

1 The Railroad Commission of Texas (Commission) adopts amendments to §12.108, relating to
2 Permit Fees, with changes to the proposed text as published in the August 23, 2019, issue of the *Texas*
3 *Register* (44 TexReg 4421).

4 The Commission received two comments on the amendments: one from North American Coal
5 Corporation ("NACoal") and one from the Texas Mining and Reclamation Association ("TMRA").
6 NACoal commented that the regulatory program designed to oversee the coal mine sector should decrease
7 proportionately to the industry it regulates. NACoal recognizes that some previously active mines are still
8 subject to regulatory oversight but that most are in reclamation status, which, in NACoal's opinion,
9 requires significantly less oversight than an active mining operation. NACoal recommended that instead
10 of increasing permit fees the Surface Mining and Reclamation Division (SMRD) should evaluate its
11 regulatory program and decrease inefficiencies such that its budget can be decreased. Similarly, TMRA
12 expressed concern about increased fees at a time when the coal mining industry is experiencing immense
13 pressure. TMRA noted the importance of the Commission working together with industry to optimize the
14 efficiency of the Commission's resources. The Commission appreciates these comments.

15 The Commission agrees that efficient use of resources is a priority. The Commission also
16 recognizes that the number of active mines is decreasing. Therefore, the Commission has determined it
17 will maintain its current fee structure at this time. As discussed in the proposal preamble, the current fee
18 structure, created by an agreement with industry in 2005, specifies that seven percent of annual fees are
19 based on the number of permits, while 93 percent of annual fees are based on the number of bonded acres.
20 Maintaining the current fee structure until a change is necessary through a future rulemaking will allow
21 the Commission and the mining industry an opportunity to re-evaluate the fee structure to accommodate
22 industry changes.

23 The Commission amends subsection (b) to remove proposed calendar years. The Commission
24 does not adopt the proposed fee changes in paragraphs (b)(1) and (b)(2).

25 The Commission adopts the amendment under Texas Natural Resources Code, §134.013, which
26 authorizes the Commission to promulgate rules pertaining to surface coal mining operations and
27 §134.055, which authorizes the Commission to collect annual fees.

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

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

30
31 §12.108. Permit Fees.

32 (a) Application Fees. Each application for a surface coal mining and reclamation permit or
33 renewal or revision of a permit shall be accompanied by a fee. The initial application fee and the

1 application fee for renewal of a permit may be paid in equal annual installments during the term of the
2 permit. The fee schedule is as follows:

- 3 (1) application for a permit: \$5,000.
4 (2) application for revision of a permit: \$500.
5 (3) application for renewal of a permit: \$3,000.

6 (b) Annual Fees. In addition to application fees required by this section, each permittee shall pay
7 to the Commission the following annual fees [~~for calendar years 2017 and 2018~~] due and payable not later
8 than March 15th of the year following the calendar year for which these fees are applicable:

9 (1) a fee of \$12.85 for each acre of land within a permit area covered by a reclamation
10 bond on December 31st of the year, as shown on the map required by §12.142(2)(C) of this chapter
11 (relating to Operation Plan: Maps and Plans); and

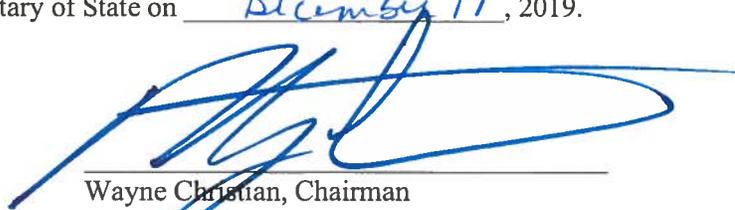
12 (2) a fee of \$6,170 for each permit in effect on December 31st of the year.

13 (c) Fees paid to the Commission under this section shall be deposited in the state treasury and
14 credited to the general revenue fund.

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

Issued in Austin, Texas, on December 17, 2019.

Filed with the Office of the Secretary of State on December 17, 2019.



Wayne Christian, Chairman



Christi Craddick, Commissioner



Ryan Simon, Commissioner



ATTEST:



Secretary of the Commission

Deputy



Haley Cochran

Rules Attorney

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Railroad Commission of Texas