

OFFICIAL

Oklahoma Administrative Code

**2016
EDITION**

A Compilation of Permanent Rules
Including updates filed with the Secretary of State as of August 15, 2016

Title 385

Department of the Commissioners of the Land Office

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Preface

This Title publication has been extracted from the *2016 Edition* of the *Oklahoma Administrative Code (OAC)*, which supersedes all previous editions and supplements to the *OAC*. The *OAC*, prepared under the authority of 75 O.S., § 256, comprises the only *official* publication of Oklahoma's permanent rules and executive orders. The *2016 Edition* is a compilation of permanent rules that have been issued by agencies, as well as Executive Orders issued by the Governor, and includes updates filed with the Secretary of State as of August 15, 2016.

Full editions of the *OAC* are published every five years, and between full edition publications, cumulative supplements are published annually. Also, until each year's edition or supplement is published at the end of the year, the semi-monthly issues of *The Oklahoma Register* serve as additional official supplementation. At any given point in time, therefore, **current rules can be found** by checking the latest full edition of the *OAC* and the latest cumulative annual supplement, and by checking issues of the *Register* for permanent, preemptive, and emergency rule updates filed with the Secretary of State after the August 15 closing date for the latest annual *OAC* publication (full edition or supplement).

The *OAC*, its supplements, and the semi-monthly issues of the *Register* are available for public inspection at Oklahoma's depository libraries [as designated by the Oklahoma Department of Libraries at <http://libraries.ok.gov/state-government/publications/depository-library-system/>], as well as at many County Clerks' offices around the state. They are also available at the Jan Eric Cartwright Memorial Law Library in the State Capitol Building and at the Secretary of State's Office of Administrative Rules.

OAC publications are also available for purchase. Each edition and each supplement can be purchased as a full set or by individual Title. Full set publications include a comprehensive *General Index*, and individual Title publications include a Title index. A *User's Guide to the OAC* is also available, and may be purchased separately.

For additional information about the *OAC*, or to order the *2016 Edition* or individual Titles, earlier *OAC* publications, the *General Index*, the *User's Guide*, or *The Oklahoma Register*, contact the Office of Administrative Rules:

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How to cite the *OAC* and its supplements

- To cite the *most recent* codification of a Section or Appendix in the *OAC*, do not cite a publication date. For example:

OAC 165:56-5-3
OAC 165:56, Appendix C

- To cite a *specific* codification of a Section or Appendix in the *OAC*, cite to the specific publication date. For example:

OAC (2016) 165:56-5-3
OAC (2016) 165:56, Appendix C

OAC (2015 Supp.) 165:56-5-3
OAC (2015 Supp.) 165:56, Appendix C

OAC (2014 Supp.) 165:56-5-3
OAC (2014 Supp.) 165:56, Appendix C

OAC (2013 Supp.) 165:56-5-3
OAC (2013 Supp.) 165:56, Appendix C

OAC (2012 Supp.) 165:56-5-3
OAC (2012 Supp.) 165:56, Appendix C

OAC (2011) 165:56-5-3
OAC (2011) 165:56, Appendix C

- For information about citing Parts, Subchapters, Chapters, and Titles in the *OAC*, see the *User's Guide to the OAC*.

**TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE
LAND OFFICE**

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CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

Section

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[**Authority:** OKLA. CONST. art 6, § 32; OKLA. CONST. art XI, § 11; 51 O.S., §§ 24A.1 et seq.; 64 O.S., §§ 1, 260, 281, 1001 through 1002, 1005 through 1007, 1012, 1034, and 1060; 75 O.S., §§ 250 et seq.]

[**Source:** Codified 12-2-91]

385:1-1-1. Purpose

The rules of this Chapter reflect the Constitutional and statutory authority that created this agency and states the duties and responsibilities mandated by the same. The rules of this Chapter also reflect the organizational structure of this agency which includes the pertinent divisions of responsibilities and where the general public may obtain information regarding activities and actions of this agency that may impact their interests.

385:1-1-2. Commissioners

The Commissioners of the Land Office of the State of Oklahoma hereinafter designated as Commissioners or Commission, as a body constitute an executive, administrative department of the State, which as such has charge of the sale, rental, disposal, and management of the school lands, and other lands of the public domain of the State, and of the funds and proceeds derived therefrom. Under the Constitution and statutes of the State, five high officers constitute the Commissioners, namely: The Governor, the Lieutenant Governor the State Auditor and Inspector the Superintendent of Public Instruction and the President of the Board of Agriculture. They are charged with duties as Commissioners in addition to the usual functions of the offices to which they are elected or appointed. See 64O.S. §§1001 and 1002. As Commissioners of the Land Office of the State they function as a body and not as individuals. The Governor is ex-officio chairman of the body and a vice-chairman is selected from the other members to perform duties prescribed by statute and by parliamentary rules.

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12]

385:1-1-3. Office of the Secretary

The Land Office is administered by a Secretary, who is appointed by the Governor with the advice and consent of the

Commissioners. It is the duty of the Secretary, under the supervision of the Commissioners, to execute the laws pertaining to the Land Office and the rules and regulations promulgated by the Commissioners. He exercises direct supervision over the several divisions of the Department.

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05]

385:1-1-4. Authorization to adopt rules and regulations

As such constituted body, the Commissioners are an agency within the definition of Section 250.3 of Title 75. They are authorized to make rules and regulations and to formulate orders for the proper protection and preservation of the lands and funds under their control and the accomplishment of the purposes for which the Department known as the Commissioners of the Land Office has been established.

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12]

385:1-1-5. Meeting location; quorum

All meetings of the Commissioners shall be held at the State Capitol or as announced. Any three Commissioners at a meeting are a quorum and thereby constitute a lawful meeting; however, a concurrence of three members in a proposed action is necessary to make such action legal; provided, further, that no legal action taken at a previous meeting can be rescinded, annulled or substantially amended, except by a three-fifths (3/5) vote of the full membership of the Commissioners [64 O.S. § 1034]. The Commissioners as a body are often called "The Board" or "The Commission", and, when so designated, are so considered in their official actions as a body.

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05]

385:1-1-6. Land Office divisions

For the effective operation of its integrated activities, the Land Office has been divided into divisions under the following classifications: Administrative, Real Estate Management, Minerals Management, Royalty Compliance and Financial Services, each of which operates under the general rules of the Legislature and the Land Office, but also under rules particularly relating to its own function. By statute, the positions in the Department are made interchangeable among and between several divisions at the will and discretion of the Secretary.

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12]

385:1-1-7. Responsibilities of division directors

Each division is under the supervision of a division Director. It is his or her duty to see that the work of his or her division is carried forward, and that the orders and action taken by the Commissioners concerning his or her division are enforced, to make reports to the Commission of the status of his or her division, and to present any matters which require the official action of the Commissioners. He or she has no independent authority to bind the Commissioners.

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05]

385:1-1-8. Requests for information

Information as to Departmental matters in which any person is interested may be obtained by either oral or written request made to the Secretary. All written communications should be addressed to "The Commissioners of the Land Office of Oklahoma." Any matter upon which a person is interested in obtaining a formal ruling should be presented by a petition headed by the designation: "Before the Commissioners of the Land Office of the State of Oklahoma. In the Matter of _____": It should be stated briefly the matter upon which a decision is requested, and whether the request is opposed by someone who should be notified of the time and place for hearing. Upon receipt of such petition, a date the matter can be heard by the Commissioners will be fixed and a hearing had under the rules prescribed by Title 75, O. S., 1971, Section 309 and following. The rights given by such Sections shall be preserved, including the right of review by a District Court.

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05]

385:1-1-9. Hearings

All hearings before the Commissioners shall be in accordance with the following:

- (1) **Place and members.** Unless otherwise ordered, all hearings shall be:
 - (A) held at a designated time and place as announced by the Commissioners of the Land Office;

(B) conducted by the Commissioners assembled as an official body, presided over by the chairman or by vice chairman; and

(C) shall be open to the public.

(2) **Subpoenas.** The Commissioners may direct the Secretary to issue subpoenas for the attendance of a party or any witness at a hearing. Subpoenas so issued may be in the form in general use for civil proceedings in the courts of the State, and on similar terms.

(3) **Record of proceedings.** Upon request of an interested party or by request of the Commissioners, proceedings in a contested case shall be taken down by a court reporter and a transcript including exhibits, shall be an official record of the proceedings. A party desiring a copy may obtain a copy by paying the cost.

(4) **Procedures for individual proceedings.** The procedure applicable to individual proceedings shall be that provided in Title 75 Sections 309 to 323, .

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05]

385:1-1-10. Minutes of meetings

Minutes are kept of the official meetings of the Commissioners. Transcripts are bound in chronological order and are open for public inspection at the office of the Commissioners of the Land Office. The minutes contain the record of statements of policy, interpretations formulated, adopted or used by the agency, as well as opinions, decisions and orders.

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05]

385:1-1-11. Rules and regulations

The Rules and Regulations which designate the manner in which the action of the Commissioners may be invoked in relation to the sale of oil and gas leases and the leasing or sale of school lands are set forth under the Rules and Regulations pertaining to the respective divisions in charge of such activities. Copies of such rules will be furnished on request.

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12]

385:1-1-12. Schedule of fees

Fees for services rendered by the Department of the Commissioners of the Land Office shall be adopted by Resolution of the Commissioners of the Land Office.

385:1-1-13. Official business residence and website

The Land Office's official business residence is 120 N. Robinson, Suite 1000W, Oklahoma City, Oklahoma 73102. The Land Office's official website is www.clo.ok.gov.

[Source: Added at 29 Ok Reg 1298, eff 6-25-12]

CHAPTER 10. FIRST MORTGAGE AGRICULTURAL LOAN

Section

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385:10-1-4.	Affidavit of possession
385:10-1-5.	Order of processing
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385:10-1-14.	Loan terms
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385:10-1-16.	Application preparation fee exemption
385:10-1-17.	Subordination agreements
385:10-1-18.	Improvements and insurance exclusion

[Authority: 64 O.S., § 1; 64 O.S., §§ 52 et seq.]

[Source: Codified 12-2-91]

385:10-1-1. Purpose

The rules of this chapter have been adopted to establish the requirements and procedures for obtaining a farm loan. They cover basically matters pertaining to fees, title requirements, encumbrances, appraisals, interest rates, releases and subordination agreements. These rules are designed to advise the farming community of the progressive steps that are required to obtain a farm loan.

385:10-1-2. Applicant qualifications; title requirements

The applicant for a farm loan must be a resident and citizen of the State of Oklahoma. He must own legal or equitable title to the land offered as security, as determined by the Marketable Record Title Act.

385:10-1-3. Application fees

Applicants for farm loans shall deposit with their application loan processing fee specified in Schedule of Fees adopted by the Commissioners and in use on date application is filed with the Land Office.

385:10-1-4. Affidavit of possession

Affidavit of possession of any person other than the applicant, who rents, leases or otherwise has possession of any part of the land or improvements thereon, must accompany each application for a farm loan. Form will be furnished with the application.

385:10-1-5. Order of processing

The necessary services incident to the making and closing of loans shall be rendered as nearly as practicable in the chronological order in which farm loan applications are filed.

385:10-1-6. Conservancy districts

Farm loan applicants whose land lies within an organized conservation district must agree to comply with the soil conservation program of the district and submit with his application the certificate of such agreement of compliance signed by an officer of the local soil conservation district. Form will be furnished with the application.

(1) **Assessment of taxes.** The fact that lands are located within a conservancy district will have no effect on the eligibility of the lands for a loan from the Commissioners, provided the abstracter certifies that there has been no assessment of taxes by the district on such lands.

(2) **Assessments released.** If assessments have been made on the lands by the district and the assessments have been paid and the lien for such assessments has been released, the lands will be acceptable as security for a school land loan.

(3) **Assessments not released.** If assessments have been made on the lands by the district and have not been paid but no bonds have been issued, the lands will be eligible for a loan, since the assessment can be paid in full from the proceeds of the loan and the lien released.

385:10-1-7. Security for loan

The security for a farm loan must be good and improved farm or grazing lands, located within the State. The amount of

the loan cannot exceed fifty percent of departmental appraiser's value of the land, without the improvements.

