

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE

CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

[**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 provide the public with information concerning the structure and operation of the Commissioners of the Land Office.

[**Source:** Amended at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-2. Commissioners

The Commissioners of the Land Office is an agency of the State of Oklahoma and may be referred to as the "Land Office". The Governor, the Lieutenant Governor, the State Auditor and Inspector, the Superintendent of Public Instruction, and the President of the Board of Agriculture constitute the board for the Commissioners of the Land Office. The Governor shall be the ex-officio chairman of the body and a vice-chairman shall be selected from the other members to perform duties prescribed by the Oklahoma Constitution and statute.

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12; Amended at 38 Ok Reg 2387, eff 9-11-21]

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

The Land Office shall be administered by a Secretary, appointed by the Governor with the advice and consent of the Commissioners. The Secretary shall exercise direct supervision over the several divisions of the Land Office.

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 38 Ok Reg 2387, eff 9-11-21]

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

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12; Revoked at 38 Ok Reg 2387, eff 9-11-21]

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

All meetings of the Commissioners shall be held at the State Capitol building or at a different location, as announced. Any three Commissioners present shall constitute a quorum. The Commissioners as an official body may be referred to as "The Board" or "The Commission."

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-6. Land Office divisions

The Land Office shall be divided into divisions at the 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; Amended at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-7. Responsibilities of division directors [REVOKED]

[**Source:** Amended at 22 Ok Reg 2091, eff 6-25-05; Revoked at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-8. Requests for information

(a) The Land Office shall keep and maintain records as required by law and shall release or allow public inspection of records, which are not privileged or confidential, in response to a properly submitted open records request.

(b) The Land Office shall permit the filing of a petition for declaratory ruling as to the applicability of any rule or order of the Land Office and shall consider such petitions at a regular or special meeting of the Commissioners of the Land Office.

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-9. Hearings [REVOKED]

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05; Revoked at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-10. Minutes of meetings [REVOKED]

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05; Revoked at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-11. Rules and regulations [REVOKED]

[Source: Amended at 22 Ok Reg 2091, eff 6-25-05; Amended at 29 Ok Reg 1298, eff 6-25-12; Revoked at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-12. Schedule of fees

A schedule of fees shall be adopted by formal resolution of the Commissioners of the Land Office.

[Source: Amended at 38 Ok Reg 2387, eff 9-11-21]

385:1-1-13. Official business residence and website [REVOKED]

[Source: Added at 29 Ok Reg 1298, eff 6-25-12; Revoked at 38 Ok Reg 2387, eff 9-11-21]

CHAPTER 10. FIRST MORTGAGE AGRICULTURAL LOAN [REVOKED]

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

[Source: Codified 12-2-91]

385:10-1-1. Purpose [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

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

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-3. Application fees [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-4. Affidavit of possession [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-5. Order of processing [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-6. Conservancy districts [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-7. Security for loan [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-8. Appraisals [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-9. Loan limits [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-10. Loans to state officials [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-11. Title through heirship [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-12. Increased loans [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-13. Interest rate [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-14. Loan terms [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-15. Cancellation of application [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-16. Application preparation fee exemption [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-17. Subordination agreements [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

385:10-1-18. Improvements and insurance exclusion [REVOKED]

[Source: Revoked at 38 Ok Reg 2390, eff 9-11-21]

CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES

[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 establish the procedures to lease oil and gas mineral interests on school lands and other public lands managed by the Land Office.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 38 Ok Reg 2393, eff 9-11-21]

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:

"Affiliate" 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 third-party.

"Alternate Performance Payments" means any payments 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 reserves.

"Average published spot price" means the average 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) within the State of Oklahoma.

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

"Day" means twenty-four (24) consecutive hours. For accounting purposes, a day begins at 7:00 A.M. and ends at 7:00 A.M. the following day.

