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ADMINISTRATIVE RULES AND REGULATIONS

SURFACE-MINING LAND CONSERVATION AND RECLAMATION ACT

K.A.R. 11-8-1. Definitions. In addition to the terms defined in K.S.A. 49-603, the following terms shall be defined as set out below. (a) "Site" means a tract or consolidated tracts of land which can be described by the operator as a single operating unit.

(b) "New site" means an area that has or will have affected land during the registration year but does not have affected land from any previous year.

(c) "Tons of material extracted" means tons of material sold through direct sales or tons of material consumed in the operation of a business, or both. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-603; effective June 19, 1995.)

K.A.R. 11-8-2. Mining license renewal. (a) Each operator licensed by the director under K.S.A. 49-605 shall renew the mining license annually until all sites registered by that person have been properly reclaimed or transferred to another licensed operator. The mining license renewal fee, except for political subdivisions, shall be based on the annual tons of material extracted by the operator and shall be:

- (1) if less than 10,000 tons, \$25.00;
- (2) if between 10,000 tons and 99,999 tons, \$50.00;
- (3) if between 100,000 tons and 499,999 tons, \$100.00; and
- (4) if 500,000 tons or greater, \$150.00.

(b) The renewal application shall be signed by the operator or an authorized representative of the operator.

(c) Any operator who fails to renew the operator's mining license before the expiration date shall be required to apply for a new license and pay the \$300 initial license fee established under K.S.A. 49-605, and amendments thereto. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-605; effective June 19, 1995.)

K.A.R. 11-8-3. Initial site registration. (a) Each person, business, corporation, or political subdivision of the state of Kansas that engages in or intends to engage in operating a surface mine shall register the site with the director. In addition to the application requirements of K.S.A. 49-607 and amendments thereto, each application for site registration shall include the following:

- (1) The name and license number of the operator;
- (2) for each site that is active or inactive, the number of tons of material extracted and the number of acres of affected land created during the preceding year;
- (3) the site registration fee, except for political subdivisions; and
- (4) the signature of the operator.

(b)(1) The initial registration fee for each active site shall be \$45 per acre of land affected during the previous year and \$0.003 per ton of material extracted during the preceding year.

(2) The initial registration fee for each new site shall be \$45.

(3) The initial registration fee for each inactive site that is returning to active status shall be \$45.

(4) The minimum initial registration fee shall be \$45.

(5) The initial registration fee for each site active during the preceding year but being registered as inactive shall be as specified in paragraph (1) of this subsection.

(c) If more than one operator is extracting materials from a given site within the same time frame, then each operator shall register the site and distinguish each operator's scope of operation and responsibility. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-607 and 49-623; effective June 19, 1995; amended Oct. 12, 2007.)

K.A.R. 11-8-4. Site registration renewal. (a) Each site registration shall be renewed annually. Each applicant for renewal of a site registration shall submit the renewal form to the director within 30 days before the expiration date of the registration.

(b) Each renewal form shall include the following, in addition to information required in K.S.A. 49-607 and amendments thereto:

(1) For each active site, the number of tons of material extracted and the number of acres of affected land created during the previous year; and

(2) the signature of the operator.

(c) (1) The minimum renewal fee shall be \$45.

(2) The annual site registration renewal fee for each active site shall be \$45 per acre of land affected during the previous year and \$0.003 per ton of material extracted during the previous year.

(3) The renewal fee for a site that was active during the previous year but is to be registered as an inactive site upon renewal shall be as specified in paragraph (2) of this subsection.

(4) The renewal fee for each site that is registered as an inactive site for more than one year shall be \$45 annually until additional acres are affected or material is extracted, or both, during the year preceding renewal.

(5) The renewal fee for each site undergoing reclamation shall be \$45 per year until the reclamation is approved and the site is released by the director. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-607 and 49-623; effective June 19, 1995; amended Oct. 12, 2007.)

K.A.R. 11-8-5. Annual report. (a) An annual report of mining operations for each registered site shall be submitted to the director within 30 days of the site registration expiration. The report, in addition to information required by K.S.A. 49-612(a), and amendments thereto, shall include:

(1) the site registration number;

(2) any proposed changes to the reclamation plan;

(3) any proposed changes to the bonding agreement; and

(4) an aerial photograph, survey map, engineered drawing or other representation approved by the director, of all land affected by mining during the period covered by the report.

(b) If mining operations will be completed within 90 days of the registration expiration date, the final completion report may be substituted for the annual report. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-612; effective June 19, 1995.)