385:10-1-8. Appraisals

Prior to any application for a farm loan being submitted to the Commissioners for approval, the land being offered as security for the loan shall be appraised by an appraiser of the Land Office. All appraisals, using forms provided by the Commissioners of the Land Office, will be made in accordance with accepted methods and techniques of national appraisal societies, such as: Appraisers Institute, Farm managers and Rural Appraisers, Independent Fee Appraisers Society; or other recognized appraisal societies.

(1) **Appraisal qualifications.** In making appraisal, the appraiser shall determine:

- (A) Physical characteristics of the farm;
- (B) Buildings and other improvements;
- (C) Neighborhood data;
- (D) Production, income, and expense data; and
- (E) Comparative sales data.

(2) **Physical characteristics of appraised property.** The appraiser shall conduct a personal examination of the actual physical characteristics of the property as they appear on the date of the appraisal and shall consider the following:

- (A) Quality of the soil and its productivity;
- (B) Amount and availability of soil moisture;
- (C) Timber or crops on the property;
- (D) Quantity, quality and durability of supply of water for residential use, farm use or irrigation;
- (E) Slope of land;
- (F) Quality, extent and adequacy of drainage and condition of drainage tile;
- (G) Degree of erosion;
- (H) Location of property in relation to towns, other similar properties and to hazardous weather areas;
- (I) Location, quality and condition of boundary and inside fences;
- (J) Acreage of each field in cultivation and crops grown, pasture or waste; and
- (K) Buildings on the land; and other structural improvements including roads.

(3) **Market value of property.** Appraisers shall determine market value" of the property, defined as the highest price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale: buyer and seller, each acting prudently, knowledgeable and assuming price is not affected by undue stimulus. "Market value" presumes that on date of appraisal there exists the following conditions:

- (A) Buyer and seller are typically motivated;
- (B) Both parties are knowledgeable about all uses of the property and each acting in his own best interest;
- (C) A reasonable time is allowed for exposure in the open market;
- (D) Payment is made in cash or its equivalent;

(E) Financing, if any, is on terms generally available in the community at the specified date and typical for the property type in its locale; and

(F) The price represents a consideration for the property sold unaffected by special financing amounts and/or terms, services, fees, costs or credits incurred in the transaction.

(4) **Methods to determine market value of property.**

For purposes of determining "market value" the appraiser shall utilize three approaches: Direct Sales Comparison, Capitalization of Income, and Cost methods, if applicable, and shall reconcile the three on the basis of which data appearing to be most reliable, provided, that a weighted preference shall be given to the Direct Sales Comparison method.

(A) **Direct sales comparison.** The appraisers shall compile as much data as possible under the circumstances for the most recent sales of comparable properties in the general area of property being appraised in recent period. Properties used for comparable sales analysis shall be evaluated on basis of similarity of such properties to the property being appraised, and the market value of the property being appraised shall be adjusted, up or down, depending upon dissimilarities between comparable properties. Principle points of comparison for determining similarities of properties are:

- (i) Location;
- (ii) Soil and topography;
- (iii) Water resources;
- (iv) Dwelling;
- (v) Other essential buildings;
- (vi) Allotments;
- (vii) Proportion of cropland to total land;
- (viii) Farm layout and arrangement;
- (ix) General appearance;
- (x) Accessibility to services and facilities;
- (xi) State of cultivation;
- (xii) Woodland;
- (xiii) Pasture;
- (xiv) Urban or rural orientation; and
- (xvi) Alternative uses.

(B) **Capitalization of income.** The appraiser shall estimate average yearly earnings of appraised property and divide the estimated annual earnings by a capitalization rate of general application in the area.

(C) **Cost Approach.**

(i) An indication of value under the Cost Approach is obtained by adding the value of essential buildings to the market value of the land. Depreciation must recognize functional and economic obsolescence as well as physical deterioration in building value. Non-essential and extremely old buildings may have insurance value but would not add to overall building value.

(ii) Market value of the land will be value of the land without buildings. It will include land development of a permanent nature. A value per acre

for land resources will be determined by analyzing sale price of comparable land.

- (5) **Appraisal report.** A written report of appraisal, on form provided by Commissioners of the Land Office, setting forth the estimated value, shall be prepared and presented to the Commissioners of the Land Office. Appraisals are public record and are available to the general public in accordance with 64 Okl.St. Ann. 1981, §61(A). The report shall conform with the guidelines in 4(A) through 4(C) of this subsection.

385:10-1-9. Loan limits

No farm loan shall be made on any tract of land of less than 20 acres, nor for an amount less than \$1,000.00. All loans shall be in multiples of \$100.00.

385:10-1-10. Loans to state officials

No farm loan can be made to any elected or appointed State Official, whether legislative, executive or judicial, during the term of his office or during his candidacy for elective Office.

385:10-1-11. Title through heirship

Title to the farm land coming to heirs or devisees of deceased persons will not be accepted unless there has been a legal determination of heirship by a court of competent jurisdiction.

385:10-1-12. Increased loans

An increased farm loan must take the status of a new loan and will be subject to the same rules, except as to the application fee, when identical lands are offered as security.

385:10-1-13. Interest rate

- (a) It is the policy of the Commissioners to charge the maximum competitive interest rate on first mortgage farm loans.
- (b) First Mortgage farm loans entered into by the Commissioners will bear a variable rate of interest subject to change monthly.
- (c) Review of interest rate charged by the Commissioners on first mortgage agricultural land loans shall be a permanent item of business on the agenda for each regular meeting of the Commissioners. Upon recommendation of Staff, interested parties, or any Commissioner, the Commissioners may consider adjusting the interest rate as they, in the exercise of their authority, may deem to be in the best interest of the trust estates. Any change in rate will be effective on date as established by the Commissioners.
- (d) The Commissioners may adopt as an interest rate, that which is published in the "Wall Street Journal" as "Prime Rate" under the heading "Money Rates" and defined as the base rate on corporate loans at large U.S. Money Center Commercial Banks. If two, or more, rates are published in the same paper, then the higher rate shall be used.

385:10-1-14. Loan terms

- (a) **Term.** No first mortgage agricultural land loan shall be made for a period of greater than thirty-three (33) years. Loans shall provide for annual or semi-annual installments of principal and interest sufficient to amortize the loan over the loan term.
- (b) **Payment.** The Commissioners shall permit payment of a loan in part or in whole as provided in 64 Okl.St. Ann. §52.
- (c) **Information provided.** Applicant shall provide such information as shall be deemed necessary by the Commissioners of the Land Office.
- (d) **Releases.**
- (1) A release of a part of the land mortgaged as security for a loan which bears a variable rate of interest may be given at the discretion of the Commissioners; provided, that
 - (A) repayment is made of money loaned on that tract to be released;
 - (B) payments are current and the loan is in good standing;
 - (C) appraised value of remainder of land is sufficient to meet legal requirements to secure loan balance; and
 - (D) the Commissioners may at their discretion release up to a total of ten (10) acres without payment, if loan principal has been reduced a sufficient amount for loan to meet legal requirements.
 - (2) Release of a part of the land mortgaged as security for a loan which does not bear a variable rate of interest will not be given. Except, the Commissioners, at their discretion, may release not to exceed a total of ten (10) acres as provided. Provided, further, the Commissioners may, at their discretion, honor a commitment to release more than ten (10) acres of security from a fixed rate loan where commitment was made prior to adoption of these rules and regulations upon repayment of amount loaned on tract to be released.
- (e) **Initiation and origination fees and points.** The Commission may in their discretion charge initiation and/or origination fee and/or points in order to obtain a farm loan from the School Land Commission.

385:10-1-15. Cancellation of application

Failure of the applicant for a farm loan to comply with any departmental requirements within a reasonable time will be grounds for cancellation of application. If any loan is not completed within 12 months subsequent to date of departmental appraiser's report, through fault of the applicant, the application will become automatically cancelled and can only be reinstated by written application and reappraisal of the land and payment of cost thereof.

385:10-1-16. Application preparation fee exemption

No fees or commissions are to be paid for filling out the application or to secure a farm loan, except as maybe required

by statute or permitted by the Schedule of Fees adopted by the Commissioners.

385:10-1-17. Subordination agreements

Subordination of mortgage to an oil and gas lease may be granted at the option of the Commissioners to allow the payment of bonuses, rentals and royalties to the oil and gas lessor, who is mortgagor to the State. If such mortgagor has executed an assignment which provides for payment of rentals, royalties, or bonuses under the oil and gas lease to the Department, the

Commissioners at their option may give notice in writing to the oil and gas lessee of the State's desire to receive payment of the bonus, rentals and/or royalties.

385:10-1-18. Improvements and insurance exclusion

Farm loans are made upon value of the land exclusive of improvements. The Commissioners will not require insurance on buildings upon the mortgaged premises.

CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES

Section

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- 385:15-1-8. Lease terms
- 385:15-1-9. Performance fee, bond and bonus deadline
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- 385:15-1-29. Lessee's annual summary of operations [REVOKED]
- 385:15-1-30. Special reports
- 385:15-1-31. Completion reports and well logs
- 385:15-1-32. Deposit and fee schedule
- 385:15-1-33. Electronic funds transfer

[**Authority:** OKLA. CONST. art VI, § 32; 52 O.S., § 540; 64 O.S., §§ 1001, 1009, 1020 through 1023, 1055 through 1057, 1063, and 1093 through 1095]
 [**Source:** Codified 12-2-91]

385:15-1-1. Purpose

The rules of this chapter have been promulgated to establish the requirements and procedures whereby an interested party may acquire an oil and gas mining lease from the State of Oklahoma upon school land. Said rules describe the progressive steps that are required in order to lease these properties by the State's sealed bid process. These rules also describe the bond and fee requirements to obtain a lease, the State's consent to assignments, the grounds for lease cancellation, requirements for well and surface maintenance, price guidelines for the computation of the State's royalty, and those reports required to be filed with the State by the Lessee.

[**Source:** Amended at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Affiliated party" means any party with whom the lessee has a financial relationship that results in either the lessee or the other party having control over the other, or the lessee and other party being under common control of a parent or subsidiary.

"Alternate Performance Payments" means to include any payment that is received by a lessee from a purchaser as an alternative to delivery of production, or as a prepayment for future delivery of production, or indexed to production, or for access to the reserves.

"Average spot price" means averages of actual sales derived from one or more valid publications, publishing bidweek prices (or if bidweek prices are not available, first of the month prices) with at least one index pricing point in the field or area.

"**Barrel**" means 42 (US) gallons at 60° F. at atmospheric pressure.

"**Commission**" means the Commissioners of the Land Office, State of Oklahoma.

"**Condensate**" means liquid hydrocarbons which were originally in the gaseous phase in the reservoir.

"**Control**" means identity of ownership is conclusive as is consolidated financial reporting—but is not necessary, and the lack of identity of ownership is not presumptive of lack of control.

"**Cubic foot of gas**" or "**Standard cubic foot of gas**" means the volume of gas, including both natural gas and casinghead gas, contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base is 14.65 pounds per square inch absolute and the standard temperature base is 60° F. Whenever the conditions of pressure and temperature differ from the above standards, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the "Ideal Gas Laws" corrected for deviation from Boyle's Law, which correction must be made unless the pressure at the point of measurement is 200 pounds per square inch gauge or less; all in accordance with the methods and tables generally recognized by and commonly used in the natural gas industry.

"**Day**" means a period of twenty-four (24) consecutive hours: For accounting purposes only, it is from 7:00 A.M. to 7:00 A.M. the following day.

"**Field**" means the general area underlaid by one or more Pools.

"**Gas**" means all natural gas and all other fluid hydrocarbons not herein defined as Oil, including Condensate, because it originally was in the gaseous phase in the reservoir.

"**Gross proceeds**" means the value of the total amount of money or credit derived from production or rights thereto without any deductions, reductions, or setoffs.

"**Log**" or "**Well Log**" means a systematic detailed and correct record of formations encountered in the drilling of a well.

"**Offset Well**" means a well drilled directly opposite a State tract within a 40 acre square area, or within a directly opposite unit spaced by the Oklahoma Corporation Commission, or within an area which is generally regarded as the development unit in the area.

