

**RULES
OF THE
OIL AND GAS PROGRAM
DIVISION OF WATER RESOURCES**

**CHAPTER 0400-52-02
PERMITS**

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0400-52-02-.01 PERMIT REQUIRED.

- (1) A permit is required from the Supervisor before any person shall conduct operations described in Chapter 0400-52-01 through Chapter 0400-52-12. Each permit, when granted, shall expire 365 days after issuance unless the applicant has commenced operations and reasonably continues said operations pursuant to the permitted objective. Any permit now in force shall expire 365 days from the date of this rule unless permittee complies with this requirement. If a permitted location is to be abandoned without the commencement of any drilling activity, then the operator shall notify the Supervisor in writing within 30 days after expiration of the permit.
- (2) No work shall begin on a well pursuant to this chapter before a permit for such work on the well has been issued by the Supervisor. Furthermore, any work the operator may do, or may have done, shall be at his own risk and with the full understanding that the Supervisor may find it necessary to require changing the well location or operation plans, or otherwise deny the permit because of noncompliance with applicable rules and regulations and require that the well be plugged. No requests for exceptions shall be considered for a well that was started before a permit was issued.
 - (a) A legible copy of this permit shall be displayed on location upon commencement of drilling operations and remain on display at said location until completion of the well.
- (3) Fifteen day progress on drilling, upon request of the Supervisor, shall be mailed to the Supervisor describing well activities for the previous week.
- (4) Organization Report (Form CN-0219) shall be made to the Supervisor prior to the issuance of a permit. The applicant shall name all parties responsible for the well and give contact information for them on the Organization Report consistent with the record submitted to the Secretaries of States for any corporation or limited liability company. If such persons have previously filed an Organization Report with the Supervisor, it shall not be necessary to submit another report, unless there has been a change in the information originally submitted.
- (5) The operator shall indicate on the permit application, on a space provided, if the operator has the legal right to drill and produce the well.
- (6) A notice to surface owners of oil and gas estates is required as follows:
 - (a) No later than the filing of the application with the Department for a permit to drill and prior to initiating any site preparation, the applicant shall give notice by certified mail, return receipt requested, of his intent to drill to the property owner or owners of the

(Rule 0400-52-02-.01, continued)

surface of the land to be drilled or to be affected by the surface disturbances listed in subparagraph (c) of this paragraph.

- (b) The property owners to be notified under this paragraph shall be the property owners of record in the property tax assessor's office in the county where the property is located.
- (c) The notice shall include a well location plat which shows the proposed location of the oil and gas well site, the proposed location of all new ingress and egress, the location of all diversions, drilling pits, dikes, and related structures and facilities, the location of proposed storage tanks and all other surface disturbances. Said plat shall comply with Chapter 0400-52-03.
- (d) The notice shall state that the property owner and applicant have 15 working days from the date of mailing to discuss the location of surface disturbances in connection with the drilling operation. It shall also state that if the property owner and applicant are unable to resolve differences regarding the location of surface disturbances, either or both may request in writing a hearing before the Supervisor or his representative. The notice shall provide the name and address of the Supervisor.
- (e) The applicant shall file with the Supervisor, as a part of the application, written certification that the notice required by subparagraph (a) of this paragraph has been given, including the name and address of each property owner given notice and the date on which each notice was mailed.
- (f) The applicant and the property owners given notice under subparagraph (a) of this paragraph shall attempt to resolve any differences between them regarding surface disturbances related to the proposed drilling operation. If those differences cannot be resolved, then a hearing and order may be obtained as follows:
 - 1. Any property owners entitled to notice (or the applicant) may request, within 15 working days of the mailing of the notice required in subparagraph (a) of this paragraph, that the Supervisor or his representative conduct a hearing. A request for hearing under this paragraph shall be in writing to the Supervisor, and shall be mailed by certified mail, return receipt requested within 15 working days of the mailing of the notice required in subparagraph (a) of this paragraph. The purpose of the hearing shall be to minimize the impact of the proposed drilling operation on the surface of the land.
 - 2. The hearing shall be conducted as a contested case pursuant to the Administrative Procedures Act under Title 4, Chapter 5, Part 3 and shall be held before a hearing officer sitting alone. For purposes of the hearing, the Supervisor or his representative shall be the hearing officer. The hearing shall be held within 10 working days of receipt of a request for hearing by the Supervisor or his representative, and shall be held in the county of the proposed oil and gas well. Notice of the hearing shall be given to all persons entitled to notice under subparagraph (a) of this paragraph and the applicant.
 - 3. The hearing officer shall render a decision within 10 calendar days of the hearing. The decision shall be considered a final order not subject to further agency review pursuant to T.C.A. § 4-5-315(a)(1).
 - 4. For purposes of this subparagraph, "working day" means all calendar days excluding Saturdays, Sundays, and legal holidays as designated in T.C.A. § 15-1-101.

