

NOTICE OF INTENT

Department of Energy and Natural Resources Office of Conservation

Class VI Injection Well Supplemental Rules – Fee Schedule (LAC 43:XVII.Chapter 38)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the power delegated under the laws of the State of Louisiana, notice is hereby given that the Department of Energy and Natural Resources, Office of Conservation proposes to adopt Statewide Order No. 29-N-7 (LAC 43:XVII.Subpart 8, Chapter 38), to facilitate the permitting, siting, construction, operation, monitoring, and site closure of Class VI injection wells, which are used to injection carbon dioxide for the purposes of geologic sequestration.

The Department of Energy and Natural Resources, Office of Conservation proposes to adopt provisions governing the oversight of the Class VI carbon sequestration application fee standards within the Underground Injection Control (UIC) Program located within the Office of Conservation. Class VI wells are a federally-designated well class for wells that inject carbon dioxide gas underground for long-term containment or sequestration, ultimately limiting net emissions for this greenhouse gas. The UIC Program received primary enforcement authority (primacy) from the United States Environmental Protection Agency on February 5, 2024, modifying the UIC Program oversight to include Class VI wells in addition to current oversight authority for Class I, II, III, IV, and V wells. Promulgation of Statewide Order No. 29-N-7 is required in order to collect standardized application fees for this new program.

Department of Energy and Natural Resources Office of Conservation

Class VI Injection Well Supplemental Rules – Fee Schedule (LAC 43:XVII.Chapter 38)

The Department of Energy and Natural Resources, Office of Conservation has promulgated LAC 43:XVII.Chapter 38 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana. The action adopts Statewide Order No. 29-N-7, which provides comprehensive regulations for fees associated with the Class VI Injection Well program.

Title 43

NATURAL RESOURCES

Part XVII. Office of Conservation—Injection and Mining

Subpart 8. Statewide Order No. 29-N-7

Chapter 38. Class VI Injection Well Supplemental Rules – Fee Schedule

§3801. Definitions

Application Fee—the fee charged to an applicant for review of a Class VI permit application that is not in excess of the total, actual cost of review to the Office of Conservation.

Escrow Account—an account held by the Office of Conservation in favor of a Class VI applicant from which funds are drawn in order to provide for the review of a Class VI permit application.

Expedited Permit Review—an Office of Conservation program administered pursuant to LAC 43:XIX.4701 et seq. (Statewide Order No. 29-B, Chapter 47), which provides for the expedited review of permits.

Filing Fee—an initial fee to be paid upon submission of a Class VI permit application from which funds will be drawn to cover the cost of permit application review.

Operator—the person recognized as being responsible to the Office of Conservation for the well, site, facility, or activity subject to regulatory authority under these rules and regulations. The operator can, but need not be, the owner of the well, site, or facility.

Periodic Area of Review Update—a submission which includes a re-evaluation of the area of review submitted in accordance with LAC 43.XVII.3615.C.

Qualified Third-Party Reviewer—a party determined by the State of Louisiana to meet applicable procurement criteria in order to be contracted by the commissioner to assist Office of Conservation employees with Class VI permit application reviews.

Residual Escrow Funds—any remaining funds on deposit with the Office of Conservation in favor of an applicant or permittee after a final decision on a Class VI permit application is rendered by the commissioner and all qualified expenses have been deducted from the account.

Storage Facility—the reservoir, underground equipment, and surface facilities used or proposed to be used in a geological sequestration operation, excluding pipelines used to transport carbon dioxide to a storage facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of Conservation, Injection and Mining Division, LR 50:..

§3803. General Provisions

A. Applicability

1. This Chapter establishes the regulatory framework for permit application review fees associated with Class VI geologic sequestration facilities and wells. Timing, commencement of review, and allocation of resources for any Class VI permit application review is an exercise of the commissioner's discretion and is subject to, but not limited by, the availability of resources, the scale of the project, the quality of the application submittal, and the complexity of the review required in order to evaluate the permit application.

2. Permit applications reviewed under these rules shall meet all statutory and regulatory requirements, including those requirements related to public notice and participation processes.

B. Eligibility

1. The fees specified in this Chapter shall apply to any permit application for a new Class VI geologic sequestration facility or well and for any review pursuant to LAC 43:XVII.Chapter 36 or R.S. 30:1101 et seq.

2. The fees of this Chapter are established pursuant to R.S. 30:1101 et seq. and are not applicable to enhanced oil recovery projects, except for those which transition into Class VI geologic sequestration projects.

