

## State Mineral and Energy Board

The State Mineral and Energy Board administers the state's proprietary interest in minerals and is composed of the governor, the secretary of the Department of Natural Resources, ex officio, and nine members appointed by the governor. Six members constitute a quorum. [Click for the names, addresses and committee assignments of the current Mineral and Energy Board members.](#)

The governor may appoint board members engaged in the industry and related business activity and each appointment shall be submitted to the Senate for confirmation. Each appointed member shall serve a term concurrent with that of the governor making the appointment.

The State Mineral and Energy Board is the exclusive body with the authority to lease for development and production of minerals, oil, and gas, any lands belonging to the State of Louisiana, or the title to which is in the public, including road beds, water bottoms, vacant state lands, and land adjudicated to the state at tax sale.

The Board may lease state agency lands as well, upon agency request, and may grant exclusive and non-exclusive permits to conduct geophysical and geological surveys of any kind on state-owned lands and water bottoms.

The Board is also authorized to explore and develop state lands and water bottoms subject to its leasing authority on its own behalf or through others contracted for that purpose. It may conduct geological and geophysical surveys of any kind; equip, drill, and operate wells or mines for the production of minerals; construct, operate, and maintain necessary or convenient facilities for saving, transporting, and marketing mineral production; enter into operating agreements; and do all other things which may appear to be necessary or desirable for the state's benefit.

The State Mineral and Energy Board has the responsibility for administering all existing mineral leases on such state lands to ensure maximum development and production and to ensure full compliance with the terms and conditions of the respective leases. It may act to recover nonproducing leased acreage, annul or amend leases, join in pooling and unitization agreements, elect to receive in lieu unit production or proceeds or in kind royalty, or enter into agreements to offset, compensate, or recover from royalty underpayment or overpayment.

The Board has final approval of transfers and assignments relating to state mineral leases or state-owned mineral rights, of state agency mineral leases issued by the agency directly, and of mineral leases entered into by state banks in liquidation. It also executes division orders directly or through staff and ensures proper statutory-mandated parish and dedicated funds transfers.

The Board manages significant portions of its responsibilities through five committees: Tract Evaluation Committee, Fact Finding Committee, Royalty Accounting Committee, Legal & Title Controversy Committee, and Docket Review Committee. Committee members review with the staff all matters requiring Board approval and make recommendations to the composite Board. [Details about the functions of the committees, and the current board members, are available on this Web site.](#)

Staff support to the Board is provided by the Office of Mineral Resources which conducts the day-to-day operations of the Board's business and provides it with the information and technical advice necessary for the accomplishment of business at its meetings.

The State Mineral and Energy Board meets at the call of the governor, generally holding its meetings and State Lease Sales on the second Wednesday of each month in the LaBelle Room, also known as the Conservation and Mineral Resources Hearing Room, located on the 1st Floor of the LaSalle Building, 617 North 3rd Street, Baton Rouge, Louisiana.

## State Mineral and Energy Board Committees

### TRACT AND NOMINATION COMMITTEE

Tract and Nomination Committee members work closely with staff from the Leasing Section of the Petroleum Lands Division to evaluate nominations for state mineral leasing.



Each month committee members receive a Tract Evaluation Report and a map from Leasing Section personnel as to the number, category and location of nominations received by the staff for future state lease sale. The Committee determines and recommends to the composite State Mineral and Energy Board whether or not to advertise such tracts for mineral lease and, after advertisement, reviews any letters of protest received as to the offering of the advertised tracts for mineral lease. Committee members consider any proposed tract withdrawal recommendations by the staff, as well as any other business concerning tracts nominated for mineral leasing.

### LEASE REVIEW COMMITTEE

Lease Review Committee members work closely with staff from the Tract Evaluation and Lease Development Section and Lease Maintenance Section of the Geological and Engineering Division. They review oil and gas activity on state mineral leases to ensure that lessees are prudently developing and producing them and are in full compliance with their terms and conditions.

The staff monitors oil and gas activity on state mineral leases daily. District geologists, operating pursuant to State Mineral and Energy Board guidelines, work with lease maintenance personnel in reviewing every state mineral lease at least once a year; analyzing lease production, lease operations, operator plans of development, local geology and surrounding oil and gas activity.

Each month Committee members receive a Fact Finding Booklet from staff containing a plat, lease data and correspondence from lessees for each lease reviewed, along with staff recommendations. The Committee considers the information and then makes its own recommendations to the composite Board as to whether the operators of the leases should further develop the leases, appear before the Committee, receive additional time to develop, or release acreage back to the State instead of development.

### AUDIT COMMITTEE

Audit Committee members work closely with staff from the Mineral Income Division, especially the Audit Director, to ensure timely and accurate payment of revenue from oil and gas leasing activities and production.

Staff members closely monitor mineral income to the State utilizing computerized records, prepare and transmit invoices for late royalty payment interest and penalties, and perform audits and transmit billing letters as necessary. Division personnel inform and make recommendations to Committee members and the composite State Mineral and Energy Board as to lessee requests for payment plans, penalty waivers and recoupments, as well as placing lessees on demand for royalty nonpayment or underpayment. The Committee and the Board review the information and decide on a course of action.

### LEGAL AND TITLE CONTROVERSY COMMITTEE

Legal and Title Controversy Committee members work closely with the Petroleum Lands Director of the Petroleum Lands Division to investigate, review and present recommendations on legal issues concerning title to state mineral acreage, mineral lease maintenance and operations.

