

# **PROPOSED NEW LEASE FORM**

# BONUS CLAUSE

## Paragraph 1, Page 4

**ISSUE:** A process is needed for adjusting bonus and rental amounts when acreage calculation errors are timely discovered

### **PRESENT LEASE FORM:**

- Does not provide for adjustments to bonus or rental amounts

### **NEW LEASE FORM:**

- Allows for adjustments to bonus and rental amounts if the acreage calculation error is detected within the first year of the primary term

## **Industry Comments**

- Questions about the office's implementation procedures
- Questions about whether reductions in acreage would be refunded
- Questions about whether accretion/erosion would result in acreage changes

# RENTAL CLAUSE

Paragraph 3(b), Page 5

**ISSUE:** Lessees do not pay rental during years in which operations or production occurs across an anniversary date

## **PRESENT LEASE FORM:**

- When operations or production is maintaining a lease across an anniversary date, no rental is due until the next anniversary date even when those activities cease

## **NEW LEASE FORM:**

- When operations or production is ongoing on an anniversary date, no rental payment is due
- If operations cease, Lessee is granted 90 days to resume operations or make a pro-rata rental payment to maintain the lease until the next anniversary date

# Industry Comments

- None

## **DEFERRED DEVELOPMENT CLAUSE**

**Paragraph 3(e) , Page 6**

**ISSUE:** Lessees pay no deferred development on acreage outside of an established unit during years in which operations or production occurs across an anniversary date

### **PRESENT LEASE FORM:**

- Does not allow for a pro-rata deferred development payment

### **NEW LEASE FORM:**

- When operations or production maintains non-unitized acreage over an anniversary date and then ceases, a pro-rata deferred development payment is due 90 days thereafter and will maintain the non-unitized acreage of the lease until the next anniversary date

# Industry Comments

- None

# DEEP RIGHTS

Paragraph 3(e)(vi) , Page 7

**ISSUE:** Leases are not being fully developed at all depths

## **PRESENT LEASE FORM:**

- Production from any depth maintains all depths of a lease

## **NEW LEASE FORM:**

- At the end of the primary term or the deferred development period, if applicable, the Lessee must release all depths 100 feet below the deepest productive horizon.



# Industry Comments

- Acknowledgment that the state should receive the deep rights back after a period of time
- Concerns about the wording of this provision and whether it allows the lessee to maintain the deep rights as long as the staff intended
- Concerns that the wording of the provision may not actually require a release of the deep rights
- Suggestion that the provision include the wording “unless held by other means as provided in this lease”
- Suggestion that a continuous development clause be added
- Concerns about the ability to shoot seismic and evaluate the potential for deep production given that the lease gives the lessee exclusive right to shoot seismic
- Concerns about how stratified leases would be depicted on the department’s GIS

# **BONDING REQUIREMENTS**

## **Paragraph 4 , Page 9**

**ISSUE:** There is a need for security for the payment for damages caused by the Lessee and for performance of the lease obligations

### **PRESENT LEASE FORM:**

- Contains no bonding provisions

### **NEW LEASE FORM:**

- Requires surety performance bond in the amount of not less than \$500,000, which may increase for reasons such as additional wells or increased risk
- Bond may be used to satisfy unpaid royalty due or to satisfy any other unfulfilled lease obligations
- Bond may be used to fulfill plug and abandonment and site restoration requirements

## Industry Comments

- Concerns about the cost of purchasing bonds, especially for leases with very small amounts of acreage
- Concerns about unnecessary expenses for unitized state leases for which there are no operations on the state acreage
- Suggestion that bonding for clean-up be separated from bonding for other lease obligations
- Questions about when and how the bonds would be released by the state
- Concerns about the timing of providing the bonds and the impact on brokers
- Questions about how bonding requirements would be handled for partial assignments of leases
- Questions about whether self insurance would be accepted in lieu of bond
- Concerns about the availability of bonds for this purpose

# OFFSET PROVISION

## Paragraph 5, Page 11

**ISSUE:** Language pertaining to the Lessee's responsibility to protect lease premises from drainage for an offsetting well(s) greater than 660 feet from the lease needs to be clarified.