"**Oil**" or "**Crude Oil**" means crude petroleum oil and all other hydrocarbons, regardless of gravity, which are produced in liquid form, but does not include liquid hydrocarbons which were originally in a gaseous phase in the reservoir.

"**Operator**" means any person or persons, who, duly authorized, is in charge of the management, development of a lease or the operation of a producing property.

"**Plug**" means the closing off, in a manner prescribed by the Corporation Commission, of all oil, gas, and water bearing formations in any producing or non-producing well bore before such well is abandoned.

"**Potential**" means the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the Oklahoma Corporation Commission.

"**Production in Paying Quantities**" means that the gross income from oil and gas produced and sold (after deduction of taxes and royalty) exceeds the cost of operation.

"**Secretary**" means the duly appointed and qualified Secretary to the Commissioners of the Land Office.

"**State Land**" means any land under the control and supervision of the Commissioners of the Land Office.

"**Subsidiary**" means any party with whom the lessee has a financial relationship that results in either the lessee or the other party having control or ownership over the other, or the lessee and another party being under common ownership or control of a third person.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97]

385:15-1-3. Notice of Lease sale/results and tabulations

Awards and Tabulations will be posted on the Land Office's official website [See 385:1-1-13]. Any person or entity who would like to receive Notices of Sale by electronic mail may do so by submitting a written request to the Land Office.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-4. Lands available for leasing

Any tract of School Land not currently under lease may be offered for oil and gas lease purposes at the earliest scheduled oil and gas lease sale, upon receipt of a written request. Request should include the contact information of the Requestor and the complete legal description of the tract or tracts requested.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-5. Newspaper advertising requirement

School lands or other lands owned by the state shall be offered by public competition after notice of the lease auction is published one time no less than thirty (30) days prior to the lease auction date in two newspapers authorized by law to publish legal notices. One of the newspapers shall be published in the county where the land is located or other newspaper by section 106 of Title 25 of the Oklahoma Statutes. The other shall be a newspaper of general circulation in this state.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04]

385:15-1-6. Public bid process

The public bid process for school land oil and gas lease sales shall be as follows:

- (1) **Separate tract requirement.** A separate bid showing the tract number and legal description must be filed on each tract. Each tract will be leased separately to the highest responsible bidder. Drilling contracts or production payments will not be considered, except in a special lease sale.

(2) **Sealed bid requirement.**

(A) **Written Bids.** Bids must be written and enclosed in one sealed envelope, and placed in another envelope bearing notation on the outside front face of the envelope "Bids for Oil and Gas Leases" and the date of sale. Such bids must be delivered to the office of the Commissioners of the Land Office, and if sent by mail shall be addressed to the Commissioners of the Land Office's official business residence [See 385:1-1-13]. (No bid will be considered that is not delivered prior to date and time of sale.), **or**

(B) **Electronic Bids.** Alternatively, the use of electronic bidding shall be permitted subject to the policies, requirements, and procedures contained in the Secretary's Electronic Bidding Procedures as authorized by the Commissioners of Land Office, available online at [www: clo.ok.gov](http://www.clo.ok.gov) or by request.

(3) **Time of sale.** Bids will be received as provided in the Notice of Sale and are subject to the right of the Commissioners of the Land Office to reject any and all bids. (All bidders are invited to attend opening of bids which is held in the office of the Secretary to the Commissioners of the Land Office.)

(4) **Minimum bid accepted.** No bid of less than \$5.00 per acre will be considered, except in a special lease sale.

(5) **Deposit required.** Each bid must be accompanied by a remittance in the sum of 25% of the amount bid, payable to the Commissioners of the Land Office. Upon acceptance of any bid and the awarding of the lease to the bidder, the successful bidder shall be liable for the full amount of the bid. The unsuccessful bidders will have their remittance check returned.

(6) **Bid forms.** Bid forms are available on the Land Office's official website [See 385:1-1- 13]

(7) **Assignment of bids.** Oil and Gas Lease bids may not be assigned.

(8) **Special oil and gas lease sales.** The Commission will have a special oil and gas lease sale if they desire to consider bids other than standard lease terms. This notice of sale will be marked "Special Oil and Gas Lease Sale," and the terms and conditions of this sale will be as provided in the notice of said sale.

(9) **Bids become final.** All bids on mineral leases shall become final at the date and hour for opening bids and no bid may be withdrawn or rejected to correct an error by any bidder.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 29 Ok Reg 1299, eff 6-25-12; Amended at 31 Ok Reg 52, eff 9-10-13 (emergency); Amended at 31 Ok Reg 1949, eff 9-12-14]

385:15-1-7. Advertising deposit

At the discretion of the Director of Mineral Management Division an advertising deposit may be required. The Director of Mineral Management Division will set the amount of deposit, if required. The actual cost of advertising shall be paid by the successful bidder. If there is no successful bidder or the bid is rejected, advertising costs shall be paid by the requester

of the lease sale. If said costs are less than the deposit, the overpayment will be refunded.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 1043, eff 5-13-04]

385:15-1-8. Lease terms

Pursuant to 64 O.S. §§ 1063 through 1066 inclusive, a successful bidder for a corpus school land oil and gas lease will be issued a commence type lease requiring paid up delay rentals of \$1.00 per net mineral acre to preserve the primary term on a form prescribed by the Commissioners, providing for royalty as established by a majority vote of the Commission; provided, that at least 28 days notice of intent to change the royalty policy is announced through two (2) newspapers with normal statewide circulation, and departmental publications; Intent to change the royalty policy which announcements shall contain the date and time and place which the Commission may vote on the proposed change;

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97; Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-9. Performance fee, bond and bonus deadline

(a) All successful bidders of oil and gas leases subsequent to May 11, 1998 shall be required to pay a Performance Fee in an amount equal to .007 of the lease bonus but not to exceed an amount equal to \$2.00 per net mineral acre. Said fee shall be placed in the Land Office's Performance Fee Escrow Account with interest accrued.

(1) The lessee shall have thirty (30) days from the date of award of the lease to do the following:

- (A) Pay the Performance fee;
- (B) Execute the oil and gas lease and return it to the CLO;
- (C) Pay the balance of the bonus and delay rental due;
- (D) Pay any actual advertising costs that are in excess of the advertising deposit.

(2) The Lessee may have a longer period of time to complete (a) above if an extension is granted in writing by the Director of the Minerals Management Division or his or her designee.

(b) All Lessees holding an interest in oil and gas leases executed prior to May 11, 1998, may terminate their bonding requirement pursuant to 385:15-1-20 upon the payment of a one-time Performance Fee in accordance with the following schedule:

- (1) 1 to 5 leases owned: \$300.00
- (2) 6 to 10 leases owned: \$325.00
- (3) 11 to 15 leases owned: \$350.00
- (4) 15 to 20 leases owned: \$400.00
- (5) 21 to 60 leases owned: \$450.00
- (6) 61 to 180 leases owned: \$500.00
- (7) 181 or more leases owned: \$550.00

(c) Said fee shall be placed in the Performance Fee Escrow Account. The payment of the Performance Fee shall cover

all leases that were formerly covered under the Lessee bond, including the interest(s) of Lessee(s) added by virtue of an Appointment of Lease Operator form or the current Bond Appointment form. Bonded lessees electing not to pay said Performance Fee will be required to maintain their bond pursuant to 385:15-1-20 herein.

(d) The Performance Fee Escrow Account shall be used to insure that the lessee faithfully operates the lease premises and complies with all lease terms and provisions and Land Office's oil and gas rules and regulations. This may include but is not limited to the payment of uncollectible royalty payments, plugging wells, cleaning up well sites, tank battery sites and pipelines, and the reclamation of soil and vegetation, ponds and water ways. Said fee shall not minimize or relieve the lessee of any liability or obligation that exists or may arise from the operations of the lease, nor limit in any manner the Land Office's remedies at law.

(e) Said Performance Fee shall be maintained until such time that the Performance Fee Escrow Account exceeds \$250,000.00, at which time the performance fee will be discontinued until such time that it falls below \$200,000.00, at which time the Performance Fee will be reinstated. The Secretary of the Land Office will provide notice of any such discontinuance or reinstatement of said Performance Fee through the Notice of Oil and Gas Lease Sale that is published.

(f) Claims against the Performance Fee Escrow Account will be paid only upon the recommendation of the Director of the Mineral Management Division and the approval of the Secretary of the CLO. Said Director will insure that all other sources of payment of any claim, have been considered and/or exhausted before recommending payment from the fund. Said Director will also consider the primary purpose of creating said fund which is to preserve and protect the assets of the School Land Trust when no other source is available. The payment of any one claim shall not exceed 20% of the then existing Performance Fee Escrow Account.

(g) The appointment of Lease Operator (for bonding purposes) form, created pursuant to 385:15-1-12 has been terminated. Therefore, all Lessees holding an interest in oil and gas leases executed prior to May 11, 1998, whose bond requirement is not satisfied will be required to comply with one of the following:

- (1) Pay the one-time Performance Fee based upon number of leases owned;
- (2) Pay \$1.00 per net acre owned with a minimum of \$25.00 per lease owned;
- (3) Post a Surety Performance Bond in an amount prescribed by the Commissioners pursuant to 385:15-1-20.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97; Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-10. Lease award

The tabulation of each oil and gas lease sale will be presented to the Commissioners at their next regular meeting for ratification and consideration of Secretary's award of leases.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97]

385:15-1-11. Lease cancellation procedure

(a) **Notice.** Upon violation of any of the substantial terms of an oil and gas lease, or the rules and regulations of the Commission pertaining thereto, the Commission shall issue a notice of proposed cancellation by registered mail, to the last known address of the lessee, specifying the said rule or rules, terms or conditions which have been violated.

(b) **Hearing.** The lessee may, within fifteen days from the date of mailing of the notice in (a) of this section, request a hearing at which he may show cause, if any he has, why the lease should not be canceled. Upon receipt, by the Secretary of the Commission, of a written request for a hearing, the matter shall be set for hearing before an outside hearing officer selected by the Commissioners, having substantial technical experience in the issue or issues under discussion, designated by the Commission, at a date, time and place certain and the lessee shall be immediately advised thereof by registered mail not less than 15 days prior to such hearing. Prior to the date set for such hearing the lessee may file with the Hearing Officer a written response setting forth the reasons such lease should not be canceled and forfeited. Affidavits, depositions or other written or documentary evidence in support of the matters and things alleged in said response may be filed therewith, in which case the lessee need not appear in person or by counsel at the hearing herein provided for and may rest on such written proof. If a hearing is not requested, the Commission may proceed to the cancellation of the lease without further notice to the lessee. The Hearing Officer shall conduct the hearing at the time and place designated, or at the time and place to which said matter is adjourned or continued. At such hearing evidence and oral arguments in support of the alleged violation giving rise to the notice of proposed cancellation and in support of the material allegations of the written response thereto will be heard, such time being allowed therefore as the Hearing Officer shall direct. The Hearing Officer shall make a full report of said hearing to the Commission, orally or in writing, as the Commission may direct. The lessee shall be promptly notified of the decision of the Commission, and the lessee or any other interested party aggrieved by such decision shall be allowed a judicial review to the District Court of the County where the leased premises are situated, in accordance with the provisions of Section 318, of said Title 75, Oklahoma Statutes; thereupon, the procedure and rights involved shall be determined in accordance with the provisions of said Section 318 and the following Sections of said Title 75 § 319, 320, 321, 322 and 323, with the right of appeal to the Supreme Court from the lower court's action as provided by Section 323 of Title 75. The judicial review referred to is to be had by filing a petition therefore in the District Court within thirty (30) days after the appellant has notice of the order to be appealed from, as provided in said statute. The review shall be conducted by the court without a jury, and shall be confined

to the record. (The court does not hear the matter de novo, as formerly provided, but may, in a proper case, set aside, modify or reverse the order and remand the case.)