The Petroleum Lands Director, with staff support, compiles and transmits information and recommendations on a monthly basis to Committee members on legal matters as varied as lease amendments, late assignment penalties, force majeure notice, late release penalties, operation agreement formation and amendments, consent letters, escrowing funds pending unit formation, certain geophysical permit matters, title disputes and royalty disputes giving rise to legal proceedings, pending litigation, and compromise/settlement offers and agreements. Other OMR staff members provide input and recommendations as needed and after review, the Committee presents them to the Board for resolution by agreement or by instituting suit.

The Attorney General and the General Counsel of the Department of Natural Resources advise the State Mineral and Energy Board, as well as private counsel retained by the Board as needed. When the Board is named as a party in a lawsuit, authority to compromise or settle the lawsuit is secured from the Board.

### DOCKET REVIEW COMMITTEE

Docket Review Committee members work closely with staff from the Docket Section of the Petroleum Lands Division, as well as the Petroleum Lands Director, to review items submitted for State Mineral and Energy Board consideration.

Docket Section personnel receive a multitude of items for Board consideration at its monthly meetings including, but not limited to: unitization agreements, amendments of unitization agreements, lease amendments, compromise and settlement agreements, consent letters, operating agreements, amendments of operating agreements, designations of participating areas, acts of correction of state leases, deferred gas production agreements, amendments of deferred gas production agreement, reinstatements and amendments of unitization agreements, confirmations and re-establishments of unitization

agreements, unit production sharing agreements, pooling and unitization agreements, requests for approval of state agency mineral leases, and transfers of interest (assignments).

Other OMR staff members, in addition to Docket Section personnel, provide evaluation and recommendations as needed and the monthly docket is finalized for presentation by the Petroleum Lands Director to the Committee members and composite Board for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1, et seq. and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2095 (November 2006).

## Chapter 9. Mineral Resources

### Subchapter A. Mineral Leasing Policy

#### §901. Nomination

A. All parties desiring to nominate state owned land and waterbottom acreage or land owned by a state agency for which the State Mineral Board is being requested to issue a mineral lease must be registered with the Office of Mineral Resources on a one-time basis and have received an applicant ID number prior to submitting application for nomination.

B. The State Mineral Board has the authority to lease state owned lands and waterbottoms (see R.S. 30:124) and state agency owned land when requested to do so (see R.S. 30:153).

C. Application for nomination generally must include a diskette or CD-ROM containing a .dxf format of the proposed nominated tract polygon and a word.doc legal description of the same proposed nominated tract which must exactly match the tract polygon exploded from the .dxf as to X,Y coordinates along the polygon outline based on the Lambert Coordinate System; a paper copy of the plat and the legal description which each must match the .dxf exploded polygon and the word.doc; an electronic .pdf file of the plat; a letter of application completely and accurately filled out and a non-refundable check in the amount of the nomination fee as set forth in R.S. 9:301(2) (presently \$400). More detailed requirements and certain exceptions are contained in the Leasing Manual available on the Department of Natural Resources (DNR) website at <http://dnr.louisiana.gov/min/petlan/leasing.asp>.

D. Nominated acreage for one nomination cannot exceed 2,500 acres of state owned lands and waterbottoms, in the aggregate, nor can the polygon outline of the nominated tract exceed 3 1/2 miles on a side, generally speaking, and must be given, where possible, in Lambert (X,Y) Coordinates at critical points along the boundary of the nomination polygon together with meets and bounds. Certain exceptions to this rule may be found in the leasing manual available on the DNR website as hereinabove set forth.

E. Advertising of nominations cannot occur more than 60 days prior to the date on which sealed bids are to be opened and must be done in the official state journal and the official parish journal wherein the nomination lies. The advertisement must contain a description of the land nominated, the time and place where the sealed bids shall be received and opened (which must be a state owned building in the state capital), a statement that the bid may be for the whole or any particularly described portion of the advertised land and may contain any other information deemed necessary by the mineral board [R.S. 30:126(A)]. The Office of Mineral Resources also publishes a notice book each

month of tracts available for bidding at the next month's mineral lease sale which is available to the public for a yearly subscription price of \$120. A copy of the notice book is available for viewing on the DNR website.

F. A nomination may be withdrawn at the request of the applicant prior to its being advertised for lease; thereafter, the request for withdrawal must be reviewed by the State Mineral Board and approved for withdrawal at the regularly scheduled monthly State Mineral Board meeting.

G. For more detailed information on nominations abutting or enclosing existing, active state mineral leases, abutting the 3 mile boundary between state and federal waters, abutting neighboring states, nominations of particular tract kinds—such as wildlife management areas under the jurisdiction of the Department of Wildlife and Fisheries, Sixteenth Section lands, vacant state lands, school indemnity lands, state agency lands, tax adjudicated lands and other specialized types of acreage requiring type specific handling, see the leasing manual available on the DNR website as set forth hereinabove.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:354(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:254 (February 2008).

#### §902. Bidding

A. Bids for state mineral leases shall only be accepted from those parties who are registered prospective leaseholders (having a registration form containing current information regarding the bidder and a current certificate of good standing from the Secretary of State's office indicating prospective bidder is authorized to do business in the state of Louisiana) with the Office of Mineral Resources. Prospective leaseholders must maintain current their registration by notifying the Office of Mineral Resources of any change of information provided on the registration form and prior to January 31 of each year, if applicable, furnishing the Office of Mineral Resources with a copy of a certificate from the Secretary of State's Office indicating the party is in good standing and remains authorized to do business in the state of Louisiana.

