations beginning  
40 August 28, 1990, except as provided in subsection 2 of section 444.770;

41 (6) If surface mining is or has been conducted up to the minimum distance as defined  
42 in subdivision (5) of this subsection along an established right-of-way line of any public road,  
43 street or highway, a barrier or berm of adequate height shall be placed or constructed along the  
44 perimeter of the excavation. Adequate height shall mean a height of no less than three feet.  
45 Such barriers or berms shall not be required if barriers, berms or guardrails already exist on the  
46 adjoining right-of-way. Barriers or berms of adequate height may also be required by the  
47 commission when surface mining is or has been conducted up to the minimum distance as  
48 defined in subdivision (5) of this subsection along other property lines, but only as necessary to  
49 mitigate serious and obvious threats to public safety;

50 (7) The operator may construct earth dams to form lakes in pits resulting from the final  
51 cut in a mining area; except that, the formation of the lakes shall not interfere with underground  
52 or other mining operations or damage adjoining property and shall comply with the requirements  
53 of subdivision (8) of this subsection;

54 (8) The operator shall cover the exposed face of a mineral seam where acid-forming  
55 materials are present, to a depth of not less than two feet with earth that will support plant life  
56 or with a permanent water impoundment, terraced or otherwise so constructed as to prevent a  
57 constant inflow of water from any stream and to prevent surface water from flowing into such  
58 impoundment in such amounts as will cause runoff or spillage from said impoundment in a  
59 volume which will cause kills of fish or animals downstream. The operator shall cover an  
60 exposed deposit of tar sands, including an exposed face thereof, to a depth of not less than two  
61 feet with earth that will support plant life, and in addition may cover such deposit or face with  
62 a permanent water impoundment as provided above; however, no water impoundment shall be  
63 so constructed as to allow a permanent layer of oil or other hydrocarbon to collect on the surface  
64 of such impoundment in an amount which will adversely affect fish, wildfowl and other wildlife  
65 in or upon such impoundment;

66 (9) The operator shall reclaim all affected lands except as otherwise provided in sections  
67 444.760 to 444.790. The operator shall determine on company-owned land, and with the  
68 landowners on leased land for leases that are entered into after August 28, 1990, which parts of  
69 the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational,  
70 industrial or other use including food, shelter, and ground cover for wildlife;

71 (10) The operator, with the approval of the commission, shall sow, set out or plant upon  
72 the affected land, seeds, plants, cuttings of trees, shrubs, grasses or legumes. The plantings or  
73 seedlings shall be appropriate to the type of reclamation designated by the operator on

74 company-owned land and with the owner on leased land for leases entered into after August 28,  
75 1990, and shall be based upon sound agronomic and forestry principles;

76 (11) Surface mining operations conducted in the flood plains of streams and rivers, and  
77 subject to periodic flooding, may be exempt from the grading requirements contained in this  
78 section if it can be demonstrated to the commission that such operations will be unsafe to pursue  
79 or ineffective in achieving reclamation required in this section because of the periodic flooding;

80 (12) Such other requirements as the commission may prescribe by rule or regulation to  
81 conform with the purposes and requirements of sections 444.760 to 444.790.

82 **2. Explosives shall be used only in accordance with existing state and federal law**  
83 **and the regulations promulgated by the commission, which shall include provisions to:**

84 **(1) Require adequate advance written notice by the operator to local governments,**  
85 **utilities, and residents who might be affected by the use of such explosives by publication**  
86 **of the planned blasting schedule in a newspaper of general circulation in the locality and**  
87 **by mailing a copy of the proposed blasting schedule to every resident living within one-half**  
88 **mile of the proposed mine plan and by providing daily notice to residents or occupiers in**  
89 **such area prior to blasting;**

90 **(2) Require the operator to maintain for a period of at least three years and make**  
91 **available for public inspection upon request a log detailing the location of the blast, the**  
92 **pattern and depth of the drill holes, the amount of explosives used per hole, and the order**  
93 **and length of delay in the blast;**

94 **(3) Limit the kind of explosive and detonating equipment and the size, the timing,**  
95 **and frequency of blast based upon the physical conditions at the site so to prevent injury**  
96 **to persons, damage to public and private property outside the permit area, adverse impacts**  
97 **on any underground mine, and change in the course, channel, or availability of ground or**  
98 **surface water outside the permit area;**

99 **(4) Require that all blasting operations be conducted by trained and competent**  
100 **persons certified by the Missouri department of fire safety;**

101 **(5) For detonations after August 28, 2008, provide that upon the request of a**  
102 **resident or owner of a man-made dwelling, unit, utility, or structure within one-half mile**  
103 **of any portion of the long-term mine plan area the operator shall conduct a preblasting**  
104 **survey of such structures and submit the survey to the commission and a copy to the**  
105 **resident or owner making the request.**

106 **3. An operator shall commence the reclamation of the area of land affected by its**  
107 **operation as soon as possible after the completion of surface mining of viable mineral reserves**  
108 **in any portion of the permit area in accordance with the plan of reclamation required by**  
109 **subsection 9 of section 444.772, the rules and regulations of the commission, and the conditions**

110 of the permit. Grading shall be completed within twelve months after mining of viable mineral  
111 reserves is complete in that portion of the permit area based on the operator's prior mining  
112 practices at that site. Mining shall not be deemed complete if the operator can provide credible  
113 evidence to the director that viable mineral reserves are present. The seeding and planting of  
114 supporting vegetation, as provided in the reclamation plan, shall be completed within twenty-four  
115 months after with mining has been completed survival of such supporting vegetation by the  
116 second growing season.

117 [3.] 4. With the approval of the director, the operator may substitute for all or any part  
118 of the affected land to be reclaimed, an equal number of acres of land previously mined and not  
119 reclaimed. If any area is so substituted the operator shall submit a map and reclamation plan of  
120 the substituted area, and this map and reclamation plan shall conform to all requirements with  
121 respect to other maps and reclamation plan required by section 444.772. The operator shall be  
122 relieved of all obligations pursuant to sections 444.760 to 444.790 with respect to the land for  
123 which substitution has been permitted. On leased land, the landowner shall grant written  
124 approval to the operator for substitutions made pursuant to this subsection.

125 [4.] 5. The operator shall file a report with the commission within sixty days after the  
126 date of expiration of a permit stating the exact number of acres of land affected by the operation,  
127 the extent of the reclamation already accomplished, and such other information as may be  
128 required by the commission.

129 [5.] 6. The operator shall ensure that all affected land where vegetation is to be  
130 reestablished is covered with enough topsoil or other approved material in order to provide a  
131 proper rooting medium. No topsoil or other approved material is required to be placed on areas  
132 described in subdivision (4) of subsection 1 of this section or on any areas to be reclaimed for  
133 industrial uses as specified in the reclamation plan.

134 [6.] 7. The commission may grant such additional time for meeting with the completion  
135 dates required by sections 444.760 to 444.790 as are necessary due to an act of God, war, strike,  
136 riot, catastrophe, or other good cause shown.

✓