"Gas" means all natural gas produced from school lands or lands pooled therewith (including casinghead gas) and all of its constituent elements, including but not limited to sulfur contained in the gas, helium, natural gasoline, condensate, distillate, butanes, propanes, and all other gaseous or vaporous substances which are hydrocarbons as the same may exist at the surface under normal atmospheric pressures and at normal ambient temperatures, and all other gaseous or vaporous hydrocarbons condensed, absorbed, or separated out of or from the gas after it leaves the lands, including without limitation flared or vented gas.

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

"Land Office" means the State of Oklahoma *ex rel.* Commissioners of the Land Office.

"Lease" or **"oil and gas lease"** means an oil and gas lease issued by the Land Office.

"Leased premises" means the tract of school land subject to an oil and gas lease.

"Lessee" means the successful bidder or assignee awarded a leasehold interest to mineral rights by an oil and gas lease. To the extent that the lessee designates a third-party to comply any requirement of the lease or the rules and regulations of the Land Office, the third-party designee shall comply with the requirements of the lease and the rules and regulations of the Land Office.

"Notice of Sale" means a notice of oil and gas lease sale published by the Land Office.

"Oil" means any hydrocarbons produced from school lands or lands pooled therewith, capable of being produced in liquid form at the well by ordinary production method, including, without limitation, condensate, distillate and other liquid hydrocarbons.

"Operator" means any person that controls, manages, or directs the exploration, drilling, or the payment of royalties for oil and gas on school lands.

"Pipeline" means interstate pipelines, intrastate pipelines, or similar transmission lines downstream of a processing plant.

"Plug" means the closing off, in a manner prescribed by the Corporation Commission, all oil, gas, and water bearing formations in any producing or non-producing wellbore.

"Production and Marketing Infrastructure" means any oil and gas gathering lines, midstream lines, electric lines, pipelines, and other facilities related to the production and marketing of oil and gas.

"School lands" means school lands and other public lands managed by the Land Office.

"Well information" means detailed and correct drilling and production records maintained by the lessee or operator of a well, including, but not limited to, (1) authorizations for expenditure (AFEs); (2) daily drilling reports transmitted by email; (3) cumulative hard copies of daily drilling and completion reports for each well drilled within ten days of the final report or at any time upon the Land Office's request; (4) all logging surveys, wireline tests, drillstem test charts, core analysis, title opinions, or other third party information that may be run or prepared; (5) potential test or completion reports filed with the Oklahoma Corporation Commission; (6) plugging records, if completed as a dry hole or if subsequently abandoned; (7) executed and recorded copies of the lease; and (8) all geological, geophysical, engineering, and other technical information or exhibits filed with or presented to the Oklahoma Corporation Commission in connection with any spacing, pooling, or increased density applications including such applications pursuant to which any well is drilled on the lands.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-3. Awards and tabulations

Awards and tabulations resulting from the public auction process shall be posted on the Land Office's official website and presented to the Board at the next regular meeting for ratification.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 29 Ok Reg 1299, eff 6-25-12; Amended at 38 Ok Reg 2393, eff 9-11-21]

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

(a) The Land Office may offer any unleased tracts of school lands for oil and gas leasing through the public auction process.

(b) Interested persons may request that particular tracts of school lands be offered for oil and gas leasing by submitting a written request containing the contact information of the requestor and the complete legal description of the 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; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-5. Newspaper advertising requirement [REVOKED]

[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; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-6. Public auction process

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

(1) **Notice of Sale.**

(A) The Land Office shall publish a Notice of Sale in the manner prescribed by law prior to conducting a public auction for school land oil and gas leases.

(B) The Notice of Sale shall list each tract offered for leasing separately.

(C) The Notice of Sale shall specify the tract number and legal description for each tract offered for leasing.

(D) The Notice of Sale shall specify the date and time of the sale and the date and time bidding will be closed.

(2) Oil and gas lease sales.

(A) The Land Office shall utilize the standard lease form to offer a tract for leasing except in a special oil and gas lease sale. The Land Office may alter the standard lease form to offer a tract for leasing in a special oil and gas lease sale.

(B) Bidders shall submit a separate sealed bid for each tract sought. Each bid shall identify the tract number and legal description for the tract sought.

