State Mineral and Energy Board
Statutory Provisions

Current through December 2022 Elections

REVISED STATUTES
TITLE 30. MINERALS, OIL, AND GAS AND ENVIRONMENTAL QUALITY
SUBTITLE I. MINERALS, OIL, AND GAS
CHAPTER 2. LEASES AND CONTRACTS
PART I. LEASES IN GENERAL
SUBPART A. STATE MINERAL AND ENERGY BOARD

§121. State Mineral and Energy Board created; composition and powers

A. The State Mineral and Energy Board, as created by Act. No. 93 of the 1936 Regular Session, is hereby continued. The board shall be composed of the governor and the secretary of the Department of Natural Resources, ex officio, and nine members appointed by the governor. Each appointment by the governor shall be submitted to the Senate for confirmation. Six members shall constitute a quorum.

B. Each appointed member shall serve a term concurrent with that of the governor making the appointment.

C. The governor shall be ex officio chairman or may designate the board to elect its chairman to serve for two years. The board shall be a body corporate with power to sue and be sued. The domicile of the board shall be in Baton Rouge and it shall possess in addition to the powers herein granted, all the usual powers incident to corporations. If the governor serves as ex officio chairman, in case of a tie, the vote of the governor shall determine the issue. If the governor has designated the board to elect its chairman, the chairman may vote only once on any motion. The deputy secretary or the undersecretary of the Department of Natural Resources may serve as a proxy member of the board in the absence of the secretary with full authority to act for the secretary as a member of the board.

D. The board shall administer the state's proprietary interest in minerals as herein provided. The governor may appoint to the board members engaged in the industry and related business activity which members and which board shall be subject to the provisions of R.S. 42:1101 through R.S. 42:1168.

§122. Compensation

The appointed members shall receive no salaries, but attending members shall receive seventy-five dollars for each day or part thereof while attending regular or called board meetings, committee meetings, or attending to official business of the board, plus actual expenses as provided for state employees.

§123. Meetings

The board shall meet at the call of the governor and may meet at places other than its domicile.

§123.1. Registration of prospective leaseholders

A. All prospective leaseholders of leases awarded by the State Mineral and Energy Board shall register with the office of mineral resources. Registration shall be in the form and content as prescribed by the office of mineral resources. At a minimum, the registration shall include the current physical address, telephone number, e-mail address, and facsimile number of the prospective leaseholder. In addition, the prospective leaseholder shall submit written

documentation from the Louisiana secretary of state indicating that the prospective leaseholder is registered and in good standing with the secretary of state. For such purposes, a copy of the detailed record from the secretary of state web site evidencing that the company is in good standing shall suffice.

B. The registration with the office of mineral resources shall be renewed annually by January thirty-first each year by updating all information on the registration form on file at the office of mineral resources and by providing the required documentation of good standing from the Louisiana secretary of state.

C. If at any time during the period for which a given mineral lease is in full force and effect, the office of the mineral resources finds that any current record lessee of that lease is not properly registered with the office of mineral resources, the office of mineral resources shall notify the record lessee in writing by certified mail, return receipt requested, and request proper registration by a fixed date no more than thirty days after receipt of the notification. Should the record lessee, after being duly notified, fail to properly register by the date fixed in the notification, the State Mineral and Energy Board may levy liquidated damages against that lessee in the amount of one hundred dollars per day until the record lessee is properly registered with the office of mineral resources. The liquidated damage assessment may be waived, in whole or in part, by the State Mineral and Energy Board.

§124. Board may lease public lands; fee

A. The legislature finds that the state, through the Department of Natural Resources, should promote the generation and use of alternative energy sources, including but not limited to wind energy, geothermal energy, solar energy, and hydrokinetic energy, throughout the state to ensure the viability of the state's natural resources, to provide a continuing utility-scale clean energy source for the citizens and businesses of Louisiana, to support economic development through job retention and creation in Louisiana, and to promote a clean environment.

B. The State Mineral and Energy Board, hereinafter referred to as the "board", has authority to lease for the development and production of minerals, oil, gas, or alternative energy sources, any lands belonging to the state, or the title to which is in the public, including road beds, water bottoms, vacant state lands, and lands adjudicated to the state at tax sale. The board, in consultation with the Department of Transportation and Development, shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subpart.

C. As used in this Section, "alternative energy sources" means energy sources other than oil, gas, and other liquid, solid, or gaseous minerals. It shall include, but not be limited to, wind energy, geothermal energy, solar energy, and hydrokinetic energy. It shall not include the cultivation or harvesting of biomass fuels or the use of state land or water bottoms for facilities which utilize biomass fuel to produce energy.

D. No lease shall be granted for hydrokinetic energy development that is inconsistent with the terms of a preliminary permit, license, exemption, or other authorization issued by the Federal Energy Regulatory Commission pursuant to its authority under the Federal Power Act, 16 U.S.C. 791a, et seq.

E.(1)(a) No lease affecting the following lands shall be granted for alternative energy sources development on such lands without prior written approval of a port; harbor and terminal district; or port, harbor, and terminal district;

(i) Lands held in title by such port or district or held by lease or servitude by such port or district.

(ii) Public navigable waters that flow through any lands within the jurisdiction of such port or district. Approval pursuant to this Item shall not be unreasonably withheld unless such lease would be detrimental to the needs of commerce and navigation.

(b) No such port or district shall receive compensation for their approval; however, such port or district shall receive reimbursement from the lease applicant for actual expenses incurred for any studies or reports conducted in conjunction with their approval.

(2) After the port; harbor and terminal district; or port, harbor, and terminal district decides whether or not to grant approval, the board shall send a notice by certified mail to the lease applicant for alternative energy sources development. The notice shall include the following:

(a) The decision of such port or district to provide either prior written approval of the lease or to deny approval of such lease.

(b) If such port or district does not grant prior written approval, notice that the lease applicant has sixty days from receipt of the notice to request an administrative hearing with the division of administrative law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The request for an administrative hearing shall be filed with the division of administrative law, with copies mailed to the board and such port or district.

(3) The port; harbor and terminal district; or port, harbor, and terminal district which does not grant prior written approval of a lease shall have the burden of proof, at the administrative hearing, that the lease is detrimental to the needs of commerce and navigation.

(4) The port; harbor and terminal district; or port, harbor, and terminal district shall contract with the division of administrative law to conduct the hearing. The administrative law judge may, in his discretion, assess the costs of the administrative hearing and reasonable attorney fees of the prevailing party against the losing party.

(5) Notwithstanding any provision of the law to the contrary, the lease applicant or the port; harbor and terminal district; or port, harbor, and terminal district may petition the district court for the parish of East Baton Rouge for judicial review of any final decision or order of the administrative law judge.

F. The board is further authorized to collect a fee for such leasing in the amount of ten percent of the total cash bonus paid at the lease sale. The fee shall be in addition to the total cash bonus paid.

§125. Application for lease; fee

A. All proposals for mineral leases under this Section and R.S. 30:126 shall be submitted to and examined by the assistant secretary of the office of mineral resources who shall transmit them to the board for its action. All proposals shall be submitted by application as provided herein in the form required by the office of mineral resources, giving the description of the land,

including a map, and submission of four hundred dollars, payable to the office of mineral resources, to satisfy the cost of processing the application. The fee shall not be returned, even in the event of a bid.

B. Repealed by Acts 2008, No. 283, §2.

§126. Inspection; quantity of land; advertisements for bids; fees

A. Upon receipt of an application accompanied by the nonrefundable fee, the State Mineral and Energy Board may cause an inspection of the land to be made, including geophysical and geological surveys. After receiving the report of the inspection, the board may offer for lease all or part of the lands described in the application. However, no lease shall contain more than five thousand acres. The board shall publish in the official journal of the state, and in the official journal of the parish where the lands are located, an advertisement which must appear in these journals not more than sixty days prior to the date for the opening of bids. The board may, at its discretion, publish other such advertisements. This advertisement shall contain a description of the land proposed to be leased, the time when and place where sealed bids shall be received and publicly opened, a statement that the bid may be for the whole or any particularly described portion of the land advertised, and any other information that the board may consider necessary, and the royalty to be demanded should the board deem it to be in the interest of the state to call for bids on the basis of a royalty fixed by it. If the lands are situated in two or more parishes, the advertisement shall appear in the official journals of all the parishes where the lands may be partly located. This advertisement and any other published by the board shall constitute judicial advertisement and legal notice within the contemplation of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950. When requested to furnish proof of publication, the board may charge a fee of twenty dollars to furnish the proof of publication.

B.(1) The board may also cause notices to be sent to those whom it thinks would be interested in submitting bids. Upon the request of the board, the office of mineral resources shall prepare and mail the notice of publication. In addition, the board may make available, in whatever format it deems appropriate, maps showing tracts from past and present lease sales (G5 maps), proof of no conflict or overlap of tracts, and proof that tracts are within the three-mile limit of the Louisiana coastline.

(2) The office of mineral resources may charge the following fees for the following services:

(a) Yearly subscription for notice of publication - one hundred twenty dollars per year.
(b) Copies of maps of tracts north of the thirty-first parallel - ten dollars per month.
(c) Copies of maps of tracts south of the thirty-first parallel - twenty dollars per month.
(d) Proofs of no conflict or overlap - five dollars each.
(e) Proofs that tracts are within the three-mile limit of the Louisiana coastline - five dollars each.
(f) Subscription for any of the information listed in this Paragraph in electronic form - two hundred dollars per year.

(3) On its own motion and after complying with the provisions of R.S. 36:354(A)(2), or at the request of the secretary of the Department of Natural Resources, the board shall advertise for bids for a lease in the same manner as if an application had been made therefor.

§127. Opening bids; minimum royalties; terms of lease; deposit; security

A. Only those bidders who are registered prospective leaseholders with the office of mineral resources, or those who register within two business days after the lease sale at which the bid is opened and prior to the conditional issuance of the lease, shall be allowed to obtain a mineral lease from the state of Louisiana. Any bidder who is not properly registered with the office of mineral resources at the time bids are opened, but whose bid is otherwise acceptable, shall have until the end of the second business day following the date on which the bid was conditionally accepted by the State Mineral and Energy Board to become properly registered with the office of mineral resources. If said bidder remains unregistered by the close of business of the second business day following the day the mineral lease sale at which the bid was conditionally accepted, the conditionally accepted bid shall be deemed rejected. The provisions of this Subsection shall also apply in cases where there is no more than one bid made by unregistered prospective leaseholders. Bids may be for the whole or any particularly described portion of land advertised. At the time and place mentioned in the advertisement for the consideration of bids, they shall be publicly opened. Bids received by the mineral board shall be opened at any state-owned buildings situated in the city in which the capitol is located. The mineral board has authority to accept the bid most advantageous to the state and may lease upon whatever terms it considers proper. However, the minimum royalties to be stipulated in any lease, other than a lease executed by or on behalf of a school board, shall be:

(1) One-eighth of all oil and gas produced and saved.

(2) One-eighth of the value per long ton of sulphur produced and saved which shall yield not less than two dollars per long ton.

(3) One-eighth of the value per ton for all potash produced and saved, which shall yield not less than ten cents per ton.

(4) Five percent of all lignite produced and saved.

(5) Five percent of the value per ton on a dry salt basis for all salt produced and saved, which shall yield not less than ten cents per ton.

(6) One-eighth of all other minerals produced and saved.

B. The minimum royalties to be stipulated in any lease executed by or on behalf of any school board shall be:

(1) One-sixth of all oil and gas produced and saved.

(2) One-sixth of the value per long ton of sulphur produced and saved which shall yield not less than two dollars per long ton.

(3) One-sixth of the value per ton for all potash produced and saved, which shall yield not less than ten cents per ton.

(4) Five percent of all lignite produced and saved.

(5) Five percent of the value per ton on a dry salt basis for all salt produced and saved, which shall yield not less than ten cents per ton.

(6) One-sixth of all other minerals produced and saved.

C. Each lease where ascertainable shall clearly describe the land leased by section, township, and range, or where authorized by the office of mineral resources, by points along the lease boundary delineated by Lambert X,Y coordinates connected by lines having distances and bearing, or in any other manner authorized by the office of mineral resources, and shall contain a provision permitting the state, at its option, to take in kind the portion due it as royalty of any minerals produced and saved from the leased premises. The office of mineral resources may collect a fee of five dollars each to furnish a proof of lease.

D. The board may reject any and all bids, or may lease a lesser quantity of property than advertised and withdraw the rest.

E. If all written bids are rejected, the board may immediately offer for competitive bidding a lease upon all or any designated part of the land advertised, upon terms appearing most advantageous to the state. This offering shall be subject to the board's right to reject any and all bids. No lease shall be for more than five thousand acres, except leases for wind energy production which shall not exceed twenty-five thousand acres. Where a lease provides for delay rental, the annual rental shall not be for less than one-half the cash bonus. All lands shall be accurately described in a lease.

F. Deposit that may be required to be submitted with each bid shall be in the form of certified check, cashier's check, bank money order, or electronic funds transfer.

G. Any contract entered into for the lease of state lands for any purpose shall require that access by the public to public waterways through the state lands covered by the lease shall be maintained and preserved for the public by the lessee. The provisions of this Section shall not prohibit the secretary of the agency having control over the property from restricting access to public waterways if he determines that a danger to the public welfare exists. The provisions of this Section shall not apply in cases involving title disputes.

H. The board may include in any lease entered into by the state, any state agency, or any political subdivision after July 31, 2019, a clause which grants a continuing security interest in and to all as-extracted collateral attributable to, produced, or to be produced, from the leased premises or from lands pooled or unitized therewith, as security for the prompt and complete payment and performance of the lessee's obligation to pay royalties or other sums of money that may become due under the lease, as contemplated by the Uniform Commercial Code. The board may subordinate the state's security interest in any amounts in excess of the royalties and other sums due to the state, to the security interest of one or more lenders. However, no less than thirty days prior to entering into the first lease that contains a clause granting a continuing security interest under the provisions of this Section, the board shall submit the proposed clause language to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources for review..

§127.1. Tertiary recovery incentive

A. It is recognized as essential to the continued growth and development of the mineral resources of the state of Louisiana and to the continued prosperity and welfare of the people of the state that tertiary recovery operations be encouraged. It is also recognized that tertiary recovery methods are experimental and more costly than traditional enhanced recovery

operations, thus preventing recovery of oil in many fields because it is not economically feasible. It is the purpose of this Section to provide an economic incentive to producers to allow them to invest in tertiary recovery projects to enhance the state of Louisiana's crude oil production to the ultimate benefit of the state.

B.(1) In order to accomplish the purposes set forth in Subsection A of this Section, the State Mineral and Energy Board may enter into an agreement with the lessee under any present and future state mineral lease or leases, under which such lessee may be relieved from the payment of all or part of the royalty otherwise due to the state under the applicable mineral lease or leases in regard to production from the particular reservoir involved in a qualified tertiary recovery project, until such project has reached payout from the total production, "payout" to be defined by the board on a project-by-project basis based on:

(a) Investment costs, and

(b) Expenses peculiar to the tertiary recovery project, not to include charges attributable to primary and secondary operations on that reservoir.

(2) The board shall have sole discretion to waive payment of all of the state's royalty, part of the state's royalty, or none of the state's royalty, or even to increase the state's royalty after payout, and to impose such other conditions as the board may deem advantageous to the state. Such agreement may contain such other terms and conditions as the board deems to be in the best interest of the state.

(3) Once payout has been achieved, royalty shall be due on all future production within the qualified tertiary recovery project according to the terms and conditions of the affected state mineral lease or leases and any agreement effected under the authority hereof.

(4) Any agreement executed pursuant to this section shall not become effective unless three-fourths of the royalty owners in interest and three-fourths of the overriding royalty owners in interest within a tertiary recovery project, inclusive of the state's royalty interest, will relieve their lessees from the payment of all or part of the royalty otherwise due until payout.
C. For purposes of this Section, a "qualified tertiary recovery project" is an enhanced crude oil recovery project utilizing one of the following methods:

(1) Miscible fluid displacement.
(2) Steam drive injection.
(3) Micro emulsion, or micellar/emulsion flooding.
(4) In situ combustion.
(5) Polymer augmented waterflooding.
(6) Cyclic steam injection.
(7) Alkaline (or "caustic") flooding.
(8) Carbon dioxide augmented waterflooding.
(9) Immiscible carbon dioxide displacement.
(10) Specific variations of any of the above listed general techniques, as determined in any particular case by the assistant secretary of the office of conservation.
(11) Any other method approved by the assistant secretary of the office of conservation as constituting tertiary recovery within the contemplation of that term in the profession of petroleum engineering.

