

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of State Lands**

**Granting of Rights-of-Way to Corporations or Individuals  
(LAC 43: XXVII.2701)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 41:1173, that the Office of State Lands proposes to amend Chapter 27 to increase the fees associated with pipeline rights-of-way. The Office of State Lands currently charges \$25, \$35, and \$45 for the three (3) classes of pipeline that traverse State property. The Office of State Lands intends to double these rates, bringing Louisiana's rates closer to those of neighboring states.

**Title 43**

**NATURAL RESOURCES**

**Part XXVII. State Lands**

**Subpart 2. Use and Management of State Lands**

**Chapter 27.[tab]Rights-of-Way**

**§2701.[tab]Granting Rights-of-Way to Corporations or Individuals**

A - M[tab] Fees for permits shall be as follows.

1. Class 1. Pipe 2 inches up to 19 inches outside diameter with a minimum of 75 feet right-of-way during construction to revert to 35 after construction is completed with the additional

right of ingress and egress for the purpose of maintenance, repairs, removal or modification- ~~\$25~~ \$50 per rod.

2. Class 2. Pipe 19 inches up to 36 inches outside diameter with a maximum of 100 feet right-of-way during construction to revert to 50 feet after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification- ~~\$35~~ \$70 per rod.

3. Class 3. Pipe over 36 inches outside diameter with a maximum of 200 feet right-of-way during construction to revert to 60 feet after construction is completed with the additional rights of ingress and egress for the purpose of maintenance, repairs, removal or modification- ~~\$45~~ \$90 per rod.

AUTHORITY NOTE:[**tab**]Promulgated in accordance with R.S. 41:1173.

HISTORICAL NOTE:[**tab**]Adopted by the State Land Office, LR 1:147 (February 1975), amended by the Department of Natural Resources, Office of the Secretary, LR 3:314 (July 1977), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:493 (April 1993)

### **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 no 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. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. 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 Les Rosso, Office of State Lands, P.O. Box 44124 Baton Rouge, LA 70804. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Monday, November 28 at 9:30 a.m. in Room G-150, Claiborne Building, 1201 North 3<sup>rd</sup> St, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Mark Gates

Asst. Director, Office of Facility Planning & Control (State  
Lands Designee)

#### **Fiscal and Economic Impact Statement**

##### **I. ESTIMATED IMPLEMENTATION COSTS TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)**

There are no projected implementation costs to state or local governmental units. The proposed rule change will double the fee paid by right-of-way grantees from \$25, \$35 or \$45 per rod (16.5 feet) depending on the diameter of the pipeline, to \$50, \$70 or \$90 respectively.

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

The state is estimated to collect an additional \$280,000 in right-of-way fees on an annual basis as a result of the proposed rule change. The total projected collections through the end of FY 2021 will total \$1,260,000.

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

New right-of-way grantees will realize additional costs of approximately \$280,000 annually and \$1,260,000 in total over the next five (5) fiscal years as a result of the proposed rule change.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is not anticipated to effect competition or employment in the public or private sectors.

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person  
Preparing  
Statement: Sean Porter Dept.: Division of Administration  
Phone: 225-342-7232 Office: State Lands  
Return  
Address: 1201 N 3<sup>rd</sup> St. Ste. 7-270 Rule  
Baton Rouge, La 70802 Title: Right-of-Way Fee Increase  
Date Rule  
Takes Effect: January 20, 2017

SUMMARY  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

There are no projected implementation costs to state or local governmental units. The proposed rule change will double the fee paid by right-of-way grantees from \$25, \$35 or \$45 per rod (16.5 feet) depending on the diameter of the pipeline, to \$50, \$70 or \$90 respectively.

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The proposed rule change is not anticipated to effect competition or employment in the public or private sectors.

Mark Gates 10/10/2016  
Signature of Agency Head or Designee

Mark Gates - Asst. Director, Facility Planning & Control

Typed Name & Title of Agency Head or Designee

Date of Signature

Evan Brassel, Staff Director  
Legislative Fiscal Officer or Designee

10/10/16  
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule change amends LAC 43:XXVII.2701.M by increasing the fee per rod for pipeline rights-of-way on state property. Under the current rule, right-of-way grantees pay a fee of \$25, \$35, or \$45 per rod (16.5 feet), depending on the diameter of the pipeline. Under the proposed rule, the fees will rise to \$50, \$70, and \$90, respectively.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The reason for this action is to increase fee collection for pipeline rights-of-way, which has stagnated due to the fee per rod remaining unchanged for more than two decades. The proposed rule change would raise Louisiana's pipeline right-of-way fees and bring them in line with those of neighboring states such as Texas and Alabama.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_\_ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 17	FY 18	FY 19
Personal Services			
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	
<b>\$0</b>			
<b>POSITIONS (#)</b>	<b>0</b>		

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There is no anticipated increase or decrease in costs to implement the proposed rule change.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 17	FY 18	FY 19
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated cost or savings to local governmental units resulting from the proposed rule change.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

N/A



**FISCAL AND ECONOMIC IMPACT STATEMENT**

**WORKSHEET**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

<b>REVENUE INCREASE/DECREASE</b>	<b>FY 17</b>	<b>FY 18</b>	<b>FY 19</b>
State General Fund			
Agency Self-Generated	\$140,000	\$280,000	\$280,000
Dedicated Funds*			
Federal Funds			
Local Funds			
<b>TOTAL</b>	<b>\$140,000</b>	<b>\$280,000</b>	<b>\$280,000</b>

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

Based on the previous 3 years of activity, the Office of State Lands determined that new right-of-way pipeline agreements generated approximately \$476,000 in revenue in FY 14, \$510,000 in revenue in FY 15, and \$197,000 in revenue in FY 16, for a three year average of \$394,000. Because the rate contemplated by the rule change is still far less than what is charged by private landowners for pipeline right-of-way, the increased fee is not expected to bring about a substitution effect. Therefore, doubling the "per rod" right-of-way fees will double the amount of revenue collected in each year for new right-of-way pipeline agreements.

The demand for new pipeline right-of-way is largely dependent on the price of oil, as evidenced by the significant drop in right-of-way revenue between FY 15 and FY 16, when the price of crude oil dropped by more than half. The projections above assume that demand will rebound, though not back to the levels seen in FY 14 and FY 15. The FY 17 projection is pro-rated for half the year, since the proposed rule change will not be in place until the beginning of calendar year 2017.

## FISCAL AND ECONOMIC IMPACT STATEMENT

### WORKSHEET

#### III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Entities seeking or possessing a right-of-way through state property for the construction of pipelines will see no increased workload or additional paperwork as a result of the proposed rule change. These entities will realize an increased cost for right-of-way fees as those fees will double under the proposed changes.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule change will have no impact on receipts or income generated by these entities. Existing right-of-way agreements will not be affected by the new fee schedule. New right-of-way grantees will pay rates comparable to what is seen in Louisiana's neighboring states.

#### IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The promulgation of the proposed rule change is not anticipated to have any effect on competition or employment in the public or private sectors.