

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-19/20 and Forward (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-18/19.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

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BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor calculated based on the most recent 3 year average of the cost of oil and gas as reported by the Louisiana Department of Natural Resources..

* * *

Surface Mine - For the purposes of this Chapter, a Surface Mine shall be any coal or lignite mine regulated under the authority of the commissioner of conservation.

Surface Mining Fee - a regulatory fee of eight cents per ton on all coal and lignite mined and sold in this state.

Surface Mining Reclamation Fee - an annual reclamation fee of six dollars for each acre of land included within the approved mine permit area.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404

(November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:2191 (November 2017), LR 44:2013 (November 2018), LR 45:

§703. Fee Schedule for Fiscal Year 2019-2020 and Thereafter

A. – D.5. ...

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the requirements of La. R.S. 30:21.B(1)(a). Based on the required calculation and cap established in said statute, taking into account the production of capable wells for the given year, including credits given to exempt incapable wells, a tiered schedule stating the exact fees due for the particular year will be published annually on the DNR/Conservation website.

F. - G.1. ...

H. Surface Mining and Reclamation Fees

1. Permittees of surface mines for coal or lignite shall pay a fee of eight cents per ton on all coal and lignite, mined in the state and sold, to the secretary of the Department of Revenue on a monthly basis and shall be paid using forms prescribed by the secretary of the Department of Revenue.

2. Permittees of surface mines for coal or lignite shall pay an annual fee of six dollars for each acre of land included within the approved mine permit area. Such fee shall be based upon the number of acres of land within the approved mine permit area on July 1st of each year and shall be payed into the Oil and Gas Regulatory fund of the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43:2191 (November 2017), LR 44:2013 (November 2018), LR 45:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-19/20 and Forward and if any such individual fee is held to

be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-19/20 and Forward) supersedes Statewide Order No. 29-R-18/19 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43: 2191 (November 2017), LR 44:2013 (November 2018), [LR 45:](#)

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interest parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until [4:30 p.m., September 10, 2019](#), at the Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. [19-232](#). All inquiries should be directed to Todd Keating at the above addresses or by phone to (225)342-5507. No preamble was prepared

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to the Department of Natural Resources or local governmental units as a result of the proposed rule changes. Revisions include: changes in the definition to the BOE (annual barrels oil equivalent) from 18.0 to a calculation based on the most recent 3 year average of the cost of oil and gas; adds Surface Mining definitions; replaces the capable oil and gas tiers with a definition; adds a Surface Mining Reclamation Fee of \$6 an acre pursuant to Act 105 of 2019; and changes the severability and effective date of the General Operations Statewide Order No. 29-R which establishes the schedule for the collection of application, production, and regulatory fees by the Office of Conservation. Increased fee revenue will provide a means of financing substitution for ongoing activities currently funded with surface mining fees and other dedicated funds which serve as a match to federal funds and supports the activities of the Office and three personnel.

The agency will retain the maximum revenue caps authorized by R.S. 30:21 et seq.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will add a \$6 per acre fee on each acre of land included within the approved mine permit area. Revenues generated are based upon the total permitted acreage in lignite mines, which is currently 37,678 acres. At \$6 per acre this will generate \$226,068 in fee collections for FY 20. This revenue is expected to decrease by 5% each year as the fee is based on total acreage. As mines close and acreage is reclaimed there is less total acreage to assess. The increase will serve to offset declining revenue from the surface mining fee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Surface Mining operators will experience an increase in fees assessed. Initial increases are projected at \$226,000 for the first year with declining costs in the future as a result of anticipated reduction in total acreage assessed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have an impact on competition and employment in the public and private sector.

Gary P. Ross
Assistant Commissioner
1808#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office