



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
NASHVILLE, TENNESSEE 37243-0435

DAVID W. SALYERS, P.E.  
COMMISSIONER

BILL LEE  
GOVERNOR

MEMORANDUM

TO: Governor Bill Lee  
Governor of the State of Tennessee

Lieutenant Governor Randy McNally Speaker  
of the Senate

Speaker Cameron Sexton  
Speaker of the House of Representatives

FROM: David W. Salyers, P.E.  
Commissioner

DATE: July 1, 2024

SUBJECT: Annual Report on the Primacy and Reclamation Act of Tennessee

A handwritten signature in blue ink, appearing to read "DWS", is written over the "FROM:" line of the memorandum.

Tennessee Code Annotated § 59-8-133(c) requires that the Department of Environment and Conservation (the Department) submit a report to the speaker of the senate and the speaker of the house of representatives containing data on the tonnage of coal severed from the ground in surface coal mining and reclamation operations in this state and the amount of projected revenue from acreage fees, severance taxes, permit fees, and amendment fees that would be required by state law if the state had exclusive jurisdiction over surface coal mining and reclamation operations in this state during the prior fiscal year. The purpose of this report, as outlined in T.C.A. 59-8-133(a), is to determine if the surface coal mining industry is fiscally self-sufficient to support a state-operated program, with revenues from fees and taxes, and if allocated monies sufficient to address actual and potential liabilities resulting from insufficient bonding relative to surface coal mining operations are available.

Attached is your copy of this year's report. Please feel free to contact me if you have any questions.

## **Annual Report on the Primacy and Reclamation Act of Tennessee July 1, 2023 – June 30, 2024**

### **Tonnage of Coal Severed**

From July 1, 2023, through June 30, 2024, no coal was severed from the ground in Tennessee. According to the Energy Information Administration (EIA), the last ton of coal mined in Tennessee occurred in June 2022.

### **Amount of Projected Revenue**

The Primacy and Reclamation Act of Tennessee (T.C.A. 59-8-107) allows for the collection of administrative and acreage fees. The Coal Severance Tax (T.C.A. 67-7-104) allows for the collection of additional severance taxes to support the administration of the primacy program.

For the fiscal year 2023-2024, if the Department had exclusive jurisdiction over surface coal mining and reclamation operations in this state, it would have collected a total of \$92,522 from the industry in the following categories:

#### ***Acreage Fees - \$91,522***

The acreage fees for surface coal mining and reclamation operations would be assessed annually until the final reclamation and bond release of a permit at the rate of:

- \$40 per unreclaimed acre
- \$20 per reclaimed acre

As of June 18, 2024, the Office of Surface Mining, Reclamation and Enforcement (OSMRE) has the following 79 permits on their inspectable units list:

- 53 permits, representing 10,374.5 acres, are in some phase of forfeiture. The Department could not bill any acreage fees for these permits.
- 2 permits, representing four acres, are in exploration status. The Department could not bill any acreage fees for these permits.
- 21 permits, representing 3,940.1 acres, are in some phase of reclamation. The Department would bill these permits at \$20 per acre for a total of \$78,802.
- 3 permits, representing 318 acres, are in some phase of unreclaimed status. The Department would bill these permits at \$40 per acre for a total of \$12,720.

If Tennessee had exclusive jurisdiction over surface coal mining and reclamation operations in this state, the Department projects it would have billed \$91,522 in acreage fees during the previous fiscal year.

#### ***Severance Taxes - \$0***

There was no coal mined in Tennessee from July 1, 2023 – June 30, 2024.

If Tennessee had exclusive jurisdiction over surface coal mining and reclamation operations in this state, the Department projects it would have collected \$0 in severance taxes.

**Administrative Fees - \$1,000**

The Department projects it would have collected \$1,000 in administrative fees for the period of July 1, 2023, through June 30, 2024, if Tennessee had exclusive jurisdiction over surface coal mining and reclamation operations in this state, which are reflected in Table 1.

**Table 1.**

<b>Administrative Activity</b>	<b>Fee</b>	<b>Number Received</b>	<b>Potential Revenue Collected</b>
New Permit Applications	\$3,850	0	\$ -
Significant Revisions	\$2,000	0	\$ -
Non-Significant Revisions	\$750	0	\$ -
Renewal Applications	\$500	0	\$ -
Successor-In-Interest Applications	\$350	0	\$ -
Coal Exploration Permits	\$1,000	1	\$1,000
Certified Blaster Tests - New	\$100	0	\$ -
Certified Blaster Tests - Recertification	\$50	0	\$ -

**Bonding Liabilities**

In June 2024, the Office of Surface Mining, Reclamation and Enforcement (OSMRE) reported that 28 sites in Tennessee are underbonded in the amount totaling \$34,420,330. This is an increase of one site and \$1,888,923 from February 2023. If Tennessee achieves exclusive jurisdiction over surface coal mining and reclamation operations, the state will also assume \$34.4m in liabilities that are currently the responsibility of the federal government.

As of June 2024, the Department is unaware of any state or federal monies allocated to address the \$34.4m deficit.

## **Consultations with the Tennessee Mining Association**

The Department remains engaged with the Tennessee Mining Association (TMA) regarding the development of the Primacy and Reclamation Act. Department representatives attended three TMA conferences and hosted one meeting since May 11, 2023, to discuss its continued efforts toward obtaining primacy and to receive feedback from stakeholders regarding the development of the program.

## **Continued Efforts Toward Obtaining Primacy**

Since the passage of Public Chapter 401 on May 11, 2023, TDEC has continued to coordinate with the Office of Surface Mining, Reclamation and Enforcement (OSMRE) regarding statutory, regulatory, and field-based issues within the industry. TDEC also completed its initial draft of a rules package to support the Primacy and Reclamation Act of Tennessee and submitted it to OSMRE for an informal review on March 18, 2024. Additionally, TDEC participated in OSMRE-led training, attended OSMRE-regional meetings to remain engaged in policy and technical discussions, and holds quarterly meetings with OSMRE regional staff to discuss state-specific issues. This progress ensures that if the provisions of 59-8-133 are lifted, Tennessee and the Department remain well-positioned to assume the regulatory oversight of the surface coal mining program.