D. This section shall apply to tertiary recovery activities on any reservoir that is no longer capable of producing by methods other than tertiary. It shall also apply to reservoirs which are still capable of producing by primary and secondary methods after an amount of production has been recovered during a tertiary recovery project equal to that which would have been recovered by utilizing primary and secondary methods, which amount shall be determined by the assistant secretary of the office of conservation at the hearing required under Subsection B of this Section.

E. This Section shall not apply to reservoirs on which tertiary recovery operations are being conducted prior to the effective date of this Section.

F. Repealed by Acts 1986, No. 321, §1.

G. This section shall not apply to royalties in regard to production from a qualified tertiary recovery project to the extent such royalties must be remitted to the governing authority of the parish in which the severance or production occurs in accordance with Article VII, Section 4(E) of the Louisiana Constitution of 1974, as implemented by R.S. 30:145, 146 and 147.

H. This section shall not apply to lands or mineral interests owned or administered by any school board, levee board or district, or other political subdivision.

§128. Transfers; approval by board; fees; penalties

A. No transfer or assignment in relation to any lease of minerals or mineral rights owned by the state shall be valid unless approved by the State Mineral and Energy Board. The mineral board may charge a fee of one hundred dollars to cover the cost of preparing and docketing transfers or assignments of leases of mineral or mineral rights. All parties to transfers or assignments in relation to any lease of mineral or mineral rights from the state shall be registered prospective leaseholders with the office of mineral resources. Transfers or assignments shall not be granted to prospective leaseholders that are not currently registered with the office of mineral resources.

B.(1) Failure to obtain approval of the board of any transfer or assignment of a lease within sixty days of execution of the transfer or assignment shall subject the transferor or assignor to a civil penalty of one hundred dollars per day beginning on the sixty-first day following the execution of the transfer or assignment. The penalty shall continue to accrue on a daily basis until the date on which the transfer or assignment is received by the office of mineral resources for submission to the board for approval or to a maximum amount of one thousand dollars.

(2) The penalties shall be paid into the Mineral and Energy Operation Fund on behalf of the board. The board may waive all or any part of the penalties provided in this Section.

C. A transfer for purposes of this Section shall not be deemed to occur by the granting of a mortgage in, collateral assignment of production from, or other security interest in a mineral lease or sublease or the transfer of an overriding royalty interest, production, payment, net profits interest, or similar interest in a mineral lease or sublease.

§129. Powers, duties, and authority of board; pooling agreements; operating units; fees

A. The board shall have full supervision of all mineral leases granted by the state, in order that it may determine that the terms of these leases are fully complied with, and it has general

authority to take any action for the protection of the interests of the state. The board shall take all appropriate action, including the recovery of nonproducing leased acreage whenever possible, to assure that undeveloped or nonproducing state lands and water bottoms are reasonably and prudently explored, developed, and produced for the public good. It may institute actions to annul a lease upon any legal ground. The board has authority to enter into agreements or to amend a lease in whatever manner may most benefit the state. It may join in pooling and unitization agreements covering state lands and water bottoms, and mineral and royalty rights in, to, and under state lands and water bottoms either alone or in conjunction with any other lease, mineral, or royalty rights in and under any other property, so as to create, by the agreement, one or more pooled units. The board may agree in the event of production of minerals from any unit so created, that the state shall receive and accept on account of production, whether or not production is from any part of the state property within the unit, a share of unit production or proceeds proportionate to that part of the production or proceeds which the state is fairly entitled to receive under the unit agreement. In determining this proportionate part which the state may receive, the board may consider the surface acreage, the estimated original reserves in place, the estimated ultimate recovery, sand thickness, porosity, permeability as determined by approved engineering practices, and any other relevant factors. This proportionate share of unit production or proceeds shall be in lieu of all other royalties or other payments which would accrue to the state on account of production from, or attributable to, any part of the state property included in the unit. The office of mineral resources may collect a fee of five hundred dollars to cover the cost of docketing and advertising any instrument related to the administration of mineral leases under the provisions of this Part. In addition, the office may collect a fee of thirty-five dollars per hour for each hour or portion thereof spent in verification of claims, disputes, or questions pertaining to the terms, conditions, obligations, and duties expressed or implied in the state mineral lease.

B.(1)(a) "Operating unit" as herein used means that number of surface acres of land which, under regular or special rules of the commissioner of conservation or other authority having control in the premises, or by agreement of the lessors, lessees, and mineral and royalty owners, may be pooled and unitized for development and operation as a unit. An agreement creating an operating unit may provide for cycling, recycling, pressure maintenance, or repressuring in fields productive of oil, gas, and gas from which condensate, distillate, or other product may be separated or extracted.

(b) "Reworking operations" means the good faith downhole work performed on a well after its completion in a good faith effort to secure production where there has been none, restore production that has ceased, or increased production.

(c) "Commencement of operations for the drilling of a well" means actual spudding in of a well with drilling equipment adequate for the good faith drilling of a well to a depth that is reasonably calculated to establish oil and gas production affecting the lands where such well is commenced.

(2) The commencement of operations for the drilling of a well, the conducting of reworking operations, or production of minerals on any portion of a unit which embraces all or any part of the property covered by a contract of lease in effect on August 1, 1991 or thereafter shall have the same effect, under the terms of the lease as if it had occurred on the lands embraced by the lease.

(3) However, each contract of lease entered into by the board after August 1, 1991, shall contain a clause, commonly referred to as a "Pugh clause", which shall provide that the

commencement of operations for the drilling of a well, the conducting of reworking operations, or production of minerals, on any portion of a unit which embraces all or any part of the property covered by such lease shall maintain the lease in effect under the terms of the lease only as to the part of the leased property embraced by the unit. The clause may provide that the acreage outside the unit(s) may be maintained by any means covered by the lease, but if by rental payments, then such payment may be reduced proportionately to the amount of acreage included in the unit as it bears to the total acreage in the lease, provided that the rental per acre on the outside acreage shall not be less than one-half of the cash payment paid for the lease per acre nor shall the lease on the non-unitized acreage be extended more than two years beyond the primary term.

§129.1. Public notice of approval of unitization, royalty or other agreements

The board shall give ten days public notice prior to exercise of its powers and duties in approving for execution unitization agreements, royalty agreements or agreements that could be assimilated to a conveyance involving minerals or mineral rights of the state, exclusive of agreements involving the state's royalty in kind entered into pursuant to R.S. 30:142, which royalty in kind agreements are already subject to advertisement and bidding as therein provided. The board shall give this notice by publication in either the official journal of the state or in the Louisiana Register created by R.S. 49:954.1(B) at the board's election. The notice shall be sufficient if it contains at least a digest or summary of the nature of the proposal, a general description of the state property interest affected thereby, and the time and place of the meeting at which such a proposal will be considered for execution, provided that a full copy of the instrument effecting the proposed agreement is otherwise made available for public inspection in the offices of the board during such notice period by any one desiring to examine the same. The notice provided herein shall constitute judicial advertisement and legal notice within the contemplation of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950.

§130. Records; execution of division orders and other documents

The office of mineral resources shall keep the records of the board, including all leases and all bids, proposals, assignments, or transfers pertaining to leases. The office of mineral resources shall be the official custodian of such records and shall certify the contents when appropriate. The office of mineral resources may set and collect a fee of one dollar per copy to cover the cost of certification of records. The board may authorize a member of the board or of the staff of the office of mineral resources to sign for the state all division orders or other documents which are necessary or customary with respect to the production and sale of oil, gas, or other minerals by lessors and royalty owners.

§131. Surveys, reports and investigations

The Department of Public Works, parish surveyors, State Highway Engineers, Louisiana State University and Agricultural and Mechanical College and any board, department or institution of the state and the governing authorities of political subdivisions shall make such surveys, reports and investigations, and furnish such records and information as may be required by the State Mineral and Energy Board for the purposes of determining boundaries, character, title, location and other matters relating to lands.

§132. Attorney for the board

The attorney general shall be the attorney for the board, but the board shall have authority to employ additional counsel and fix and pay the compensation for such additional counsel or counselors, subject, however, to the authority of the attorney general and the secretary of the Department of Natural Resources to approve such counsel whereupon the attorney general shall issue, under his power of appointment of assistants, a commission to such counsel as assistant attorney general. However, any contract for legal services which exceed two hundred fifty thousand dollars shall be subject to approval by the Joint Legislative Committee on the Budget.

§133. Repealed by Acts 1952, No. 491, §1

§134. Roads, etc.; payment to parishes; compromise of claims

The provisions of this Subpart shall extend to the public roads, canals, and similar properties, the title to which is in either the state or the parishes. Where road beds belonging to the parishes are leased by the board, the leases shall provide for the payment of a royalty to the parish in which production occurs of at least one-sixteenth of the minerals produced, to be used by the police jury for public purposes. The governor, the attorney general and the executive counsel or any two of them, may settle and compromise with the parishes or other claimants, all matters relating to lands or rights referred to in this Section, upon terms and conditions any two of them decide. In connection with agreements these officers, or any two of them, may stipulate for the reconveyance of lands to the state and for payment of royalties and rentals and the division thereof between the state and the parishes or other claimants.

§135. Secretary and other employees

The Department of Natural Resources, through the office of mineral resources shall provide the necessary staff functions to assist the board in its leasing, supervisory, and other activities and the assistant secretary thereof shall serve as secretary to the board.

§136. Funds, disposition and appropriation of; penalties

A.(1)(a) All bonuses, rentals, royalties, shut-in payments, or other sums payable to the state as the lessor under the terms of valid existing mineral leases entered into under this Subpart or previously granted by the state and under the supervision of the board or from leases hereafter granted shall be paid to the office of mineral resources, by check or electronic wire transfers only, and all such payments if made payable to the register of the state land office as previously required, may be endorsed and otherwise processed by the secretary of the Department of Natural Resources pursuant to his general authority in regard to the functions of that office as provided in R.S. 36:921 through R.S. 36:926. A payor of royalty whose total monthly payment is fifty thousand dollars or more shall pay the royalty payment by electronic wire transfer.

(b) The office of mineral resources shall maintain a log in which shall be noted the date, time, and payor of each payment and the nature thereof, whether check or electronic wire transfer, so that the board may determine whether such payment was correct, sufficient, and timely made. The board shall then transmit these payments by electronic transfer, or hand-carry these payments, on the day received, to the state treasurer. If the board cannot make such determination promptly, it shall nevertheless transmit these payments by electronic transfer, or hand-carry these payments, on the day received, to the state treasurer and request the

treasurer to place such funds as are being reviewed by the board under this Section in a suspense account until such time as the board makes the determination herein required and notifies the state treasurer of the disposition to be made by them. If the payor attributable to a lease unit well (LUW) code changes between monthly payment dates without notification to the office of mineral resources of the change and with submission of the current mailing address, telephone number, and email address for the new payor prior to the next month's payment, the new payor shall be subject to a liquidated damage penalty of one thousand dollars. The State Mineral and Energy Board shall have authority to waive all or any part of said damages based on a consideration of all factors bearing on the issue.

(c) The immediate acceptance of such payments shall not prejudice either the right of the state as lessor or the rights of the state's lessee or lessees as provided under the terms of the validly existing mineral leases. A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil, gas, or other minerals from state leases shall establish, maintain, and make available for inspection by office of mineral resources auditors any information that is reasonably relevant to the computation of royalties, and upon the request by any such auditor, the appropriate records, reports, or information shall be made available for duplication.

(2) Overpayments or underpayments of sums other than bonuses, rentals, or shut-in payments, may be corrected in the following manner: An underpayment will be made up at a later date upon proper notification by the board to the lessee, and overpayments may be offset, compensated for, or recovered from royalty thereafter accruing to the state of Louisiana as authorized under the provisions of R.S. 30:137 and R.S. 30:138. The board may adopt rules in accordance with the Administrative Procedure Act providing for the assessment of fees to recover the costs associated with the processing of requests submitted by lessees or royalty payors for the reimbursement of overpayments. The failure or delay of the board to take any action or perform any function with respect to any payment shall not affect the validity of any payment made or tendered.

(3) The board shall implement procedures requiring that all mineral leases executed by or for the state on or after July 26, 1990* include provisions requiring the timely payment of all bonuses, rentals, royalties, shut-in payments, or other sums payable to the state as lessor.

B.(1) Any form required by the Department of Natural Resources or the office of mineral resources to be filed in conjunction with the payment of any sum, other than bonuses, rentals, or shut-in payments, which has been incorrectly completed in any part, and which error results in the inability of any agency or subdivision thereof to carry out any of its statutory or regulatory duties in a timely manner, unless corrected in full prior to the payment due date, shall render the royalty pay or subject to a penalty of five percent of the total sum due or paid, not to exceed five hundred dollars, as liquidated damages. The whole or any part of the damages provided for in this Paragraph may be waived by the State Mineral and Energy Board and said damages shall, as with any and all liquidated damages assessed and collected by the State Mineral and Energy Board in accordance with any statutory or contractual provision, be deemed self-generated funds to be deposited into the Mineral and Energy Operation Fund.

(2) The failure to pay or the underpayment of all sums other than bonuses, rentals, or shut-in payments, for whatever cause, shall subject the lessee, his successor, or assigns, to a penalty of ten percent of the total sum due not to exceed one thousand dollars, which penalty shall be assessed, and owing on the day following the date payment was due, and shall be deemed

liquidated damages. The whole or any part of the penalty set forth herein may be waived by the State Mineral and Energy Board.

(3) When notice is given of the incorrect completion of any required form, or demand for payment is made for failure to pay or underpayment, or sixty days has elapsed from the date payment was due with the correctly filled out form, an additional penalty of two percent of the total sum then due shall accrue beginning on the sixty-first day on each thirty-day period thereafter, or fraction thereof, up to a maximum of twenty-four percent in additional penalty. The penalty therein provided shall be in addition to interest at the legal rate compounded monthly. Both the penalty and interest shall accrue to principal and interest accumulated at the end of each thirty-day period, or fraction thereof, also without necessity of further notice and shall be in addition to all remedies available under law, including those prescribed in R.S. 31:137 through 141. In the event the State Mineral and Energy Board finds, subject to judicial review, that a substantial and justiciable controversy exists as to whether any such royalties are legally due, it shall defer the commencement of the accrual of the aforesaid penalty until the controversy is resolved by amicable agreement or by final decree of any court of competent jurisdiction. The whole or any part of the penalties set for hereinabove may be waived by the State Mineral and Energy Board.

C. Subject to legislative appropriation, the state treasurer shall set aside from payments transmitted to him under this Section the sum of fifteen thousand dollars and shall maintain this balance from such future payments and the board is authorized to withdraw from this fund and pay in the manner provided by law any expenses incurred under R.S. 30:126 for advertising of state-owned lands. The state treasurer shall then credit and disburse these funds as follows:

First: One-tenth of the royalties from mineral leases on state-owned land, lake, and river beds and other water bottoms belonging to the state or the title to which is in the public for mineral development, except properties comprising the Russell Sage Wildlife and Game Refuge, in accordance with the provisions of Paragraph E of Section 6 of Article VII of the Constitution, shall be remitted to the governing authority of the parish in which severance or production occurs.
Second: All remaining funds, after complying with dedications heretofore made and after the distributions herein provided, shall be credited to the Bond Security and Redemption Fund and disbursed by the state treasurer according to law.

D. Of revenues received in each fiscal year by the state through judgments or settlements, even if a civil action is not commenced, resulting from underpayment to the state of severance taxes, royalty payments, bonus payments, rentals, shut-in payments or other sums payable to the state as lessor under the terms of a valid mineral lease, an amount equal to the actual costs expended from the Mineral and Energy Operation Fund and any attorney fees incurred shall be deposited into the Mineral and Energy Operation Fund.

§136.1. Proceeds from mineral royalties, leases, and bonuses; payment into the Bond Security and Redemption Fund; payment into the Louisiana Investment Fund for Enhancement (L.I.F.E.)