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-12. Lease operator forms for bonding purposes [REVOKED]

[Source: Revoked at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-13. Release of lease

Upon payment of all liabilities then accrued and due the Commission the oil and gas lessee may, at any time surrender and terminate a State lease by filing a formal relinquishment and release of said lease with the Secretary of the Commission, provided that if such lease has been recorded in the county, the release thereof must be recorded in the county by the lessee prior to filing with the Secretary of the Commission.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97]

385:15-1-14. Seismograph permits

Any person or entity desiring to do seismograph exploration for oil and gas purposes may obtain a non-exclusive seismic permit upon the filing of an application together with a remittance of \$200.00 as an application fee. Said permit will cover both the surface and mineral interest of the CLO, whatever that interest may be. The Minerals Management Division will appraise the acreage for a non-exclusive seismic permit. Said appraisal shall be made in a timely manner and the seismic permit fee shall not exceed 10 percent of the appraised value of an oil and gas lease covering the acreage to be explored plus the damages to the CLO's surface interest, if any. If the mineral interest is under oil and gas lease, applicant must obtain the written permission of the lessee and only pay CLO for damages to its surface interest, if any. The CLO retains the right to put any tract of land up for bid when it is deemed to be in the best interest of the trust. Said permit shall be for a period of ninety days with limited extension available upon written request. The seismic exploration permit will terminate upon issuance of an oil and gas lease covering the permitted acreage. In addition to the above mentioned fees and damages, the permittee shall pay any and all damages caused to CLO surface lessee's interest in the land and shall be responsible for any liability arising out of the seismic operations.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04]

385:15-1-15. Pipeline requirements

(a) **Pipeline easements.** All pipelines, except those that are used exclusively in lease operations, must be covered by an easement. Applications for a pipeline easement must include a plat of pipeline, drawn to scale, in triplicate.

(b) **Pipeline construction.** Oil and gas lessees may authorize purchasers of oil and gas and utility companies furnishing

electricity for lease operations to construct the necessary lines as provided in paragraph number 1 of the oil and gas lease. Lessee shall remain liable for any such construction and the removal of all lines and restoration of surface area, unless construction is covered by an easement from the Commissioners of the Land Office.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-16. Subordination of oil and gas lease to mortgage

(a) The holder of an oil and gas lease covering lands mortgaged to the Commission may obtain a subordination agreement by submitting the following:

- (1) An assignment of oil and gas lease rentals and royalties in duplicate on departmental forms, which will be furnished on request.
- (2) An affidavit of statement of bonus consideration, signed and acknowledged by both lessor and lessee.
- (3) A photostatic, or certified copy of the oil and gas lease or leases.
- (4) Payment of the subordination fee in the amount of \$50.00. (See 385:15-1-32)

(b) The Department will not grant a subordination agreement if either the bonus consideration or the annual delay rental is less than One Dollar (\$1.00) per acre.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-17. Leases on lands under certificate of purchase

(a) The holder of an oil and gas lease covering the interest of a certificate of purchase holder may file his lease of record with the Commission by complying with the following:

- (1) Submit assignment of oil and gas lease rentals and royalties in duplicate on departmental form for certificate of purchase, which will be furnished on request.
- (2) Submit affidavit of statement of bonus consideration signed by both lessors and lessees.
- (3) Submit original oil and gas lease together with a photostatic or certified copy thereof.
- (4) Pay the required fee in the amount of \$12.50 per lease. (See 385:15-1-32)

(b) The filing of an oil and gas lease with the Commission will entitle the lessee thereof to notice of any proposed cancellation of the certificate of purchase covering said land.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-18. Forms available on website

All forms relevant to the sale and operation of the Land Office's oil and gas leases are posted on the Land Office's official website [See 385:1-1-13].

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 22 Ok Reg 2093, eff 6-25-05; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-19. Copies of records

The Commission will upon the payment of appropriate fee furnish a copy of Commission Records, certified copies of Commission minutes, proofs of publication, and copies of other records, only upon written request. (For charges see 385:15-1-32)

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98]

385:15-1-20. Bond requirements

(a) **Amount of bond; forms.** Each mineral lessee whose interest(s) is not covered by a performance fee must post a Performance Bond to cover the following agreements with this Department:

(1) Bond posted must be in the total sum required to cover any or all agreements in accordance with the following:

(A) Oil & Gas Lease Bond (one or more leases) - \$10,000.00

(B) Salt Water Disposal Agreement - \$10,000.00

(2) All bonds must be prepared on Commission forms. Bond forms will be supplied upon request. Maximum bond required for Oil and Gas Leases and related operations (on current Department form).

(b) **Release of bond.** Bonds will be released upon written request of the lessee or bonding company when all contracts covered thereby are satisfactorily terminated as determined by the CLO.

(c) **Underwriter requirements.** All surety bonds must be made by a company authorized to do business in the State of Oklahoma.

(d) **Cash deposit for loan of abstracts.** Firms desiring to borrow abstracts may post a cash deposit in the amount of \$500.00 which is required, to insure the return of the abstracts borrowed. Upon return of said abstracts the deposit will be refunded.

(e) **Cash Bond as Performance Bond.** A mineral lessee as defined in (a) above may post a bond by submitting cash in the amount of \$10,000.00 as a Performance Bond with the Commissioners of the Land Office, from which the Commissioners of the Land Office may debit, or draw the entire sum, to pay for loss or damage resulting from the lessee's operations, or violations of the duties and obligations imposed by the lease. The bonds are not substitute liability, or liability limits but merely serve as minimal security for the debts and obligations. The lessee shall not be entitled to interest while this bond is held by the Commissioners of the Land Office.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-21. Requirements for consents to assignments

(a) **Bond of assignee.** If the interest of a lessee is not covered by the payment of a Performance fee pursuant to 385:15-1-9(b), the lessee must post a bond pursuant to

385:15-1-20. If the interest of a lessee is covered by said Performance fee, no bond is required.

(b) **Copy of assignment.** All requests for approval of Assignments must be accompanied by fully executed copies of said assignments and the required transfer fee of \$25.00, per assignment per lease, both of which will be retained by this Department. When all requirements of this department have been completed the Commission will prepare and issue a written Consent to Assignment. No assignment of a State lease will be valid or vest any interest in the assignee until same is approved in writing by the Commission.

(c) **Assignment forms.** Assignments of State leases may be made on any assignment form in general use in the oil and gas industry and may convey a subdivision, an undivided interest, or a vertical subdivision.

(d) **Accompanying agreements.** All assignments presented for approval which are subject to other agreements, upon request of the Land Office, must be accompanied by a copy of such other agreement.

(e) **Assignments of overriding royalties.** Assignment or grants of overriding royalty do not require approval of the Commission.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-22. Well installation and maintenance requirements

(a) **Pipeline depth.** All pipelines must be buried and maintained at a minimum of three (3) feet below the surface.

(b) **Identification of well.** Within thirty days of the completion of a producing oil or gas well, a sign shall be posted showing the name and number of the well and the legal description.

(c) **Surface casing.** All wells drilled for oil, gas or salt water disposal, shall set surface casing below all fresh water strata, and be cemented from bottom to top.

(d) **Enclosures of well property.** Upon demand by Commission all salt water tanks, oil tanks and other lease installations shall be enclosed with earthen dikes sufficient to protect the lease from damage by leakage and overflowing. The oil and gas lessee shall erect and maintain substantial gates or cattle guards on all entrances to the lease or any subdivision thereof.

(e) **Saltwater disposal well applications.** Salt water, other than that produced from the leased lands, may not be disposed of in wells on State land unless pursuant to written agreement with the Commission. Applications for salt water disposal agreements should be accompanied by a plat showing the location of all wells from which the salt water is produced, and the amount of salt water and oil produced by each well. (For fees and agreements, contact the Real Estate Management Division.)

(f) **Plugging requirements.** The lessee shall securely plug all dry, or abandoned, wells in the manner required by the rules and regulations of the Oklahoma Corporation Commission and the Laws of the State of Oklahoma.

(g) **Care of surface.** The lessee shall maintain all installations in a neat and workmanlike manner. All equipment or

supplies not needed in day to day operation of the lease shall be removed from the lease. All dry or exhausted wells shall be plugged immediately upon abandonment. The lessee shall repair immediately any damages caused by his operation to terraces, waterways, or any other soil conservation practice.

(h) **Removal of equipment and restoration of surface after lease termination.** Upon termination of a lease, the lessee shall have ninety (90) days thereafter to restore surface area, remove any casing, production facilities or equipment and plug any well or wells on said lease unless an extension of time is granted in writing by the Commissioners of the Land Office, any material not removed in said time shall be forfeited to the State. An inspection will be made ninety (90) days after termination and a fee of One Hundred Dollars (\$100.00) will be charged if the requirements of this paragraph have not been met. Likewise, additional inspections will be made at thirty (30) day intervals until restoration of the surface and removal of material is completed. The fee will apply to each inspection.

[Source: Amended at 21 Ok Reg 633, eff 12-19-03 (emergency); Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-23. Measurement standards for oil and gas removal

Measurement standards for oil and gas removal are as follows:

(1) **Oil tanks and tank batteries.** The oil shall be gauged in tanks located on the leased premises. Such tanks shall be properly set, free from leakage, and sufficiently gas tight, and so maintained as to preserve, so far as possible, the full gravity of the oil and prevent undue evaporation losses. The lessee shall be accountable for all oil lost by leakage, overflowing, etc. Oil produced from more than one lease may be stored in a common tank battery upon written approval of a common tank battery agreement by the Commission. All requests for approval of a common tank battery must be accompanied by proof of settlement for surface damages with the surface lessee, and the approval fee. (See 385:15-1-32)

(2) **Oil tank requirements.** All tanks shall be strapped to a full 100 percent of their capacity, and individual tank tables shall be prepared and submitted in accordance therewith. All strapping tank measurement, and calibration shall be done in accordance with "Tank Measurement and Calibration", of the A.P.I. Code for measuring, sampling and testing crude oil. The Commissioners shall be supplied with a certified copy of the original strapping, showing the tank number, make and size. Any tank moved bodily, taken down and reset, or altered in any way that might change the capacity thereof, shall be treated as a new tank, and a new number shall be assigned. When new tank tables are prepared, they should show by number the previous tables applying; also, when new numbers are given to old tanks, the table applying should be shown.

(3) **Oil measurement.** The oil shall be measured by gauge pole or measuring line on which is marked and numbered, in such a manner so as to be clearly legible full standard feet and inches and fractions thereof, such

numbering started from the base of said line or pole. All measurements taken shall be from the same gauge or thief hole in the tank deck, and the floor of the tank directly under such point of measurement shall be level and free from all obstructions whatsoever. The oil shall be measured from the tank floor to the top surface of the liquid level, and readings shall be taken to the nearest one-quarter inch and so recorded. No oil shall be measured by automatic custody transfer without approval of the Commission in writing. All bottoms and solids removed from tanks shall be measured by first measuring from the tank floor to the top surface of the liquid level immediately prior to removal of the bottoms and solids and again immediately after removal; both measurements must be supplied to the Commissioners of the Land Office, upon request, with a copy of disposal invoices or said volumes shall be deemed marketable production and royalties due on said volumes as if sold at market value of oil.

(4) **Oil temperature.** The temperature of all oil shall be taken at the same time it is gauged. The temperature shall be representative of the average temperature of the entire body of oil from the tank bottom to the top of the liquid surface. In tanks of 500 barrels or less in capacity the temperature shall be taken by suspending a standard thermometer for at least five minutes, at a point not less than twelve inches from the side of the tank, and midway between the tank bottom and the top surface of the oil.

(5) **Oil sample.** The observed A.P.I. gravity and hydrometer temperature shall be taken in a sample representative of the merchantable body of the oil, and shall be taken at the time of measurement and so recorded. Pipeline oil must be tested for gravity from a sealed sample and not by an unsealed (open vapor) hydrometer.

(6) **Instruments of measurement.** All instruments used in determining temperature, A.P.I. gravity, water and sediment must be of a standard make, of reputable manufacture, accurately calibrated and in good working order.

(7) **Oil gravity and volume.** The observed gravity and the observed volume of oil shall be corrected to the standard of 60. Fahrenheit in accordance with the National Standard of Petroleum Tables.

(8) **Run tickets.** All run tickets must be legible and properly executed at the time measurements are taken and must contain all information necessary to complete the final calculations. The original of these tickets, or carbon copy thereof, must be furnished to the Commissioners of the Land Office, upon request.

