

Note: The following draft rule amendments for Title 460, Chapter 10 of the Administrative Code includes language changes and removal suggested by the public on or before the date of October 23, 2020. ODM requests that interested persons intending to submit comments compare and evaluate this draft along with the draft rule amendments dated November 10, 2020, and that they provide specific comments on each, including reasoning, if any, for preferring one draft over the other.

**460. DEPARTMENT OF MINES
CHAPTER 10. NON-COAL RULES AND REGULATIONS**

SUBCHAPTER 9. GENERAL REQUIREMENTS FOR PERMITS AND APPLICATIONS

460:10-9-3. General requirements for permits-operators [AMENDED]

- (a) **General requirements.** No person shall engage in or carry out on non-Federal or non-Indian lands within the State any non-coal surface mining and reclamation operations unless that person has first obtained a valid permit issued by the Department.
- (b) **Written applications.** Any operator desiring to engage in mining shall make written application to the Department for a permit. Application for such permit shall be made upon forms furnished by the Department.
- (c) **Electronic copy.** Any operator desiring to engage in mining shall submit in electronic form a true and correct copy of the written application referenced in subsection (b), above, at the time that it is found to be complete and ready for public notice.

**SUBCHAPTER 13. NON-COAL MINING PERMIT APPLICATIONS
REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES**

460:10-13-5. Permitting for non-coal mining within a Sensitive Basin [REVOKED]

- (a) ~~In addition to the requirements of this Chapter and the requirements of 45 O.S. Section 721 et seq., non-coal applicants seeking new permits, or revisions to existing permits by increasing permitted acreage beyond the boundaries of the existing permit, after August 1, 2011, for mining within a Sensitive basin must submit a management plan to the Department which has been approved by the Oklahoma Water Resources Board.~~
- (b) ~~All non-coal applicants seeking a non-coal mining permit which contains operations including taking, using, or disposing of pit water in an amount less than the acre feet amount per year as determined by the Oklahoma Water Resources Board specified within OAC 785:30-15-3(b) shall be exempted from the requirements of this subchapter.~~

460:10-13-5.1. Permitting for non-coal mining within a sensitive basin [NEW]

- (a) A "Subject mine" means a "mine," as defined in the paragraph 2 of Section 723 of Title 45 of the Oklahoma Statutes, proposed for a location overlying a sensitive sole source groundwater basin or subbasin, exclusive of any mine that meets at least one of the following conditions:
 - (1) As of November 1, 2019, is engaged in the permitted extraction of minerals from natural deposits; or,

(2) Satisfies the criteria of paragraph 1 or 2 of subsection C of Section 1020.2 of Title 82 of the Oklahoma Statutes; or,

(3) Is not permitted to operate for a period of more than five (5) years, with no extensions or renewals; or,

(4) The operation of which will not result in more than five (5) acre-feet per year of groundwater emanating from a sensitive sole source groundwater basin or subbasin to infiltrate its pit, as that term is defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes.

(b) The Legislature hereby declares and establishes a moratorium on the Department of Mines issuing, in relation to any location overlying a sensitive sole source groundwater basin or subbasin or in which groundwater emanating from any sensitive sole source groundwater basin or subbasin may collect within a pit, as defined in paragraph 12 of Section 723 of Title 45 of the Oklahoma Statutes:

(1) Any permit, pursuant to Section 724 of Title 45 of the Oklahoma Statutes, to any subject mine;

(2) Any amendment or revision to any existing mining permit that covers additional land which includes extensions of boundaries shown in the initial permit, pursuant to subsection J of Section 724 of Title 45 of the Oklahoma Statutes, if such amendment or revision would increase the acreage under the permit for that mine location by more than one hundred percent (100%) or four hundred (400) acres, whichever is less, as compared to the acreage under the permit for that mine location.

(3) Notwithstanding the moratorium, nothing precludes the Department of Mines from issuing an amendment or revision to cover additional land, other changes to method or conduct of mining, reclamation operations contemplated by the original permit or other authorization to allow a change in mine ownership or to implement bonding under a permit, nor will any permit amendment or revision issued pursuant to this section be deemed to render the permitted mine a subject mine nor a new mining operation.

(c) Multiple amendments or revisions to cover additional land pursuant to this section may be made for a single mine location; provided, however, that the sum of all added acres must not exceed one hundred percent (100%) or four hundred (400) acres, whichever is less, as compared to the acreage under the permit for that mine location as of the date of November 1, 2019.