A. The proceeds of all royalties from all mineral leases to be granted, as well as all mineral leases heretofore granted, by the state of Louisiana on state-owned land, lake and river beds, and other water bottoms belonging to the state remaining after complying with dedication of such revenues heretofore made and after deductions of any appropriations of such revenues

made by law for the payment of the expenses of the State Mineral and Energy Board, shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund.

B. The proceeds of all leases and bonuses, including annual delay rentals under said leases to be granted as well as all proceeds from mineral leases and delay rentals thereunder heretofore granted, by the state of Louisiana on state-owned land, lake and river beds, and other water bottoms belonging to the state remaining after complying with dedications of such revenues heretofore made and after deduction of any appropriations of such revenues made by law for the payment of the expenses of the State Mineral and Energy Board, shall be paid into the state treasury for credit to the Bond Security and Redemption Fund.

C. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, in each fiscal year, shall pay into the Louisiana Investment Fund for Enhancement that amount required to be deposited therein by R.S. 30:301 et seq.

D. After deposit to the Bond Security and Redemption Fund as required under the provisions of Article VII, Section 9(B) of the Constitution of Louisiana, an additional fifteen dollars per acre shall be collected from the mineral lessees and deposited into the Louisiana Wildlife and Fisheries Conservation Fund, and an additional fifteen dollars per acre shall be collected from the mineral lessees and deposited into the Oil and Gas Regulatory Dedicated Fund Account created by R.S. 30:21. The funds deposited under the provisions of this Subsection shall be used to supplement funds available to the recipient agencies and shall not be used to supplant other funds available to those recipient agencies.

§136.2. Repealed by Acts 2001, No. 1182, §11, eff. July 1, 2001.

§136.3. Mineral and Energy Operation Fund

A. There is hereby established in the state treasury a special fund to be known as the "Mineral and Energy Operation Fund", hereinafter referred to as the "fund".

B. Out of the funds remaining in the Bond Security and Redemption Fund, after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year as required by Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer in each fiscal year shall pay into the fund revenues and amounts from the following sources:

(1) An amount equal to one million six hundred thousand dollars received by the state through the office of mineral resources from nonjudicial settlements, including but not limited to settlements of disputes of royalty audit findings, and court-awarded judgments and settlements. For Fiscal Years 2021-2022 through 2024-2025, an additional amount equal to nine hundred thousand dollars received by the state through the office of mineral resources from nonjudicial settlements, including but not limited to settlements of disputes of royalty audit findings, and court-awarded judgments and settlements.

(2) All income received under the provisions of R.S. 30:212(D).

(3) All revenues received from fees levied under the provisions of Subpart A of Part II of Chapter 2 of Subtitle I of this Title, comprised of R.S. 30:121 through 144, both inclusive.

(4) Monies from any other source from which revenues are designated for deposit to the fund.

(5) All revenue received from fees collected pursuant to R.S. 30:1154.

C. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earned on investment of monies in the fund shall be credited to the state general fund.

D. The monies in the fund shall be appropriated by the legislature to the Department of Natural Resources to be used solely for the administration and regulation of minerals, ground water, and related energy activities. Additionally, monies deposited into the fund pursuant to Paragraph (B)(5) of this Section shall be used solely for the administration and regulation of solar power generation facilities.

E. In every year in which the department expends monies appropriated from this fund for the purposes of legal costs and expenses, the secretary of the department shall provide the legislature with an itemized report detailing such expenditures, which shall include the name of any person or corporation receiving any such monies. The report shall be provided to the House Committee on Appropriations and the Senate Committee on Finance no later than May first of each year.

§137. Agreements to offset, compensate, and recover from future royalties

The State Mineral and Energy Board is hereby empowered to enter into agreements with lessees or other parties under state oil, gas and mineral leases or other agreement heretofore or hereafter issues to offset, compensate, and recover from royalty thereafter accruing to the state of Louisiana, amounts equal to any royalty or other payments (all herein called "royalty") which such lessees or other parties have paid to the state was, is, or may become lawfully entitled because of overpayment or action by the Federal Power Commission; provided, however, that with respect to any royalty based on amounts received by the lessee or other parties for sales of natural gas that may be subject to refund by order or directive of the Federal Power Commission, such agreements may require the immediate payment of such portion of such royalty that is determined to be proper by the State Mineral and Energy Board, such payment to be subject to the offsetting, compensation, and recovery provisions of R.S. 30:137 to 141.

§138. Agreements to offset, etc., to be made against any payable royalty

The agreements referred to in R.S. 30:137 may provide for such offset, compensation and recovery by such lessees or other parties to be made against any royalty payable to the state of Louisiana by such lessees or other parties.

§139. Validation of agreements

All agreements of the character contemplated by R.S. 30:137 which have heretofore been entered into by the State Mineral and Energy Board are hereby ratified, confirmed, and validated; however, such agreements may be modified or amended in accordance with the terms of R.S. 30:137 to 141.

§140. Compliance with agreement as compliance with lease

The compliance by any mineral lessee or other party with the provisions of any agreement executed pursuant to the provisions of R.S. 30:137 to 30:141, or ratified in R.S. 30:139, shall with respect to the subject matter of such agreement, be deemed a full compliance with the provisions of the mineral lease or other contract affected by said agreement.

§141. Power of mineral board not derogated - Other rights and remedies not modified

R.S. 30:137 to 141 are not intended in any way to derogate from or question the power and authority of the State Mineral and Energy Board to enter into any agreements of any type whatsoever pursuant to its power and authority heretofore expressly or impliedly granted by law; and the provisions hereof shall not modify in any way the right of any lessee or other party to invoke the rights and remedies available under existing laws.

§142. Board as agency to receive, administer, and control royalties in-kind; contract authority

A. In addition to the powers and duties of the board as specified in R.S. 30:129 and other provisions of this Subpart, the board is hereby designated as the agency of the state of Louisiana authorized to exercise the option granted to the state by R.S. 30:127(C) to receive in kind the portion due to the state as royalty of any minerals produced and saved from leased premises and to receive, administer, and control royalties due in kind to the state of Louisiana. The board may adopt rules in accordance with the Administrative Procedure Act providing for the assessment of fees from the purchaser to recover the costs associated with the administration of the sale of in-kind royalties pursuant to this Section.

B. The board may contract under terms which it deems to be most advantageous to the state with persons, corporations, municipalities, other political subdivisions, associations, and partnerships engaged in the storage, transportation, refining, processing, distribution, sale and/or use of oil, natural gas, and other minerals, for the storage, transportation, refining, processing, distribution, sale and/or use of such royalties.

C. In the exercise of these powers and duties, the board is specifically authorized to negotiate such contracts with applicants desiring the acquisition and use of the in-kind natural gas royalties to satisfy and meet human needs, and public bidding shall not be required. For these purposes, the contract for the use of in-kind royalties shall not constitute nor be defined as a conveyance, lease, or royalty agreement of minerals or mineral rights.

D. Human needs for purposes of this Section are defined as those needs involving the public health, welfare, safety, and economic well-being for the following:

(1) Maintenance of gas and electrical services for residences, such as individual homes, apartments, and similarly occupied dwelling units, hospitals, nursing homes, dormitories, education facilities, hotels, motels, juvenile and adult correctional institutions, and publicly owned water, sewerage and storm drainage systems producing their own energy, which systems supply services to the aforesaid.

(2) Maintenance of agricultural operations and processing of agricultural products, including farming, ranching, dairy, water conservation and commercial fishing activities, operations of food processing plants, fertilizer manufacturing plants, businesses and facilities processing

products for human consumption, and services directly related to the activities described in this Paragraph.

(3) Maintenance of commercial and industrial business activities utilizing less than three thousand Mcf of natural gas on a peak day.

(4) Maintenance of all public services including facilities and services provided by municipal, cooperative, or investor owned utilities required for customers who come under Paragraphs 2 and 3 of this Subsection or by any state or local government or authority, and including transportation facilities and services which serve the public at large.

(5)(a) Maintenance of depressed energy-intensive industry, the closure of which Louisiana facilities is threatened as a result of high energy costs and competition from comparable industries located outside of Louisiana to which energy is offered at significantly lower costs. The purpose of this Subpart is to encourage the retention of such depressed energy-intensive industries and the substantial number of jobs that they provide in Louisiana.

(b) An industry may qualify as a "depressed energy-intensive industry" if the Board of Commerce and Industry, after hearing conducted pursuant to the Administrative Procedure Act, certifies that the industry applying therefor meets each of the following requirements:

(i) The applicant industry verifies that the expense of electricity and natural gas utilized for facility power requirements and not for feedstock purposes to its Louisiana facility exceeds thirty-three percent of the total cost of the product or products manufactured at such facility.

(ii) The applicant industry verifies that the amount of electricity or natural gas consumed for facility power requirements and not for feedstock purposes at the facility is in excess of one billion Btu's in a peak hour per month and that the ratio of hourly peak demand is not in excess of three million Btu's per employee. For the purposes of this Subsubparagraph, one kilowatt hour of electrical energy is deemed equivalent to ten thousand Btu's and one thousand cubic feet of gas is deemed equivalent to one million Btu's.

(iii) The applicant industry verifies that its Louisiana facility has been substantially curtailed for a period of at least twelve months prior to June 1, 1984 resulting in the loss of direct employment at that single facility in excess of one thousand regular employees and that qualifying as a depressed energy-intensive industry for purchase of energy available to such qualifying industry would substantially aid in the reopening of or the preclusion of closure of such facility.

(iv) The accounting procedure for allocation of costs to the Louisiana facility of the applicant is certified by the Board of Commerce and Industry, and the applicant agrees that based upon that method of allocation, twenty-five percent of any net profit after taxation realized by that Louisiana facility on an annual fiscal basis subsequent to the receipt of energy available to certified depressed energy-intensive industries will be utilized for and dedicated to capital improvements to the Louisiana facility in question.

(c) The Department of Economic Development shall review the application of any industry wishing to qualify as a depressed energy-intensive industry to determine whether the requirements set forth above have been satisfied and shall make recommendations with respect thereto to the Board of Commerce and Industry. If the Board of Commerce and Industry concurs in the recommendation of the Department of Economic Development and concludes pursuant to hearing that applicant has made the appropriate verifications required by

Subsection D hereinabove, the board shall notify the mineral board and the Public Service Commission. Upon certification to the mineral board, the depressed energy-intensive industry shall qualify for in-kind royalty gas pursuant to the provisions of this Section.

E.(1)(a) Upon receipt of a written proposal by an applicant to enter into a contract with the board authorized by Subsection C of this Section concerning the acquisition and use of available in-kind natural gas royalties and after publication of its intent to do so in the official journal of the state, the board may undertake arm's-length negotiations with the applicant resulting in terms which it deems to be most advantageous to the state and assuring that the applicant will use the in-kind royalties to satisfy and meet bona fide human needs, as defined herein. Under any such contract, the price at which any natural gas is to be sold shall be not less than the first of the month published price for the subject month for Henry Hub natural gas as reported in McGraw-Hill Companies' Platts Inside FERC's Gas Market Report or its successor, plus or minus the basis differential for the pipeline system into which the natural gas is delivered. However, for those leases for which an existing pricing mechanism provides a higher price than the above published price, the price the state receives for those specific leases shall not be less than the existing pricing mechanism. If the Inside FERC's Gas Market Report ceases to be published, the secretary of the Department of Natural Resources shall designate a substitute published source for the price data. If the above-referenced Henry Hub natural gas spot market price is discontinued, the secretary of the Department of Natural Resources shall designate a substitute reference price, to ensure a reasonably consistent pricing mechanism, until the legislature adopts a replacement.

(b) Sale of natural gas to a certified depressed energy-intensive industry shall be at a price which will enable that industry to restart and/or continue the operation of its Louisiana facility and that price, established by the board, may be less than the average price of purchases reported to the Public Service Commission by intrastate pipeline companies. If the board establishes a price for the sale of natural gas to a qualifying depressed energy-intensive industry below that of the average paid by intrastate pipelines, the contract establishing the price for sale to that applicant must include a provision for monthly adjustment of the price in accordance with a generally referenced market price for the specific product or products manufactured by the applicant at its Louisiana facility.

(2) The board shall publish in the official journal of the state an advertisement which will appear at least ten but not more than sixty days prior to the approval of the contract by the board. The board may publish other such advertisements in its discretion. The advertisements shall contain the terms of the contract to be executed including the name of the applicant, the source of the in-kind royalties, the consideration to be given for the in-kind royalties, and the general use intended for the in-kind royalties and any other information that the board may consider necessary. This advertisement and any others published by the board shall constitute a judicial advertisement and legal notice within the contemplation of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950.

(3) Any proposed contract authorized by this Subsection which is negotiated and approved by the board shall be submitted to the governor and to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment for their approval. The minutes of the board or of such a committee reciting its approval shall be official evidence of its approval. No such contract shall be valid unless it is approved by the board and by the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment and is signed by the chairman of the board and by the governor. The provisions of

this Paragraph shall not apply to any such contract if the applicant is a state agency or a local governmental subdivision.

F. Except as otherwise provided in this Section, in the exercise of the powers and duties granted in this Section, the board shall publish in the official journal of the state an advertisement for a period of not less than fifteen days. This advertisement shall contain such information as may be necessary and desirable to solicit the most advantageous bids and the advertisement shall contain in addition thereto, the time when bids will be received and any other information the board may consider necessary. These advertisements need not appear more often than once a week. These advertisements shall constitute judicial advertisements and legal notices within the contemplation of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950. The board may also cause notices to be sent to those whom it thinks may be interested in submitting bids. Bids received by the mineral board shall be opened and considered in the same manner and under the same restrictions as are applicable to the board in the leasing of the public domain. The board may reject any and all bids.

§143. Transfer of solid mineral leases, approval by board

A. In addition to the provisions of R.S. 30:128, in the case of a proposed transfer, under the circumstances described in Subsection B hereof, of any lease or sublease entered into by or under the authority of or subject to the jurisdiction of the State Mineral and Energy Board which includes the development and production of solid minerals, the board shall determine whether to approve such proposed transfer pursuant to this Section and to such rules and regulations as may be issued hereunder.

B. The procedures set forth in this Section shall be followed only where the lease or sublease proposed to be transferred is either (i) one solely for the development and production of solid minerals or (ii) one under which solid minerals have been developed or produced at any time during the three years next preceding the proposed transfer. The procedures set forth in this Section shall be followed irrespective of the form of the proposed transfer, and shall be followed if the transfer is proposed to be effected by way of sale, assignment, or sublease or by the acquisition, directly or indirectly, whether by merger or otherwise, of the beneficial ownership of any class of equity securities of a corporate entity which is either (i) the lessee or sublessee of a lease solely for the development and production of solid minerals or (ii) the entity which has as its principal business the development and production of solid minerals, provided, however, that a transfer for purposes of this Section shall not be deemed to occur (i) by the giving of a mortgage or other security interest in a lease or sublease or (ii) by the acquisition of less than ten percent of any class of equity securities of a corporate entity or (iii) when the proposed transfer covers only minerals other than solid minerals.

C. When a transfer is proposed under the circumstances described in Subsection B hereof, the proposed transferee shall first make application on forms to be prescribed by the secretary of the Department of Natural Resources pursuant to regulation. Such regulations shall require at a minimum, detailed information concerning the competence and integrity of the proposed transferee, including its financial and performance capabilities, as these bear upon its ability to perform all obligations under the lease or sublease in such a manner as not to adversely affect the public interest of the state as respects its natural resources, including potential economic and physical waste and development of such resources, or both. All applications shall be accompanied by a fee of one hundred dollars and a bond to secure payment by the applicant of the actual costs of any investigation or hearing hereunder.

D.(1) Prior to any action by the board on any such application, the secretary of the Department of Natural Resources shall conduct a hearing on the application, which shall be conducted as expeditiously as practicable consistent with developing a full factual record. The seller, assignor, or sublessor of the lease or sublease or the corporate entity whose stock the transferee proposes to acquire under the circumstances described in Subsection B hereof shall be a necessary party to any hearing hereunder, and to any investigation or other proceedings had in connection therewith.