B. Bids for state mineral leases shall be accepted at the place named in the advertisement no later than 12 noon on the Tuesday immediately preceding the Wednesday State Mineral Board meeting (unless specially noticed due to holidays).

C. Bids must be in a sealed envelope with the tract number for which the bid is being submitted legibly typed or written on the outside of the envelope. The bid packet shall contain the official state of Louisiana bid form as secured from the website form file, completely and accurately filled out and signed by an authorized agent of the bidder, a cashier's or certified check, or money order made out to the Office of Mineral Resources for the total amount of the cash bonus being bid (which must match exactly the cash bonus written in on the bid form submitted), a check made out to the Office of Mineral Resources for the sum equaling

10 percent of the total cash bonus bid, a check made out to the Office of Mineral Resources for a sum equaling \$20 multiplied times the total number of acres being bid on (if bid is on entire tract, then multiply \$20 times total tract acreage), a "hard" paper copy of the plat and legal description of a portion bid and a diskette or CD-ROM containing a .dxf file and a word.doc file describing the portion bid (which must match each other and the "hard" copies) and an electronic .pdf file of the plat. Failure to sign the bid form, or a discrepancy between the amount of the cash bonus set forth on the check presented and, if less than, the amount written in on the accompanying bid form, shall invalidate the bid, rendering it unacceptable to the State Mineral Board. Bids once submitted shall not be returned prior to the State Mineral Board meeting for which they were submitted, and then only by permission of the State Mineral Board or if the bid is rejected.

D. Bids shall be opened on the date, and at the time and place specified in the advertisement. If a nominated tract is withdrawn from a particular mineral lease sale by the State Mineral Board for any reason, any bids received on the withdrawn tract shall be returned unopened at the end of the State Mineral Board meeting from which the tract was withdrawn.

E. All bids opened shall be evaluated by the staff of the State Mineral Board and recommendations made as to whether each bid should, or should not, be accepted. The State Mineral Board may then award leases on those bids it deems acceptable—usually at the meeting when the corresponding bids are opened. All bids not accepted shall be returned to the unsuccessful bidder at the end of the meeting at which the bids were opened.

F. Awarded leases are prepared by the staff of the Office of Mineral Resources and sent to the new lessee for signature and recordation in the parish records of the parish(s) in which the lease acreage is located. A fully signed and executed copy of the lease, with recording information, shall then be returned to the Office of Mineral Resources within 20 days of receipt therefrom (failure to so return may result in forfeiture of lease) and shall be filed in the lease records of that office.

G. More particular information with regards to the bidding procedure may be obtained from the Leasing Manual located on the DNR website as set forth hereinabove.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:354(A).

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:255 (February 2008).

### **§903. Assignments and Other Transfers of Interest**

A. Any assignment or other transfer of an interest in a state mineral lease must be approved by the State Mineral Board and failure to so obtain approval shall render the assignment or transfer null and void (R.S. 30:128).

B. Before any assignment or other transfer of an interest in a state mineral lease is approved, any and all of the assignees must be currently registered prospective leaseholders with the Office of Mineral Resources.

C. Any assignment must clearly show that a working interest in a state mineral lease is being transferred (no net revenue interest, override royalty, well bore interest, or other similar non-working interest transfer will be approved by the State Mineral Board), contain a clear description of the working interest (including legal description of lease portion if applicable) being transferred, not show a greater interest being transferred than is owned by the assignor and be accompanied by a Form B (see the DNR website for file) which shows the decimal working interest of all parties before and after the transfer. The assignment or other transfer must be signed by all assignors requisite to the transfer of the interest being assigned, witnessed and duly notarized (by witness attestation if necessary) in a form legally acceptable in the venue in which the assignment or other transfer is completed.

D. Each assignment or other transfer (more than one lease interest may be assigned or transferred in one assignment document) shall be accompanied by a check for the non-refundable fee as set in the fee schedule of the Office of Mineral Resources (LAC 43, Part V, §301); presently set at \$100.

E. The assignment or other transfer, once approved by the State Mineral Board, shall be filed in the lease records of the Office of Mineral Resources in the file record of the applicable lease(s).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:354(A).

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:255 (February 2008).

### **§904. Laws and Instructions**

A. The general statutory provisions applicable to mineral leases from the state of Louisiana on state owned lands and waterbottoms are located in R.S. 30:121-221. The general, applicable provisions of the Constitution of the State of Louisiana of 1974, as amended, are Article IX, §§1-5.

B. Instructions regarding obtaining and transferring interests in state mineral leases may be found in the leasing manual located on the Department of Natural Resources (DNR) website at <http://dnr.louisiana.gov/min/petlan/leasing.asp>.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:354(A).

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:256 (February 2008).

### **§905. Mineral Board Policy**

A. Mineral Board Policy regarding matters of mineral leasing and transfers of mineral lease interests may be obtained on request by telephoning the Office of Mineral Resources at (225) 342-4606.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:354(A).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:256 (February 2008).

## Subchapter B. Application for Approval of Transfer of Solid Mineral Lease or Sublease

The rules contained herein shall govern every application for approval by the State Mineral Board of a proposed transfer of any lease or sublease entered into by or under the authority of or subject to the jurisdiction of the State Mineral Board which includes the development and production of solid minerals, under the circumstances described in Act 296 of 1979.