(9) **Gas metering.** Gas of all kinds is subject to royalty and shall be measured by a meter which is approved for general use by the oil and gas industry. All measurements shall be adjusted to conform to the Standard Gas Measurement Act.

(10) **Gasoline measurement.** Tests to determine the approximate gasoline content of gas delivered to plants processing gasoline or rendering liquids are required to check plant efficiency and to obtain an equitable basis for allocating the gasoline output of any plant to the several

sources from which the gas treated is derived. The gasoline content of the gas delivered to each gasoline plant treating gas from lease lands shall be determined periodically by field tests for determining the percentages of each lease being processed.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97]

385:15-1-24. Oil and gas royalty price computation

(a) **Oil royalty.** Price Basis for computing oil royalty shall be: the total value received, adding premiums, bonuses, as well as adding gathering and dehydration or treating if absorbed or deducted in price; the highest posted field price, or the average published spot price, whichever is greater. The lessee may not recover any oil or other hydrocarbon that has been injected into a well from the State's royalty interest unless fully supported by purchase tickets setting forth the substance injected, volume, gravity or other quality properties suitable to a reliable basis to distinguish recovery from formation production. If the support is inadequate to distinguish recovery from production, all production shall bear royalty. In the event that the lessee or an affiliated party to the lessee is the purchaser of the oil, the price basis for computing oil royalty will be the greater of the value paid or the spot price for West Texas Intermediate at Cushing, Oklahoma less the actual cost of transportation to Cushing.

(b) **Gas royalty.** Price Basis for computing gas royalty shall be the greater of: the total value received under the sale contract adding premiums and bonuses, alternate performance or reservation payments, as well as adding gathering, compression and dehydration or treating if absorbed or deducted in price; the highest price any lessee enforces under similar sale contracts in the wellbore or the gross proceeds that would have been received if the gas had been sold at the average spot price in the pipeline - without deduction for taxes or for the cost of compressing, treating, metering, dehydrating, gathering or for other charges necessary or determined desirable to deliver gas into pipelines. In the event that the lessee or an affiliated party to the lessee is the purchaser of the gas, the basis for computing gas royalty will be the greater of: the without cost Price Basis received by the affiliated party's sale to a non-affiliated third party in the pipeline or the highest price being paid in the field by any purchaser for like kind and quality gas in the pipeline.

(c) **Processed gas royalty.** The price basis for computing processed gas royalty shall be the same as for gas royalty under (b) above. Processed liquid hydrocarbons basis for royalty shall be the greater of the value received for the liquid BTU's or the value the liquid BTU's would have brought if not rendered from the gas by processing and sold at the closest market for unprocessed gas without BTU ceilings. In the event that the lessee or an affiliated party to the lessee operates or owns an interest in the plant which is processing the gas, the State's royalty will be based on the greater of the value received by the affiliated party's first arms-length sale of the residue gas and liquid hydrocarbons; the highest price being paid by this plant or any other plant in the area for like kind and quality residue

gas and liquid hydrocarbons; or the highest price being paid at the closest market for unprocessed gas; without deduction as set forth in (b) above.

(d) **Allowance for processing.** An allowance to compensate for the cost of processing gas may be allowed in an amount not to exceed one-half (1/2) of the value of the liquid hydrocarbons. Royalty shall be paid on no less than one-half (1/2) of the value of the liquid hydrocarbons and one-hundred percent (100%) of the value of the residue gas.

(e) **Drip gasoline and condensate royalty.** Price basis for computing royalties on drip gasoline or natural condensate recovered from gas produced from the leased land without resort to manufacturing process shall be the sale price, the posted field price, or the average spot price, whichever is greater.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97]

385:15-1-25. Monthly production reports

Oil and gas. On or before the last day of the month following the month of production, the oil and gas lessee must file a sworn monthly report of oil, gas and casinghead gas produced and sold from the leased premises. This report will be filed on Commissioners of the Land Office form and must be completed in detail. (Forms furnished on request.)

[Source: Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-26. Purchase statements

The monthly pipeline run statement and gas settlement sheet of the purchaser of oil or gas sold from a State lease must be furnished to the Commission on or before the last day of the month succeeding production.

385:15-1-27. Notice of intent to drill or recomplete

Prior to the commencement of operation, notice shall be given to the Commission of intention to drill or recomplete any well for oil and gas. Such notice shall include the location of the well, the name and number of the well, the approximate date operations will begin, and the estimated depth.

385:15-1-28. Notice of intent to plug oil and gas well; plugging report

(a) **Notice of intent to plug oil and gas well.** Notice of intention to plug must be filed with the Commissioners of the Land Office at least five days prior to plugging of any producing oil or gas well.

(b) **Plugging reports.** A copy of the plugging record shall be filed with the Commission within thirty days of completion of plugging operations.

385:15-1-29. Lessee's annual summary of operations [REVOKED]

[Source: Revoked at 14 Ok Reg 3171, eff 7-25-97]

385:15-1-30. Special reports

The Commission may require special reports pertaining to production or operation of a State oil and gas lease. Upon request, the lessee must promptly submit the required reports.

385:15-1-31. Completion reports and well logs

Within thirty days after completion or recompletion of any well, a completion report shall be filed with the Commissioners of the Land Office. This report shall be on the form prescribed by the Oklahoma Corporation Commission and shall be signed and sworn to by the lessee or his authorized representative. In addition to the above report, the lessee, upon request, shall furnish the Commissioners of the Land Office a copy of any electric or other logs run on this well.

385:15-1-32. Deposit and fee schedule

The amount of deposits and fees shall be based upon a schedule of fees established by the Commissioners. The fee

schedule shall be posted on the Land Office's official website [See 385:1-1-13].

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 1043, eff 5-13-04; Amended at 29 Ok Reg 1299, eff 6-25-12]

385:15-1-33. Electronic funds transfer

All payments due under the CLO oil & gas mining lease, to be paid after the lease is consented to by the Commissioners, may be paid by electronic funds transfer debit or other more certain electronic transfer of funds to the account of the Commissioners of the Land Office at the State Treasurer's Office.

[Source: Added at 14 Ok Reg 3171, eff 7-25-97]

CHAPTER 20. SALE AND OPERATION OF HARD ROCK MINING AND OTHER MINERAL LEASES

Section

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[Authority: 64 O.S., §§ 1001 through 1002, 1012, 1055 through 1057, and 1090 through 1095]

[Source: Codified 12-2-91]

385:20-1-1. Purpose

The rules of this chapter have been adopted to establish the requirements and procedures whereby an interested party may acquire a hard rock mining or other mineral lease from the State of Oklahoma upon School Land. Said rules describe the progressive steps that are required from permitting through leasing. These rules also describe the treatment of the lease from issuance through termination and release including bonding and reporting requirements.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-2. Mailing list for notice of lease sale

Notice of hard rock mining and other mineral lease sales will be posted on the Land Office's official website [See 385:1-1-13]. Any person or entity who would like to receive Notices of Sale by electronic mail may do so by submitting a written request to the Land Office.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98; Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-3. Prospecting permits

At the discretion of the Director of the Minerals Management Division, a geophysical/geochemical prospecting permit may be issued for the purpose of prospecting minerals without a lease. Cost and term of the permit are at the discretion of

the Secretary of the Commissioners of the Land Office. No prospecting permit shall exceed one year in length.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-4. Lease contract required for removal of minerals in commercial quantities

No minerals in commercial quantities shall be removed from the premises covered by a prospecting permit without a mining lease contract.

385:20-1-5. Assignments of prospecting permits

No prospecting permit may be assigned in whole or part without the written approval of the Commissioners of the Land Office.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98]

385:20-1-6. Report of valuable mineral discovery [REVOKED]

[Source: Revoked at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-7. Land subject to other lawful uses

All land owned by the Commissioners of the Land Office shall be subject at all times to any other lawful uses by the Commissioners of the Land Office, their lessees, permittees,

licensees and assignees; provided, that such use shall not prevent, obstruct or unduly interfere with the permittees in the exercise of any privilege hereby granted.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-8. Liability for damages

The holder of a prospecting permit shall be liable to the State and its lessees or assigns for any and all damages to or destruction of property. The holder of a prospecting permit shall fill all excavations, remove and cover all debris and restore the surface of the land, as near as possible, to its former condition upon the expiration or termination of his permit. All property of the permittee shall be removed from said premises within 60 days after termination of this permit; provided, that no such property shall be removed until all damages, if any, to the property or property rights of the Commissioners, their lessees or assigns are paid.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98]

385:20-1-9. Inspection of lands

The State reserves the right to inspect all lands covered by a prospecting permit at all times and the right to cancel any permit upon violation of any terms or conditions of such permit or the laws of the State of Oklahoma relating to or affecting school or public lands, after the expiration of 10 days from date of mailing notice by Return Receipt Mail to the last known address of the lawful owner and holder of the prospecting permit or by posting notice in writing upon said premises, specifying the terms, conditions or laws violated.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-10. Termination of prospecting permits upon issuance of lease

All prospecting permits shall become null and void upon issuance of a hard rock mining or other mineral lease, by the Commissioners of the Land Office, covering area in said permit.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-11. Fines

Any person who violates any of the provisions of 64 O.S. § 1090 et seq. will be subject to a fine of not less than \$50.00 or more than \$50,000.00 or imprisonment for not less than 30 days or more than 10 years, pursuant to 64 O.S. § 1094.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98; Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-12. Prospecting permit bonds

Bond amounts required for prospecting or hard rock mining or other mineral leases will be established by the Secretary of the Commission and incorporated into the lease permit.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-13. Request to offer land for lease; advertising deposit and requirements

(a) Any tract of State School land not under a hard rock mining or other mineral lease will be offered for lease at the earliest scheduled hard rock mining or other mineral lease sale, at the discretion of the Director of the Minerals Management Division. (The firm making the above request will have to pay actual cost of advertising if it is the successful bidder or if no bids are received. The firm making the request may be required to pay advertising cost if the bid is rejected.)

(b) The law requires that State School land offered for hard rock mining or other mineral lease must be advertised for 30 days in a newspaper published in the County in which the land is located and for a like period in a paper of general circulation in Oklahoma, after which the bids received will be opened, tabulated, and presented to the Commission at the next regular meeting.

(c) The successful bidder must pay the cost of advertising.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98; Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-14. Bidding process

The bid process for school land hard rock mining and other mineral lease sales shall be as follows:

(1) **Separate tracts.** A separate bid showing the tract number and legal description must be filed on each tract. Each tract will be leased separately to the highest responsible bidder.

(2) **Sealed bids.** Bids must be written and enclosed in one sealed envelope and placed in another envelope bearing notation on the outside front face of the envelope "Bids for Hard Rock Mining or Other Mineral Leases" and the date of sale. Such bids must be delivered to the office of the Commissioners of the Land Office, and if sent by mail shall be addressed to the official business residence of the Commissioners of the Land Office, as posted on the Land Office's official website [See 385:1-1-13]. (No bid shall be considered that is not delivered prior to date and time of sale, as set forth in the Notice of Sale.)

(3) **Bid opening.** Bids will be received as provided in the Notice of Sale and are subject to the right of the Commissioners of the Land Office to reject any and all bids. (All bidders are invited to attend opening of bids which is held in the office of the Commissioners of the Land Office.)

(4) **Bid deposit.** Each bid must be accompanied by a remittance of earnest money as required in the notice of sale, payable to the Commissioners of the Land Office. Upon acceptance of any bid and the awarding of the lease to the bidder, the successful bidder shall be liable for the full amount of the bid.

(5) **Forms.** Bid forms will be furnished on request.

(6) **Assignment.** Hard rock mining and other mineral lease bids may not be assigned.