(d) Amendments or revisions to cover additional land pursuant to this section need not be located on contiguous property, but must be part of the same mine location. The determination of whether proposed additional land constitutes part of the same mine location will be made by the Department of Mines upon the consideration of all relevant information and factors making it practical and feasible to operate as part of the same mine location, including but not limited to the following:

(1) Proximity of the additional land to the existing mine location;

(2) Whether the additional land is connected to the existing mine location by a private road, railroad, or right-of-way allowing travel of mine personnel back and forth;

(3) The ability to safely identify and secure the additional acres with boundary fences, boundary markers, and appropriate signage.

(4) Any other information, circumstances, or factors the Department deems relevant to its determination.

460:10-13-6. Operational requirements for non-coal mining within a Sensitive Basin [AMENDED]

~~(a)~~ In addition to the requirements listed in this Chapter and those requirements within 45 O.S. Section 721 et seq., applicants for non-coal mining permits within a Sensitive basin who submit their application to the Department after August 1, 2011, must submit to the Department a groundwater use permit approved by the Oklahoma Water Resources Board prior to taking, use, or disposal of pit water.

~~(b)~~ (a) Mines which have lost their preexisting exemptions regarding water trapped in producing/active mines as provided in 82 O.S. Section 1020.2(C) and OAC 785:30-15-1(c) and as determined by the Oklahoma Water Resources Board, must submit to the Department a copy of the management plan which has been approved by the Oklahoma Water Resources Board.

~~(c)~~ (b) An applicant who has been issued a non-coal mining permit by the Department, and who the Oklahoma Water Resources Board determines is in violation of its groundwater use permit or its management plan, may be subject to enforcement actions by the Oklahoma Water Resources Board and the Department.

SUBCHAPTER 17. REVIEW, PUBLIC PARTICIPATION AND APPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS EXCLUDING LIMITED USE PERMITS

460:10-17-5. Public notices of filing of permit applications [AMENDED]

(a) An applicant for a permit shall place an advertisement in a newspaper of general circulation in the county of the proposed non-coal surface mining and reclamation operations. The applicant shall place the advertisement in the newspaper at the same time the complete permit application is filed with the Department and shall publish the advertisement at least once a week for four (4) consecutive weeks. The advertisement shall contain, at a minimum, the following information:

- (1) The name and business address of the applicant; and
- (2) A description which clearly shows or describes the legal location, boundaries and acreage of the proposed permit area and which is sufficient to enable local residents to readily identify the proposed permit area. It may include towns, bodies of water, local landmarks, and any other information which would identify the location of the proposed permit area; and
- (3) The location where a copy of the application is available for public inspection;
- (4) The address of the Department of Mines, to which written comments, objections, or requests for conferences on the application may be submitted under Sections 460:10-17-6, 460:10-17-7;
- (5) If an applicant seeks a permit to mine which includes relocation or closing of a public road, a copy of the County Resolution pertaining to the affected county road.

(b) At the time the Department authorizes the applicant to publish notice of its permit application and receives an electronic copy of the application, the Department will place on its website the permit application and instructions for public comment.

SUBCHAPTER 19. PERMIT REVISIONS, AMENDMENTS, RENEWALS, AND TRANSFERS

460:10-19-4. Permit revisions and amendments [AMENDED]

- (a) A revision to a permit shall be obtained:
- (1) For changes in the non-coal surface mining and reclamation operations described in the original application and approved under the original permit, when such changes constitute a significant departure from the method of conduct of mining and or reclamation operations contemplated by the original permit. Significant departures would include any enlargement in the permit area.
 - (2) For mergers, conversions or other modifications to the nature of the business entity permitted.
- (b) The application for revision shall be filed in accordance with the following: The permittee shall submit the application information, including copies of the notices and hearings, applicable to the revision requests as required in these regulations. Any application for a revision which purposes significant alterations in the operations described in the materials submitted in the application for the original permit under Subchapters 11, 13, or 15 of this Chapter or in the conditions of the original permit shall, at a minimum, be to the requirements of Subchapter 17 of this Chapter.
- (c) The Department shall approve or disapprove the complete application for a revision in accordance with the requirements of Subchapter 17 of the Chapter, within a reasonable time as established in this chapter.
- (d) Any extensions of the boundaries shown in the initial permit, except for incidental boundary revisions, shall be made by an amended permit application for a new permit and shall not be approved under this Subchapter. in compliance with 45 O.S. Section 724 J.