### §913. Definitions

A. As used in these regulations, the following terms have the meanings assigned below, unless the context otherwise requires.

*Applicant*—the person seeking approval by the board of a proposed transfer (as described in Act 296 of 1979) of a lease.

*Board*—the State Mineral Board of the state of Louisiana.

*Control*—the term control (including the terms controlling, controlled by and under common control with) means possession (direct or indirect) of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

*Director*—any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

*Lease*—any lease or sublease entered into by or under the authority of or subject to the jurisdiction of the board which includes the development and production of solid minerals.

*Lessee*—a person or entity which at the time of a proposed transfer (as described in Act 296 of 1979) has the right to develop and produce solid minerals under a lease.

*Officer*—the chairman, the president, each vice-president in charge of a principal business function, the secretary, the treasurer, and the comptroller, and any other person performing similar functions with respect to any organizations whether incorporated or unincorporated.

*Person*—a natural person, partnership, syndicate, corporation or any other group or entity.

*Secretary*—the Secretary of the Department of Natural Resources.

B. Other terms used in these regulations have the same meanings as are set forth in Act 296 of 1979 unless the context otherwise requires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:131 (March 1980).

### §915. Procedure for Preparing and Filing Applications

A. Date of Filing. At least 20 days (Saturdays, Sundays, and holidays excluded) prior to the date on which the transfer is to be effected, or in the case of a transfer by means of purchase of 10 percent or more of equity securities of the lessee, 20 days prior to such purchase, an application shall be filed with the secretary and delivered by hand to the lessee.

#### B. Number of Copies and Accompanying Material

1. Two signed copies of the application (including exhibits and all other accompanying papers and documents) shall be filed with the secretary at the Department of Natural Resources, Baton Rouge, LA 70804. One signed copy of such application shall be delivered to the lessee.

2. Each application shall be accompanied by a signed consent of the applicant to the appointment of the secretary as his or its agent for service of any and all pleadings, discovery requests, orders and investigations relating to the application, and, if the applicant is a corporation, by a consent signed by each director and each officer of the applicant (and by each director and each officer of any corporation controlling the applicant) and by any other person identified under §917.A.4.a.ii hereof, agreeing to make himself available for prehearing investigatory or discovery proceedings either in the state of Louisiana or in the state in which the lessee maintains its or his principal executive offices.

3. Each application shall be accompanied by a certified or bank cashier's check in the amount of \$100, payable to secretary, Department of Natural Resources, as an examination fee and, except as provided in §923, by a surety bond issued by a bonding company licensed to do business in the state of Louisiana in the principal amount of \$5,000 (or such lesser amount as the secretary may permit upon request) conditioned to provide for payment of the costs of any investigation or hearing with respect to the application.

4. If the applicant is a corporation, the application shall also be accompanied by a certified copy of a resolution or resolutions of the board of directors of such applicant (and of any corporation controlling such applicant) specifically authorizing the person or persons signing the application and any consent on behalf of the applicant to sign and file the same.

#### C. Requirements as to Paper, Printing, and Language

1. The application shall be filed on good quality, unglazed, white paper, 8 1/2 by 14 inches in size, insofar as practicable.

2. The application and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. All copies of applications and associated material shall be easily readable and suitable for repeated photocopying.

3. The application shall be in the English language. Any associated material filed with the application in a foreign language shall be accompanied by a translation into the English language.

D. Presentation of Information

1. Except as otherwise provided:

a. the application requires information only as to the applicant;

b. whenever words relate to the future, they have reference solely to present intention; and

c. any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

2. Unless clearly indicated otherwise, information set forth in any part of the application need not be duplicated elsewhere in the application. Where it is deemed necessary or desirable to call attention to such information in more than one part of the application, appropriate cross-references are permitted.

3. Material contained in any exhibit to the application may be incorporated by reference in the application. Such material shall be clearly identified in the reference, and an express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Material shall not be incorporated by reference in any case where such incorporation would render the application incomplete, unclear or confusing.

4. Information need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense or because it rests within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions.

a. The applicant shall give such information on the subject as he/she possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

b. The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

5. The application shall set forth such additional material facts, if any, as may be necessary to make the required information, in the light of the circumstances under which it is provided, not misleading. The secretary may at any time request an applicant to submit additional relevant information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:131 (March 1980).

**§917. Content of Application**

A. Each application shall contain the information required by Act 296 of 1979 and by this rule, §917.

1. Information as to the Lessee. Set forth the name of the lessee and the address of its principal executive offices and describe, insofar as practicable, the lease or leases of the lessee which it is proposed to transfer and the operations or other activities currently being conducted in relation to such lease or leases.