- (7) **Total acres.** Each hard rock mining and other mineral lease will be limited to a maximum of 160 acres.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98; Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-15. Issuance of hard rock or other mineral lease

- (a) **Term of lease.** A successful bidder will be issued a five-year hard rock mining or other mineral lease on form prescribed by the Commissioners, providing for royalty as stated in the Notice of sale.
- (b) **Lease executions.** All leases and bonds will be prepared by the Commission and forwarded to the lessee for completion. The lessee shall have 30 days from date of award to execute the lease, post a bond, and pay any moneys due.
- (c) **Lease approval.** The tabulation of each hard rock mining or other mineral lease sale will be presented to the Commissioners at their next regular meeting for approval and consideration of award of leases.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-16. Lease cancellation

- (a) **Notice.** Upon violation of any of the substantial terms of a hard rock mining or other mineral lease, or the rules and regulations of the Commission pertaining thereto, the Commission shall issue a notice of proposed cancellation by Return Receipt Mail to the last known address of the lessee, specifying said rule or rules, terms or conditions which have been violated.
- (b) **Hearing.** The lessee may, within 15 days from the date of mailing of such notice, request a hearing at which he may show cause, if any he has, why the lease should not be canceled. Upon receipt, by the Secretary of the Commission, of a written request for hearing, the matter shall be set for hearing before an outside Hearing Officer to be selected by the Commissioners, who will set a date, time and place certain for a hearing and the lessee shall be immediately advised thereof by registered mail not less than 15 days prior to such hearing. Prior to the date set for such hearing the lessee may file with the Hearing Officer a written response setting forth the reasons such lease should not be canceled and forfeited. Affidavits, depositions or other written or documentary evidence in support of the matters and things alleged in said response may be filed therewith, in which case the lessee need not appear in person or by counsel at the hearing herein provided for and may rest on such written proof. If a hearing is not requested, the Commission may proceed to the cancellation of the lease without further notice to the lessee. The Hearing Officer shall conduct the hearing at the time and place designated, or at the time and place to which said matter is adjourned or continued. At such hearing evidence and oral arguments in support of the alleged violation giving rise to the notice of proposed cancellation and in support of the material allegations of the written response thereto will be heard, such time being allowed therefor as the Hearing Officer shall direct. The Hearing Officer shall make a full report of said hearing to the Commission, orally or in writing, as the Commission may direct. The lessee shall be promptly notified of the decision of

the Commission, and the lessee or any other interested party aggrieved by such decision shall be allowed a judicial review to the District Court of the County where the leased premises are situated, in accordance with the provisions of Section 318, Title 75, Oklahoma Statutes; thereupon the procedure and rights involved shall be determined in accordance with the provisions of said Section 318 and the following Sections of said Title §§319, 320, 321 and 322, with the right of appeal to the Supreme Court from the lower court's action as provided by Section 323 of said Title 75. The judicial review referred to is to be had by filing a petition therefor in the District Court within 30 days after the appellant had notice of the order, to be appealed from, as provided in said statute. The review shall be conducted by the Court with a jury, and shall be confined to the record.

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98; Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-17. Lease release

Upon payment of all liabilities then accrued and due the Commission the hard rock mining or other mineral lessee may, at any time surrender and terminate a Land Office lease by filing a formal relinquishment and release of said lease with the Secretary of the Commission, provided that if such lease has been recorded in the county, the release thereof must be recorded in the county prior to the filing with the Secretary of the Commission.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-18. Commission records

The Commission will upon the payment of appropriate fee furnish a copy of Commission Records, certified copies of Commission minutes, proofs of publication, and copies of other records, only upon written request. (For charges, see 385:15-1-32.)

[Source: Amended at 15 Ok Reg 1752, eff 5-12-98]

385:20-1-19. Performance bond; release [REVOKED]

[Source: Revoked at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-20. Assignments of leases

Leases may be assigned at the sole discretion of the Secretary of the Commissioners of the Land Office. The Land Office reserves the right to refuse assignment of hard rock mining or other mineral leases for any reason it deems appropriate. The Land Office reserves the right to require additional surety in any form it deems appropriate.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-21. Monthly reports

On or before the last day of the month following the month of production, the hard rock mining or other mineral lessee

must file a sworn monthly report of uranium, coal, copper or other minerals produced and sold from the leased premises. This report must be filed on Commissioners of the Land Office form and must be completed in detail. (Forms furnished on request.)

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

385:20-1-22. Special reports

The Commission may require special reports pertaining to operation of a State hard rock mining or other mineral lease. Upon request, the lessee must promptly submit the required reports.

[Source: Amended at 29 Ok Reg 1303, eff 6-25-12]

CHAPTER 25. SURFACE LEASING FOR AGRICULTURAL AND COMMERCIAL PURPOSES

Section

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[Authority: 64 O.S., §§ 260, 1001 through 1002, 1004, 1018 through 1019, 1023, 1043, 1050 through 1052, 1056 through 1062, and 1093]

[Source: Codified 12-2-91]

385:25-1-1. Purpose

This Chapter establishes procedures for acquiring a surface lease on School Land either for agricultural or commercial

purposes as authorized by 64 O.S. §§1023 and 1056 et seq. or acquiring an easement across trust lands.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-2. Definitions

In addition to terms defined in 64 O.S. §§ 1023 and 1056 et seq. the following words or terms when used in this Chapter shall have the following meaning unless the context indicates otherwise:

"**Commercial lands**" means those trust lands which may have a greater value or use which enables it to earn more income per year than if used strictly for agricultural purposes.

"**Commission**", "**Commissioners**", "**CLO**" or "**Land Office**" means the Commissioners of the Land Office of the State of Oklahoma.

"**Fair market value**" means the price which the property would bring if offered for sale in the open market by a seller willing but not obligated to sell and a buyer willing but not obligated to buy, both being fully informed of all purposes for which property is best adapted or could be used.

"**Fair market rental value**" means the annual price in cash a willing but not obligated tenant would pay, and a willing but not obligated landlord would charge for the same or similar lands for the highest and best legal use of the property, agricultural or commercial.

"**Improvements**" means buildings or other permanent or temporary structures or developments located on or attached to the land.

"**Preference right lease**" means the right of the lessee holding a lease designated with a preference right that the Commissioners elect to sell during the lease term to purchase the land at the highest bid under a two-tiered bidding system.

"**Secretary**" means the Secretary of the Commissioners of the Land Office and includes the Assistant Secretary.

"**State**" means Oklahoma.

"**Two-tier bidding system**" means a public auction procedure under which a first tier of bidding open to the general public is conducted to establish the highest initial bid. A second tier of bidding is then held in which the preference right lessee can match the bid of the party holding the highest initial bid and any subsequent raises by the initial highest bidder until no higher bid is made or the preference rights lessee refuses to match a raise in bid.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-3. Surface lease policy

All trust lands are subject to lease and the Commissioners of the Land Office are in charge of leasing the lands to maximize the income to the Trust beneficiaries while taking necessary care to conserve and preserve the trust estate, reserving the right to refuse any or all bids.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-4. Leases in writing

All leases of lands for agricultural or commercial purposes shall be in writing and shall be upon such terms and conditions and at such rental as may be determined by the Commissioners. All such leases shall be upon the form furnished by the

Commissioners. All leases shall contain the proper legal designation, including section, township, range and county.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-5. Awarding or renewal of surface lease

(a) **Agricultural lease terms.** All surface leases for agricultural purposes will be appraised for market value annual rental and offered at public bid for terms not to exceed five (5) years at not less than the appraised market value.

(b) **Short term commercial leases.** The granting of a commercial lease for three (3) years or less must be at not less than fair market value but does not have to be publicly bid.

(c) **No renewal rights.** All rights under an agricultural lease expire when the lease term expires and no renewal right exists.

(d) **Lessee in default.** The Commissioners may refuse any bid for a surface lease where the party bidding is in default of any monies due or in violation of any provision of a prior or current lease contract.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-6. Oral leases not recognized [REVOKED]

[Source: Revoked at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-7. Term of surface lease

The term of all surface leases will be in compliance with 64 O.S. §1023, and where applicable, at the sole discretion of the Commissioners.

[Source: Amended at 15 Ok Reg 1754, eff 5-12-98; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-8. Special conservation leases

The State shall have the right to designate certain tracts that are in need of extensive conservation work as special conservation leases. A complete plan of conservation work shall be developed. Any such Plan would contain projects needed, completion dates of each practice, and estimated costs.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-9. Transfer of title upon death of lessee

The heir(s) or devisee(s) of a deceased lessee shall succeed to the interest and have all rights of the lessee under the lease contract.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-10. Canceled or forfeited lease

When a lease is forfeited, canceled or judicially terminated for nonpayment of rent or violation of contract, the Commissioners may offer the lease to the highest bidder under sealed bid or at public auction. The Commissioners retain the right to

collect remaining lease rental less any amounts resulting from mitigation or sale of lessee owned improvements.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-11. Nonresident lease for agricultural or grazing purposes [REVOKED]

[Source: Revoked at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-11.1. Right to sell

The State shall reserve the right to sell or commercially develop all or any part of the premises leased, or any lesser estate, right, easement, commercial lease, or other interest at any time. If less than the entire tract is sold or leased, the annual rental may be reduced proportionately for the remainder of the term of the lease.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-12. Reservations in surface lease; easements

(a) **Easements.** The State shall reserve for itself, its lessees, permittees or grantees, and their assigns, easements for ingress and egress for any purpose of exploring for, drilling, producing, storing and marketing of oil, gas, coal, and any other minerals which may be produced from said premises, or from other premises communitized with Trust land and for any other purpose the Commissioners deem appropriate for use of the land.

(b) **Permanent and term easements.** Permanent easements may be granted to governmental entities and to railroad companies for expansion of railway lines. All other easements may be granted for a term not to exceed twenty (20) years. Both permanent and term easement(s) must be compensated for at fair market value and shall be approved by the Commissioners but do not have to be offered at public bid. Grantee shall be liable to surface lessee for surface damages to crops or lessee owned improvements.

(c) **Conversion of easement upon sale of land.** If a tract of trust land with a term easement (granted for 20 years or less) is sold; prior to such sale, the grantee of the term easement may request the Commissioners to convert the easement to a permanent easement. If the easement is converted to a permanent easement, the Trust shall be compensated for fair market value of the difference in value between the term easement and the permanent easement.

(d) **Rights of way.** Right of way easements will be granted pursuant to law and public policy at not less than fair market value.

(e) **Recreational use.** Agricultural leases include the right of lessee to use the lease for hunting, fishing or other recreational purposes. Lessee may post the property or may allow hunting and fishing. Lessee may retain any fees charged for hunting and fishing rights. This does not violate the subleasing provision of the contract.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 22 Ok Reg 2094, eff 6-25-05; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-13. Improvements on agricultural and short term commercial leases

(a) **Consent.** No improvements shall be placed upon School Land without written consent of the Commissioners.

(b) **Compliance with law.** Any improvements placed on School Land not in compliance with Commission rules or Oklahoma Statutes shall be deemed to become the property of trust fund to which the land belongs.

(c) **Authorization.** The Secretary is authorized to approve in writing, on behalf of the Commissioners of the Land Office, consent for a lessee to place improvements on School Land when the lessee has agreed in writing to remove said improvements at end of his tenure; provided, removal will not cause injury to the land.

(d) **Conservation work.** The Secretary is authorized to approve in writing, on behalf of the Commissioners of the Land Office, consent for a lessee to perform conservation work at his own expense when such practice will improve the land and is supported by a recommendation of a Real Estate Management Specialist. The lessee will not acquire any interest in terraces, ponds, wells, trees, or any similar improvement which cannot be removed without manifest injury to the land.

(e) **Claim of ownership.** The Commissioners of the Land Office assert no ownership of improvements placed at lessees expense upon School Land and which were placed thereon in compliance with Commission policy and rules, and not in violation of Oklahoma Statutes (64 O.S. § 1059 or 60 O.S. § 334), existing and in effect at the time such improvements were placed on the land, and which can be removed without manifest injury to the land.