(Rule 0400-52-02-.01, continued)

- (g) Notwithstanding any other requirement for a permit to drill, such a permit may only be issued:
 - 1. If the applicant submits to the Supervisor statements of no objection signed by all property owners entitled to notice under subparagraph (a) of this paragraph; or
 - 2. If a hearing is not requested as provided in part (f)1 of this paragraph; or
 - 3. Upon the issuing of a final order pursuant to part (f)3 of this paragraph.
- (h) For purposes of satisfying the requirements of subparagraph (g) of this paragraph for issuing a permit:
 - 1. The Supervisor may treat the persons named in the applicant's certification of property owners, under subparagraph (e) of this paragraph, as being all of the property owners entitled to notice under subparagraph (a) of this paragraph, unless the Supervisor has actual notice to the contrary.
 - 2. If a request for hearing as provided in part (f)1 of this paragraph is not delivered to the office of the Supervisor within 15 working days plus 3 additional days after the date notice-of-intent to drill was mailed to each property owner, as stated in the applicant's certification of notice, under subparagraph (e) of this paragraph, the Supervisor may assume that no hearing was requested, unless he has actual notice to the contrary.
- (7) Inspection and approval of all access roads, surface disturbances, and pollution control structures at a proposed well site by the designated gas and oil field inspector is required prior to the issuance of any permit under this chapter.
- (8) Permits shall not in any way be construed as a certification by the State of Tennessee that any property interest in the premises covered by a permit is vested in the permit; they are issued solely under the regulatory powers vested in the Board and the Department under the provisions set forth in Title 60 of the Tennessee Code and the rules and regulations promulgated by the Board pursuant to Title 60.
- (9) In the event of litigation over a particular tract of land, or in the event a tract of land is contested as to the ownership of oil and gas rights, the policy of the Board shall be to issue permits in order to preserve the physical integrity of that particular tract without prejudicing any claimants to the title of that land.
- (10) In the case of any well that is proposed to be fractured using a cumulative total of more than 200,000 gallons of water-based liquids:
 - (a) The Supervisor shall give notice to the public by e-mail, including a list of interested persons and agencies who have requested such notification, and by posting on the Department website. The Public Notice shall include the following information:
 - 1. Name, address, and telephone number of the Division contact where further information can be obtained.
 - 2. Name and location of the applicant.
 - 3. The location of the well proposed to be fractured.
 - 4. A brief description of the well plan including information regarding the sources of water to be used as base fluid, fracturing methods, whether or not an Aquatic

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Resource Alteration Permit for water withdrawal will be required, and estimated amounts and methods of wastewater disposal.

5. A brief description of the procedures for the Supervisor to make a final determination of whether to issue the permit.
- (b) Interested persons may submit written comments for 30 days from the date of Public Notice. Any comments received shall be considered by the Supervisor, and the Supervisor shall provide written responses to those comments. Prior to Public Notice, the Supervisor may require additional information from the applicant in these cases, including but not limited to information on water sources, fracturing methodologies, and methods of wastewater disposal. The Supervisor will notify the public of permit issuance or denial through the Division's website.
- (c) The applicant shall provide the Department's Public Notice of the proposed well to owners of any property within $\frac{1}{2}$ mile of the proposed well head or any residence that has any drinking water wells within a $\frac{1}{2}$ mile radius of the proposed wellhead within 14 days of the date of the Public Notice. In the case of a horizontal well, the $\frac{1}{2}$ mile radius shall be measured from the terminus of the horizontal well bore. The determination of the presence of any such drinking water wells shall include at a minimum the information available on the Division of Water Resources Well Log Tracking System. The applicant shall collect a sample of any such well at the request of the owner and have the sample analyzed for Total Petroleum Hydrocarbons (TPH), BTEX (benzene/toluene/ethyl benzene/xylene), pH, chlorides, Total Organic Carbon (TOC) and Total Dissolved Solids, to demonstrate the condition of the water well prior to the drilling of the well to be fractured. Landowners opting for their well to be sampled by the applicant must submit a written request to the applicant within 14 days of receiving the Public Notice from the operator or the applicant is under no obligation to sample the well. Sampling results shall be provided to the Supervisor and drinking water well owner as soon as results are obtained. Sample collection protocols shall be comparable to those specified in the Department's "Quality System Standard Operating Procedure for Chemical and Bacteriological Sampling of Surface Water". Sample analyses shall be conducted by a certified laboratory utilizing standard methods and minimum detection levels consistent with Tennessee Department of Health laboratories.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original, rule filed March 20, 2013; effective June 18, 2013.

