

## Kellie Martinec

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**From:** McGrew, Rebecca <rebecca.mcgrew@nacoal.com>  
**Sent:** Friday, September 13, 2019 10:17 AM  
**To:** Rules Coordinator  
**Subject:** NAC Comments for rule changes to Section 12.108  
**Attachments:** NAC fee comments\_final.pdf

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Please find attached comments from the North American Coal Corporation regarding the proposed coal mine fee increases. If you have any questions or comments, please don't hesitate to contact me.

Regards,

N. Rebecca McGrew, RPG  
Manager, Regulatory and Environmental Affairs

The North American Coal Corporation  
5340 Legacy Drive, Building 1, Suite 300  
Plano, Texas 75024  
Office: 972-448-5437  
Cell: 469-318-8453  
Email: [rebecca.mcgrew@nacoal.com](mailto:rebecca.mcgrew@nacoal.com)



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REBECCA MCGREW  
Manager, Regulatory & Environmental  
Affairs

Telephone: 972-448-5400  
E-Mail: [rebecca.mcgreg@nacoal.com](mailto:rebecca.mcgreg@nacoal.com)

September 13, 2019

**VIA Electronic Submission**

Rules Coordinator  
Office of General Counsel  
Railroad Commission of Texas  
P.O. Box 12967  
Austin, TX 78711-2967

Re: Modifications to 16TAC Chapter 12 – Coal Mining Regulations  
Permit & Bonded Acreage Fee Increases  
**Comments of the North American Coal Corporation**

Dear Sir:

The North American Coal Corporation (NACoal) appreciates the opportunity to furnish comments with respect to the proposed permit and bonded acreage fee increases published by the Railroad Commission (RRC) in the Texas Federal Register on August 23, 2019.

According to the filed documents, the RRC proposes to increase the annual permit fee from \$6,170 to \$6,930 and increase the annual permitted acre fee from \$12.85 to \$14.50. The proposed increase represents a 13.8% increase from the current fee schedule. No specific rationale is provided by the RRC justifying the need for the fee increase other than additional funds are required to implement the coal regulatory program in FY2020 and FY2021.

The public notice goes on to state that the Commission has determined that the amendments will not affect a local community, create or eliminate any employee positions, or effect the state's economy. In fact, the notice states "the proposed amendments would increase the amount of fees paid to the agency so that the fees paid by the coal mining industry align with the costs incurred by the Commission". It should be noted; however, the coal mining industry in Texas has experienced a significant decline. Since 2006, 1,889 MW of coal-fired power has been retired within the state (S&P Global Market Intelligence). According to the EIA, Texas produced 45.5 million short tons of coal in 2006. By 2017, production

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dropped to 36.4 million tons representing a 20% decline. Over this same time, the number of active mines has dropped significantly, yet RRC fees are being raised. One would expect the regulatory program designed to oversee the coal mine sector would decrease proportionately to the industry it regulates. While NACoal recognizes many of the previously active mines are still subject to regulatory oversight, most of them are in reclamation status, which requires significantly less effort to oversee compared to an active operation.

Over the course of the past 15 years, the ability to secure a timely permit and/or achieve bond release from the RRC has become increasingly difficult even though SMRD technical and enforcement staffing numbers have not decreased. The Texas permit approval and hearing process is more onerous than any other regulated state in the US, including states or Nations where the federal Office of Surface Mining, Reclamation, and Enforcement (OSMRE) administers the regulatory program.

Rather than increasing permit fees at this time, NACoal recommends the RRC conduct a thorough evaluation of the Texas coal mining program. The RRC should identify program inefficiencies that are negatively impacting the RRC's ability to operate within the current budgetary constraints. The surface coal mine program is effectively and efficiently administered in each of the other states where NACoal operates including North Dakota, Louisiana, Mississippi, and on the Navajo Nation in New Mexico. NACoal appreciates the opportunity to submit these comments. If you have any questions or concerns regarding these comments, please do not hesitate to contact me.

Very truly yours,

THE NORTH AMERICAN COAL  
CORPORATION

*N. Rebecca McGrew*

Rebecca McGrew  
Manager, Regulatory and Environmental Affairs