### **PRESENT LEASE FORM:**

- Language does specifically state the Lessee's obligation to protect the lease from drainage for well(s) completed greater than 660 feet from the lease.

### **NEW LEASE FORM:**

- Clarifies that should the Lessee know or have reason to know based on geological, geophysical, or other relevant data that drainage of the lease is occurring, Lessee has the obligation to protect the lease from drainage

## Industry Comments

- Questions about whether this provision would apply to other state leases with lower royalty
- Concerns about whether the companies' geophysical data would become public records

# ROYALTY PROVISION

Paragraph 6, Pages 11 - 15

**ISSUE:** Current royalty provision is outdated and confusing

## **PRESENT LEASE FORM:**

- Contains the outdated concept of “posted prices”

## **NEW LEASE FORM:**

- Fair Market Value is based on NYMEX or other specified indices for oil
- Fair Market Value is based on Bloomberg, Platt’s or other specified indices for gas
- Disallows deductions for marketing fees
- Adds as part of plant depreciation, “less salvage value”
- Clarifies which costs of operating and maintaining the plant are deductible from royalty
- Provision is similar to a provision in the current operating agreement form

# Industry Comments

- None

# **SINGLE PAYOR**

Paragraph 6(g), Page 15

**ISSUE:** It is difficult to determine if the state has been paid in full when there is more than one payor and those payors use different payment methodologies.

## **PRESENT LEASE FORM:**

- Is silent on the number of allowable payors

## **NEW LEASE FORM:**

- Requires lessee to designate one payor for each individual property formed under the lease
- Provision is similar to a provision in the current operating agreement form



# Industry Comments

- None

# TRANSFERS AND ASSIGNMENTS OF LEASE INTERESTS

Paragraph 8(c) , Page 17

**ISSUE:** The state needs to ensure that lease obligations are fulfilled when a lease is transferred to another party

## **PRESENT LEASE FORM:**

- Does not state what Lessor may consider when deciding whether to approve an assignment

## **NEW LEASE FORM:**

- Transfer is not valid without maintenance of bond and insurance
- Transferee must provide written evidence thereof
- Lessor can consider transferee's financial capacity and ability to continue reasonable development

## Industry Comments

- Concerns about the meaning of “prior written approval”
- Questions about how, when, and by whom the assignee’s financial capacity would be evaluated
- Questions about how and when the assignee’s technical competency would be evaluated
- Suggestion that assignees be qualified for one-year periods rather than each time approval for an assignment is requested

# UNIT PLATS

## Paragraph 9, Page 17

**ISSUE:** Lessees are not providing surveyed unit plats to OMR in a timely manner, which are used to determine the State's royalty share

### **PRESENT LEASE FORM:**

- No penalty for Lessee's failure to furnish a surveyed unit plat

### **NEW LEASE FORM:**

- No voluntary unit or pooling agreement shall be approved until a surveyed unit plat has been submitted to OMR
- Lessee must furnish a surveyed unit plat to OMR upon approval of Commissioner's unit within 90 days of initial production
- Provides for a liquidated damages penalty if plat is not provided

# Industry Comments

- None

# **LESSEE REPORTING**

**Paragraph 10, Page 18**

**ISSUE:** OMR staff needs information and data about lease operations to evaluate producing areas on leases

## **PRESENT LEASE FORM:**

- Information has to be requested from Lessee

## **NEW LEASE FORM:**

- Lessee is obligated to furnish information to OMR on first and all subsequent wells drilled
- Includes the data consistent with rights under R.S. 30:209.1
- Provides for a liquidated damages penalty to ensure compliance

## Industry Comments

- Staff agreed to change this provision to require the information/documentation be provided only upon request
- Concern about having to provide information/documentation within 30 days
- Concern that the wording of the provision may cause the companies' proprietary information to be subject to the public records act
- Concern about there not being a maximum penalty amount
- Concern for the necessity of imposing a penalty