(2) In advance of any such hearing, the secretary of the Department of Natural Resources shall have the same powers as are conferred upon the commissioner of conservation by R.S. 30:909 to investigate, receive written statements, administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records or documents; and any party to any such hearing shall have the right to take the testimony of any witness and to compel any witness to appear and depose and to produce books, papers, correspondence, memoranda, contracts and agreements, or other records or documents, on the same terms as are contained in R.S. 30:909.

(3) Except as otherwise provided herein, the hearing required hereby shall be conducted in accordance with and pursuant to the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 and such regulations as the secretary of the Department of Resources may issue hereunder.

(4) Promptly after the conclusion of the hearing, the secretary of the Department of Natural Resources shall prepare written findings of fact and a recommended decision on the application. He shall transmit these to the State Mineral and Energy Board together with a certified copy of the hearing record. After giving due consideration to whether the evidence establishes that the proposed transferee is competent and otherwise qualified to perform all of the obligations under the lease or sublease in such a manner as not to adversely affect the public interest of the state as respects its natural resources, the State Mineral and Energy Board shall issue a written decision granting or denying the application in whole or in part or upon such conditions as it may deem appropriate.

(5) An appeal may be taken from any final order of the State Mineral and Energy Board under this Section only by a party to the hearing required herein in accordance with R.S. 49:964 and 965.

(6) Anything herein to the contrary notwithstanding, the secretary of the Department of Natural Resources may transmit a recommended decision to the State Mineral and Energy Board without first conducting an investigation or holding a hearing if (i) all necessary parties to the hearing file affidavits with the secretary of the Department of Natural Resources attesting their belief that there are no substantial issues requiring an investigation or hearing and (ii) the secretary independently determines that there are no substantial issues requiring an investigation or hearing.

E. The secretary of the Department of Natural Resources shall have authority to issue all necessary or appropriate regulations to implement this Section.

F. Whenever it appears to the State Mineral and Energy Board or the secretary of the Department of Natural Resources that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Section, the secretary of Department

of Natural Resources may investigate and issue orders and notices. In addition to all other remedies, the State Mineral and Energy Board or the secretary of the Department of Natural Resources may bring an action in any court of competent jurisdiction in the name and on behalf of this state against any person or persons participating in or about to participate in a violation of this Section, to enforce compliance with this Section, or enjoin any action in violation of this Section.

G. No transfer in violation of any provision of this Section shall be valid.

H. Any person who wilfully violates this Section or who wilfully makes any false statement in an application, investigation or hearing conducted hereunder, may be imprisoned for a period not to exceed one year, or fined an amount not to exceed five thousand dollars, or both.

§144. Sale of royalties in-kind to small refiners

A. On or before December 31, 1979, the secretary of the Department of Natural Resources shall submit to the State Mineral and Energy Board for implementation a regulatory program for the sale and/or processing of in-kind crude oil royalties to refiners in the state and procedures for the sale and/or processing, delivery, and use of royalty crude oil, which at a minimum include the following:

(1) Provisions to assure that the sale shall not be made to any Louisiana refiner who may not legally condition product sales upon the right of the State to exercise a right of first refusal to any product refined from royalty crude and to give first priority to Louisiana customers in the usual course of sale of end products. A "Louisiana refiner" shall be a Louisiana business entity having its principal place of business in the State of Louisiana.

(2) Provisions which assure a first priority of available supply to refiners with capability to refine typical South Louisiana light, sweet type crude, having a sulphur content of five-tenths or less, and refiners with facilities for the distillation of methanol or ethanol, suitable for blending with gasoline to produce a motor fuel, at least fifty percent of which methanol or ethanol is to be derived from agricultural products produced in Louisiana.

(3) Provisions which assure that qualified refiners have adequate facilities to receive crude by water, pipe, or truck and own or have contractual rights to adequate storage facilities to assure continuity of operations.

(4) Provisions which assure the disclosure of all information relevant to a determination that the refiner has a genuine need for a portion of the state's royalty crude.

(5) Provisions which limit the volume of royalty crude available to any one refiner to no more than seventy-five hundred barrels per day.

(6) Provisions which assure that to the extent permitted by state or federal law the state receives not less than the fair market value for the royalty crude.

(7) Provisions which condition any sales and/or processing upon the right of the state to exercise a right of first refusal to any product refined from royalty crude, and which also requires refiners to give first priority to Louisiana customers in the usual course of sale of end products.

(8) Provisions which prohibit the exchange or resale of any royalty crude without consent of the state and fix penalties of not less than ten thousand dollars per day of violation thereof.

(9) Provisions for the assessment of a fee of not more than twenty cents per barrel in the event of sales to cover costs of administration, and reasonable bond or other acceptable financial assurance which will guarantee good and faithful performance of obligation by small refiners.

(10) Such additional provisions as may be deemed necessary to protect the interests of the state and assure a fair and equitable allocation of the state's royalty crude supply.

(11) Provisions which assure that no gasoline or diesel end product from such crude shall be sold for the ultimate purpose of retail sale outside of the State of Louisiana.

B. Prior to submitting the program to the State Mineral and Energy Board for implementation, the secretary shall present the proposed program to the House Committee on Natural Resources and Environment and Senate Committee on Natural Resources, meeting jointly, for approval thereof. Within thirty days after receipt of the program from the secretary, the mineral board shall initiate rulemaking procedures thereon in compliance with R.S. 49:951 et seq.

C. Notwithstanding the provisions of R.S. 30:142F, public bidding shall not be required for the sale and/or processing of royalty crude oil pursuant to this Section, so long as price controls remain in effect; provided that in the event supplies of royalty crude remain available after allocation of the seventy-five hundred barrel per day maximum allowed under this Section to all interested refiners, the volumes so remaining shall be made available to the refiners pursuant to public bidding therefor, contingent upon interruption of delivery of such excess supply to accommodate any qualified refiner not receiving the maximum allocation permitted herein and capable of taking delivery of additional volumes which are available.

SUBPART A-1. ALLOCATION OF ROYALTIES TO PARISHES

§145. Distribution of mineral royalties to parishes

Effective January 1, 1975, and in accordance with the provisions of Article VII, Section 4(E) of the Louisiana Constitution of 1974, the state treasurer of the state of Louisiana is hereby authorized and directed to remit an amount equal to one-tenth of the royalties accruing to the state in each month from mineral leases on state owned lands, lake and river beds, and other water bottoms belonging to the state or the title to which is in the public for mineral development to the governing authority of the parish in which severance or production occurs. In the calendar year beginning January 1, 1975 and thereafter, the distribution of the aforesaid royalties to the parish shall be made by the state treasurer on the twentieth day after the last day of every third month. Notwithstanding the provisions of the preceding sentences, so long as any bonds issued by a parish payable from a pledge and dedication of moneys deposited in the Royalty Road Fund established by Article IV, Section 2, of the Louisiana Constitution of 1921 (the "Royalty Road Fund") or additional bonds hereafter issued on a parity therewith remain outstanding, or until irrevocable provision is made for their payment in principal and interest, the state treasurer, prior to remitting any such royalty payments directly to the parish in any calendar year shall make all payments required for debt servicing by the resolutions or other instruments providing for the issuance of such bonds in that calendar year.

§146. Transfer of funds

The state treasurer is hereby authorized and directed to transfer to the governing authority of the respective parishes in this state on or before March 31, 1975, those sums of money credited to said parishes and being held on deposit on December 31, 1974, in the Royalty Road Fund and moneys on account with the state treasurer on December 31, 1974, consisting of the unexpended and unencumbered proceeds from the sale of any bonds heretofore issued by a parish and which are secured by a pledge of moneys in the Royalty Road Fund, other than moneys in any funds dedicated to or held for the payment of any outstanding bonds or committed to the payment of any other contractual obligations. If the above funds are encumbered on December 31, 1974, and subsequently become unencumbered, the state treasurer shall transfer said funds to the parish for whose account they are held, to be used in the manner provided by law and in accordance with the requirements of any resolutions heretofore adopted in connection with the issuance and sale of such bonds.

§147. Bonds of the parish

A. The governing authority of any parish, with the approval of the State Bond Commission, is hereby authorized to fund into bonds of said parish its portion of the royalties which are credited or distributed to it pursuant to the provisions of Article VII, Section 4(E) of the Louisiana Constitution of 1974 and this Subpart. The bonds may be issued for any lawful purpose of the parish, may be general or limited obligations of the parish issuing them and shall run for a period of not to exceed twenty years from the date of issuance of the bonds. Said bonds shall be issued pursuant to a resolution adopted by the parish governing authority and shall have such maturities and bear such interest as may be determined and fixed by the parish governing authority which, in no event, shall exceed eight per cent per annum. They shall be payable in principal and interest at such place or places and at such time or times as the governing authority prescribes. The bonds shall be callable on such terms and in such manner as the governing authority fixes and shall be issued in the denomination of one thousand dollars or an integral multiple thereof, as determined by the governing authority. They may be registered or payable to bearer, in the discretion of the governing authority. The bonds shall be sold to the highest bidder at public sale after advertisement by the governing authority one time at least seven days prior to the date fixed for the reception of bids in a newspaper published in the parish and in a newspaper of general circulation or other periodical containing a section devoted to municipal bond matters published in New Orleans, Chicago or New York, reserving to the governing authority the right to reject any and all bids.

B. So long as any of the bonds issued hereunder are outstanding, the minimum royalties to be stipulated in any mineral lease or leases of lands belonging to the state, or the title to which is in the state for mineral development, shall never be less than the minimum provided for on February 20, 1975, by R.S. 30:127, and the state shall not enter into any agreements for the lease or use of any state lands for mineral purposes under any stipulation for a less minimum royalty than that so provided. So long as any of the bonds issued hereunder are outstanding, the percentage of the royalties received by the state and hereinabove required to be credited or distributed to the parish pursuant to the provisions of the Louisiana Constitution of 1974 and this Subpart shall be collected, deposited and allocated as hereinabove required, such percentage shall not be reduced, and the moneys thus credited or distributed to said parish shall primarily be dedicated to the retirement of said bonds and the interest thereon and shall be so applied.

C. All bonds issued under authority of this Subpart shall be signed by the president and by the secretary of the parish governing authority issuing them, one of which signatures may be a

facsimile, under the seal of the parish, and any interest coupons attached to said bonds shall be signed by the facsimile signatures of these officers. Any such bonds may be issued and delivered, notwithstanding that one or more of the officers signing such bonds or the officer or officers whose facsimile signature or signatures may be on the coupons shall have ceased to be such officer or officers at the time such bonds shall actually have been delivered.

D. The parish may authorize the issuance of refunding bonds of the parish for the purpose of refunding outstanding bonds issued pursuant to this Subpart. Such refunding bonds may either be sold and the proceeds applied to or deposited in escrow for the retirement of the outstanding bonds or may be delivered in exchange for the outstanding bonds. The refunding bonds shall be authorized in all respects as original bonds are herein required to be authorized, and the parish, in authorizing the refunding bonds, shall provide for the security of the bonds, the sources from which the bonds are to be paid and for the rights of the holders thereof in all respects as herein provided for other bonds issued under authority of this Subpart.

E. Any resolution authorizing the issuance of bonds under this Subpart shall be published one time in the official journal of the parish, as required by Subsection A of this section, with the resultant effect of incontestability as provided in Paragraph B of Section 35 of Article VI of the Louisiana Constitution of 1974. All bonds issued by virtue hereof shall be and are hereby declared to have the qualities of negotiable paper under the Law Merchant and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof. Said bonds and the income thereof shall be exempt from all taxation in the State of Louisiana. No proceedings in respect to the issuance of any such bonds shall be necessary, except such as are contemplated by this Subpart.

SUBPART A-2. LEASES WITH RIGHT TO ERECT STORAGE AND TRANSPORTATION FACILITIES

§148.1. Lessor defined

For the purposes of this Subpart the term "lessor" shall refer to and include the State Mineral and Energy Board, any school district, levee district, drainage district, municipal or parochial subdivision of this state, any penal or charitable institution, any state university or college, and any other unit or institution deriving its authority and powers from the sovereignty of the state.

§148.2. Lands which may be leased

A. Any lessor may, through its governing authority, lease any lands of which the lessor has title, custody, or possession, and the State Mineral and Energy Board may lease lands, bodies of any lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof belonging to the state or the title to which is in the public:

(1) For the purpose of granting to the lessee the right to erect and use on the surface of the leased premises tanks and facilities for the receipt, storage, withdrawal, transportation, and shipment of oil, natural gas, liquid or liquified hydrocarbons, carbon dioxide, goods, wares, and merchandise, and for other purposes necessary or incidental thereto, including the construction of houses for employees, warehouses, pipelines, separation and dehydration facilities, pump stations, compressor stations, loading stations, wharves, and docks.

(2) For the purpose of injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, or carbon dioxide in any underground reservoir lying beneath such lands or water bodies, and beds thereof, and for other purposes necessary or incidental thereto, including drilling of any wells for injection, storage, or withdrawal of such product stored in such underground reservoir and the construction of houses for employees, warehouses, pipelines, separation and dehydration facilities, compressor stations, pump stations, loading stations, wharves, and docks.

(3) For the purpose of making and using caverns in salt domes lying beneath such lands or water bodies, and beds thereof, for the injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, or carbon dioxide and for other purposes necessary or incidental thereto, including drilling of any wells for making such caverns and for injecting, storing, and withdrawing of such product in such caverns and the construction and maintenance of facilities for housing employees, pipelines, separation and dehydration facilities, compressor stations, pump stations, loading stations, wharves, and docks.

B. In addition, where otherwise consistent with the provisions of this Subpart as applied to leased premises, the State Mineral and Energy Board may grant surface or subsurface agreements for the right to erect and use on unleased premises such facilities and equipment.

§148.3. Application for lease

Any person, firm, or corporation desiring to lease any land or bodies of any lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof under the provisions of this Subpart shall present to the lessor a written application, together with a cash deposit of fifty dollars. The application shall set forth the name, current physical address, telephone number, e-mail address, and contact person of the applicant, a reasonably definite legal description of the location in the form required by the lessor, the amount of acreage that the applicant desires to lease, and a request that the acreage described therein be leased to the applicant under the provisions of this Subpart. The application shall be held confidential by the lessor until advertisement. Applications shall be mailed or delivered to the lessor at its official office or business domicile or submitted by such other means as may be authorized by the lessor. The deposit of fifty dollars shall be returned to the applicant if he makes an unsuccessful bid after a sum sufficient to pay the advertising costs have been deducted.

§148.4. Advertisement

A.(1) Upon receipt of application for the lease, accompanied by deposit, the lessor shall publish an advertisement in the official journal of the parish wherein the land and bodies of lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof are located. The advertisement must appear not more than sixty days prior to the date for the opening of bids and at least once a week during three consecutive weeks within those sixty days and shall set forth therein a legal description of the land or water bodies and beds thereof to be leased, the time when and the place where bids therefor will be received and publicly opened, whether the bid must be for the whole or may be for any particularly described portion of the land or water bodies and beds thereof advertised, any particular minimum consideration deemed by the lessor in its best interest, and such other requirements or information as the lessor may deem necessary. If the lands or bodies of lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof are situated in two or more parishes, the advertisement shall be published in the official journal for each of the parishes in which a part of such lands or water bodies may be located.

(2) In addition to Paragraph (1) of this Subsection, the applicant shall provide notice by regular or certified mail of the application for the lease to any residence or business located within one-half mile of the land and bodies of lakes, bays, or coves, sea, arms of the sea, or other navigable waters and beds to be leased.

B. Upon receipt of an application for a lease under the provisions of this Subpart, the lessor shall provide notification of such to the Department of Wildlife and Fisheries.

§148.5. Submission and opening of bids; execution of leases

A. Sealed bids shall be mailed or delivered to the lessor at the time and place designated in the advertisement and shall be held confidential by the lessor.

B. On the date and at the time and place advertised, the bids shall be publicly opened by the lessor. The lessor may accept the bid or bids submitted that are determined to be the most advantageous to the lessor and may execute any lease granted under such terms and conditions as it may deem proper in accordance with the provisions of this Subpart. The lessor, however, shall have the right to reject all bids in its sole discretion. All leases signed by the lessor or by the lessor's duly authorized representative shall be executed in as many copies as may be necessary to meet the following requirements: one copy shall be furnished to the lessee; one copy shall be furnished to the Department of Wildlife and Fisheries; one copy shall be recorded in the conveyance records of the parish or parishes wherein the land or water bodies lie; and one copy shall be retained in the records of the lessor.