(C) Except as otherwise provided in this section, the Land Office shall lease each tract offered for leasing to the highest responsible bidder.

(D) The Land Office shall not consider drilling contracts or production payments when reviewing bids, except if consideration of drilling contracts or production payments is applicable to a special oil and gas lease sale.

(E) The Land Office shall reject all bids less than \$5.00 per acre, except if consideration of bids less than \$5.00 per acre is applicable to a special oil and gas lease sale.

(F) The Land Office may reject any and all bids. The Land Office shall not provide justification for rejecting a bid.

(3) Special oil and gas lease sales.

(A) The Land Office may conduct special oil and gas lease sales to offer non-standard lease terms or make special considerations.

(B) The Land Office shall mark notices of special oil and gas lease sales, "Notice of Special Oil and Gas Lease Sale."

(C) The Land Office shall list non-standard lease terms or special considerations in the Notice of Special Oil and Gas Lease Sales.

(D) The Notice of Special Oil and Gas Lease Sales shall otherwise conform to the requirements of a Notice of Sale provided in this section.

(4) Electronic bidding.

(A) Sealed bids for each tract offered shall be submitted electronically in the manner designated by the Secretary.

(B) The Secretary shall post electronic bidding procedures on the Land Office website.

(C) Subject to other applicable laws, the Secretary may select a designee to manage the electronic bidding process for the Land Office.

(D) The designee selected by the Secretary may impose a surcharge on the winning bid not to exceed two percent (2%) of the winning bid or a fee determined by resolution of the Board.

- (5) **Time of sale.** The Land Office shall not accept bids submitted after bidding is closed, as specified in the Notice of Sale.
- (6) **Deposit required.**
- (A) Bidders shall remit a deposit not less than twenty-five percent (25%) of the total amount bid to the Land Office or its designee when submitting a bid.
 - (B) Successful bidders shall remit the remaining seventy-five percent (75%) of the total amount bid to the Land Office or its designee within thirty (30) days following the Land Office's acceptance of the successful bid.
 - (C) The Land Office or its designee shall refund deposits submitted by unsuccessful bidders within forty-five (45) days following the Land Office's acceptance of a successful bid.
- (7) **Assignment of bids.** Bidders shall not assign their rights to bids for oil and gas leases.
- (8) **Bids are final.** Bids shall be final when submitted by a bidder. The Land Office shall not permit a bidder to withdraw or alter a sealed bid to correct an error or for any other purpose.
- (9) **Award.** The Land Office shall award a lease to the successful bidder within sixty (60) days following the auction.
- (10) **Responsibilities of bidder after award.** Within thirty (30) days of the Land Office's award of a lease, the successful bidder shall:
- (A) execute and return the oil and gas lease to the Land Office; and
 - (B) remit the balance of money owed for lease bonus, delay rental, or performance fee to the Land Office.
- (11) **Extension.** The successful bidder may submit a written request for an extension of time to execute and return the oil and gas lease and remit the balance of money owed. The Land Office may grant a reasonable extension, in writing, for good cause shown.

[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; Amended at 38 Ok Reg 189, eff 11-2-20 (emergency); Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-7. Advertising deposit [REVOKED]

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 21 Ok Reg 1043, eff 5-13-04; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-8. Lease terms [REVOKED]

[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; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-9. Performance fee and bond

- (a) Successful bidders awarded oil and gas leases by the Land Office shall pay a performance fee of \$1.00 per net mineral acre leased.
- (b) Performance fees paid with the award or assignment of an oil and gas lease shall be deposited into the Land Office Performance Fee Escrow Account.
- (c) The Secretary may apply funds from the Land Office Performance Fee Escrow Account to recover unpaid royalties, plug wells, and/or restore the surface when the lessee is unavailable to pay damages or a damage award against the lessee is otherwise uncollectable.

(d) Payment of the performance fee shall not relieve or shield a lessee of liability under the oil and gas lease nor limit the legal or equitable remedies available to the Land Office to enforce the terms of the oil and gas lease against the lessee.