(f) **Statute.** The Commissioners of the Land Office will continue to comply with 60 O.S. § 334: *When a person affixes his property to the land of another without an agreement permitting him to remove it, the thing affixed belongs to the owner of the land, unless he chooses to require or permit the former to remove it: Provided, that a tenant may remove from the demised premises at any time during the continuance of his term any thing affixed thereto for purpose of trade, manufacture, ornament or domestic use, if the removal can be effected without injury to the premises, unless the thing has, by the manner in which it is affixed, become an integral part of the premises.*

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-14. Soil conservation and protection from waste

All surface lessees of school lands must agree to sign and execute any soil conservation plan or program promulgated or approved by the Secretary, and to comply with the terms of such plan or program and must specifically agree to maintain all terraces, ponds, dams, waterways, wells and other similar conservation projects in existence or later built, protect the land from waste or erosion and to pay all damages to the trust which result from failure to protect the land or to comply with the conservation plan.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-15. Maintenance of farm program

The lessee of agricultural land shall comply with established farm programs to protect crop bases and allotments as set out in the invitation to bid and lease contract.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-16. Specifications of agricultural use of land

All agricultural leases shall specify the number of acres cultivated, acres non-cultivated, and acres nonusable. The acreage designations are provided in the invitation to bid and are incorporated by reference into the lease contract. No change in the use of any portion of the land can be made by lessee without prior written permission from the Commissioners.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-17. Removal of improvements

No surface lease nor any lessee owned improvements may be assigned, transferred, conveyed or relinquished without prior written consent of the Commissioners. The State shall have a lien on all property of the lessee, whether improvements, crops or movable structures, to the extent that lease payments or assessments are delinquent or the lease is otherwise in default.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-18. Lease violations

Violation of any of the provisions of a surface lease or failure to pay rent on school land shall subject the lessee to legal or administrative action or both at the option of the Commissioners to collect rent or damages or both.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-19. Corporate agricultural tenants

No agricultural lease shall be executed in favor of any corporation or its agent, or a third party for the use and benefit of a corporation, except as provided in 18 Okl. St. Ann., 1981 §951, et seq. (Farming & Ranching Act).

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-20. Holdover tenants

Holdover tenants shall be billed at a rate and terms of the expired lease contract. Legal proceedings will be brought to remove the holdover tenant from the premises and for payment of accrued rental, interest and costs for the holdover period.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-21. Appraisals of surface leases

(a) **Form and method.** Prior to any property being offered for surface lease, an appraisal for rental purposes on form

provided by Commissioners of the Land Office shall be made by appraisers of the Land Office. Appraisals will be made in accordance with Uniform Standard of Professional Appraisal Practices.

(b) **Fair market value.** The appraisers shall determine the "fair market value" of the property, which term is defined to mean the price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

(c) **Fair market rental value.** The appraisers as a part of their appraisal shall determine the "fair market rental value" of the land. For purposes of this section, fair market rental value is the annual price in cash a willing but not obligated tenant would pay, and a willing but not obligated landlord would charge for the same or similar lands for the highest and best legal use of the property, agricultural or commercial.

(1) In determining fair market rental value, the appraisers shall consider the following:

- (A) Present land use;
- (B) Acres of land in cultivation, pasture, timber and nonproductive;
- (C) Soil types and productivity;
- (D) Availability of water;
- (E) Climatic conditions prevailing in the area for the last ten to twenty years;
- (F) Cash rental price of comparable agricultural land; and
- (G) Effective cash return on landlord's share of crop rent from comparable agricultural land for the five year period preceding the appraisal.

(2) The appraisers shall reconcile the variables to arrive at their estimation of fair market rental value of the land; provided, that they shall give weighted preference to comparable cash rentals charged on other lands of the same or similar quality in the area.

(d) **Appraisal report.** Appraisals are public record under the Open Records Act 51 O.S. §24A.1 et seq. and 64 O.S. 252.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-22. Awarding of leases

The awarding of all surface leases will be in compliance with 64 O.S. §§1023 and 1056 et seq; and the mandates of *O.E.A. v. Nigh*, 642 P.2d 230 (1982), and where applicable, at the sole discretion of the Commissioners. The Notice of Invitation to Bid shall be incorporated by reference into the lease contract and be made part of it.

[Source: Amended at 15 Ok Reg 1754, eff 5-12-98; Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-23. Procedure for public bidding

The public bid process for school land surface leases shall be as follows:

(1) **Notice.** The method for advertising the leases for public bid shall be at the sole discretion of the Commissioners, or their designee, and to provide the best method to provide the information to prospective lessees. The notice shall contain the following information:

- (A) Lease number;
- (B) Legal description;
- (C) General directions to location of property;
- (D) Minimum annual bid;
- (E) Minimum cash deposit needed to perfect the high bidder's lease rights, method and manner of acceptable payment;
- (F) Term of the lease;
- (G) Such other information as the CLO deems necessary to adequately inform prospective bidders of terms and conditions of auction.

(2) **Date and location.** Auction shall be held at time, date and location as determined by the CLO.

(3) **Minimum bid.** No bid shall be accepted which is below the minimum fair market rental value established by the appraisers.

(4) **Right to refuse.** The Commissioners reserve the right to refuse any and all bids.

(5) **Minimum cash deposit.** Successful high bidder at auction shall pay at the time of the auction one-half of the annual rent for annual rent over \$500.00 or all of the annual rent if \$500.00 or below.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-24. Execution of lease

Upon approval and acceptance by the Secretary to the Commissioners and receipt of the balance of the first year's rent, the lessee(s)' copy of the lease contract will be mailed to the successful bidder and Lessor's copy retained by the Land Office. Failure to execute and return copies of the lease contract shall operate to cancel award and deposit will be forfeited as liquidated damages at the option of the Commissioners.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-25. Right to harvest

At the termination of a lease, the lessee may remove any or all improvements made by the lessee and shall have the right to harvest or remove any growing crop on the land. If the lessee is in default of any terms of the lease, the lessee shall not be allowed to remove the improvement or make entry to secure crops until all arrearage, including but not limited to interest, costs and attorney fees are fully satisfied. All improvements, that are movable, shall then be moved before expiration of the lease. (64 O.S. § 1059)

[Source: Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-26. Purchase of homesite [REVOKED]

[Source: Revoked at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-27. Annual inventory of improvements [REVOKED]

[Source: Revoked at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-28. Assignment of lease as security [REVOKED]

[Source: Revoked at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-29. Foreclosure on lease used as security on unpaid loan [REVOKED]

[Source: Revoked at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-30. Assignment of lease

Upon approval of the Commissioners of the Land Office and payment of all amounts due on lease, lessee may assign the lease by completing forms provided by the CLO.

[Source: Amended at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-31. Subleasing

(a) **Prohibition of sublease of an agricultural lease.** Subleasing of an agricultural lease is prohibited.

(b) **Commercial leases.** Commercial leases may be subleased as provided in the commercial lease contract.

(c) **Sublease without permission cause for cancellation.** Should lessee sub-lease premises without written permission of the CLO, the lease shall be subject to cancellation and forfeiture at the option of the CLO as provided by law and these rules and regulations.

[Source: Amended at 29 Ok Reg 1306, eff 6-25-12; Amended at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-32. Term of commercial leases

All commercial leases shall be for a term not to exceed fifty-five (55) years, the exact term to be at the sole discretion of the Commissioners.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-33. Procedure for appraisal of commercial leases

(a) Upon categorization of trust land as commercial and prior to its being offered for lease, an appraisal for fair market value shall be made by appraisers designated by the Land Office on a form acceptable to the Commissioners of the Land Office. Appraisals will be made in accordance with the Uniform Standards of Professional Appraisal Practice.

(b) All leases shall maintain fair market rental value throughout the term of the lease using methods such as escalators, percentage of gross income or reappraisal clauses.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-34. Procedure for bidding for commercial leases

(a) **Short term commercial leases.** Commercial leases with a term of three (3) years or less must be for annual rent of not less than fair market rental value, but no public bidding is required.

(b) **Long term commercial leases.** Commercial leases with a term of over three years shall be at public bidding for annual rent of not less than fair market rental value. The following procedures will be followed:

- (1) **Advertisement.** The method for advertising the leases for public bid shall be at the sole discretion of the CLO in such manner as to best provide the information to prospective lessees.
- (2) **Minimum bid.** No bid shall be accepted which is below the minimum fair market value.
- (3) **Right to refuse.** The CLO reserves the right to refuse any and all bids.
- (4) **Minimum cash deposit.** Successful high bidder at auction shall pay the first year's annual rent at the time of the auction.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-35. Taxes

Unless lessee is otherwise exempt by Constitution or statute, ad valorem property taxes shall be paid on any improvements and structures which would be subject to ad valorem property taxes if constructed on privately owned land.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-36. Improvements

Any permanent improvement made on commercial trust property after July 1, 1989, shall revert to the Trust at the expiration or termination of the lease unless the Commissioners and the lessee agrees to allow removal of improvements prior to the expiration or termination of the lease.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-37. Development projects for commercial leases

At the sole discretion of the Commissioners, funding may be provided for development of plans and building infrastructure on commercial lands to be developed.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-38. Dedication of easements for utilities

Commissioners may plat lands for commercial development and designate and dedicate to the appropriate governmental entity easements for a utility corridor and streets to service the development.

[Source: Added at 16 Ok Reg 1451, eff 5-27-99]

385:25-1-39. Commercial lease rental [REVOKED]

[Source: Added at 16 Ok Reg 1451, eff 5-27-99; Revoked at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-40. Contract violations; default [REVOKED]

[Source: Added at 16 Ok Reg 1451, eff 5-27-99; Revoked at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-41. Procedure for Exchanging Land

(a) **Authorization.** The Commissioners may authorize exchange of lands held in Trust for other lands held by other entities on an equal value basis.

(b) **Criteria.** It is the intent of the CLO to exchange lands held in Trust that are landlocked, too small in size to be an economic unit, low productivity, or transitional properties.

(c) **Appraisal.** An appraisal for market value of the properties to be exchanged will be completed by three duly authorized appraisers. The CLO will choose an appraiser, the other entity will choose an appraiser and then the two appraisers will select a third appraiser. The appraisers will determine the market value of the respective properties and make a consensus appraisal report.

(d) **Valuation of Improvements of Agricultural Properties.** The intent of the exchange is for the Trust to receive equal value of land in exchange for equal value of land. Since improvements are a depreciating asset and may be removed by the owner of record and the CLO typically does not own improvements, the appraisal should only consider the value of the lands to be exchanged. Improvements such as waterwells, ponds, terraces, etc. are considered a part of the land and will not be considered within the exchange as a separate item.

(e) **Exchanges for Commercial Properties.** If the entity which is exchanging land with the CLO is exchanging commercial properties the improvements will be included as an essential element of the appraisal.

(f) **Title.** The entity which is exchanging land with the CLO shall provide an abstract of title for examination by the CLO or good and sufficient title insurance for the land being offered in the exchange. The CLO shall provide the entity an official certificate of record for the land owned by the CLO but does not warrant title.

(g) **Deeds.** The entity exchanging land with the CLO will provide a warranty deed for its lands and the CLO shall provide a patent to the entity for the CLO lands.

[Source: Added at 22 Ok Reg 2094, eff 6-25-05; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-42. Irrigation permits

Irrigation permits may be issued to agricultural lessees for the purpose of irrigating CLO Trust Lands. The permit fee shall be determined by the market value rental amount for irrigated acres for comparable deeded land. The permit shall

have a delinquency interest rate of 16%. Term of the permit will be for one year.

[Source: Added at 22 Ok Reg 2094, eff 6-25-05]

385:25-1-43. Right of Entry permits; Treasure Trove

The Commissioners, or their designee, may authorize issuing right of entry permits for the purpose of individuals searching for Treasure Trove on CLO Trust lands. The fee and term for the permit shall be determined by the appropriate land management personnel but in no case shall be less than \$500.00. All exploration for Treasure Trove shall be done in a manner to protect the potential archaeological finds within the area to be searched. Machine excavation shall be limited and only done when appropriate precautions have been taken to protect the land and relics from damage.

[Source: Added at 22 Ok Reg 2094, eff 6-25-05; Amended at 29 Ok Reg 1306, eff 6-25-12]

385:25-1-44. Real Estate Broker Commissions

(a) **Commission.** A real estate broker commission may be paid to a Broker who represents a commercial business that acquires a long-term commercial lease from the CLO. The broker's fee shall only be paid when the commercial business has opened the business for operation.

(b) **Fee.** The brokerage fee shall be no more than 6% of the market value appraisal of the land that is leased. The fee will be paid only on those tracts where CLO has agreed that brokerage fees will be paid.