§148.6. Restrictions on area; term; consideration

A. No lease shall cover an area larger than six hundred forty acres, provided, however, a lease for the underground storage of oil, natural gas, liquid hydrocarbons, or carbon dioxide in an underground reservoir shall be limited only by the extent of the underground storage reservoir beneath the lands or water bodies and beds leased. All leases shall be for a term which may be determined by the lessor and advertised as such, but not exceeding twenty-five years. A lease may also provide to lessees an option to renew and extend the lease, or for a renewal and extension subject to approval by the lessor, upon such terms and conditions as may be advertised and stipulated in the lease, so long as the total of any such options, or renewals or extension do not exceed an additional period of twenty-five years. The lease shall grant to the lessee the right to remove from the leased premises at any time during the life of the lease any and all property placed thereon by the lessee.

B. All leases executed under the provisions of this Subpart shall provide for reasonable consideration as set forth in the advertisement, which may include, among other consideration, any one or combination of the following: bonus, rental, or consideration for injection or withdrawal of stored product.

C. Any contract entered into for the lease of state lands for any purpose shall require that access by the public to public waterways through the state lands covered by the lease shall be maintained and preserved for the public by the lessee. The provisions of this Section shall not prohibit the secretary of the agency having control over the property from restricting access to public waterways if he determines that a danger to the public welfare exists. The provisions of this Section shall not apply in cases involving title disputes.

§148.7. Supervision of leases

The lessor shall have full supervision of leases to see that the terms and stipulations thereof are complied with and may take any appropriate action, and file any suit to protect the interest of the lessor, or annul any lease for sufficient cause.

§148.8. Oil, gas, and mineral rights not affected; exceptions

Nothing in this Subpart is intended to authorize the leasing of lands or bodies of lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof for the exploration and development of same for the production of oil, gas, sulphur, or other minerals, provided, however, such absence of authorization shall not be construed as prohibiting drilling for the purpose of injection, storage, or withdrawal of any stored oil, natural gas, liquid hydrocarbons, or carbon dioxide into or from any underground reservoirs or salt dome caverns, or the drilling of wells for the purpose of making caverns in salt domes covered by any lease granted pursuant to the provisions of this Subpart. Such absence of authorization shall not be construed to prohibit the production of any oil, natural gas, or liquid hydrocarbons which may remain in a partially depleted underground reservoir determined by the commissioner of conservation of the state of Louisiana to be suitable for use as an underground storage reservoir in accordance with the provisions of this Title.

§148.9. Oil; natural gas; liquid hydrocarbons; carbon dioxide; lease for underground storage

A. Any lease for the underground storage of oil, natural gas, liquid hydrocarbons, or carbon dioxide granted pursuant to the provisions of this Subpart shall be granted conditionally and shall not be final until the following conditions are met:

(1) Lessee shall request a public hearing with the commissioner of conservation within sixty days after the conditional award of such lease.

(2) After the public hearing is held, the lessee shall obtain an order from the commissioner of conservation finding that the proposed project is in the public interest.

B. Any lease granted hereunder shall be subject to the provisions of R.S. 30:18, 22, and 23, Statewide Order No. 29-M (LAC 43:XVII.Chapter 3), and Statewide Order No. 29-N-1 (LAC 43:XVII.Chapter 1), as applicable.

SUBPART B. LEASES BY STATE AGENCIES

§151. "Agency" defined

In this Subpart the term "agency" means a levee district, drainage district, road district, school district, school board, or other board, commission, parish, municipality, state university, state college, state penal or charitable institution or agency, unit or institution of the state or subdivision thereof.

§152. Agency lands; school boards sixteenth section lands; leases authorized

A. Every agency is authorized to lease its land for the development and production of minerals. School boards are authorized to lease sixteenth section lands for the development and production of minerals.

B. The provisions of R.S. 30:148.1 through 148.7 and R.S. 47:648.1 shall not authorize the breach of any term or condition of any state agency lease applying to lands or mineral interest owned or administered by any school board.

§153. Agencies may lease or administer through State Mineral and Energy Board

A. Any agency may by resolution direct the State Mineral and Energy Board to lease its land in the manner provided in Subpart A of this Part. The bonus money, if any, received for the lease shall be transmitted by the State Mineral and Energy Board to the agency. After the execution of the original lease, all rights and authority in connection therewith shall be vested in the agency to the same extent as if the agency had itself leased the land.

B. Upon request, the State Mineral and Energy Board may administer and manage the leases of any levee district, state university, state college, state penal or charitable institution, or agency, unit, or institution of the state. If the State Mineral and Energy Board agrees to administer and manage such leases, the parties shall enter into a cooperative endeavor agreement to accomplish this purpose.

§154. Signing of papers and disposition of funds when agency leases own lands; deposit

A. When an agency chooses not to avail itself of the provisions of R.S. 30:153 but leases its own lands, the agency shall sign all necessary or customary division orders or other documents incident to the production and sale of products under the lease.

B. When an agency leases its own lands it shall receive and receipt for all sums accruing to it and shall deposit these funds to its account.

C. In all cases where sixteenth section or school indemnity lands are leased, either by the State Mineral and Energy Board or the school board, all funds realized from these leases shall be paid to the school board of the parish where the lands are situated and credited to the current school fund of that parish, except that in the case of school indemnity lands, the lease shall be made by the State Mineral and Energy Board only and the funds credited to the parish school board entitled thereto.

D.(1) In all cases where title to land exclusive of sixteenth section or school indemnity lands has been acquired by a school board for the benefit of a particular school or school district by grant or purchase without the incurring of any obligation, including but not limited to bonded indebtedness, by the residents of such school district, funds realized from a lease of such lands by either the school board or the mineral board, shall be paid to the school board. The school board shall have the option of either crediting all or part of these funds to either a special account to be applied to the uses of the particular school or school system for whose benefit the grant or purchase was made, or of crediting all or any part of such funds to the general fund of the school board to be used for purposes for which such fund may be used.

(2) In all cases where the acquisition of such lands involves the incurring of an obligation, including but not limited to bonded indebtedness, by the residents of a particular school district, the board shall have the same option as provided in R.S. 30:154(D)(1); however, if no other funds, including the tax revenues of such district, are available to pay such obligation, then the school board shall use all funds from such leases necessary to pay the obligation incurred to acquire such lands.

(3) If the particular school or school district specified in the grant no longer exists, the funds shall be placed in the general fund of the school board.

E. Deposit that may be required to be submitted with each bid shall be in the form of certified check, cashier's check or bank money order.

§155. Alternative procedures

If an agency does not avail itself of the provisions of R.S. 30:153, it may lease its lands for mineral purposes on its own motion, or on written application, by advertising and letting in the manner provided by this Subpart, subject however to approval of the State Mineral and Energy Board as provided in R.S. 30:158.

§156. Procedure when agency leases its own lands

A person desiring to lease from a state agency shall make application with deposit to the agency in the same manner as is set forth in R.S. 30:125 for application with deposit to the mineral board. The agency shall itself advertise, receive bids at its domicile, and lease in the same manner and subject to the same restrictions applicable to leases by the State Mineral and Energy Board under R.S. 30:126 and 127. The agency has the same powers over leases granted by it as are granted the State Mineral and Energy Board in R.S. 30:129.

§157. Repealed by Acts 1950, No. 292, §1

§158. Approval of lease by board

No lease executed under the authority of this Subpart shall be valid unless the agency obtains its approval by the State Mineral and Energy Board. The authority of the State Mineral and Energy Board shall be ministerial with regard to whether or not the agency has correctly followed the procedural steps in granting the lease in question, and discretionary with regard to whether or not the terms of the agency lease are in the best interest of the agency and the public which it serves. A lease made under the provisions of this Subpart which is not approved by the State Mineral and Energy Board and countersigned by the duly authorized officer of that body is null and void.

§159. State banks in liquidation, leases subject to approval, how

All mineral leases entered into by state banks in liquidation shall be subject to the approval of the State Mineral and Energy Board and of the district court having jurisdiction of the liquidations.

SUBPART C. LEASES BY STATE AGENCIES; GENERAL PROVISIONS

§171. State departments and agencies; permits to lessees for directional drilling; permits to erect structures, etc.

Any department or agency of the state may grant on lands of which it has title, custody, or possession:

(1) A permit, lease, or servitude to engage in directional drilling in search of minerals underlying adjacent water bodies. Directional drilling is drilling deviating from the vertical plane.

(2) A permit, lease, or servitude to erect structures and enjoy all privileges on the lands necessary or convenient in the development and transporting of minerals underlying adjacent water bodies.

The five year limitation of R.S. 41:1217 shall not apply to these grants.

No grantee shall exercise any rights without first obtaining a valid mineral lease of the adjacent water bottoms.

§172. Lessees may construct breakwaters, etc.

Any person holding or acquiring a lease from the state for the development and production of minerals from lands including water bottoms belonging to the state, shall be authorized, in the conduct of the operations under the lease, to build, install and exclusively control, upon the shores, banks or water bottoms covered by the lease, breakwaters, platforms, fills, islands, (through excavation, pumping process or otherwise) and other constructions and facilities that he may find necessary or convenient for the exploitation, production, storing, treating, processing, refining, conveying, transporting and marketing of minerals produced under such lease and under leases covering other lands in the vicinity. Should any island or fill be made within navigable waters, a permit shall first be secured from the Register of the State Land Office and approved by the commissioner of conservation.

§173. Private rights not to be affected; United States government, permission of

Existing private rights shall not be affected in any way by the rights granted in R.S. 30:171. Permission must be obtained from the United States government to construct works in navigable waters.

§174. §§174 to 178 Repealed by Acts 1962, No. 9, §9.

§179.1. §§179.1 to 179.7 Repealed by Acts 1964, No. 311, §6

§179.8. §§179.8 to 179.10 [Blank]

§179.11. Authorization to enter into agreements during controversy relating to submerged lands

In regard to the controversy between the United States and the state of Louisiana as to whether any portion of any submerged land is owned and controlled by the state of Louisiana under the provisions of the Submerged Lands Act (43 U.S.C.A. §1301 et seq.) (Public Law 31, 83rd

Congress; 67 Stat. 29), or whether such lands are owned and controlled by the United States under the provisions of the Outer Continental Shelf Lands Act (43 U.S.C.A. §1301 et seq) (Public Law 212, 83 Congress; 67 State. 462), or any amendment or revision thereof, the State Mineral and Energy Board is authorized, with the concurrence and approval of the Governor, to negotiate and enter into agreements for and on behalf of the state of Louisiana, with any lessee or future lessee of the state of Louisiana, to negotiate and enter into tentative agreements or stipulations with the United States, or any present or future grantee or lessee of the United States, respecting the ownership and boundaries of such lands and operations under any mineral lease on any other sums payable thereunder, including withdrawals from such deposits in escrow or impoundment, pending the settlement or adjudication of the controversy. Payments or deposits made pursuant to any such agreement shall be considered as being in compliance with the terms of the applicable lease. Upon the final settlement or adjudications of such controversy, all sums so impounded shall be paid to the parties entitled thereto. Any sums finally determined to be payable to the state of Louisiana shall be deposited with the proper state agency in accordance with the constitution and laws of this state.

§179.12. Ratification by legislature of any final agreements or stipulations

No final agreement or stipulation negotiated with the United States by the State Mineral and Energy Board with the concurrence and approval of the governor, respecting the ownership and boundary of such lands, which changes or modifies the historic seaward boundary of the state of Louisiana as established by Act 33 of 1954 (R.S. 49:1), or which leases to the United States any part of the bonuses, rents, royalties and other sums heretofore or hereafter deposited in escrow or impoundment under the provisions of the Interim Agreement of October 12, 1956, between the United State and the state of Louisiana, shall be binding on the state of Louisiana until such agreement or stipulation shall have been ratified by a majority vote of both Houses of the Louisiana Legislature.

§179.13. Necessity for payment prior to ratification

No agreement provided for in R.S. 30:179.11 shall be construed or considered as a ratification by the state of Louisiana of any mineral lease covered by such agreement unless the lessee shall, within ninety days after final settlement or adjudication of any such controversy, pay to the state of Louisiana, in addition to the funds deposited in escrow, any and all bonuses, rentals, royalties and other considerations due and payable under the terms of the said lease agreement and not theretofore paid to the state of Louisiana. The state of Louisiana, through the same authorities hereinabove set forth, shall, on receipt of such payments, enter into a ratification agreement with the said lessee or, at its option, execute a new lease agreement in favor of the lessee on the state form then currently in use, but containing the same expiration date, rental and royalty provisions and drilling obligations as those contained in the original lease contract; provided, that the terms and conditions of the lease and of the escrow agreement referred to in R.S. 30:179.11 have been fully complied with. Nothing herein contained shall prejudice the rights of the state in the event that the lessee shall fail to make payment of the bonuses, rentals, royalties and other considerations which may be due and payable to the state of Louisiana as provided in this Section.

§179.14. Prior agreements not affected

No provision of R.S. 30:179.11 to 30:179.14 shall be construed to impair any obligation of any agreement made and entered into within the authority and pursuant to the provisions either of

Act 38 of 1956 or 352 of 1958, or Act 9 of 1962, and any such agreement made pursuant to and within the authority of any of said Acts is hereby ratified, validated and confirmed.

PART III. LEASES ON LAND OWNED IN INDIVISION BY FIVE HUNDRED OR MORE PERSONS

§181. §§181 to 185 Repealed by Acts 1960, No. 358, §1, effective July 8, 1960

§186. Distribution of funds

A. Within a reasonable time after the receipt of any funds received under or on account of any such oil, gas or other mineral lease as rental, bonus, royalty or otherwise, the State Mineral and Energy Board shall deposit in the registry of the district court having jurisdiction in the parish wherein said property is situated in more than one parish, then in the registry of any district court having jurisdiction over any parish wherein a part of said immovable property is situated, all of the funds so received, less and except sums authorized to be deducted by the mineral board under R.S. 30:188, and shall thereafter be relieved of all liability for the payment of such funds upon complying with the requirements of R.S. 30:187.

B. Any such funds that the State Mineral and Energy Board presently possesses shall be deposited in the registry of the court as set out in Subsection A of this Section within a reasonable time after July 8, 1960.

§187. Judicial procedure

The State Mineral and Energy Board shall present to the said district court having jurisdiction an application drawn in the usual form of a petition in a civil case and said petition shall contain (a) the name and domicile of the applicant (b) a full and complete account of how the applicant came into possession of the funds deposited and (c) the list of co-owners required and described in R.S. 30:185. However, applicant may add any list of owners which were not included in the original application on behalf of any claimant received by the applicant. It shall not be a prerequisite to the filing of this petition that a dispute exists over the ownership of the funds. The State Mineral and Energy Board shall not be obligated to make any investigation of title whatsoever beyond said list furnished pursuant to R.S. 30:185. The State Mineral and Energy Board shall pray for service on all persons listed in the petition as claiming or having an interest in the funds deposited and shall pray further that all such persons named in the petition shall be cited to answer and make such claims to the funds as they may desire; and further, that all persons claiming or having an interest in such funds as they may desire; and further, that all persons claiming or having an interest in such funds, whether named in the petition or not, shall be cited by publication to answer and make such claim to the funds as they may desire. The notice by publication herein referred to shall be made six times during the sixty days immediately following the filing of the petition in the official journal of the parish in which the suit is filed and in the state official journal six times during said sixty day period. All parties however cited, whether personally or by publication, shall appear and answer the petition no later than seventy-five days from the date of the filing of the petition. The court after a full hearing shall determine the ownership of the funds and in the event the court should determine that part of the funds are owned by persons unknown, or missing, then the court shall direct that such funds be delivered to the Collector of Revenue, State of Louisiana, except that in the parish of Orleans, said funds shall be delivered to the Public Administrator thereof.

§188. Distribution of funds and administration of leases

A. The applicant depositing the money, namely, the State Mineral and Energy Board, shall not be required to pay any costs in the proceedings. All costs of all parties plaintiff, defendant, intervener, or otherwise, to the suit, shall be paid out of the funds deposited, with preference and priority over any and all persons. However, the successful litigant for the funds deposited may recover all costs which have been paid out of the funds deposited, from the other litigant or litigants who contested his right thereto.

