

**RULES
OF
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
WATER RESOURCES DIVISION**

**CHAPTER 0400-42-02
REQUIREMENTS FOR SURFACE MINING PERMITS**

TABLE OF CONTENTS

0400-42-02-.01	Application	0400-42-02-.05	Permit Marker
0400-42-02-.02	Time of Filing and Amount of Performance Bond	0400-42-02-.06	Newspaper Notice
0400-42-02-.03	Mining and Reclamation Plan	0400-42-02-.07	Water Quality Control Discharge Permit
0400-42-02-.04	Maps	0400-42-02-.08	Permit Required Before Sale of Coal

0400-42-02-.01 APPLICATIONS.

Applications for permits shall be completed on forms provided by the Commissioner, giving in full detail the information required by the Law or by these regulations. The completed application should be accompanied by the two hundred fifty dollars (\$250) annual permit fee, plus twenty-five dollars (\$25) for each acre to be disturbed up to a maximum acreage fee of two thousand five hundred dollars (\$2,500). Permits may be amended as provided in T.C.A. § 59-8-205 by application for such amendments upon forms provided by the Commissioner, and payment of a supplemental basic amendment fee of fifty dollars (\$50), and to the extent the amendment entails an increase or decrease in the acreage covered by the permit, the total acreage fee paid for the year shall be correspondingly increased or decreased by the amount per acre or fraction thereof specified hereinabove. The completed application should be considered filed when received and stamp-dated in any office of the Division.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

0400-42-02-.02 TIME OF FILING AND AMOUNT OF PERFORMANCE BOND.

- (1) The bond shall not be filed with the application. The operator shall state on his application the name of his corporate surety. The amount of the bond, surety or cash, shall not be less than six hundred dollars (\$600) for the mining of any mineral other than coal, and not less than one thousand dollars (\$1,000) for the mining of coal, for each estimated acre, or fraction thereof, to be affected by the respective operation.
- (2) However, in those counties requiring a performance bond of two thousand dollars (\$2,000) or more per acre, the operator may at his own option present evidence of such bond to the Commissioner in lieu of filing a bond with the Commissioner. The Commissioner may in his discretion accept such evidence of the existence of such a performance bond in lieu of a bond filed with the Commissioner. However, if the bond is released by county authorities prior to such time as the Commissioner would normally release all or part of it, the Commissioner may require a new performance bond to be filed as required by this rule.
- (3) No performance bond shall be charged for land upon which overburden is deposited, if, in the opinion of the Commissioner, the deposition of such overburden amounts to reclamation of a previously mined area.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

(Rule 0400-40-02-.04, continued)

0400-42-02-.03 MINING AND RECLAMATION PLAN.

A mining and reclamation plan shall be submitted, along with the application for the permit, on forms provided by the Commissioner in accordance with T.C.A § 59-8-208.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

0400-42-02-.04 MAPS.

- (1) Three (3) copies of a general location map taken from a USGS 7½ minute quadrangle sheet, with the mining locations and haul roads clearly marked thereon, shall be submitted with the permit application. Also, three (3) copies of a detailed, enlarged topographic map of a scale of five hundred (500) feet to the inch, with the site boundaries indicated thereon and prepared by a qualified professional engineer, geologist, surveyor, or other person approved by the Commissioner, shall be submitted with the original permit application, and with each amendment for the mining of coal. Only a portion of the map large enough to show the required information is required, but it shall be no smaller than letter size (8½" X 11").
 - (a) The title block of both sizes of maps shall show the following information:
 1. Name of the operator.
 2. Owner of the mineral rights. If more than one tract, attach list and identify by number corresponding to mine operation shown on map.
 3. The owner of the surface rights or the name of the representative of the owners. If more than one tract, attach list and identify by number corresponding to mine number shown on map.
 4. The county in which the operation is located.
 5. The total number of acres to be disturbed under the permit, including access roads.
 6. The date the map was prepared, together with a certification as to its accuracy by the person responsible for its preparation.
 7. Name and number of enlarged USGS 7½ minute quadrangle sheet used (if applicable).
 - (b) The enlarged map shall show the following information:
 1. The boundaries of the area to be permitted shall be marked in red.
 2. The location of the stream or streams or any standing body of water into which the area drains, the location of drainways, and the planned siltation traps and other impoundments shall be marked in blue.
 3. The location of haul or other access roads to be prepared or used by the operator in the mining operation shall be shown as a dashed red line.