(e) The Land Office shall retain any performance bonds previously posted for the same purpose as the Land Office Performance Fee Escrow Account until the associated oil and gas lease is either released or cancelled. The performance bond, if any, shall be applied to unpaid royalties, plugging, or surface damages before any funds from the Land Office Performance Fee Escrow Account are applied such damages. The performance bond or some portion thereof, as appropriate, shall be returned to the lessee upon the release or cancellation of the oil and gas lease and the resolution of any damage claims by the Land Office.

[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; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-10. Lease award [REVOKED]

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-11. Lease cancellation procedure [REVOKED]

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Revoked at 38 Ok Reg 2393, eff 9-11-21]

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 and damages including, but not limited to, unpaid royalties, well plugging, and surface restoration, a lessee may surrender an oil and gas lease by filing a formal release with the Land Office. However, if the oil and gas lease has been recorded with a County Clerk, the lessee shall record a release thereof in the county prior to filing a release with the Land Office.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-14. Seismograph permits

(a) The Land Office may issue a non-exclusive seismic exploration permit allowing seismic exploration for oil, gas, and other minerals, as follows:

(1) The applicant seeking the seismic exploration permit shall submit an application in a form designated by the Land Office.

(2) The applicant seeking the seismic exploration permit shall remit an application fee.

(3) The applicant seeking the permit shall remit a per net mineral acre fee to conduct seismic exploration.

(b) The seismic exploration permit shall allow the applicant to conduct seismic exploration for a period that does not exceed ninety (90) days.

(c) The seismic exploration permit shall not prohibit or delay the Land Office from conducting a public auction for the lease of minerals underlying the tract of land permitted.

(d) The seismic exploration permittee shall pay the surface lessee and/or the Land Office, as applicable, damages caused by 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; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-15. Production and marketing infrastructure easements

(a) **Easements.** Except as provided in subsection (b), all production and marketing infrastructure and pipelines on or crossing school lands shall require and be subject to an easement granted by the Land Office.

(b) **Construction.** Oil and gas lessees may authorize operators, purchasers of oil and gas, and utility companies furnishing electricity for lease operations to construct production and marketing infrastructure necessary for operation of oil and gas wells without an easement granted by the Land Office. Lessee shall remain liable for any such construction and the removal of all production and marketing infrastructure and restoration of surface area, unless such construction is covered by an easement from the Commissioners of the Land Office.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 38 Ok Reg 2393, eff 9-11-21]

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

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Revoked at 38 Ok Reg 2393, eff 9-11-21]

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

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-18. Forms available on website [REVOKED]

[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; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-19. Copies of records [REVOKED]

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-20. Bond requirements

(a) **Performance bond for oil and gas leases.** Successful bidders awarded oil and gas leases by the Land Office shall not be required to post a performance bond. Performance bonds previously posted shall remain effective until released by the Land Office.

(b) **Performance bond for saltwater disposal agreements.** A performance bond in the amount of Ten Thousand Dollars (\$10,000) shall be posted for each saltwater disposal agreement.

(c) **Release of bond.** Performance bonds shall be released upon written request of the lessee or bonding company after all contracts covered thereby are satisfactorily terminated, as determined by the Land Office.

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

(e) **Performance bond, liability, and interest.** Performance bonds shall not be a substitute for liability or liability limits but merely serve as minimal security for the debts and obligations. The person posting the performance bond shall not be entitled to interest while the performance bond is held by 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; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-21. Assignment of oil and gas leases

- (a) **Assignments.** Each request for consent and approval of an assignment of oil and gas lease shall be accompanied by a fully executed copy of the assignment, payment of an application fee to be established by resolution of the Board, and payment of a performance fee of ten cents (\$0.10) per net mineral acre. No assignment of an oil and gas lease on school lands will be valid or vest any interest in the assignee until the Land Office provides written consent to the assignment.
- (b) **Assignment forms.** Assignments of oil and gas leases may be made on any assignment form in general use in the oil and gas industry and, with proper consent on a form required by the Land Office, may convey lesser interests in the lease, including fractional interests, term interests, and horizontal interests.
- (c) **Accompanying agreements.** Assignments presented for approval which are subject to other agreements, upon request of the Land Office, shall be accompanied by a copy of such other agreement.
- (d) **Assignments of overriding royalties.** Assignments, reservations, or grants of overriding royalty interests do not require approval of the Land Office.
- (e) **Outstanding financial obligations.** The Land Office may require payment of any outstanding financial obligations or liabilities of the assignor before providing consent to an assignment. If the outstanding obligations or liabilities are not paid, the Land Office may allow, in writing, the assignee to assume the outstanding financial obligations or liabilities of the assignor.