B. At or after the conclusion of the proceedings instituted pursuant to R.S. 30:187, the State Mineral and Energy Board may, from time to time, employ any of the following procedures or combinations thereof, to effect the distribution of funds received by virtue of leases granted under R.S. 30:184, and for the administration of such leases:

(1) The State Mineral and Energy Board may distribute such funds and administer such leases itself, either through its personnel or through persons with whom it contracts for such distribution and administration.

(2) The State Mineral and Energy Board may create one or more trusts, naming one or more persons, firms, or corporations, as trustee or trustees, and transfer to such trustees any or all of its rights and duties under any or all such leases, for the benefit of the owners of the land or interests therein. The State Mineral and Energy Board may impose such terms and conditions in the trust as it deems desirable, and, to the extent applicable and not in conflict with such terms and conditions, the Louisiana Trust Code shall thereafter govern such trust. The term of the trust may be as long as any such leases are in force and effect, and the trustee or trustees shall be responsible for the distribution of such funds and administration of such leases.

(3) The State Mineral and Energy Board, upon written notice to the court in which proceedings provided for in R.S. 30:187 have been instituted, may cause such court to distribute the funds and administer the leases. The State Mineral and Energy Board shall deposit all funds received by it in the registry of such court and shall thereafter be relieved of all responsibilities therefor. The court, in such proceedings, may appoint such experts to assist it as may be necessary, and may appoint a person as master or receiver for the purpose of performing and supervising the actual work of such distribution and administration.

C. Any agency, entity or person charged with the responsibility for distribution of such funds and administration of the leases shall be entitled to deduct from any funds received by it under any such leases an amount equal to ten per cent (10%) thereof, to defray the costs and expenses of such distribution and administration. Any court, however, shall be entitled to deduct from such funds the actual amount of expenses incurred in such proceedings, or ten per cent (10%) of such funds, whichever amount is greater. No distribution shall be made by any such agency, entity, person or Court unless the amounts so deducted and on hand are sufficient to defray the cost of such distribution. Distribution may be made to owners quarterly, annually, or at such other intervals as may be deemed to be reasonable, giving consideration to the number of owners, the amount of income, and the costs of distribution. If at the termination of the leases there remains on hand any amount so deducted and not needed to defray the costs of distribution and administration, such amount shall be distributed to the owners.

D. If at any time the lands leased should become owned by fewer than one hundred persons or anytime after July 1, 2007, the agency, entity, person, or court then having the responsibility for such distribution and administration may execute an assignment or order transferring all rights,

duties, and responsibilities under such leases to such co-owners as then certified by the trust and thereafter be relieved of all such rights, duties, and responsibilities with respect to such land and leases.

CHAPTER 3. EXPLORATION AND PROSPECTING

§201. §§201 to 203 Repealed by Acts 1977, No. 185, §1, eff. July 5, 1977
§204. Repealed by Acts 1997, No. 294, §2.
§205. Repealed by Acts 1992, No. 984, §18.

§206. Publication of survey

The results of the geological surveys shall be published by the Department of Natural Resources.

§207. Office space to be furnished

The president of the Louisiana State University and the director of the school of geology shall furnish the State Department of Conservation with adequate office space to carry out the survey under R.S. 30:206.

§208. Exploration of public lands

The State Mineral and Energy Board may explore and develop the mineral resources of lands belonging to the state which might lease under Subpart A of Part II of Chapter 2 of this Title.

§209. State Mineral and Energy Board, authority of

In order to carry out the provisions of R.S. 30:208, the State Mineral and Energy Board may:

(1) Conduct geological and geophysical surveys of any kind, or cause them to be conducted on its behalf under contracts granting exclusivity of operations to the contracted party, and further providing for acquisition of seismic data by the state.

(2) Equip, drill, and operate wells or mines for the production of minerals. If a party is found to be equipping, drilling, or operating wells or mines for the production of minerals and the office of mineral resources finds that it is in the best interest of the state, the office may allow that party to continue such activity under the oversight of the office. Further, the office may collect from that party, after deduction of reasonable costs of drilling, equipping, and operating wells, the value of production from those wells. Revenues collected under the provisions of this Paragraph shall be credited to the Mineral and Energy Operation Fund in the state treasury.

(3) Construct, operate, and maintain necessary or convenient facilities for saving, transporting, and marketing mineral production.

(4)(a) Enter into operating agreements whereby the state receives a share of revenues from the production of oil, gas, and other minerals, and wind energy, after deduction of costs, in whole or in part, such as for drilling, testing, completion, equipping, or operating a well or wells, as may be agreed upon by the parties, and assumes all or a portion of the risk cost of development or production activity in those situations where the board determines it is in the best interest of the

state, either in equity or in developmental productivity, to do so, such as but not limited to the following illustrations:

(i) Taking over an abandoned well with appropriate land area in an attempt to reestablish production rather than plug and abandon the well.

(ii) Reestablishing a reasonable prospective productive area around a well already drilled wherein the lease was lost through an oversight or technicality.

(iii) Establishing a contract on unleased state acreage within an established unit.

(iv) Establishing a contractual agreement on acreage where title is disputed and production from the disputed acreage is being settled.

(b) The office of mineral resources, on behalf of the mineral board, shall administer all operating agreements. After deposit of all production payments to the Bond Security and Redemption Fund, an amount equal to twenty-five percent of the production payments from any operating agreement entered into after August 15, 1997, shall be credited to the Mineral and Energy Operation Fund for appropriation to the Department of Natural Resources.

(c) Any costs for which the state is held liable shall be paid only from revenues received by the state through production payments.

(d) Those operating agreements entered into by the State Mineral and Energy Board prior to August 15, 1997, are hereby ratified as being in compliance herewith.

(e) Upon a two-thirds vote of the members of the State Mineral and Energy Board and after a public hearing conducted in the affected parish pursuant to R.S. 30:6, enter into operating agreements whereby the state receives a share of revenues from the storage of oil, natural gas, liquid or liquefied hydrocarbons, or carbon dioxide, in whole or in part, as may be agreed upon by the parties, and assumes all or a portion of the risk of the cost of the activity in those situations where the board determines it is in the best interest of the state either in equity or in the promotion of conservation to do so, such as but not limited to the following illustrations:

(i) Creating caverns in salt domes for the storage of hydrocarbons or carbon dioxide.

(ii) Establishing a hydrocarbon or carbon dioxide storage facility in an underground reservoir.

(iii) Taking over an abandoned surface or underground storage facility in order to maximize the useful life of the existing facility.

(iv) Establishing a contractual agreement for the operation of a carbon dioxide storage facility for the storage and distribution of carbon dioxide for secondary or tertiary recovery operations.

(v) Establishing a contractual agreement on unleased acreage or where title is disputed to promote utilization of the state's resources for storage.

(5) Do all other things which may appear to be necessary or desirable.

§209.1. Acquisition of geological information

A. The right of the State Mineral and Energy Board under R.S. 30:209 to conduct or contract for geophysical and geological surveys and other operations on lands which the board might lease for the state in order to carry out the provisions of R.S. 30:208, relative to exploration and development of mineral resources shall include the right to acquire and receive, either as owner in its own right or licensee, from the company acquiring and processing the data under the geophysical or geological surveys, and geophysical, geological, and engineering information and data acquired or processed from the surveys or operations conducted on any lands, whether public or private, for evaluation, administration, and development of the mineral resources of state-owned properties.

B.(1) Information and data acquired as authorized by Subsection A of this Section shall be confidential for all purposes consistent with the terms of acquisition and shall be made available only to the State Mineral and Energy Board, and the commissioner of conservation at the sole discretion of the board, who shall keep such information and data confidential and may use such information and data only in the lawful, official administration and development of publicly owned lands. Whoever knowingly and willfully violates the provisions of this Subsection shall be punished by the penalties provided by R.S. 30:213(B).

(2) Notwithstanding Paragraph (1), the owner of the information and data with the right to license may give permission, under any restrictions and limitations which the owner may deem necessary, to release such information and data for specific purposes proposed by the state. Any release pursuant to this Paragraph and in compliance with the restrictions and limitations set forth by the owner shall not be a violation of this Subsection.

§210. Permits to prospect on highway rights of way, and on other lands subject to non-highway rights of way, servitudes and easements; injunctive relief and attorneys' fees

A. No board, commission, agency or department of the state shall issue a permit to any person to prospect by means of torsion balance, seismograph explosions, mechanical device, or otherwise, for minerals, or for any other purpose, on any right of way, easement or servitude granted for highway purposes whether owned by the state or its agencies in fee simple, or otherwise, without requiring that the applicant furnish to the issuer in advance a complete list of all the owners of land abutting the right of way, easement or servitude on that side of the highway on which such prospecting is to occur, which area shall be expressly described in the permit, together with evidence of the furnishing to the abutting property owners of information concerning proposed operations and evidence of the consent of all such abutting property owners as provided in Subsection C.

B. No board, commission, agency or department of the state, nor any person holding a right of way, servitude or easement for non-highway purposes shall issue a permit to any person to prospect by means of torsion balance, seismograph explosions, mechanical device, or otherwise, for minerals, or for any other purposes, on land which the issuer does not own in fee simple without requiring that the applicant furnish to the issuer in advance evidence of the furnishing to the abutting property owners of information concerning proposed operations and evidence of the consent of the owner of the land in fee simple as provided in Subsection C.

C. Before any permit is issued under the provisions of Subsection A above, the applicant shall furnish to the issuer a complete list of abutting property owners, as required in this Section, evidence of the consent of the abutting property owners as provided in this Subsection C, and

evidence that, prior to obtaining such consent, applicant has furnished to the abutting property owners a brochure, pamphlet or other writing setting out the name and address of the applicant and an explanation of the nature of the proposed operations to be made under the permit with respect to which consent is solicited, together with an affidavit sworn to by applicant, in the presence of a notary and two witnesses, confirming that applicant has complied with the requisites of Subsection A according to the best information available to applicant.

Before any permit is issued under the provisions of Subsection B above, applicant shall furnish to the issuer evidence of the consent of the owner of the property which is subject to the right of way, servitude or easement as provided in this Subsection C, and evidence that, prior to obtaining such consent, applicant has furnished to the abutting property owners a brochure, pamphlet or other writing setting out the name and address of the applicant and an explanation of the nature of the proposed operations to be made under the permit with respect to which consent is solicited, together with an affidavit sworn to by the applicant, or by a person duly authorized to act on behalf of said applicant, in the presence of a notary and two witnesses, confirming that the applicant has complied with the requirements of Subsection B according to the best information available to applicant.

The evidence of consent of abutting property owners and owners required in this Section may be in the form of a written consent by such owners or the applicant may confirm in the sworn affidavit prescribed in this Section that the consent of these landowners has been obtained verbally, which confirmation will be sufficient to satisfy the requirement of proof of consent of the property owners under Subsections A and B.

The issuer of permits under this Section shall not be required to verify or confirm the correctness of the documents furnished by the applicant.

Injunctive relief shall be available when violations of this Section occur, or when there is clear and convincing evidence that this Section will be violated. In the event that injunctive relief is granted, plaintiff shall be entitled to reasonable attorneys' fees and all costs of court, reserving unto plaintiff all rights to civil damages which he may be entitled to recover under the law.

§211. Geophysical and geological survey, and public lands defined

A. "Public lands" means lands belonging to the state or its agencies and which may be leased under Chapter 2 of this Title.

B. "Geophysical and geological survey" means magnetometer surveys, gravitymeter surveys, torsion balance surveys, seismograph surveys, using either the reflection or the refraction method, soil analysis surveys which tend to show the presence or absence of hydrocarbons, electrical surveys, using either the Eltran or some similar method and any method utilizing short wave radio.

§212. Permits for surveys on public lands

A. The State Mineral and Energy Board shall have exclusive authority to grant exclusive and nonexclusive permits to conduct geophysical and geological surveys of any kind on state-owned lands, including water bottoms. No person shall conduct a geophysical or geological survey on state-owned lands, including water bottoms, without obtaining a permit. These permits shall be granted pursuant to rules promulgated under the provisions of the Administrative Procedure Act

by the Department of Natural Resources. No permit shall be granted covering lands over which the state has a mere servitude without consent of the owner of the abutting property.

B. Any person desiring a permit to conduct geophysical and geological surveys of any kind on state-owned lands, including water bottoms, shall submit an application in writing to the office of mineral resources.

C. Any application that includes prospective areas on lands, including water bottoms, under the jurisdiction of the Wildlife and Fisheries Commission, including wildlife management areas, wildlife refuges, public shooting grounds, or outdoor recreation areas, may be rejected by the secretary of the Department of Wildlife and Fisheries for ecological reasons and the rights of lessors and donors.

D. After deposit to the Bond Security and Redemption Fund as required under the provisions of Article VII, Section 9(B) of the Constitution of Louisiana, the following amounts shall be deposited as follows:

(1) An amount equal to the amount received from geophysical and geological survey on lands, including water bottoms, under the jurisdiction of the Wildlife and Fisheries Commission, including wildlife management areas, wildlife refuges, public shooting grounds, or outdoor recreation areas, shall be immediately deposited into the Louisiana Wildlife and Fisheries Conservation Fund established by Article VII, Section 10-A of the Constitution of Louisiana, or other funds as may be required by law, deed, or acts of donation.

(2) Of the amount received from nonexclusive geophysical and geological surveys conducted on all other state-owned lands and water bottoms, twenty percent shall be deposited into the Louisiana Wildlife and Fisheries Conservation Fund and the remainder deposited into the Mineral and Energy Operation Fund created by R.S. 30:136.3.

(3) Of the amount received from exclusive geophysical and geological surveys conducted on all other state-owned lands and water bottoms, five dollars per acre shall be deposited into the Louisiana Wildlife and Fisheries Conservation Fund and the remainder deposited into the Mineral and Energy Operation Fund created by R.S. 30:136.3.

§213. Furnishing state information obtained under permits

A.(1) For any permit issued prior to July 1, 2004, the holder of a permit to conduct geophysical and geological surveys shall furnish to the State Mineral and Energy Board or office of mineral resources maps showing the location of all shot points and detector or geophone setups located on the property and the dates on which they were used, together with the subsurface contours obtained as a result of the use of the points. Additionally, the permit holder shall deliver a copy of any and all seismic data acquired, including 3D, 2D, gravity, magnetic, and any other geophysical or geological data, in a format acceptable to the office of mineral resources. This information shall not extend to lands beyond the boundaries of the public property surveyed. This information shall be furnished to the office of mineral resources or the State Mineral and Energy Board within ninety days after completion of the final stacked and migration processing, but not more than six months after the completion of the survey. Except for the information included in a seismic permit, including the plat showing the geometric polygon of the area on which the seismic is to be shot, all other information, including maps, plots, and other data provided to the State Mineral and Energy Board hereunder shall be confidential and an exception to the provision of public records laws and shall not be released to any other agency

or entity, or for any reason, including publication in a technical journal, absent a valid court order from a court of competent jurisdiction or absent written permission of, and under the strict limitations imposed by, the owner having authority to license said data.

(2) For any permit issued on or after July 1, 2004, the holder of a permit to conduct geophysical or geological surveys shall retain ownership of the data gathered and shall not be required to submit the data as required in Paragraph (1) of this Subsection. However, the State Mineral and Energy Board or the employees of the office of mineral resources shall be allowed to review the data. Except for the information included in a seismic permit, including the plat showing the geometric polygon of the area which the seismic is to be shot, all other information, including maps, plots, and other data reviewed by the State Mineral and Energy Board or the staff of the office of mineral resources hereunder shall be confidential and an exception to the provisions of public records laws and shall not be released to any other agency or entity, or for any reason, including publication in a technical journal, absent a valid court order from court of competent jurisdiction or absent written permission of, and under the strict limitations imposed by, the owner having authority to license said data.

B. Whoever knowingly and willfully violates the provisions of the Section or any rule or order of the State Mineral and Energy Board made thereunder shall be fined up to one hundred thousand dollars or imprisoned for not more than one year, or both.

§214. Permit for survey entailing use of public waters or bottoms

Any person who makes or causes to be made a geophysical survey entailing the use of shot points in any lake, river, or stream bed or other bottoms, the title to which is in the public, shall obtain from the State Mineral and Energy Board a special permit therefor. This permit shall be granted under the rules and regulations which may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife.