# **PLUGGING AND ABANDONING**

**Paragraph 4, Page 9; Paragraph 7, Page 16; Paragraph 11, Page 19**

**ISSUE:** Lease premises need to be restored after operations have ceased

## **PRESENT LEASE FORM:**

- Lessee is obligated to plug and abandon all wells on the premises no longer necessary for operations or production
- Lessee is obligated to remove all structures and facilities from the premises
- Work must be performed within one year of lease termination

## **NEW LEASE FORM:**

- Bond provided by Lessee can be used by Lessor to perform site restoration
- Cleanup must be performed within one year from termination of lease, but obligation does not terminate at that time
- Requires Lessee to submit a list of plugged and unplugged wells on lease
- Provides for liquidated damage penalty to ensure compliance



## Industry Comments

- Suggestion that the board be allowed to grant extensions to the one-year period required for clean-up
- Concerns that the one-year limitation for clean-up may impose an economic hardship on the industry
- Suggestion that industry be permitted to submit a plan for clean-up extending beyond one year, especially for multiple wells in a geographic area

# FORCE MAJEURE & SUSPENDING EVENTS

Paragraph 12, Page 19 & Paragraph 13, Page 20

**ISSUE:** Because of developing court decisions defining force majeure, it needs to be treated separately and differently from suspending events

## **PRESENT LEASE FORM:**

- Does not differentiate between force majeure and suspending events

## **NEW LEASE FORM:**

- Splits force majeure and suspending events into separate sections
- Limits lease maintenance due to either condition to 6 months
- Burden of proving a suspending event lies solely with Lessee

# Industry Comments

- None

# ENVIRONMENTAL LANGUAGE

Paragraphs 14 and 15, Page 22

**ISSUE:** Environmental requirements in current lease form do not meet current industry standards

## **PRESENT LEASE FORM:**

- Environmental language is brief and outdated

## **NEW LEASE FORM:**

- Requires site cleanup to be in compliance with all state and federal laws and regulations
- Specifies responsibility and clean-up requirements
- Requires reasonable precautions to be taken to prevent fire or explosion

## Industry Comments

- Questions about the definition of pollution possibly being ambiguous
- Concerns about how secondary recovery operations involving CO<sub>2</sub> injections may be impacted

## **GENERAL COMPREHENSIVE LIABILITY INSURANCE**

### **Paragraph 16, Page 23**

**ISSUE:** The state currently has no insurance to cover damage claims arising from operations on the leased premises

### **PRESENT LEASE FORM:**

- No insurance requirements

### **NEW LEASE FORM:**

- Comprehensive liability insurance coverage is required
- No less than \$1,000,000 per occurrence and \$5,000,000 aggregate
- Coverage includes, but is not limited to, personal injury, accidental death, property loss, and environmental impairment or pollution
- Lessee must provide certificate proof of insurance annually
- Lessee must notify Lessor no less than 30 days prior to cancellation, and must provide substitute
- Provision is derived from a provision in the current operating agreement form

## Industry Comments

- Questions about the timing of required coverage and concerns about impact on brokers
- Suggestion that coverage not be required until lessee accesses the property
- Questions about whether self-insurance would be acceptable
- Suggestion that lessees demonstrating financial solvency be exempted
- Plans to submit suggested wording for this provision

# TITLE DISPUTES

Paragraph 18, Page 24

**ISSUE:** The proper procedure for satisfying royalty payment obligations in the event of a title dispute is presently unclear

## **PRESENT LEASE FORM:**

- Allows Board to reduce royalties payable directly to OMR

## **NEW LEASE FORM:**

- Lease form articulates the existing Board policy
- Board may allow the entire amount of royalties payable to be deposited in interest bearing account or registry of court instead of paying OMR



# Industry Comments

- None

# AUDIT ACCESS RIGHTS

Paragraph 20, Page 25

**ISSUE:** Lessor's audit rights were not fully and clearly defined in the current lease form

## **PRESENT LEASE FORM:**

- Audit rights were not explained in detail

## **NEW LEASE FORM:**

- Clarifies the State's right to examine, audit, or inspect records necessary to protect the State's interests
- Lessee is obligated to use generally accepted accounting principles
- Provision is similar to a provision in the current operating agreement form

# Industry Comments

- None