2. Information as to the Applicant. If the applicant is a corporation, partnership, limited partnership, syndicate or other group of persons, the application shall set forth its name, the state or other place of its organization, its principal business, the address of its principal executive offices and the information required by Subparagraphs A.2.e and f below. If the applicant is natural person, the application shall set forth the information specified in Subparagraphs A.2.a-g below with respect to such person(s). If the applicant is a corporation not subject to the reporting requirements of the federal securities laws, there shall be filed as exhibits audited financial statements for its three most recent fiscal years and interim financial statements for any subsequent period through the end of the last preceding calendar quarter for which such statements are available:

a. name;

b. residence or business address;

c. present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

d. material occupations, positions, offices or employments during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which occupation, position, office or employment was carried on;

e. whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, giving the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

f. whether or not the applicant has, during the last five years, been a party to, or materially adversely affected by, any judicial or administrative proceeding under any law or regulation regulating exploration, development, production or other operations involving any solid minerals or other extractive industry or activity, or under any law or regulation regulating the discharge of materials into the environment or otherwise relating to the protection of the

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environment, and if so, describing fully any such proceeding, including the disposition thereof. Copies of all material pleadings and of all orders and judgments therein shall be filed as exhibits;

g. citizenship(s):

i. instruction. If the application is filed by a partnership, limited partnership, syndicate or other group, the information called for by §917.A.2 shall be given with respect to:

(a). each partner of such partnership;

(b). each partner who is denominated as a general partner or who functions as a general partner of such limited partnership;

(c). each member of such syndicate or group;  
and

(d). each person controlling such partner or member;

ii. if the statement is filed by a corporation, or if a person referred to in Subclause (a), (b), (c), or (d) of Clause A.2.g is a corporation, the information called for by the above mentioned items shall be given with respect to:

(a). each officer and director of such corporation;

(b). each person controlling such corporation;  
and

(c). each officer and director of any corporation ultimately in control of such corporation.

3. Manner of Transfer. The application shall set forth the manner in which the applicant proposes to effect the transfer of the lease or leases (including, without limitation, the manner in which the transfer is to be financed and the terms of any agreement or understanding with respect to the transfer) and the applicant shall file as exhibits all relevant contracts and agreements, together with any documents required to be filed under any other law or regulation in consequence of such proposed transfer. The application shall also set forth a description of the background of the proposed transfer.

4. Information about the Applicant's Relevant Experience

a. The applicant shall fully describe his or its experience and capabilities to assume responsibility for operations under the lease or leases, including (without limitation) the following information.

i. Applicant's experience in the solid minerals and other extractive industries during the five years next preceding the application.

ii. If the applicant is other than a natural person, the names, titles and addresses of the officers or other persons who would have primary responsibility for the conduct of operations under the lease or leases and, as to each such person, his educational background, his professional background, including his present job

responsibilities, and the information called for under Paragraph A.2 of this Section.

iii. The names and addresses of any expert in the field of expertise relevant to the lease or leases or operations thereunder who has been retained by the applicant at any time during the past five years and a statement of the nature of such retention. Copies of any report(s) rendered to the applicant by any such expert(s) shall be filed as exhibits.

b. Instruction. It is not sufficient compliance to recite the applicant's intention to rely upon the lessee's experience unless the applicant and lessee have entered into a formal written agreement for a term ending with or after the unexpired portion of the lease, under which the lessee will manage the property or properties subject to the lease. Any such agreement shall be filed as an exhibit to the application.

5. Plans of the Applicant with Respect to the Lease. The application shall describe any plans or proposals of the applicant which relate to exploration, development, production or other operations under the lease or leases, including, without limitation, any loan or proposal to do the following:

a. to increase, reduce or abandon such operations;

b. to retain any person to conduct such operations;

c. to transfer the lease or leases;

d. to seek modification of its or their terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:132 (March 1980).

### §919. Exhibits

A. Additional Exhibits. The applicant may file such exhibits as he/she may desire in addition to those required under §917. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

B. Omission of Substantially Identical Documents. In any case where two or more contracts, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the applicant need file a copy of only one of such documents, with a schedule identifying the other documents omitted and setting forth the material details in which such documents differ from the document of which a copy is filed. The secretary may at any time, in his discretion, require the filing of copies of any documents so omitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:133 (March 1980).

### §921. Amendments

A. Formal Requirements for Amendments. One copy of each amendment to an application shall be filed with the

secretary, and delivered by hand to the lessee, promptly upon the occurrence of the event necessitating such amendment.

B. **Withdrawal of Application or Amendment.** Any application or any amendment or exhibit thereto may be withdrawn upon written request to the secretary. The request shall be signed and shall state the grounds upon which made. The request shall be deemed granted five days after receipt by the secretary, unless he shall order conditions to the grant thereof, in which event withdrawal will be effective upon written notice to him of compliance therewith. If an application is withdrawn, the examination fee paid upon the filing of the application will not be returned. The papers comprising any withdrawn application or amendment or exhibit thereto shall not be removed from the files of the secretary but shall be retained therein.

C. **Powers to Amend or Withdraw Application.** All persons signing an application shall be deemed, in the absence of a statement to the contrary, to possess the following powers:

1. to amend the application; or
2. to request the withdrawal of an application, an amendment or an exhibit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:133 (March 1980).

### **§923. Application for Determination without Investigation or Hearing**

A. An application filed in compliance with these rules may be accompanied by a request that the secretary transmit a recommended decision on the application to the board without first conducting an investigation or holding a hearing. Any such request shall be signed by or on behalf of the applicant and be accompanied by affidavits from each of:

1. the applicant (or an officer of the applicant); and
2. the lessee (or an officer of the lessee) stating that in their opinion there are no substantial issues requiring an investigation or hearing. In the event such request is denied, the applicant shall promptly thereafter file the surety bond required by §915.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:133 (March 1980).