0400-52-02-.02 DRILLING PERMIT.

- (1) Applications for a permit to drill a well for oil and gas shall be made on Application for Permit to Drill (Form CN-0211) and submitted to the Supervisor's office for approval. The application shall be accompanied by a copy of a location plat, bond, Organization Report (Form CN-0219) and a fee of five hundred dollars (\$500). The application shall give the name and address of the drilling contractor, if known; otherwise notification shall be made by letter to the Supervisor as soon as determined. Information submitted with the application shall include the intent to fracture the well, as well as an estimate of the volume of fluids to be used to fracture. The application shall also include a plan for erosion control, prevention of pollution of surface waters, and reclamation of all areas disturbed by the operations, including access roads. The plan shall conform to the requirements of Rule 0400-52-09-.05. The plan shall be sufficiently detailed to allow a gas and oil field inspector to locate the site of the facilities to be constructed and estimate the expected environmental impact, but does not have to include detailed engineering design drawings. The plan shall also include identification of all drinking water wells within a $\frac{1}{4}$ mile radius of the proposed wellhead, except where a $\frac{1}{2}$ mile radius is required, as specified in paragraph (10) of Rule 0400-52-02-

(Rule 0400-52-02-.02, continued)

.01. The Supervisor may require modifications in the operator's plan if such modifications are necessary to prevent pollution or to promote reclamation. Upon approval, the operator's plan shall be a condition of the permit. Failure to comply with the plan shall be grounds for revocation of the permit and forfeiture of the bond.

- (2) A drilling permit shall be amended by filing an Application to Amend Well Permit (Form CN-0228) with the Supervisor and paying a fee of \$100 if the well name, number, elevation, location, or proposed total depth is changed. If the well location is changed, 1 copy of a revised survey plat shall be filed with the application. The amended permit is subject to the same terms and conditions as a well permit, including erosion control requirements. A person who is granted a drilling permit can only transfer the permit and attendant rights to another person after submitting an Application to Change Operators (Form CN-237) and receiving approval of the application from the Supervisor. The person to whom the permit is being transferred shall file an Organization Report (Form CN-0219), post a well plugging bond and a reclamation bond, if needed, and pay a fee of \$100. The transfer of a permit from the original permittee to another operator, with or without the approval of the Supervisor, does not relieve the original permittee of obligations occurring before the transfer, and the bond shall not be released until all material at the time of transfer has been submitted. Unless change of operator forms have been processed or approved by the office of the Supervisor, any operation conducted on the well in question is the responsibility of the original permittee, and his bond shall not be released until all State requirements have been met.

- (a) If an Application to Change Operators (Form CN-0237) is to be submitted without the signature of the current permittee, it shall be considered a forced change of operator, then the following items shall also be submitted:

1. Copy of the lease and assignments, if any, under which the permit was originally issued, or subsequently transferred, if those documents are available, or an affidavit from the landowner that no prior oil and gas leases are still active. An affidavit from the original landowner that there are no other unexpired oil and gas leases, if the title to the land has changed hands since the Department issued the permit on the land in question, or, if the original landowner cannot be located, an affidavit by the new operator or his agent that he has checked the grantor index in the register's office and found no unexplained conveyance of the oil and gas rights by the original landowner.
2. Copy of the lease and assignments, if any, under which the permit shall be transferred to the new operator.
3. Copy of a certified letter to the current permittee requesting that an Application to Change Operators (Form CN-0237) be signed, and also stating that if the application is not signed, and no written objection to a change of operator without that signature is submitted to the Department in writing within 10 working days of receipt of said letter, the new operator shall seek approval from the Department of that Approval to Change Operators without said signature. In addition, the applicant shall send the certified mail notice to the current address that is registered with the Board or the Department as shown on the Organization Report (Form CN-0219).
4. A copy of a Court Order relative to the inactive or expired status of any prior oil and gas leases may be submitted in lieu of the items mentioned in parts 2 and 3 of this subparagraph.
5. If a written objection to approving the Application to Change Operators (Form CN-0237) is properly submitted to the Department, the staff shall administratively deny the application. If the applicant seeks to have the application considered

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further, he may then apply for a hearing before the Board. The Board shall then consider approval of the application only when there is no doubt as to the ownership of the oil and gas rights of the applicant. If a cloud or a question as to the title is determined to exist by the Board, then the Board shall deny the application, and refer the applicant to the court for a ruling on the question of ownership.

