

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

**0400-40-18  
ROCK HARVESTING**

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**0400-40-18-.01 PURPOSE.**

The purpose of these rules is to implement T.C.A. §§ 69-3-143 through 69-3-147 which govern rock harvesting operations as defined in T.C.A. §§ 69-3-144 (1) through (3).

**Authority:** T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed February 15, 2013; effective May 16, 2013. Amendments filed October 3, 2016; effective January 1, 2017.

**0400-40-18-.02 APPLICATION OR NOTICE OF INTENT FOR ROCK HARVESTING.**

- (1) Operators shall submit a Notice of Intent for Rock Harvesting to obtain coverage under the applicable general permit unless the Division informs an operator that an individual NPDES permit is required. The reasons for requiring an individual permit include the following:
  - (a) There will be a discharge of any water which, during manufacturing or processing, comes into direct contact with, or results from, the production of any raw material, intermediate product, finished product, byproduct, or waste product process associated with stone processing operation(s), which includes crushing, sawing, screening, and/or uncovered breaking on the site;
  - (b) There will be any other non-storm water discharges from the site, including but not limited to mine dewatering and domestic sewage;
  - (c) There will be a discharge from the rock harvesting site to Exceptional Tennessee Waters that would cause degradation of any applicable available parameter above the level of de minimis as defined by paragraph (4) of Rule 0400-40-03-.04;
  - (d) There will be a discharge from the rock harvesting site to waters with unavailable parameters that may cause measurable degradation of the parameter that is unavailable, unless the Division determines the estimated pollutant loading is consistent with an EPA-approved total maximum daily load; and
  - (e) The Division determines that an individual permit is required to adequately protect water quality in the receiving stream(s).
- (2) An original and two copies of all individual NPDES application forms or the notice of intent and supporting materials for the application forms or notice of intent, including the information required by this rule, shall be submitted.
- (3) Written proof of general liability insurance coverage shall be submitted by the operator along with the permit application or notice of intent.

(Rule 0400-40-18-.02, continued)

- (a) Liability coverage shall be in an amount no less than one million dollars (\$1,000,000).
  - (b) Insurance coverage shall remain in effect for the life of the rock harvesting operation.
  - (c) The policy shall provide that the insurer will notify the department at least thirty (30) days prior to the effectiveness of any cancellation of coverage by the insurer.
  - (d) The operator shall notify the department of any change in insurance coverage during the life of the rock harvesting operation and provide a copy of any new policy issued after the initial policy no later than one week after the new policy becomes effective.
- (4) Written proof of Workers' Compensation insurance coverage, if applicable, shall be submitted by the operator along with the permit application or notice of intent.
- (5) Written proof of registration with the Tennessee Department of Revenue for all operators and any subcontractors shall be submitted with the permit application or notice of intent.
- (6) Evidence of the operator's legal right to harvest minerals on the land covered by the permit application or notice of intent, in the form of a properly executed deed, lease, or other appropriate document, shall be submitted with the permit application or notice of intent.
- (7) If the surface and mineral rights of any portion of the land covered by the permit application or notice of intent have been severed, the operator shall:
  - (a) Notify the surface owner, by certified mail, return receipt required, of the intent to begin rock harvesting operations, at least thirty (30) days prior to beginning such operations including a copy of the permit or notice of coverage from the department;
  - (b) Prior to beginning rock harvesting operations, forward copies of all records relating to the notification required by subparagraph (a) of this paragraph to the department; and
  - (c) Bear all costs pertaining to the notification and transmission of documents required by subparagraphs (a) and (b) of this paragraph.
- (8) A general location map taken from a USGS 7 ½ minute quadrangle map that shows the location of the mining area(s) and haul road(s) and which includes the name of the operation and the name and number of the quadrangle shall be submitted with the application or notice of intent.
- (9) A site/operations map at a scale of 1" = 500', or larger as needed to provide sufficient detail and avoid a cluttered look, shall be submitted with the application or notice of intent. The site/operations map shall include, at a minimum:
  - (a) A title block which contains:
    - 1. The name of the operator;
    - 2. The name of the owner of the surface rights and the name of the owner of the mineral rights;
    - 3. The county(ies) in which the operation is located;
    - 4. The total number of acres to be disturbed by mining operations and haul roads; and,

(Rule 0400-40-18-.02, continued)

5. The date the map was prepared along with a certification of its accuracy by the preparer.
- (b) The body of the site/operations map shall show:
  1. The proposed permit boundary, including haul roads, marked in red;
  2. The location and type of all water treatment structures, including Best Management Practices;
  3. The location and name(s) of all stream(s) receiving drainage from the operation;
  4. The location and names of all property owners within 500 feet of the permit boundary;
  5. The location of any onsite structures (i.e. buildings, scales, processing equipment, stockpiles, storage areas, etc.);
  6. The location of significant features such as cemeteries, public roads, railroad tracks, oil and gas wells, surface mines, underground mines, transmission lines, pipelines or utility lines within 500 feet of the permit boundary;
  7. The location of initial cuts or excavation and the subsequent cut sequence and direction of mining; and
  8. The location(s) where topsoil and/or other materials suitable for revegetation will be stockpiled.
- (10) A reclamation plan shall be submitted with the application or notice of intent. The plan shall include, at a minimum:
  - (a) A description of the manner in which topsoil, and/or other material(s) suitable for revegetation, will be segregated;
  - (b) A description of backfilling and grading operations to be carried out concurrently with mining excavation that addresses whether there will be sufficient overburden to return the land to its original conformation after mining; and if the land will not be returned to its original conformation, a reclamation plan map shall be submitted that depicts:
    1. The altered land conformation and drainage patterns that will exist after mining;
    2. The location of any permanent impoundment(s) proposed to remain when mining is complete; and
    3. The location of any roads to remain after mining, including information regarding the surfacing and drainage controls used to maintain road stability; and
  - (c) A revegetation plan which specifies:
    1. The types and amounts of seed, fertilizer, lime and mulch that will be applied per acre, following the recommendations of the Tennessee Erosion and Sediment Control Handbook;
    2. The type(s) and spacing of trees to be planted; and