K.A.R. 11-8-6. Reclamation plan. (a) A reclamation plan shall be completed for each registered site and submitted with the initial registration application. The plan shall include the following:

(1) a legal description of where the site is located including the nearest quarter quarter section, township, range and county;

(2) the total acreage of the site;

(3) a general description of the material to be mined, including:

(A) the average depth of the mineral layer;

(B) the average depth of overburden; and

(C) the average depth of the topsoil;

(4) the estimated life-span of the mine or the time period covered by the operator's long-term plan;

(5) an aerial photograph, survey map, engineered drawing or other representation approved by the director describing the land to be mined first and how the mining will proceed across the site;

(6) a description of the estimated total number of acres to be affected by mining, including the proportion to be reclaimed if different than the total affected acres;

(7) an aerial photograph, survey map, engineered drawing or other representation approved by the director outlining the affected land, water bodies remaining after reclamation, stockpiles, crushing areas, roads and buildings;

(8) a general description of the pre-mining and post-mining land-use;

(9) a general description of the final grading and revegetation that will be completed and an estimated time-line for completion of those activities;

(10) an illustration of the final topography;

(11) a general description of the types of plants to be used in revegetation;

(12) the approximate amount of topsoil and overburden, or if topsoil is not present the amount of overburden, to

be stockpiled and used for reclamation of the site; and

(13) the name, address, telephone number and signature of the person responsible for reclamation. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-607; effective June 19, 1995.)

K.A.R. 11-8-7. Reclamation requirements. Reclamation of affected lands shall meet the following standards, in addition to the standards listed in K.S.A. 49-611, and amendments thereto. (a) Affected lands shall be graded to allowable slopes within six months after filing the final report for the site.

(b) In grading the affected lands, all mining-related waste products and machinery incompatible with the care and growth of vegetation shall be removed from the affected lands. Boulders and stones incompatible with the proposed post-mining use of the site shall be buried or removed from the site.

(c) Topsoil and overburden, or if topsoil was not present initially, then overburden only, shall be preserved in an amount specified in the reclamation plan on the site for reclamation of affected lands.

(d) Within one year following the conclusion of all earthwork, seeding of all areas in which vegetation is to be provided shall be completed to the extent permitted by weather and planting requirements.

(e) Erosion control methods shall be used where necessary to prevent rill and gully formation.

(f) Each operator shall allow the seeded vegetation at least one year to become established before filing a release request.

(g) A variance from the requirements of sub-sections (a), (d) and (f) of this regulation, may be granted by the director if the operator submits a written request at least 30 days before the initiation of affected reclamation activities. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-611; effective June 19, 1995.)

K.A.R. 11-8-8. Bond or other security. (a) Each applicant for registration of a surface mining site shall file a bond or other security with each application in the following amounts:

(1) \$400 per affected acre, for sand and gravel mining operations;

(2) \$600 per affected acre, for all other types of mining operations.

(b) Subject to the limitations of K.S.A. 49-615, and amendments thereto, the amount of bond required may be adjusted by the director based on the estimated cost to reclaim the affected land.

(c) Each surety bond shall be written on a form provided by the director.

(d) An attachment which lists the sites by registration number and legal description shall be included as part of the bond document. This attachment shall be signed by representatives of the surety and the operator and shall be notarized.

(e) Each certificate of deposit posted as a bond shall be made payable to the state of Kansas, state conservation commission. All interest earned shall be paid to the operator.

(f) All cash bonds accepted in lieu of a surety bond shall not draw interest. Each check shall be made payable to the state of Kansas, state conservation commission.

(g) The bond shall cover all affected land not previously reclaimed.

(h) The amount of bond or other security may be adjusted for annual variations in the amount of affected land by the director or by request from the operator, if approved by the director.

(i) No single certificate of deposit shall exceed the sum of \$100,000, nor shall any operator submit a certificate of deposit totaling more than \$100,000 from a single bank or financial institution. The issuing bank or financial institution shall be insured by the federal deposit insurance corporation.

(j) The bank or financial institution issuing the certificate of deposit shall provide a letter that assigns the certificate of deposit to the commission. The letter shall accompany each certificate of deposit submitted as a bond.

(k) Before the commission requests the attorney general to institute proceedings for forfeiture of a bond, the bonding company shall be notified by the director that the operator is in violation of this act and forfeiture proceedings may be initiated. (Authorized by K.S.A. 49-623; implementing K.S.A. 49-615; effective June 19, 1995; amended Sept. 27, 1996.)