[Source: Amended at 15 Ok Reg 1745, eff 5-12-98; Amended at 29 Ok Reg 1299, eff 6-25-12; Amended at 38 Ok Reg 2393, eff 9-11-21]

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

- (a) **Depth.** Production and marketing infrastructure carrying gaseous or liquid substances shall be buried and maintained at a minimum depth of three (3) feet below the surface.
- (b) **Identification of well.** Within thirty (30) days after the completion of a producing oil or gas well, a sign shall be posted showing the name and A.P.I. number of the well and the legal description of the lease.
- (c) **Surface casing.** All wells drilled for oil, gas, or saltwater disposal, shall set surface casing below all freshwater strata, and shall be cemented from bottom to top.
- (d) **Enclosures of well property.** Upon demand by Land Office all saltwater tanks, oil tanks, and other lease installations shall be enclosed with earthen dikes sufficient to protect the lease from damage by leakage or overflow. 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.** Saltwater, other than that produced from the leased lands, shall not be disposed in wells on school lands except by written agreement with the Land Office. Applications for saltwater disposal agreements shall be accompanied by a plat showing the location of all wells from which the saltwater is produced and the amount of saltwater and oil produced by each well.
- (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. The lessee shall remove all equipment or supplies not needed in day to day operation of the lease. Irrespective of other operational wells on the leased premises, the lessee shall immediately plug any dry, exhausted, or abandoned well when production of oil or gas from that well permanently ceases.

The lessee shall immediately repair any damages caused by lease operations 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 restore surface area; remove any casing, production facilities or equipment; and plug any well or wells on said lease within ninety (90) days unless an extension of time is granted in writing by the Land Office. Any material not removed within ninety (90) days shall be forfeited to the State. An inspection will be made ninety (90) days after termination of the lease and an inspection fee of One Hundred Dollars (\$100.00) shall be charged to the lessee if the surface restoration is incomplete. Additional inspections shall be conducted at thirty (30) day intervals until surface restoration is complete. An additional inspection fee of One Hundred Dollars (\$100.00) shall apply to each additional 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; Amended at 38 Ok Reg 2393, eff 9-11-21]

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

Measurement standards for oil and gas removal shall be as follows:

(1) Oil tanks and tank batteries.

(A) Oil shall be gauged in tanks located on the leased premises.

(B) Tanks shall be properly set, free from leakage, sufficiently gas tight, and maintained to preserve the full gravity of the oil, and to prevent evaporation losses.

(C) The lessee shall be accountable for all oil lost by leakage, overflowing, or for other reasonably preventable reasons.

(D) Oil produced from more than one lease may be stored in a common tank battery only with written approval of a common tank battery agreement by the Land Office.

(E) Lessee requests for approval of a common tank battery shall be accompanied by proof of settlement for surface damages with the Land Office's surface lessee, if applicable, and payment of a common tank battery approval fee to be set by resolution of the Board.

(2) Oil tank requirements.

(A) All tanks shall be strapped to a full 100 percent of their capacity and individual tank tables shall be prepared and submitted.

(B) Tank strapping shall be measured and calibrated using American Petroleum Institute Standards for measuring, sampling, and testing crude oil.

(C) The lessee shall supply the Land Office with a certified copy of the original strapping showing the tank number, make, and size.

(D) 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 lessee shall assign a new number.

(E) When lessee prepares new tank tables or assigns new numbers are to old tanks, reference to prior tank tables or tank numbers shall be provided to the Land Office.