(Rule 0400-40-18-.02, continued)

3. If the surface and mineral rights on any portion of the land covered by the permit application or notice of intent have been severed, a notarized letter confirming the concurrence of the surface owner as to the size and location of any impoundment(s) or roads to remain after mining and whether or not trees are to be planted must be submitted.

**Authority:** T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed February 15, 2013; effective May 16, 2013. Amendments filed October 3, 2016; effective January 1, 2017.

#### **0400-40-18-.03 NOTICE OF INTENT FOR EXPLORATION.**

- (1) For purposes of this chapter, "exploration" means the excavation of a potential rock harvesting site that disturbs less than 1 acre of land, does not result in removal of more than 100 tons of minerals as defined in T.C.A. § 69-3-144(1), and does not involve processing as described in subparagraph (1)(a) of Rule 0400-40-18-.02.
- (2) Persons seeking coverage under the general permit for exploration shall submit a Notice of Intent for exploration at least 7 days prior to engaging in exploration. The Notice of Intent for exploration shall include the following:
  - (a) The legal name and address of the owner and/or operator;
  - (b) The facility name and location;
  - (c) Proof of property owner notification;
  - (d) A general location map produced from a USGS 7½ minute quadrangle map that shows the location of the exploration area(s) and haul road(s), which shall be marked in red, and includes: the name of the facility; the name and number of the quadrangle; the receiving stream(s); and an indication of whether any stream crossings are required. (Note: stream crossings must be in compliance with the requirements of Chapter 0400-40-07); and
  - (e) Description of the erosion prevention and sediment control measures for the site as required by Rule 0400-40-18-.04.
- (3) Coverage under the applicable general permit shall be effective upon receipt of the Notice of Intent for exploration by the Division for a period of no more than 60 days, by which time the permittee must either:
  - (a) Submit a Notice of Intent for Rock Harvesting in accordance with Rule 0400-40-18-.02;
  - (b) Submit an application for an individual permit; or
  - (c) Stabilize the site and withdraw from the area.

If a Notice of Intent for Rock Harvesting or an application for an individual permit is timely submitted, coverage under the general permit covering exploration including applicable restrictions (*i.e.*, disturbance of less than one acre of land and removal of less than 100 tons of mineral) shall continue until the Division issues a notice of coverage for rock harvesting operations under the applicable general permit, issues an individual permit, or denies permit coverage for the operation.

**Authority:** T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Amendments filed

(Rule 0400-40-18-.03, continued)

October 3, 2016; effective January 1, 2017.

**0400-40-18-.04 REQUIREMENTS FOR SEDIMENT AND EROSION CONTROL.**

- (1) During Rock Harvesting or Exploration
  - (a) Operators and persons engaged in exploration shall use best management practices following the recommendations of the Tennessee Erosion and Sediment Control Handbook to prevent erosion and control sediment.
  - (b) Operators and persons engaged in exploration shall select, design and install erosion prevention and sediment control measures to prevent discharges to waters of the state that would violate water quality standards or cause pollution.
  - (c) Approved sediment and erosion control measures must be in place prior to beginning rock harvesting operations and exploration.
  - (d) Approved sediment and erosion control measures must be maintained throughout the life of the rock harvesting operation until reclamation has been approved as being successful by the Division. Approved control measures must also be maintained throughout the exploration activity until the site has been stabilized.
  - (e) Operators and persons engaging in exploration shall operate and maintain sites so that there are no discharges of oil or other waste to waters of the state.
  - (f) Operators and persons engaging in exploration shall comply with all provisions of permits.
  - (g) Operators and persons engaging in exploration shall modify practices or control measures, as directed and/or approved by the Division, to control discharges.
- (2) Reclamation
  - (a) The purpose of reclamation is to stabilize the site so that there will not be discharges of sediment or other waste into waters of the state.
  - (b) Grading shall be conducted so as to return the affected area as closely as is reasonable to its pre-harvesting condition and drainage patterns, considering the amount of available overburden, drainage control, and post-harvesting land use.
  - (c) Revegetation shall be deemed acceptable when an eighty percent (80%) groundcover of self-sustaining vegetation, with no bare areas exceeding one fourth (1/4) of an acre, has been established for two (2) growing seasons. If trees are planted, there shall be six hundred (600) surviving stems per acre after two (2) growing seasons. If the Division determines this level of revegetation is not practicable at a given site, the operator shall (1) revegetate to the extent practicable and (2) provide surface stabilization for the entire site.

**Authority:** T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed February 15, 2013; effective May 16, 2013. Amendments filed October 3, 2016; effective January 1, 2017. Rule was previously numbered 0400-40-18-.03, but renumbered 0400-40-18-.04 with the addition of a new 0400-40-18-.03.