## **Subchapter C. Royalty Crude Oil**

### **§925. Purpose**

A. It is the purpose of these regulations, and in the best interest of the state, to establish a program to provide a mechanism for taking state royalty oil volumes in kind and for the disposition by sales or processing contracts, in a fair and equitable manner, of available supplies of such state royalty oil to eligible refiners within the state, with the intent

thereby to increase the supplies of gasoline, diesel or other fuel products available to Louisiana citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:142.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:133 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:256 (February 2008).

### **§927. Definitions**

*Affiliates*—any business concerns affiliated with each other where either directly or indirectly one concern controls or has the power to control the other or a third party controls or has the power to control both.

*Contract*—a contract for the disposition of state royalty oil.

*Lessee*—the owner or owners of the working interest under a state lease.

*Lessor*—the state of Louisiana acting through the State Mineral Board.

*Louisiana Refiner*—an applicant who is certified by the mineral board.

*Refiner*—a qualified applicant who contracts for state royalty oil pursuant to the policies and procedures established by the State Mineral Board and these regulations.

*Royalty Oil*—the state's royalty portion of crude oil or condensate produced from or allocated to state leases.

*Seller*—the State Mineral Board acting on behalf of the state of Louisiana in a contract to sell royalty oil.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:133 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:256 (February 2008).

### **§929. Policies and Procedures of the State Mineral Board**

A. Royalty oil available through exercise of the state's right to take in kind shall be disposed of pursuant to policies and procedures approved by the State Mineral Board, which shall be consistent with the intent and purpose of R.S. 30:143 and these regulations.

B. Prior to the execution of any contracts by the State Mineral Board, and pending a determination of available supplies, the Office of Mineral Resources, under the direction of the Secretary of the Department of Natural Resources, shall prepare for board consideration recommendations for the disposition of available state royalty oil. Such recommendations shall address the sale and accounting of royalty oil; processing and accounting for royalty oil; and public bidding and accounting for royalty oil.

C. The Office of Mineral Resources shall prepare a projection of the costs of administering the program as well as a recommendation to the board of the amount of

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administrative fee, not to exceed \$0.20 per barrel, necessary to cover such costs, and if applicable, the minimum volume of royalty oil which must be included in each type of transaction to be cost efficient.

D. In accomplishing the purposes of the Section, the Office of Mineral Resources shall be authorized to consult with such industry, government and professional persons as may be necessary. Within the limitations of its budget, or utilizing funds made available for that purpose, the office may contract for any professional services necessary, subject to the approval of the Secretary of the Department of Natural Resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:133 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:256 (February 2008).

### §931. Inventory; Delivery Points; Objections

A. For each lease, division order or other legal instrument pursuant to the terms of which the state has a royalty oil interest susceptible of taking in kind, the Office of Mineral Resources shall determine the volumes and prices applicable to such royalty.

B. The Office of Mineral Resources shall notify each of the state's lessees of the state's interest in taking in kind the volume of state royalty oil attributable to the production of each such lessee, requesting the designation, within 30 days, of proposed delivery points therefore, and notice of any perceived impediments, objections or hardships with regard to such taking under a particular lease or other legal instrument.

C. Impediments or objections which cannot be resolved within 60 days of notice, by informal conference with the State Mineral Board, shall be referred to the Secretary of the Department of Natural Resources for his review and disposition by such procedures as he may deem appropriate and in the best interest of the state.

D. The lease volumes, prices and proposed delivery points for all state royalty oil for which there is no unresolved impediment or objection to taking in kind, shall be compiled by the Office of Mineral Resources for submission to the State Mineral Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:134 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:257 (February 2008).

### §933. Louisiana Refiner Criteria

A. To be eligible to purchase or process state royalty crude oil an applicant therefore must be certified by the State Mineral Board as a Louisiana refiner.

B. To qualify as a Louisiana refiner, an applicant to purchase or process state royalty crude shall meet all of the following criteria.

1. Applicant shall be a Louisiana business entity having its principal place of business in the state of Louisiana. In applying this criterion, principal place of business shall mean:

a. 51 percent of the applicant's and all affiliates' total refining capacity is located in Louisiana; or

b. Louisiana is the applicant's state of incorporation; or

c. applicant's headquarters or corporate offices and at least 51 percent of its officers and employees are located in Louisiana.

2. Applicant shall have facilities in the state with available capacity for refining or processing crude oil or condensate into fuel products and/or the capability for the distillation of methanol or ethanol suitable for blending with gasoline to produce a motor fuel.

3. Applicant must have adequate facilities to receive crude oil and own or have contractual rights to use facilities for storage of royalty crude oil and for storage or products refined therefrom.

4. Applicant must be able to:

a. legally condition the sale of products refined from the state royalty oil upon the right of the state to exercise a right of first refusal to any such products; and

b. to give first priority to Louisiana customers in the usual course of sale of such products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:134 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:257 (February 2008).

