



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman David Porter
Commissioner Christi Craddick
Commissioner Ryan Sitton

FROM: Haley Cochran, Attorney – General Counsel Section
Office of General Counsel

THROUGH: Lindil C. Fowler, General Counsel

DATE: October 27, 2015

SUBJECT: Adoption of amendments to 16 Tex. Admin. Code § 12.108, Relating to Permit Fees;
SMRD Docket Number 1-15.

Attached is Staff's recommendation to adopt amendments to 16 Tex. Admin. Code §12.108, relating to Permit Fees.

On August 25, 2015, the Commission approved the publication of the proposed amendments in the *Texas Register* for a 30-day comment period, which ended on October 12, 2015. The Commission did not receive any public comments on the proposal.

Staff recommends that the Commission adopt the amendments to §12.108 without changes to the proposed text published in the September 11, 2015 issue of the *Texas Register* (40 TexReg 6005).

cc: John E. Caudle, Division Director – Surface Mining and Reclamation Division
Wei Wang, Chief Financial Officer

1 The Railroad Commission of Texas (Commission) adopts amendments to §12.108, relating to
2 Permit Fees, without changes to the proposed text as published in the September 11, 2015, issue of the
3 *Texas Register* (40 TexReg 6005). The adopted amendments implement provisions of House Bill 1, 84th
4 Texas Legislature (Regular Session, 2015), and, specifically, Article VI, Railroad Commission Rider 5,
5 which requires the amounts appropriated from general revenue for state fiscal years 2016 and 2017 to
6 cover the cost of permitting and inspecting coal mining operations. This appropriation is contingent upon
7 the Commission assessing fees sufficient to generate, during the 2016-2017 biennium, revenue to cover
8 the general revenue appropriations.

9 The Commission amends the fees set forth in subsection (b) by amending the calendar years to
10 2015 and 2016. The Commission deletes paragraph (1) to eliminate the annual fee for each acre of land
11 within a permit area on which coal or lignite was actually removed during a calendar year, which is
12 currently \$84 per acre. The Commission renumbers paragraph (2) as paragraph (1) and increases the
13 annual fee for each acre of land within a permit area covered by a reclamation bond on December 31st of
14 each year, as shown on the map required at §12.142(2)(C) of this chapter (relating to Operation Plan:
15 Maps and Plans), from the current \$12 to \$13.05. Finally, the Commission renumbers paragraph (3) as
16 paragraph (2) and increases the annual fee for each permit in effect on December 31st of a year to \$6,600
17 from the current amount of \$6,540. The Commission anticipates that annual fees in these new amounts
18 will result in revenue of \$2,826,150 in each year of the 2016-2017 biennium.

19 The Commission received no comments on the proposal.

20 The Commission adopts the amendments under Texas Natural Resources Code, §134.013, which
21 authorizes the Commission to promulgate rules pertaining to surface coal mining operations and
22 §134.055, which authorizes the Commission to collect annual fees.

23 Texas Natural Resources Code, §134.013 and §134.055 are affected by the adopted amendments.

24 Statutory authority: Texas Natural Resources Code, §134.013 and §134.055.

1 Cross-reference to statute: Texas Natural Resources Code, §134.013 and §134.055.

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3 §12.108. Permit Fees.

4 (a) (No change.)

5 (b) Annual Fees. In addition to application fees required by this section, each permittee shall pay
6 to the Commission the following annual fees for calendar years 2015 [~~2013~~] and 2016 [~~2014~~] due and
7 payable not later than March 15th of the year following the calendar year for which these fees are
8 applicable:

9 ~~{(1) a fee in the amount of \$84 for each acre of land within the permit area on which coal~~
10 ~~or lignite was actually removed during the calendar year;}~~

11 (1) [(2)] a fee of \$13.05 [~~\$12~~] for each acre of land within a permit area covered by a
12 reclamation bond on December 31st of the year, as shown on the map required by §12.142(2)(C) of this
13 chapter (relating to Operation Plan: Maps and Plans); and

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(2) [(3)] a fee of \$6,600 [~~\$6,540~~] for each permit in effect on December 31st of the year.

(c) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 3, 2015.

Filed with the Office of the Secretary of State on November 3, 2015.


David Porter, Chairman


Christi Craddick, Commissioner


Ryan Sitton, Commissioner


ATTEST:

Secretary of the Commission


Haley Cochran
Rules Attorney
Office of General Counsel
Railroad Commission of Texas