§215. Nonexclusive geophysical permits

A. A nonexclusive permit to conduct seismic, geophysical, or geological surveying upon state-owned lands, including water bottoms, shall be valid for one year from the date of issuance. However, if operations commence within the year and are ceased due to unforeseen circumstances, the term may be extended for up to one year from the cessation of operations by the secretary of Department of Natural Resources. The permittee shall pay to the office of mineral resources at the time of application for the seismic permit a fee. Such fee shall be determined by the State Mineral and Energy Board at least every twelve months or as often as necessary. The fee shall be based upon market value but shall be no more than thirty dollars and no less than five dollars per acre.

B. The secretary of the Department of Wildlife and Fisheries may object to an application for a nonexclusive permit to conduct seismic, geophysical, or geological surveying on lands, including water bottoms, under the jurisdiction of the Wildlife and Fisheries Commission, including wildlife management areas, wildlife refuges, public shooting grounds, or outdoor recreation areas. Upon the secretary's objections, the application shall be presented for final determination to the State Mineral and Energy Board.

§216. Exclusive geophysical permits

A. An exclusive geophysical permit entitles the holder to the exclusive right to conduct geophysical or geological surveys of any kind for the term and area specified in the permit.

B.(1) After receiving an application to conduct exclusive geological or geophysical survey, the office of mineral resources shall evaluate the prospective area of survey in order to set the minimum terms which shall then be recommended and presented to the State Mineral and Energy Board for approval or rejection.

(2) For applications that include lands, including water bottoms, under the jurisdiction of the Wildlife and Fisheries Commission, including wildlife management areas, wildlife refuges, public shooting grounds, or outdoor recreation areas, the office of mineral resources shall evaluate the prospective area of survey in order to set the minimum terms which shall then be recommended and presented to the secretary of the Department of Wildlife and Fisheries for approval or rejection. If the recommended minimum terms are rejected by the secretary of the Department of Wildlife and Fisheries, the office of mineral resources in cooperation and consultation with the Department of Wildlife and Fisheries shall immediately set minimum terms. If the office of mineral resources and the Department of Wildlife and Fisheries are unable to set minimum terms, the recommendations from both entities shall be presented for final determination to the State Mineral and Energy Board.

C.(1) Upon setting of the minimum terms, the board may offer by public bid a permit to conduct geophysical and geological surveys on all or a portion of the lands described in the application. The board shall publish in the official journal of the state, and in the official journal of the parish where the lands are located, an advertisement which must appear in these journals not more than sixty days and no less than thirty days prior to the date for the opening of bids. The board may publish other such advertisements in its discretion. The advertisement shall contain a description of the land proposed to be surveyed, the time and place sealed bids shall be received and publicly opened, a statement that the bid may be for the whole or any particularly described portion of the land advertised, and any other information that the board may consider necessary. If the lands are situated in two or more parishes, the advertisement shall appear in the official journals of all the parishes where the lands may be partly located. The advertisement and any other published by the board shall constitute judicial advertisement and legal notice within the provisions of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950.

(2) The board may also cause notices to be sent to those whom the board determines would be interested in submitting bids. Upon the request of the board, the office of mineral resources shall prepare and mail the notice of publication. A reasonable fee adopted pursuant to the Administrative Procedure Act to cover the cost of preparing the mailing of the notice of publication may be charged by the office of mineral resources. On its own motion and after complying with the policies adopted pursuant to the provisions of R.S. 36:354(A)(2), or at the request of the secretary of the Department of Natural Resources, the board shall advertise for bids for a permit in the same manner as if an application had been made therefor.

(3) At the time and place mentioned in the advertisement for the consideration of bids, the bids shall be publicly opened. Bids received by the mineral board may be opened at any state-owned buildings situated in the city in which the capitol is located. The mineral board has authority to accept the bid most advantageous to the state and may grant a permit upon whatever terms the board considers proper. The board may reject any and all bids or may grant

a permit of a lesser quantity of property than advertised and withdraw the remainder of the property.

(4) If all written bids to survey lands, including water bottoms, under the jurisdiction of the Wildlife and Fisheries Commission, including wildlife management areas, wildlife refuges, public shooting grounds, or outdoor recreation areas, are rejected, the State Mineral and Energy Board, with consultation and cooperation with the Department of Wildlife and Fisheries, may immediately offer for competitive bidding a permit upon all or any designated part of the land advertised, upon terms most advantageous to the state. On all other state-owned lands, including water bottoms, if all written bids are rejected, the board may immediately offer for competitive bidding a permit upon all or any designated part of the land advertised, upon terms appearing most advantageous to the state. These offerings shall be subject to the board's right to reject any and all bids.

§217. Unauthorized geological surveying on lands of another; registration requirements; penalties

A.(1) No person shall conduct geological surveys for oil, gas, or other minerals by means of a torsion balance, seismograph explosions, mechanical device, or any other method whatsoever, on any land, unless he has obtained the consent of either the owner or the party or parties authorized to execute geological surveys, leases, or permits as provided in the Louisiana Mineral Code.

(2) "Owner" as used herein shall not include a person or legal entity with only a surface or subsurface leasehold interest in the property.

(3) Whoever violates this Subsection shall be fined not less than five hundred dollars nor more than five thousand dollars or imprisoned for not less than thirty days nor more than six months, or both.

B.(1) Prior to entering onto any property, the person wishing to conduct geological surveys for oil, gas, or other minerals, by means of a torsion balance, seismograph explosions, mechanical device, or any other method whatsoever, shall file with the office of the clerk of court of either parish where such geological surveying is to be conducted, along with the necessary filing fees, written notification of his intention to conduct such exploration operations, which shall include the surveyor's name and address, the parish, and a map clearly designating the area to be surveyed and the identity of the assessed landowner of such property and the person or entity granting the permit to survey such property as well as the estimated time period of such operation.

(2) Upon receipt of such notification of intention, the clerk of court in each parish shall maintain copies of same in the regular oil and gas record books. If no oil and gas records are kept, such intentions shall be filed in the mortgage record books.

(3) A copy of this information, along with a certified copy of the filing, shall be transmitted by certified mail or hand delivered, by the person wishing to prospect for oil, gas, or other minerals, to the Department of Wildlife and Fisheries and to the assessed landowner.

(4) If the geological surveyor is a corporation, partnership or other form of legal entity, filing shall be in the name of the legal entity, and the names and addresses of the employees shall not be required.

(5) Whoever violates the filing requirements of this Subsection shall be fined not less than two hundred dollars nor more than one thousand dollars.

§218. Injunction not to lie in suits to restrain exploration for oil, etc., on state lands

No injunction shall issue against lessees of the state or state employees to restrain exploration for minerals on state lands. In all cases plaintiff's remedy shall be judicial sequestration of the product of the exploration or its proceeds until the rights of all claimants are determined.

§219. Release from sequestration

The defendant may obtain release of the sequestered product or proceeds by giving bond. This bond shall be payable to the clerk of court and in an amount fixed by the judge as being the value of the product at the time of its release, with legal interest from final judgment.

§220. Interlocutory decree for sale of sequestered oil

Prior to the release on bond, the judge may on application by either party after hearing, issue an interlocutory decree ordering the sheriff to sell the minerals at the highest market price then obtainable and to deposit the proceeds in a separate account in a bank to be designated by the court. The bank paying the highest rate of interest pending the litigation shall be selected by the judge.

§221. Aerial photographs or mosaics; filing; copies; penalty

Any person who takes photographs from the air in this state for the purpose of making aerial maps or mosaics must file a list of these photographs or mosaics within thirty days after their completion with the State Department of Conservation. On request of the department a copy shall be furnished on the same scale as it is offered for sale to the public. The cost of these copies shall be borne by the department.

This Section does not apply to any federal agency or to any person making aerial photographs or mosaics for any federal agency.

Whoever violates this Section shall be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned for not less than thirty days nor more than six months, or both.

TITLE 30. MINERALS, OIL, AND GAS AND ENVIRONMENTAL QUALITY
SUBTITLE I. MINERALS, OIL, AND GAS
CHAPTER 1. COMMISSIONER OF CONSERVATION
PART I. DEPARTMENT OF CONSERVATION

§10. Agreements for drilling units; pooling interests; terms and conditions; expenses

A. When two or more separately owned tracts of land are embraced within a drilling unit which has been established by the commissioner as provided in R.S. 30:9(B), the owners may validly agree by separate contract to pool, drill, and produce their interests and to develop their lands as a drilling unit.

(1) Where the owners have not agreed by separate contract to pool, drill, and produce their interests, the commissioner shall require them to do so and to develop their lands as a drilling unit, if he finds it to be necessary to prevent waste or to avoid drilling unnecessary wells.

(a) All orders requiring pooling shall be made after notice and hearing. They shall be upon terms and conditions that are just and reasonable and that will afford the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense. They shall prevent or minimize reasonable avoidable drainage from each developed tract which is not equalized by counter drainage.

(b) The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced be considered as if it had been produced from his tract by a well drilled thereon.

(2) In the event a drilling unit is formed by a pooling order by the commissioner and absent any agreement or contract between owners as provided in this Section, then the cost of development and operation of the pooled unit chargeable to the owners therein shall be determined and recovered as provided herein.

(a)(i) Any owner drilling, intending to drill, or who has drilled a unit well, a substitute unit well, an alternate unit well, or a cross-unit well on any drilling unit heretofore or hereafter created by the commissioner, may, by registered mail, return receipt requested, or other form of guaranteed delivery and notification method, not including electronic communication or mail, notify all other owners in the unit of the drilling or the intent to drill and give each owner an opportunity to elect to participate in the risk and expense of such well. Such notice shall be called a "risk charge notice" and shall contain:

(aa) An authorization for expenditure form (AFE), which shall include a detailed estimate or the actual amount of the cost of drilling, testing, completing, and equipping such well. The AFE shall be dated within one hundred twenty days of the date of the mailing of the risk charge notice.

(bb) The proposed or actual location of the well.

(cc) The proposed or actual objective depth of the well.

(dd) An estimate of ownership as a percentage of expected unit size or approximate percentage of well participation.

(ee) In the event that the well is being drilled or has been drilled at the time of mailing the risk charge notice, then a copy of all available logs, core analysis, production data, and well test data from the well which has not been made public.

(ff) At the option of the drilling owner, a statement that payment in full of the notified owner's share of costs as set forth in the AFE is required to be included with any election to participate.

(ii) An election to participate must be exercised by mailing written notice thereof by registered mail, return receipt requested, or other form of guaranteed delivery and notification method, not including electronic communication or mail, to the owner drilling or intending to drill the proposed well within thirty days after receipt of the initial risk charge notice. If required by

the drilling owner in accordance with Subitem (i)(ff) of this Subparagraph, such an election to participate shall include payment of the notified owner's share of costs as set forth in the AFE. Failure to give timely written notice of the election to participate or, if required by the drilling owner in accordance with Subitem (i)(ff) of this Subparagraph, timely delivery of such payment of the notified owner's share of the costs as set forth in the AFE, shall be deemed to be an election not to participate and the owner shall be deemed a nonparticipating owner. In cases where some or all of the AFE costs are estimated, financial adjustments shall be made between the drilling owner and the participating owners within sixty days of receipt of detailed invoices in order to account for the difference between any cost estimates and actual costs.

(iii) If the drilling of the proposed well is not commenced in accordance with the initial risk charge notice within ninety days after receipt of the initial risk charge notice, then the drilling owner shall send a supplemental risk charge notice in order for the provisions of this Subsection to apply.

(b)(i) Should a notified owner elect not to participate, or be deemed a nonparticipating owner, in the risk and expense of the unit well, substitute unit well, alternate unit well, or cross-unit well or should such owner elect to participate in the risk and expense of the proposed well but, except where the drilling owner has required payment with the election in accordance with Subitem (a)(i)(ff) of this Paragraph, then fail to pay his share of the estimated drilling costs determined by the AFE timely or fail to pay his share of actual reasonable drilling, testing, completing, equipping, and operating expenses within sixty days of receipt of detailed invoices, then such owner shall be deemed a nonparticipating owner, and the drilling owner shall, in addition to any other available legal remedies to enforce collection of such expenses, be entitled to own and recover out of production from such well allocable to the tract under lease to the nonparticipating owner such tract's allocated share of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the well, including a charge for supervision, together with a risk charge. Should the drilling owner require payment with the election, failure to include payment in full with the election in accordance with Subitem (a)(i)(ff) of this Paragraph, regardless of the election, shall be deemed an election not to participate. Should a notified owner elect to participate by satisfying the requirements of this Paragraph and subsequently fail to pay any actual costs that were not previously paid by that owner as set forth in the AFE, the drilling owner, in addition to any other available legal remedies, shall be entitled to recover such unpaid costs out of production of such well. For purposes of this Subparagraph, and except where the drilling owner has required payment with the election in accordance with Subitem (a)(i)(ff) of this Paragraph, the payment of estimated drilling costs shall be deemed timely if received by the drilling owner within sixty days of the actual spudding of the well or the receipt by the notified owner of the notice required by this Subsection, whichever is later. The risk charge for a unit well, substitute unit well, or cross-unit well that will serve as the unit well or substitute well for the unit shall be two hundred percent of such tract's allocated share of the cost of drilling, testing, and completing the well, exclusive of amounts the drilling owner remits to the nonparticipating owner for the benefit of the nonparticipating owner's royalty and overriding royalty owner. The risk charge for an alternate unit well or cross-unit well that will serve as an alternate unit well for the unit shall be one hundred percent of such tract's allocated share of the cost of drilling, testing, and completing such well, exclusive of amounts the drilling owner remits to the nonparticipating owner for the benefit of the nonparticipating owner's royalty and overriding royalty owner.

(ii)(aa) During the recovery of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the well, the charge for supervision, and the risk charge, the nonparticipating owner who has furnished the information set forth in Subitem (gg)

of this Item shall be entitled to receive from the drilling owner for the benefit of his lessor royalty owner that portion of the proceeds from the sale or other disposition of production due to the lessor royalty owner under the terms of the contract or agreement creating the royalty between the lessor royalty owner and the nonparticipating owner reflected of record at the time of the risk charge notice.

(bb) In addition, during the recovery set forth in Subitem (aa) of this Item, the nonparticipating owner shall receive from the drilling owner for the benefit of the overriding royalty owner a portion of the proceeds from the sale or other disposition of production that is the lesser of: (I) the nonparticipating owner's total percentage of actual overriding royalty burdens associated with the existing lease or leases which cover each tract attributed to the nonparticipating owner reflected of record at the time of the risk charge notice; or (II) the difference between the weighted average percentage of the total actual lessor royalty and overriding royalty burdens of the drilling owner's leasehold within the unit and the weighted average percentage of the total actual lessor royalty of the nonparticipating owner's leasehold within the unit reflected of record at the time of the risk charge notice. Payment of the amount due shall be made in accordance with the terms of the contract or agreement creating the overriding royalty.

(cc) The share that is to be received by the nonparticipating owner on behalf of its lessor royalty owner and overriding royalty owner shall be reported by the drilling owner in accordance with Part 2-B of Chapter 13 of Title 31 of the Louisiana Revised Statutes of 1950.

(dd) Nothing in this Section shall relieve any lessee of its obligations to pay, from the commencement of production, any lessor royalty and overriding royalty due under the terms of his lease and other agreements during the recoupment of recoverable costs and the risk charge, or shall relieve any lessee of its obligation to pay all lessor royalty and overriding royalty due under the terms of his lease and other agreements after the recoupment of recoverable costs and the risk charge. The lessor royalty owner and overriding royalty owner shall follow the same procedure and have the same remedies against the nonparticipating owner provided in Part 6 of Chapter 7 of Title 31 of the Louisiana Revised Statutes of 1950 or Part 2-A of Chapter 13 of Title 31 of the Louisiana Revised Statutes of 1950.