(3) Oil measurement.

(A) Oil shall be measured by gauge pole or measuring line marked and numbered in full standard feet, inches, and fractions thereof and in a clearly legible manner. Numbering for measurements shall start

from the base of said line or pole.

(B) Measurements of oil depth shall be taken consistently from the same gauge or thief hole in the tank deck. The floor of the tank directly under the point of measurement shall be level and free from obstructions.

(C) Oil shall be measured from the tank floor to the top surface of the liquid level.

(D) Oil measurement readings shall be recorded to the nearest one-quarter inch.

(E) Oil shall not be measured by automatic custody transfer without prior approval of the Commission in writing.

(F) 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 and immediately after removal. Both measurements shall be supplied to the Land Office, upon request, with a copy of disposal invoices. Bottoms and solids removed without sufficient evidence of disposal shall be considered marketable production and lessee shall pay a royalty on such volumes as if sold under the terms of the lease.

(4) **Oil temperature.** Oil temperature shall be taken at the same time oil is measured. 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. The temperature in tanks with a capacity less than 500 barrels 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 and recorded at the time of measurement. Samples shall 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 shall 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 degrees Fahrenheit consistent with National Standard of Petroleum Tables.

(8) **Run tickets.** Run tickets shall be legible, properly executed at the time measurements are taken, and shall contain all information necessary to complete final calculations. Lessee shall furnish the original run tickets or a carbon copy to the Land Office, upon request.

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

(10) **Gas measurement.** Tests to determine the approximate natural gas liquid and non-hydrocarbon gas content of gas delivered to plants processing natural gas liquids and non-hydrocarbon gas shall be provided by the lessee at the request of the Land Office to check plant efficiency and to obtain an equitable basis for allocating the natural gas liquid and non-hydrocarbon gas output of any processing plant.

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

(a) **Marketable condition and sale.** Lessee shall place oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas in a marketable condition. Lessee shall pay all direct and indirect costs incurred to place the oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas in a marketable condition. Lessee shall market and sell such oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas products at no cost to the Land Office.

(1) Oil recovered by mechanical separators shall be deemed to be in a marketable condition only after the oil products are separated, treated, dehydrated and placed into a storage tank or other facility for delivery to a purchaser or refinery and without cost to the Land Office.

(2) Gas delivered to a gas plant for processing shall be deemed to be in a marketable condition only after the gas products meet the location, quality, and pressure specifications for transmission by an interstate pipeline for sale to an independent, non-affiliated, third-party purchaser.

(3) Gas sold at the wellhead or gas that is not delivered to a gas plant for processing shall be deemed to be in a marketable condition only after the gas products meet the location, quality, and pressure specifications for transmission into an interstate pipeline for sale to an independent, non-affiliated, third-party purchaser.

(4) Natural gas liquids shall be deemed to be in a marketable condition only after the natural gas liquid products have been either:

(A) recovered at a processing plant and separated and fractionated into discrete products (e.g., ethane, propane, butane, and natural gasoline) and placed into a storage tank or other facility for delivery to a purchaser, or

(B) recovered at a processing plant and sold at the tailgate of the plant to an independent, non-affiliated, third-party purchaser without further separation and fractionation into discrete products, provided the royalties due and payable thereon to the Land Office shall be based upon the gross proceeds received for such product, including any credit or payments received by lessee based on any further downstream processing.

(5) In the event the gas stream contains commercial quantities of non-hydrocarbon gas, such non-hydrocarbon gas shall be deemed to be in a marketable condition only after the non-hydrocarbon gas products have been recovered, separated, treated, purified and otherwise placed in a form and condition suitable for commercial sale, exchange, and use.

(b) **Royalty.** Lessee shall pay the Land Office a royalty consisting of a fractional share (defined by the lease) of proceeds for any and all substances, including, but not limited to oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas products; as follows:

(1) **Deductions.**

(A) Royalties shall be computed free and clear of all deductions for production costs, post-wellhead costs, marketing costs, and other direct or indirect costs, including without limitation, all costs, charges, expenditures, or fees incurred for gathering, compressing, pressurizing, treating, dehydrating, separating, processing, fractionating, storing, transporting, marketing, and other costs

incurred to convert oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas into a marketable condition.