### §935. Application Requirements

A. A refiner desiring to purchase or process state royalty oil shall file an application with the Office of Mineral Resources with an original and 10 copies containing the following information:

1. the full name and address of the applicant;

2. a detailed statement showing the applicant's qualifications to be certified a Louisiana refiner pursuant to §933 of these regulations, attested to by affidavit;

3. the capacity of the refinery to be supplied;

4. a tabulation for each of the last 12 months of operation, or since start-up date if less than 12 months, or projection for the next 12 months, of refining capability, of the amount of the thru-put capacity, the source and grades of crude oil refined or refinable, and the kind, amount and percentage of the principle fuel products produced;

5. if applicable, the amount and source of methanol and ethanol production available to applicant including identification of the sources of agricultural products used to produce such methanol and ethanol;

6. a plan of procedure setting forth in detail the mechanisms proposed to be employed to dispose of refined products in the state and to accommodate the state in the event that it exercises its rights of first refusal, together with any approvals from the federal government which may be necessary to carry out such disposition;

7. a complete disclosure of applicant's affiliation, and the nature thereof, with any other producer and refiner;

8. the minimum amount of royalty oil requested and the state lease or leases applicant believes offer a potential source of royalty oil, if known;

9. a list of all customers to whom products were sold in the current and previous year and all customers required to be supplied pursuant to federal law or regulations, including such customer's address and type of products purchased;

10. a contingency plan for handling of the state's royalty crude in the event that a force majeure event occurs disrupting normal operations;

11. such other information as the State Mineral Board may by appropriate notice require for such applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:134 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:257 (February 2008).

**§937. Disposition; Approval; Priority**

A. Royalty crude shall normally be made available to qualified applicants based upon each qualified applicant receiving an equal proportionate share of the total royalty crude oil available. The State Mineral Board may establish policies and procedures for alternate methods of disposition of royalty crude not otherwise subject to public bid, and for public bidding for royalty crude not subject to price controls when the board deems such alternate methods are appropriate. In either case the board may establish such conditions as it deems necessary, in addition to the conditions set forth in these regulations, to protect the interests of the state and to provide, to the extent practicable, for fair and equitable allocation.

B. Prior to implementing procedures for public bidding, and prior to disposing of royalty crude by a contract, for the sale or processing thereof, the board shall present such procedures, and each such contract, to the House and Senate Committees on Natural Resources, meeting jointly, for approval thereof.

C. The board shall incorporate in its policies and procedures mechanisms which give first priority to eligible refiners with capability to refine typical south Louisiana, light sweet type crude and refiners with operable facilities for the distillation of methanol or ethanol suitable for blending with gasoline to produce a motor fuel. The board shall develop procedures for ranking refiners with facilities for the distillation of methanol or ethanol according to the percentage of Louisiana agricultural products used in such

refiners' distillation process, with those refiners deriving ethanol or methanol by using 50 percent or more of Louisiana agricultural products ranked first. Refiners using less than 10 percent Louisiana agricultural products shall not be entitled to ranking in this first priority.

D. No refiner shall be entitled to receive more than 7,500 barrels per day of state royalty crude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:134 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:258 (February 2008).

**§939. Contract Term; Renewal; Minimum Requirements**

A. The term of any contract entered into by the board with a qualified refiner for the purchase or processing of state royalty crude oil shall have a maximum primary term of no more than three years. Such contract shall be renewable upon timely application of the same conditions, or such additional conditions as may be deemed necessary to serve the best interest of the state, at the sole discretion of the board.

B. Intention of the refiner to seek renewal of a contract shall be evidenced by written application filed no later than 60 days prior to the expiration date of the contract then in effect.

C. If the board does not receive written application for renewal within the time set forth in Subsection B, the board may readvertise the availability of the volume of royalty crude oil committed under such contract and enter into a new contract with a qualified refiner effective upon the expiration date of the unrenewed contract, or make such other disposition of the royalty oil as it determines to be in the best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:135 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:258 (February 2008).

**§941. Transportation; Delivery; Storage; Transportation Costs; Minimum Requirements**

A. In any contract, the refiner shall be responsible to arrange with the state's lessee for the delivery and receipt of all royalty oil.

B. The point of delivery for royalty oil under any contract shall be the field where produced or a site as near as possible to the point of delivery normally utilized by the state's lessee for delivery of crude oil when state's royalty share is not taken in kind.

C. The refiner shall promptly reimburse state's lessee for the cost of transporting crude oil to the point of delivery at the rate set by the applicable state lease for deductions from royalties for the costs of transportation. If no such rate for deductions is set by the applicable state lease, the refiner

shall reimburse the lessee at a rate to be approved by the State Mineral Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:135 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:258 (February 2008).

**§943. Price; Deductions; Method of Payment; Reports; Taxes; Administrative Fee**

A. The price to be paid by a refiner pursuant to any contract for the purchase of royalty crude oil shall be the maximum price allowed pursuant to the applicable and controlling federal or state law on the effective date of the contract. In the event that such price controls are terminated during the term of a contract, the price to be paid by a refiner shall be the fair market value of the state's royalty oil, which condition shall be effective at any time while the contract is in effect.

B. In calculating the payments for royalty crude oil purchased, the refiner may deduct from the price that portion of the transportation costs reimbursed to the state's lessee which represents the actual cost of transportation to the agreed upon point of delivery utilized. Any additional cost of transportation for delivery to a more distant point shall be borne solely by the refiner.

C. Payments due under any contract shall be made monthly, such payments to be consistent with the volume of royalty oil received by the refiner during such preceding month.

D. The refiner shall be required to file monthly reports with the Office of Mineral Resources setting forth by lease and delivery point all volumes of crude oil received.

E. The state shall assume responsibility for all severance taxes due on its royalty production in effect on the contract date. The refiner shall be liable for all other taxes and any additional or increased taxes which become effective following the date of the contract. The board may require the refiner to advance or remit to the appropriate state lessee all severance taxes paid by such lessee which are attributable to the volume of royalty oil acquired by the refiner. In such event the refiner shall be entitled to deduct such taxes on a monthly basis from payments due the state and remit same to the appropriate state lessee.