[Source: Added at 22 Ok Reg 2094, eff 6-25-05]

CHAPTER 30. SALE OF SCHOOL LAND

Section

385:30-1-1.	Purpose
385:30-1-2.	Determination to offer school land for sale
385:30-1-3.	Request for sale of school land
385:30-1-4.	Appraisal
385:30-1-5.	Reservation of minerals
385:30-1-6.	Review of appraisal; decision to sell
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385:30-1-8.1.	Procedure for public bidding; preference right to purchase
385:30-1-9.	Certificates of purchase; transfer

[Authority: OKLA. CONST. art I, § 32; 64 O.S., §§ 99, 1001 through 1002, 1043, 1047, 1049 through 1055, 1062, and 1093]

[Source: Codified 12-2-91]

385:30-1-1. Purpose

The rules of this Chapter have been adopted to establish the requirements and procedures for the general public to buy School Land. Article 6, Section 32 of the Oklahoma Constitution mandates that the CLO shall have the charge of the sale, rental, disposal and managing of School Lands and other public lands of the State. These rules define the method and conditions under which the sale of such lands may be accomplished.

385:30-1-2. Determination to offer school land for sale

The determination of whether a tract of State school land shall be offered for sale is wholly within the province of the Commissioners of the Land Office. No person has the right to demand that any tract be sold, but may request that a particular tract be sold.

385:30-1-3. Request for sale of school land

An individual who wishes to request the sale of a particular tract of land is required to make a written offer which the applicant will agree to commence the bidding at public auction if the Commissioners elect to offer the land for sale. Upon receipt, such request will be presented to the Commissioners, and if they determine an appraisal is warranted, an appraisal will be made. The applicant will be notified of the appraised value. Associated costs of the sale including but not limited to the appraisal, advertising, and surveying will be assessed to the successful bidder in addition to purchase price.

[Source: Amended at 16 Ok Reg 1459, eff 5-27-99; Amended at 29 Ok Reg 1310, eff 6-25-12]

385:30-1-4. Appraisal

School land shall be appraised prior to sale by three duly authorized appraisers to establish a fair market value. Land shall not be sold for less than the appraised value. Lessee owned improvements will be appraised separately. If Lessee

is not the purchaser, he will be paid for improvements by purchaser at closing.

[Source: Amended at 16 Ok Reg 1459, eff 5-27-99]

385:30-1-5. Reservation of minerals

The Commissioners shall retain all minerals in the sale of school land.

385:30-1-6. Review of appraisal; decision to sell

When the Commissioners authorize and direct an appraisal of school land for sale purposes and the appraisal is approved, the Commission will then determine if they desire to sell this tract of land based on this appraisal.

[Source: Amended at 16 Ok Reg 1459, eff 5-27-99]

385:30-1-7. Associated costs and purchase requirements

In addition to the purchase price, the successful bidder for school land will be required to pay the associated costs, including but not limited to the cost of advertising, surveying and the appraisal. If the land being sold is a homesite or joins State land not being sold, the successful bidder will be required as a condition of sale to fence off the land purchased from the adjoining State land.

[Source: Amended at 16 Ok Reg 1459, eff 5-27-99]

385:30-1-8. Terms of sale

The terms of the sale shall be set out in the Notice of Sale and a Patent will be issued when all amounts due are paid in full. The State does not warrant title.

[Source: Amended at 16 Ok Reg 1459, eff 5-27-99]

385:30-1-8.1. Procedure for public bidding; preference right to purchase

All lands shall be sold by public bidding.

- (1) **Bidding procedure with preference right.** If lands have been designated with a preference right to purchase, lessee holding such lease may meet any given high bid at the time of sale by using the two tier bidding procedure.
- (2) **If no initial bid.** Should no bids be received at auction the preference right lessee may exercise his preference right by matching the advertised minimum bid for the property.
- (3) **Current lessee requirement to register.** Lessee must be present and register at the auction to exercise the preference right. He may increase his bid instead of matching the bid at any time.
- (4) **Two-tier bidding system.** At time of the auction bids shall be taken to ascertain a high bidder from the participants of the auction. The preference right lessee does not participate at this initial stage. The preference right lessee may then match this bid or decline to match the bid. Should he decline to match the bid the high bidder from the initial process of the auction will be declared the successful bidder. Should the lessee exercise his preference right and match the bid, the initial high bidder will be asked if he wishes to increase his bid. If he does, the preference right lessee is given the opportunity to match this bid. If he does, the bidding will continue in this manner until the initial high bidder does not raise or the preference rights lessee refuses to match the raised bid.

[Source: Added at 16 Ok Reg 1459, eff 5-27-99]

385:30-1-9. Certificates of purchase; transfer

- (a) **Certificate of purchase.** If purchaser finances the land purchase through the Commissioners of the Land Office by

terms in the Notice of Sale, the state will have a first lien upon the lands sold and the purchaser will be issued a Certificate of Purchase. When all payments are made the Commissioners shall execute to the purchaser a Patent.

(b) **Transfers.** Any purchaser of trust lands may transfer the interest in the real property under a Certificate of Purchase and upon approval of the Commissioners a new Certificate of Purchase will be issued to the transferee.

(c) **Default.** In case of default the Certificate of Purchase will be canceled by the Commissioners.

(d) **Fencing.** Purchaser will be responsible for fencing the tract of land from any adjacent lands administered by the Commissioners of the Land Office and will be responsible for all damages or claims for damages arising out of purchasers failure to install and maintain such fence.

(e) **Taxes.** Trust property purchased under a Certificate of Purchase shall be assessed ad valorem taxes as against other privately owned lands. The Commissioners must have a statement from the county treasurer that all ad valorem taxes are paid before a transfer of Certificate of Purchase can be approved or Patent issued.

(f) **Validity.** A conveyance or assignment of any interest, entire or lesser, in the Certificate, shall have no validity as against the State or Commissioners of the Land Office unless such instrument is duly filed in the permanent records of the Commissioners of the Land Office.

[Source: Amended at 16 Ok Reg 1459, eff 5-27-99; Amended at 29 Ok Reg 1310, eff 6-25-12]

CHAPTER 35. LOAN OF ABSTRACTS [REVOKED]

Section

- 385:35-1-1. Purpose [REVOKED]
385:35-1-2. Fees [REVOKED]
385:35-1-3. Bond or deposit required; length of loan; late fee [REVOKED]
385:35-1-4. Condition of returned abstracts; refunds and penalties [REVOKED]

[Authority: 64 O.S., §§ 10 and 1093]

[Source: Codified 12-2-91]

385:35-1-1. Purpose [REVOKED]

[Source: Revoked at 29 Ok Reg 1310, eff 6-25-12]

385:35-1-2. Fees [REVOKED]

[Source: Revoked at 29 Ok Reg 1310, eff 6-25-12]

385:35-1-3. Bond or deposit required; length of loan; late fee [REVOKED]

[Source: Revoked at 29 Ok Reg 1310, eff 6-25-12]

385:35-1-4. Condition of returned abstracts; refunds and penalties [REVOKED]

[Source: Revoked at 29 Ok Reg 1310, eff 6-25-12]

CHAPTER 40. GUARANTEE PROGRAM FOR SCHOOL DISTRICT BONDS

Section

385:40-1-1.	Purpose
385:40-1-2.	Definitions
385:40-1-3.	Application
385:40-1-4.	Application fees
385:40-1-5.	Rating
385:40-1-6.	Termination of guarantee
385:40-1-7.	Notice of closing
385:40-1-8.	[RESERVED]
385:40-1-9.	Retirement of bonds
385:40-1-10.	Notice or notify
385:40-1-11.	Paying agent
385:40-1-12.	Arbitrage

[Authority: 70 O.S., § 15-211]

[Source: Codified 5-13-96]

385:40-1-1. Purpose

The rules of this chapter have been adopted to establish the requirements and procedures for the Guarantee Program for School District Bonds. They cover basically matters that are necessary to implement the program authorized by House Bill 1577 of the 44th Legislature (1994) and the passage of State Question 665 which authorized use of permanent school funds to guarantee bonds issued by public school districts.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"School Bonds" or "bonds" mean bonds issued pursuant to the provisions of §15-101 through 15-109 of Title 70 of the Oklahoma Statutes.

"Commissioners" or "CLO" means Commissioners of the Land Office of the State of Oklahoma.

"Notice" or "Notify" means: (See Rule 385:40-1-10).

"Paying Agent" means: (See Rule 385:40-1-11).

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-3. Application

(a) The school district shall apply on a form devised by the staff of the CLO and the CLO's review shall include but not be limited to the following.

- (1) The name of the school district;
- (2) The amount of the bond to be issued;
- (3) The maturity schedule, the estimated interest rate and the date of the bonds;
- (4) The purpose of the bond issue;
- (5) A statement of the district's financial status and stability, including the district's past history and performance of other bond issues;

(6) A certification by the State Department of Education of the school district's good standing and accreditation without probation.

(7) Verification by the school district bond counsel or the Attorney General that the bond issue is within any limitations provided by law. (This verification must be submitted prior to closing of the bond issue).

(8) Certification by the School District Board that the CLO apportionment funds will not be used either directly or indirectly for payment of principal or interest on the bond.

(b) Application shall be submitted to the CLO at least 20 days prior to any regularly scheduled meeting of the CLO.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-4. Application fees

(a) The application shall be accompanied by a processing fee of \$500.00 of which \$250.00 may be refunded in the event the guarantee is not approved by the Commissioners or the bonds are not sold.

(b) Any application for guarantee of a bond issue in excess of \$2,000,000.00 shall be assessed an additional fee of one (1) basis point (1/100 of 1 percent) on the amount over \$2,000,000.00 provided that the additional fee shall not exceed \$1,000.00.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-5. Rating

(a) The applicant school district shall provide all information and documentation to any bond rating agency and potential bond purchaser for establishment of the bond rating of the issue and/or sale of the bond issue.

(b) The CLO may limit approval of the guarantee to those districts which have a rating below the "AAA" category by a recognized municipal bond rating service. When a rating is issued by more than one service, the lower of the two ratings

shall be used to determine whether or not the school district is eligible for the guarantee.

(c) Any fee charged by a rating agency in connection with the guarantee of a bond issue by CLO will be paid by the school district.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-6. Termination of guarantee

The Guarantee shall be removed in its entirety when bonds guaranteed by this program are defeated by the voters of the district or upon disapproval of the Attorney General of the State of Oklahoma.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-7. Notice of closing

Within five (5) days of delivery of bonds to the purchaser, the school district must provide notice to the Commissioners of the Land Office showing the closing date of the issue and certifying that it has satisfied all conditions contained in its authorization to participate in the Guarantee Program. The school district must also provide a debt service schedule for the issue showing principal maturities, interest rates by maturity and total debt service requirements for each payment date. Such notice shall be provided on a form prepared for that purpose by the Commissioners of the Land Office.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-8. [RESERVED]

[Source: Reserved at 13 Ok Reg 641, eff 11-29-95 (emergency); Reserved at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-9. Retirement of bonds

A school district shall notify the CLO within five (5) days after retirement of any bond.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-10. Notice or notify

As used in Title 70 §15-207 and 208 and 210 of the Oklahoma Statutes the notice must be received at the office of the CLO and the notice must be in writing and may be delivered by mail or by electronic transmission and shall be deemed received when it is receipted by an employee of the office to which it is required to be delivered. In the case of Title 70 §15-207, the paying agent of the school district shall notify the CLO and the State Bond Advisor as soon as it is known that the payment will not be timely made but in any event, shall be received by the CLO and State Bond Advisor not later than 5 business days before the maturity date.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-11. Paying agent

Paying agent is an independent person or party, not an employee of the school district where bond is guaranteed, and is responsible for making bond payments on behalf of the school district and is also responsible for notifying the CLO in the event the school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]

385:40-1-12. Arbitrage

(a) In the event of payment from the permanent fund by the CLO on behalf of a school district, the Commissioners will not resort to repayment of the fund by withholding apportionment funds but will promptly seek reimbursement of the amount paid pursuant to the provision of Section 365.5 of Title 62 of the Oklahoma Statutes.

(b) The school district shall certify that it will take no action that will result in the bonds becoming arbitrage bonds.

[Source: Added at 13 Ok Reg 641, eff 11-29-95 (emergency); Added at 13 Ok Reg 1373, eff 5-13-96]