(B) Any and all reductions to the sales price received by lessee for any post-production services provided by the purchaser or any other party prior to the oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas products being placed into a marketable condition shall be added back to the sales price to determine the gross proceeds for royalty payment purposes.

(2) Royalty computation for oil.

(A) Non-affiliate sales: Royalties for oil shall be computed on the greater of:

(i) the price received by the lessee for oil sold or disposed of through an arm's length transaction from an independent, non-affiliated, third-party purchaser for the product in marketable condition, including all bonuses, premiums, allowances or other consideration of any nature received by lessee;

(ii) the highest posted field price; or

(iii) the average published spot price.

(B) Affiliate Sales: Royalties for oil shall be computed on the index price for West Texas Intermediate at Cushing, Oklahoma prevailing on the dates the oil is sold or disposed of through any transaction other than by an arm's length transaction, including any oil sold or transferred by lessee to itself or an affiliate of lessee.

(C) Lack of Records: Royalties for oil shall be computed on the index price for West Texas Intermediate at Cushing, Oklahoma prevailing on the dates the oil is sold or disposed of through any transaction in which the lessee cannot produce records of an arm's length transaction, including, but not limited to monthly production reports and third-party purchase statements.

(3) Royalty computation for gas.

(A) Non-affiliate sales: Royalties for gas shall be computed on the greater of:

(i) the total value received by the lessee through an arm's length transaction from an independent, non-affiliated, third-party purchaser for the product in marketable condition, including all bonuses, premiums, allowances, alternate performance payments, or other consideration of any nature received by lessee for gas;

(ii) the highest price any lessee enforces under a similar sales contract in the wellbore; or

(iii) the gross proceeds that would be received if the gas had sold at the average published spot price without deduction for taxes, compression, treatment, dehydration, metering, gathering, or other charges necessary or desirable for the delivery of gas into interstate pipelines.

(B) Affiliate sales: Royalties for gas shall be computed on the highest price paid in the State of Oklahoma by any purchaser for like kind and quality gas for any gas that is sold or disposed of other than by an arm's length transaction, including, any gas sold or transferred by lessee to itself or an affiliate of lessee.

(C) Lack of Records: Royalties for gas shall be computed on the highest price paid in the State of Oklahoma by any purchaser for like kind and quality gas for any gas that is sold or disposed of and the lessee cannot produce records of the arm's length transaction, including, any gas sold or transferred by lessee to itself or an affiliate of lessee.

(4) Royalty computation for natural gas liquids and non-hydrocarbon gas.

(A) Non-affiliate sales: Royalties for natural gas liquids or non-hydrocarbon gas shall be computed on the price received by the lessee through an arm's length transaction from an independent, non-affiliated, third-party purchaser for the product in marketable condition, including all bonuses, premiums, allowances or other consideration of any nature received by lessee for natural gas liquids or non-hydrocarbon gas.

(B) Affiliate sales: Royalties for natural gas liquids or non-hydrocarbon gas shall be computed on the highest market price, including any premium associated therewith, then prevailing on the dates the natural gas liquids or non-hydrocarbon gas are sold or disposed of, in the same processing plant for production of similar chemistry and quality (or if there is no such price then prevailing in the same processing plant, then in the nearest processing plant in which there is such a prevailing price) for any natural gas liquids or non-hydrocarbon gas sold or disposed of other than by an arm's length transaction, including any natural gas liquids or non-hydrocarbon gas sold or transferred by lessee to itself or an affiliate of lessee.

(C) Lack of records: Royalties for natural gas liquids or non-hydrocarbon gas shall be computed on the highest market price, including any premium associated therewith, then prevailing on the dates the natural gas liquids or non-hydrocarbon gas are sold or disposed of, in the same processing plant for production of similar chemistry and quality (or if there is no such price then prevailing in the same processing plant, then in the nearest processing plant in which there is such a prevailing price) for any natural gas liquids or non-hydrocarbon gas sold or disposed of and the lessee cannot produce records of the arm's length transaction, including, but not limited to monthly production reports and third-party purchase statements.