F. In addition to all other prices, fees, and charges otherwise authorized in these regulations, the board may assess a fee not in excess of \$0.20 per barrel of royalty oil delivered to cover the cost of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:135 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:258 (February 2008).

**§945. Utilization; Right of First Refusal; Assignment; Resale**

A. Refiner shall not resell any royalty crude oil without the prior written consent of the mineral board.

B. All royalty crude oil sold or processed under any contract, or other crude oil received in lieu of royalty crude oil under an exchange agreement, shall be utilized at refiner's facilities in the state and shall not be used for resale in kind except as authorized by the provisions of this Section. To the extent permitted by controlling federal law or regulations no gasoline or diesel end product refined from state royalty crude under any contract shall be sold for the ultimate purpose of retail sale outside of the state of Louisiana.

C. The resale or exchange of royalty crude oil in violation of the provisions of this Section shall be punishable by a fine of not less than \$10,000 per day for each day of violation.

D. Any contract for the sale or processing of state royalty oil shall be conditioned upon the right of the state to exercise a right of first refusal to any product refined from the royalty crude.

E. Any contract for the sale or processing of state royalty oil shall also require that first priority be given to Louisiana customers in the usual course of sale of end products.

F. Refiner shall be required to furnish the board copies of all contracts entered into between refiner and third parties reflecting delivery, receipt, handling, transporting, sale and use of crude oil covered by a contract with the board, or refined products derived therefrom.

G. No contract shall be assignable without the prior written consent of the board.

H. Refiner shall not enter into any exchange agreement whereby other crude oil in lieu of the state's royalty crude oil is delivered to refiner without the prior written consent of the mineral board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:135 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:259 (February 2008).

**§947. Penalties; Liability; Bond**

A. The board shall provide for the assessment of a late charge at the rate of 7 percent per annum on any payments received from the refiner after the date such payments are due as otherwise provided in these regulations.

B. In any contract for the disposition of royalty crude oil, the board shall assure that the state is held free and harmless from any liability, cost or expense arising from the execution of such contract or from the delivery of any crude oil pursuant thereto. The refiner shall assume all liability for the actions of itself, its agents and employees, and of the state's

lessee, its agent and employees in receiving delivery, handling, transporting and refining of royalty oil.

C. Prior to the disposition of any royalty crude oil as provided herein, the board shall require each refiner to furnish to the state a letter of credit from an established and recognized bank within the state, or an acceptable surety bond, in an amount equal to the price and administrative fee for 45 days volume of crude oil to be delivered under any contract, or \$500,000, whichever amount is less, guaranteeing good and faithful performance of the terms and conditions of these regulations and any contract. The full amount of such letter of credit or bond, or any portion thereof, may be applied to any sums or damages due the state as a result of the breach of any condition of the contract or violation of these regulations. Such right shall be in addition to any other legal rights and remedies available to the state. The board shall reserve the right to require the increase in the amount of this security when necessary to protect the interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:135 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:259 (February 2008).

#### **§949. Warranties; Governmental Regulations**

A. In any contract the board shall not warrant the crude oil delivered as being merchantable or suitable for refiner's purpose and the board shall not be liable for the quality of the crude oil or the content thereof. The board shall not warrant to refiner that there are available sufficient quantities of royalty crude oil from any state lease(s) dedicated to a contract to meet refiner's requirements.

B. All contracts shall be subject to applicable state, local and federal laws, rules and regulations. Refiner shall be required to secure all licenses, permits, orders, or waivers necessary for the performance of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:136 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:259 (February 2008).

#### **§951. Additional Procedural Rules**

A. The board may from time to time adopt such additional policies and rules of procedures as are deemed necessary to fully effectuate and administer the regulations set forth herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:143.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:136 (March 1980), amended by the Department of Natural Resources, Office of Mineral Resources, LR 34:259 (February 2008).

## **Chapter 10. Leasing State Lands and Water Bottoms for the Exploration, Development and Production of Wind Energy**

### **§1001. Authority**

A. These rules and regulations are promulgated by the Secretary of the Department of Natural Resources pursuant to the Administrative Procedure Act as authorized by R.S. 41:1734.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:260 (February 2008).

### **§1003. Purpose**

A. These rules and regulations are promulgated for the following purposes:

1. to implement the provisions of and accomplish the intent of the legislature as set forth in Chapter 14-A of Title 41 of the Louisiana Revised Statutes of 1950;

2. to establish procedures for state wind lease acquisition, transfer, release, operations, electric power production royalty payment and reporting, and decommissioning;

3. to institute reasonable fees for services performed by the Department of Natural Resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1734.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 34:260 (February 2008).

### **§1005. Overview of the State Wind Lease Acquisition Process**

A. Leases for the exploration, development and production of wind energy on state lands and water bottoms under Chapter 14-A of Title 41 of the Louisiana Revised Statutes of 1950 shall be acquired from the State Mineral Board in conjunction with the Secretary of the Department of Natural Resources, through the Office of Mineral Resources, through a public bid process as set forth in this Chapter. There are nine general steps in the state wind lease acquisition process as outlined below. Each general step has its own set of procedures which are outlined in detail in separate Sections of this Chapter:

1. registration;
2. pre-nomination research;
3. nomination of state lands and water bottoms for wind lease;
4. examination and evaluation of nomination for state wind lease;