(ee) Except as provided in this Paragraph, the drilling owner's obligation to pay the lessor royalty and the overriding royalty to the nonparticipating owner in no way creates an obligation, duty, or relationship between the drilling owner and any person to whom the nonparticipating owner is liable, contractually or otherwise. In the event of nonpayment by the nonparticipating owner of the lessor royalty and overriding royalty due, and as a prerequisite to a judicial demand for damages against the drilling owner, the lessor royalty owner and overriding royalty owner shall provide written notice of such failure to the nonparticipating owner and drilling owner. The lessor royalty owner and overriding royalty owner shall follow the same procedure and have the same remedies against the drilling owner, except dissolution, provided in Part 6 of Chapter 7 of Title 31 of the Louisiana Revised Statutes of 1950 or Part 2-A of Chapter 13 of Title 31 of the Louisiana Revised Statutes of 1950. The written notice provided to the drilling owner by the lessor royalty owner or overriding royalty owner shall include a true and complete, or redacted, copy of the mineral lease or other agreement creating any lessor royalty or overriding royalty. If the drilling owner provides sufficient proof of payment of the royalties to the nonparticipating owner, then the lessor royalty owner and overriding royalty owner shall have no cause of action against the drilling owner for nonpayment.

(ff) In the event of nonpayment by the drilling owner of the lessor royalty and overriding royalty due to the nonparticipating owner for the benefit of the lessor royalty owner and overriding royalty owner, and payment by the nonparticipating owner of a good faith estimate of the lessor royalty and overriding royalty due, the nonparticipating owner shall provide written notice of such failure to pay to the drilling owner as a prerequisite to a judicial demand for damages. The drilling owner shall have thirty days after receipt of the required notice within which to pay the royalties due or to respond in writing by stating a reasonable cause for nonpayment. If the drilling owner fails to make payment of the royalties or fails to state a reasonable cause for nonpayment within this period, the court may award to the nonparticipating owner as damages double the amount of royalties due, interest on that sum from the date due, and a reasonable attorney fee regardless of the cause for the original failure to pay royalties. If the drilling owner provides sufficient proof of payment of the royalties to the nonparticipating owner, then the nonparticipating owner shall have no cause of action against the drilling owner for nonpayment.

(gg) Each nonparticipating owner entitled to receive a portion of the proceeds from the sale or other disposition of production as provided in Subitems (aa) and (bb) of this Item shall furnish to the drilling owner both of the following:

(I) A true and complete, or redacted, copy of the mineral lease or other agreement creating any lessor royalty or overriding royalty for which the nonparticipating owner is entitled to receive a portion of the proceeds from the sale or other disposition of production; provided that a redacted copy may be submitted in lieu of a complete copy, if it contains in full the provisions dealing with the determination and calculation of the portion of proceeds from the sale or other disposition of production due to the lessor or overriding royalty owner.

(II) A sworn statement of the ownership of the nonparticipating owner as to each tract embraced within the unit in which the nonparticipating owner has an interest and the amounts of the lessor royalty and overriding royalty burdens for which the nonparticipating owner is entitled to receive a portion of the proceeds from the sale or other disposition of production. In its discretion, the nonparticipating owner may also provide to the drilling owner copies of any title opinions in its possession or portions thereof on which the statement of ownership is based in whole or in part; however, doing so shall not relieve the nonparticipating owner of its obligation to provide the sworn statement described in this Subsubitem.

(hh) Each nonparticipating owner who has received from the drilling owner a portion of the proceeds from the sale or other disposition of production for the benefit of a lessor royalty owner or overriding royalty owner, based only on the information furnished pursuant to Subitem (gg) of this Item, shall indemnify and hold harmless the drilling owner from and against any claims asserted against the drilling owner related to any amounts paid to the nonparticipating owner. The nonparticipating owner shall also restore to the drilling owner any amounts paid by the drilling owner to the nonparticipating owner in reliance on the information furnished pursuant to Subitem (gg) of this Item, if and to the extent determined to be incorrect.

(ii) No change or division of the ownership of a nonparticipating owner who is receiving a portion of the proceeds from the sale or other disposition of production from the drilling owner shall be binding upon the drilling owner for the purpose of paying to the nonparticipating owner for the benefit of its lessor royalty owner or overriding royalty owner, under Subitems (aa) and (bb) of this Item, until such new nonparticipating owner acquiring any interest has furnished the drilling owner, at the drilling owner's address as reflected in the records maintained by the office

of conservation, with a certified copy of the instrument or instruments constituting the chain of title from the original nonparticipating owner.

(jj) In the event that the drilling owner secures a title opinion from a licensed Louisiana attorney covering a tract of land in a unit burdened by a mineral lease, or other agreement, that creates any lessor royalty or overriding royalty for which a nonparticipating owner is entitled to receive from the drilling owner a portion of the proceeds from the sale or other disposition of production, the actual reasonable costs incurred by the drilling owner in obtaining the title examination and the title opinion may, at the drilling owner's sole discretion, be chargeable as a cost recoverable by the drilling owner out of the tract's allocable share of production. In such case, the drilling owner shall provide the nonparticipating owner applicable excerpts of such title opinion.

(iii) Any owner not notified shall bear only his tract's allocated share of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the unit well or in connection with any subsequent unit operation, including a charge for supervision, which share shall be subject to the same obligation and remedies and rights to own and recover out of production in favor of the drilling owner as provided in this Subsection. The drilling owner shall deliver to the owner not notified, for the benefit of his lessor royalty owner or overriding royalty owner, the proceeds attributable to the lessor royalty and overriding royalty burdens as described in this Section.

(iv) Any owner of a well described in Subparagraph (a) of this Paragraph who is conducting, intends to conduct, or has conducted a subsequent unit operation on such well may notify all other owners in the unit of the conducting or the intent to conduct such operation in the form and manner of the risk charge notice described in Subparagraph (a) of this Paragraph, and in that event, all of the provisions of this Paragraph shall be applicable to that subsequent unit operation to the same extent, and in the same manner, that they would apply to the drilling of a new well, subject to Items (v) and (vi) of this Subparagraph.

(v) The risk charge for any subsequent unit operation shall be one hundred percent of the tract's allocated share of the actual reasonable expenditures incurred in conducting the subsequent unit operation, including a charge for supervision, regardless of whether the wellbore on which such operations were conducted is a unit well, alternate unit well, substitute unit well, or cross-unit well.

(vi) The notice to be provided by the drilling owner to the other owners in the unit pursuant to Item (iv) of this Subparagraph shall contain:

(aa) A detailed description identifying the well to which the subsequent unit operation relates, the work associated therewith, and the new location and objective depth of the well if changed as a result of such work.

(bb) A copy of the order of the commissioner creating the drilling unit to which the subsequent unit operation relates.

(cc) An AFE that shall include a detailed estimate, or the actual amount, of the cost of conducting the subsequent unit operation and that is dated within one hundred twenty days of the date of the mailing of the notice.

(dd) An estimate of the notified owner's approximate percentage of well participation.

(ee) A copy of all available logs, core analysis, production data, and well test data with respect to the well that has not been made public.

(vii) If, on the date of the notice of the subsequent unit operation, there are still amounts uncollected on a risk charge from a nonparticipating owner for the drilling of, or a previous operation on, the wellbore for which the notice is sent, the drilling owner may recoup a risk charge from that nonparticipating owner on the costs of the noticed subsequent unit operation only if the drilling owner sends that nonparticipating owner a notice of the subsequent unit operation. The notice may offer that nonparticipating owner the opportunity to participate in the subsequent unit operation upon payment to the drilling owner, within sixty days of the date of receipt of the notice, of the nonparticipating owner's entire outstanding balance due for all previous operations on the wellbore, including any amounts uncollected on a risk charge. If the drilling owner sends the nonparticipating owner the notice, the drilling owner may, in addition to recouping the costs of a subsequent unit operation, recoup a risk charge on the costs of the subsequent unit operation from the production from the well attributable to the tract under lease to that nonparticipating owner if it fails to elect timely to participate in the subsequent unit operation, or if it fails to pay timely the entire outstanding balance due for all previous operations on the wellbore, or if it fails to pay timely its share of the estimated costs of the subsequent unit operation determined by the AFE.

(c) Should a drilling unit be created by order of the commissioner around a well already drilled or drilling and including one or more tracts as to which the owner or owners thereof had not participated in the risk and expense of drilling such well, then the provisions of this Subsection for notice, election, and participation shall be applicable as if a well were being proposed by the owner who drilled or was drilling such well; however, the cost of drilling, testing, completing, equipping, and operating the well allocable to each tract included in the unit shall be reduced in the same proportion as the recoverable reserves in the unitized pool have been recovered by prior production, if any, in which said tract or tracts did not participate prior to determining the share of cost allocable to such tract or tracts.

(d)(i) Should a drilling unit be revised by order of the commissioner so as to include an additional tract or tracts, then the provisions of this Subsection for notice, election, and participation shall be applicable to such added tract or tracts and the owner thereof as if a well were being proposed by the owner who had drilled the well; however, the cost of drilling, testing, completing, equipping, and operating the unit well shall be reduced in the same proportion as the recoverable reserves in the unitized pool have been recovered by prior production, if any, in which said tract or tracts did not participate prior to determining the share of cost allocable to the subsequently included tract or tracts.

(ii) Should a drilling unit be revised by order of the commissioner as to exclude a tract or tracts, the cost of drilling, testing, completing, equipping, and operating the unit well shall be reduced in the same proportion as the recoverable reserves in the unitized pool have been recovered by prior production to determine the share of cost allocable to the subsequently excluded tract or tracts.

(e)(i) The provisions of Subparagraph (b) of this Paragraph with respect to the risk charge shall not apply to any unleased interest not subject to an oil, gas, and mineral lease.

(ii) Notwithstanding the provisions of Subparagraph (b) of this Paragraph, the lessor royalty owner and overriding royalty owner shall receive that portion of production proceeds due to them under the terms of the contract creating the royalty.

(f) In the event of a dispute relative to the calculation of unit well costs or depreciated unit well costs, the commissioner shall determine the proper costs after notice to all interested owners and a public hearing thereon.

(g) Nothing contained herein shall have the effect of enlarging, displacing, varying, altering, or in any way whatsoever modifying or changing the rights and obligations of the parties thereto under any contract between or among owners having a tract or tracts in the unit.

(h) The owners in the unit to whom the risk charge notice provided for in this Section may be sent are the owners of record as of the date on which the risk charge notice is sent.

(i) Failure of the drilling owner to provide to an owner a risk charge notice as required by Subparagraph (a) of this Paragraph shall not affect the validity of the risk charge notice properly provided to any other owner in the unit.

(3) If there is included in any unit created by the commissioner of conservation one or more unleased interests for which the party or parties entitled to market production therefrom have not made arrangements to separately sell or otherwise dispose of the share of such production attributable to such tract, and the unit operator sells or otherwise disposes of such unit production, then the unit operator shall pay to such party or parties such tract's pro rata share of the proceeds of the sale or other disposition of production within one hundred eighty days of such sale or other disposition.

B. Should the owners of separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and the drilling of a well on the unit, and should it be established by final and unappealable judgment of court that the commissioner is without authority to require pooling as provided for in Subsection A of this Section, then, subject to all other applicable provisions of this Chapter, the owner of each tract embraced within the drilling unit may drill thereon. The allowable production therefrom shall be such proportion of the allowable for the full unit as the area of the separately owned tract bears to the full drilling unit.

C. For purposes of this Section, the following definitions shall apply:

(1) "Deepening" means an operation whereby an existing wellbore serving as a unit well, alternate unit well, substitute unit well, or cross-unit well is extended to a point within the same unit and unitized interval beyond its previously drilled total vertical depth.

(2) "Extension" means an operation related to a horizontal well whereby a lateral is drilled in the same unitized interval to a greater total measured depth or extent than the lateral was drilled pursuant to a previous proposal.

(3) "Recompletion" means an operation to attempt a completion in a portion of the unitized interval in the existing wellbore different from the initial completion in the unitized interval.

(4) "Rework" means an operation conducted in the wellbore after it is initially completed in the unitized interval in a good faith effort to secure, restore, or improve production in a

stratum within the unitized interval that was previously open to production in that wellbore, including re-perforating, hydraulic fracturing and re-fracturing, tubing repair or replacement, casing repair or replacement, squeeze cementing, setting bridge plugs, and any essential preparatory steps. "Rework" does not include routine maintenance such as acidizing, sand or paraffin removal, repair, or replacement of downhole equipment such as rods, pumps, packers, or other mechanical devices.

(5) "Sidetrack" means the intentional deviation of an existing wellbore serving as a unit well, alternate unit well, or substitute unit well from its actual or permitted bottom hole location within that unit and unitized interval to a different bottom hole location within the same unit and unitized interval or done to drill around junk in the hole or to overcome other mechanical difficulties in order to reach the permitted bottom hole location.

(6) "Subsequent unit operation" means a recompletion, rework, deepening, sidetrack, or extension conducted within the unitized interval for a unit or units created under R.S. 30:9(B).

(7) "Unitized interval" means the subsurface interval defined in the office of conservation order creating the unit or units that the existing wellbore is serving as a unit well, alternate unit well, substitute unit well, or cross-unit well.

CHAPTER 2. LEASES AND CONTRACTS
PART I. LEASES IN GENERAL

§103.1. Operators and producers to report to owners of unleased oil and gas interests

A. Whenever there is included within a drilling unit, as authorized by the commissioner of conservation, lands producing oil or gas, or both, upon which the operator or producer has no valid oil, gas, or mineral lease, said operator or producer shall issue the following reports to the owners of said interests by a sworn, detailed, itemized statement:

(1) Within ninety calendar days from completion of the well, an initial report which shall contain the costs of drilling, completing, and equipping the unit well.

(2) After establishment of production from the unit well, quarterly reports which shall contain the following:

(a) The total amount of oil, gas, or other hydrocarbons produced from the lands during the previous quarter.

(b) The price received from any purchaser of unit production.

(c) Quarterly operating costs and expenses.

(d) Any additional funds expended to enhance or restore the production of the unit well.

B. No operator or producer shall be required under the provisions of this Section to report any information which is not known by such operator or producer at the time of a report. However, the operator or producer shall report the required information to the owner of the unleased interest within thirty days after such information is obtained by the operator or producer, or in the next quarterly report, whichever due date is later.

C. Reports shall be sent by certified mail to each owner of an unleased oil or gas interest who has requested such reports in writing, by certified mail addressed to the operator or producer. The written request shall contain the unleased interest owner's name and address. Initial reports shall be sent no later than ninety calendar days after the completion of the well. The operator or producer shall begin sending quarterly reports within ninety calendar days after receiving the written request, whichever is later, and shall continue sending quarterly reports until cessation of production.

D. Notwithstanding any other provision of this Section to the contrary, at the time a report is due pursuant to this Section, if the share of the total costs of drilling, completing, and equipping the unit well and all other unit costs allocable to an owner of an unleased interest is less than one thousand dollars, no report shall be required. However, during January of the next calendar year, the operator or producer shall report such costs to the owner.

TITLE 31. MINERAL CODE
CHAPTER 13. MISCELLANEOUS PROVISIONS
PART 2-A. PRODUCTION PAYMENTS AND ROYALTY PAYMENTS TO OTHER THAN MINERAL LESSOR; REMEDIES OF OBLIGEE

§212.21. Nonpayment of production payment or royalties; notice prerequisite to judicial demand

If the owner of a production payment created out of a mineral lessee's interest or a royalty owner other than a mineral lessor seeks relief for the failure of a mineral lessee to make timely or proper payment of royalties or the production payment, he must give his obligor written notice of such failure as a prerequisite to a judicial demand for damages.

§212.22. Required response of obligor to notice

The obligor shall have thirty days after receipt of the required notice within which to pay the royalties or production payments due or to respond by stating in writing a reasonable cause for nonpayment. The payment or nonpayment of the sums due or stating or failing to state a reasonable cause for nonpayment within this period has the following effect.

§212.23. Effects of payment or nonpayment with or without stating reasonable cause therefor; division order

A. If the obligor pays the royalties or production payments due plus the legal interest applicable from the date payment was due, the owner shall have no further claim with respect to those payments.

B. If the obligor fails to pay within the thirty days from notice but states a reasonable cause for nonpayment, then damages shall be limited to legal interest on the amounts due from the date due.

C. If the obligor fails to pay and fails to state a reasonable cause for failure to pay in response to the notice, the court may award as damages double the amount due, legal interest on that sum from the date due, and a reasonable attorney's fee regardless of the cause for the original failure to pay.

D. Repealed by Acts 1992, No. 1110, §2.