(Rule 0400-40-02-.04, continued)

4. The location of any buildings, cemeteries, public highways, railroad tracks, gas and oil wells, publicly owned land, officially designated scenic areas, utility lines, underground mines, transmission lines or pipe lines within the affected area or within five hundred (500) feet thereof.
5. The approximate location of the cuts or excavations to be made in the surface, the estimated location of fill areas and the location of areas designated where no mining can take place, i.e., areas too steep, too close to a stream, or areas designated as hazard or protected areas.
6. The names of landowners within five hundred (500) feet of the permitted area.
7. Slope measurements every five hundred (500) feet as calculated from the top of map. If slope is less than 15 degrees, this requirement may be omitted.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

0400-42-02-.05 PERMIT MARKER.

- (1) A permit marker or sign shall be placed so as to permanently mark the beginning point of the area under permit. Such markers shall consist of a sign measuring at least one foot by two feet with the company name, mine number, and permit number painted thereon, and shall be affixed to a post located so as to be plainly visible at the access point to the area under permit, and shall be maintained until final release of bond.
- (2) For contour coal mines, a steel post, at least two inches in diameter, extending five feet above the ground, painted red, shall be placed so as to permanently mark the beginning and ending points of the mined area under each permit or amendment.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

0400-42-02-.06 NEWSPAPER NOTICE.

- (1) T.C.A. § 59-8-205 requires publication of the operator's intent to mine within thirty (30) days prior to the filing of an application in a newspaper of general circulation in the county where the activity is planned. A copy of the notice, clipped from the newspaper, with the dateline showing, shall accompany the application for a permit.
- (2) The notice shall measure at least four (4) column-inches, and the heading shall be in at least 14-point type. Even when the mining is an amendment or a continuation activity under a permit to be renewed, essentially on the same property, and at the same location where the presence of the mine is of general knowledge to the residents of the area, such publication is required by T.C.A. 59-8-205(a)(8).
- (3) The notice shall be headed "NOTICE OF INTENT TO SURFACE MINE," and shall include the company name, address, and phone number, the county where the proposed mining will take place, the watershed, and name of the stream draining the area, the U. S. Geological Survey Quadrangle name, the proposed acreage to be affected, and, for a proposed coal mine, the latitude and longitude accurate to the nearest 0.1 minute, the elevation, and the name of the seams to be mined, using the standard Tennessee Division of Geology nomenclature (local seam names may be added in parentheses).
- (4) For the preparation of the notice, a standard form shall be supplied by the Division and shall be used by the operator.

(Rule 0400-40-02-.06, continued)

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

0400-42-02-.07 WATER QUALITY CONTROL DISCHARGE PERMIT.

- (1) T.C.A. §§ 69-3-101 et seq. requires a permit for any activity which results in a liquid discharge to the waters of the State OR which alters, or may alter, the physical, chemical, biological, radiological, or bacteriological quality or characteristics of any waters of the State.
- (2) T.C.A. 59-8-205(a)(1)(G) requires that an operator obtain a discharge permit from the Division of Water Resources, Tennessee Department of Environment and Conservation, before applying for a surface mining permit. The application for a surface mining permit must include a copy of the operator's discharge permit or a letter from the Division of Water Resources stating that no discharge will take place, and, therefore, no permit is required.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.

0400-42-02-.08 PERMIT REQUIRED BEFORE SALE OF COAL.

- (1) No dealer, broker, or other purchaser may purchase coal from an operator without first being shown that operator's valid surface mining permit.
- (2) Each such dealer, broker, or other purchaser must maintain a record of each purchase of coal, including date of purchase, number of tons purchased, name of operator, and the operator's permit number. Said records shall be retained for a period of two (2) years from date of purchase, and shall be open to inspection by the Commissioner or his designated representative.

Authority: T.C.A. §§ 59-8-201 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed August 2, 2012; effective October 31, 2012. Rule renumbered from 0400-03-02.