- (b) If a well or wells revert back to a landowner, whether by court action, or by lease expiration or other provisions, and the well shall remain in operation, then the landowner shall submit an Application to Change Operators (Form CN-0237), file an Organization Report (Form CN-0219), post a well plugging bond, post a reclamation bond if required, pay a fee of \$100, and otherwise comply with well spacing regulations. If the well will be used for domestic gas only, then a plugging bond in the amount of \$500 shall be required.
 - (c) Before a well can be turned over to a landowner for use as a fresh water well, the operator shall set a 100 foot plug within 300 feet of the surface, or a cement plug at 50 feet above the casing shoe, whichever is the deeper, and the well shall be completed as a water well, and approved by the Department's Division of Water Resources. No Organization Report (Form CN-0219) is required, and in lieu of a plugging bond the landowner shall submit a notarized letter agreeing to assume liability for any subsequent plugging which might be required.
- (3) If drilling operations cease for a period of 30 days, the operator shall notify the Supervisor in writing of the reason for the shutdown and the date on which operations shall be resumed.
 - (4) All wells shall be either properly plugged or completed within a period of 6 months following cessation of drilling. Upon written request to the Supervisor by the operator, showing valid cause for requiring additional time, a reasonable extension of as much as 90 days additional may be granted.
 - (5) An applicant who requests a permit to drill on site which is closer than normal statewide spacing to the boundary of an offsetting oil and gas lease, or mineral or surface property, or on a tract of land which is contested as to the ownership of oil and gas rights, shall comply with the following procedures:
 - (a) Notify by certified mail all affected offset and/or separate owners of oil and gas leases and mineral and surface property, as can reasonably be determined, that he is applying for a permit to drill a well; and submit a copy of the drill-site location plat with the notice.
 - (b) Publish the operator's name, lease name, well number and description of the drill-site location in a newspaper of general circulation in the county where the well is to be drilled, with a statement that if any interested owner objects to the drilling of said well, they should make their objections known to the Supervisor.
 - (c) If, within 10 days after the notice, there are no objections to issuing the permit, then the Supervisor shall issue the permit, provided all other requirements have been complied with.
 - (d) If there is an objection or objections to issuing the permit, the objector or objectors shall furnish the applicant and the Supervisor the basis of the objection and support his contentions with documents, etc., within 10 days after the date of the notice.
 - (e) If the applicant, after receiving an objection, still wants the permit he shall then apply for a hearing before the Board. The Board shall then decide whether or not to issue the permit or refer the applicant to the court for relief.

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- (6) If more than one applicant applies for a permit to drill the same or a conflicting location on a tract of land at a permissible distance from an offset or offsetting well, the first application received in the Supervisor's office shall be issued the permit, provided the applicant complies with all other rules and regulations governing permits to drill a well. If the first applicant fails to exercise his permit privilege, then the next applicant of record, based on time submittal, shall receive the permit, provided he complies with all other requirements.
- (7) If the ownership of the drill site tract of land is contested, all claimants shall be identified by an accompanying letter.
- (8) Requests for permits for a voluntary pooled drilling unit, or for two or more leases or tracts that have been pooled for exploration or development shall be accompanied by a notarized affidavit signed by the operator that has the right to pool these leases to form a drilling unit.
- (9) The Supervisor has the right to withhold the issuance of a permit to any operator in violation of any rule or regulation of this order until such violation has been removed.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original, rule filed March 20, 2013; effective June 18, 2013.

0400-52-02-.03 RESERVED.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original, rule filed March 20, 2013; effective June 18, 2013.

0400-52-02-.04 NOTIFICATION TO PLUG AND ABANDON.

Prior to plugging, notice shall be given the Supervisor in order that the Supervisor or his representative may witness the work. Work performed shall be reported to the Supervisor on the Plug and Abandon Report (Form CN-0217) within 30 days after completing the work. Form CN-0217 shall be accompanied by a copy of the drilling contractor's or the service company's ticket for work done unless the work was observed by the Supervisor or his representative.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original, rule filed March 20, 2013; effective June 18, 2013.

0400-52-02-.05 RESERVED.

Authority: T.C.A §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original, rule filed March 20, 2013; effective June 18, 2013.