**Section 250.40 Granting a Lease to a Person Holding a Permit to Explore**

a) If the permittee has discharged all of the conditions required by the permit to explore to the satisfaction of the Department and the State agency owning the land, as evidenced by a release issued by the State agency, and has made an application to the Department for a lease not later than on the date of expiration of the permit to explore, the Department, with the approval of the Governor, shall grant to the permittee a lease for the extraction of petroleum not to exceed one section of land or an equivalent amount of acreage (640 acres).

b) The form of leases granted to persons holding a permit to explore shall generally follow the format of a standard commercial petroleum lease generally in use in the territory in which the oil, gas or other petroleum deposits are located and shall incorporate at a minimum the following basic lease terms and restrictions:

1) The lease shall be for a primary term not to exceed 10 years and for as long thereafter as oil in commercial quality and commercial quantity is produced from the lands embraced in the lease.

2) The State agency with jurisdiction over the land encompassed within the lease shall receive royalties at a rate of 12½ percent of the market value of the petroleum produced.

3) The State agency with jurisdiction over the land encompassed within the lease shall receive an annual rental, payable in advance, of $10 per acre, which shall be credited against future royalties.

4) The lease shall not be assigned or otherwise transferred without the prior consent of the State agency with jurisdiction over the land encompassed by the lease.

c) The leases granted to persons holding a permit to explore shall include any additional terms specified in the agreement reached with the State agency with jurisdiction over the land encompassed within the lease. These additional lease terms may include, but are not limited to, any or all of the following considerations:

1) the location, use, design and method of construction of the road network constructed by the lessee to gain access to the area being used for oil production and related operations;

2) the location, use, design and method of construction of electric generation and transmission network constructed by the lessee for oil production and related operations;

3) the location, use, design and method of construction of the sites where the lessee will conduct oil production and related operations, including the location of the lessee's oil storage tanks and well sites;

4) landscaping or other mitigation activities deemed necessary to preserve the environmental and aesthetic characteristics of the State land being used for oil production and related operations; and

5) security and public safety considerations attendant to the lessee's oil production and related operations on State land.

d) Any permittee who receives a lease of up to one section (640 acres) of land covered by that permittee's exploration permit shall have a preferential right to lease the remaining lands embraced by the permittee's original exploration permit. Specifically, the holder of the exploration permit has the right to lease the remaining lands by meeting the highest bid as to royalty or bonus that the Department may receive if the Department elects to offer the remainder of the lands contained in the permit to explore for lease in accordance with Section 250.60 of this Part. The Department shall notify the permittee of the time and place of the opening of bids in order that the permittee may have present a representative with authority to meet the highest bid as to royalty or bonus. The permittee's failure to have such representative present shall constitute a waiver of its preferential right under this subsection.