(c) Percentage of proceeds sales. When any processing plant, gas purchaser, or other party retains a percentage of the sales proceeds, or a volumetric share of oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas as compensation for services and returns a percentage of the sales proceeds to the lessee, the lessee shall pay royalties on the sales proceeds returned to lessee and shall also pay royalties on the full value of the sales proceeds or volumetric share retained by the processing plant, gas purchaser, or other party. The royalty due to Land Office shall be based upon one hundred percent (100%) of gas at the total value received for delivery into interstate pipelines.

[Source: Amended at 14 Ok Reg 3171, eff 7-25-97; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-25. Monthly production reports

On or before the last day of the month following the month of production, the lessee shall file a monthly report of oil, gas, recoverable natural gas liquids, and non-hydrocarbon gas produced and sold from the leased premises. Lessee shall file the monthly report using a paper or electronic form provided by the Land Office.

[Source: Amended at 29 Ok Reg 1299, eff 6-25-12; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-26. Purchase statements

(a) Lessee shall provide third-party purchase statements for oil and gas to the Land Office.

(b) Third-party purchase statements for oil and gas shall be submitted electronically in a .pdf format with the following naming convention: YYYYMM-WELLNAME-API NUMBER. The year (YYYY) and month (MM) used in the file name shall reflect the sales month.

(c) Electronic files of third-party purchase statements shall be submitted to the Land Office not later than sixty (60) days after the referenced oil and gas sale is final.

(d) Each submission containing electronic files of third-party purchase statements shall include the name, company affiliation, and telephone number of the sender.

[Source: Amended at 38 Ok Reg 2393, eff 9-11-21]

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

Lessee shall file a notice of intention to drill or recomplete any well for oil and gas with the Land Office prior to the commencement of operations. The notice of intent shall include the location of the well, the name and A.P.I. number of the well, the approximate date operations will begin, and the estimated depth of the well.

[Source: Amended at 38 Ok Reg 2393, eff 9-11-21]

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.** Lessee shall file a notice of intention to plug with the Land Office not less than five (5) days prior to plugging any producing oil or gas well on a form prescribed by the Oklahoma Corporation Commission.

(b) **Plugging reports.** Lessee shall file a copy of the plugging record with the Land Office not less than thirty (30) days after the completion of plugging operations.

[Source: Amended at 38 Ok Reg 2393, eff 9-11-21]

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 Land Office may request special reports describing production or operation of oil and gas leases. The lessee shall promptly furnish the Land Office with any special reports requested.

[Source: Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-31. Well Information

(a) Lessee shall file a completion report with the Land Office within thirty (30) days after completion or recompletion of any well. Completion reports shall be on a

form prescribed by the Oklahoma Corporation Commission and shall be signed by the lessee or lessee's representative.

(b) Lessee shall furnish a copy of any electric logs or other well records upon demand by the Land Office.

[Source: Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-32. Deposit and fee schedule [REVOKED]

[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; Revoked at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-33. Electronic funds transfer

The Land Office may accept payments of fees, royalties, or other financial obligations by electronic funds transfer.

[Source: Added at 14 Ok Reg 3171, eff 7-25-97; Amended at 38 Ok Reg 2393, eff 9-11-21]

385:15-1-34. Royalty check detail

(a) Prior to the sales month, January 2023, lessees shall, at the lessee's discretion, submit royalty check detail data in a paper format consistent with the technical instructions provided by the Land Office or in an electronic format using the spreadsheet template provided by the Land Office and consistent with the technical instructions provided by the Land Office.

(b) Beginning the sales month, January 2023 and for each sales month thereafter, lessees shall submit royalty check detail data in an electronic format using the spreadsheet template provided by the Land Office and consistent with the technical instructions provided by the Land Office.

[Source: Added at 38 Ok Reg 2393, eff 9-11-21]

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

[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

[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.

"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

[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]

[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

[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]