C. Expedited Permitting

1. Expedited permitting pursuant to LAC 43:XIX.4701 et seq. by Office of Conservation staff is separate from the reviews pursuant to this Chapter.

D. Qualified Third-Party Review

1. Pursuant to R.S. 30:1110(E), the commissioner may contract for outside professional services to assist with Class VI permit application reviews.

2. The cost of the Qualified Third-Party ("QTP") review will be drawn from the filing fee.

a. If the cost of the QTP review exceeds the filing fee, the Office of Conservation may require additional funds from the applicant in order to proceed further with the permit application review.

b. An applicant may request a QTP review of any of its pending Class VI permit applications at any time before commencement of the technical review of such permit application.

c. The Commissioner of Conservation may require a QTP review of any Class VI permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of Conservation, Injection and Mining Division, LR 50:..

§3805. Application Filing Fees

A. Fee Amounts

1. For the permit application of an initial Class VI well and storage facility, the filing fee shall be not more than \$100,000 (the "base filing fee").

a. For each additional Class VI well proposed in a storage facility, an additional \$10,000 shall be added to the base filing fee.

b. The filing fee shall not exceed \$200,000 for any single storage facility.

2. For the periodic area of review update, conducted in accordance with LAC 43:XVII.3615.C, the filing fee shall be \$25,000.

3. For all Class VI permit applications, additional funds not to exceed the total, actual cost of review may be required to be paid by the applicant pursuant to La R.S. 30:1110.C(3).

B. Fee Basis

1. The total, actual cost of any Class VI permit application review shall include all those costs associated with reviews by Office of Conservation employees or other public employees, including, but not limited to, salaries and related benefits, equipment costs, and travel expenses. If the applicant has requested or the commissioner has required a QTP review, all costs associated with the QTP review will also be drawn from the filing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Injection and Mining Division, LR 50:..

§3807. Reserved

§3809. Reserved

§3811. Failure to Pay

A. Operators who have violated any requirement of this Chapter may be liable for a civil penalty or liable for appropriate relief granted in a civil action pursuant to R.S. 30:1106.

B. The operator must comply with all requirements of this Chapter. Any noncompliance may result in enforcement action or permit termination, revocation and reissuance, or modification or in suspension of a permit application review or denial of a permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of Conservation, Injection and Mining Division, LR 50:..

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small businesses, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by House Concurrent Resolution 170 of 2014 Regular Session of the Louisiana Legislature. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Stephen H. Lee, Director of the Injection and Mining Division, Office of Conservation, Louisiana Department of Energy and Natural Resources, P.O. Box 94275, Baton Rouge, LA 70804-9275. Written comments will be accepted through the close of business, 5:00 p.m. on March 22, 2024.

Monique M. Edwards
Commissioner of Conservation

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

The proposed rule change is not anticipated to result in costs or savings to state or local governmental units. This proposed rule supports the new Class VI carbon sequestration well program, for which the Louisiana Office of Conservation - Injection and Mining Division received primary enforcement authority (primacy) on February 5, 2024. This proposed rule describes the application fees for a Class VI permit application, as enabled by R.S. 30:1110.

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

The proposed rule change is anticipated to increase revenue collections for the Office of Conservation. The fees contained in the proposed rule change include an application filing fee and periodic area of review filing fee. The application filing fee is set at a base of \$100,000 plus \$10,000 for each additional well at a storage facility but cannot exceed \$200,000 for the initial filing fee. The periodic area of review filing fee is set at \$25,000, but will not be collected until up to five years after a facility begins injection.

Based on 19 sites that will be beginning operations in FY 24, the estimated revenue collections for the Office of Conservation during the first state fiscal year of the program are \$2,260,000, with total anticipated revenue of almost \$4,000,000 over the first three state fiscal years of the program.

The proposed rule change is not anticipated to have an impact on revenues of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

This fee rule supports the new Class VI carbon sequestration well program, for which the Louisiana Office of Conservation - Injection and Mining Division will receive primacy on February 5, 2024. Implementation costs to operators submitting applications are expected to range between \$100,000 - \$200,000 per applicant, per facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Construction of new Class VI carbon sequestration facilities and injection wells is predicted to positively impact the industrial construction sector. Since only three of these facilities currently exist in the United States, there is limited data on the economic impacts on competition and employment. It is likely that available construction jobs will increase in order to build pipeline infrastructure and the injection facilities, but quantifiable predictions are not available at this time.