

# RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

## **RESOLUTION #15-08-013** (AUDIT COMMITTEE)

**WHEREAS**, pursuant to La. R.S. 30:136.A(1)(a), all bonuses, rentals, royalties, shut-in payments and other such sums payable to the State of Louisiana (State) for mineral leases upon state-owned lands shall be paid to the Office of Mineral Resources (OMR); and

**WHEREAS**, pursuant to La. R.S. 30:136.A(1)(b), OMR is required to maintain a log of all such payments to facilitate the State Mineral and Energy Board's (Board) ability to determine whether such payments are correct, sufficient and timely made; and

**WHEREAS**, pursuant to La. R.S. 30:136.B(3), the Board shall assess a penalty to a Payor of State royalty of two (2%) percent, up to a maximum of twenty-four (24%) percent, of the total sum then due, in addition to the penalty authorized by La. R.S. 30:136.B(2) for non-payment or underpayment of royalties; and

**WHEREAS**, pursuant to La. R.S. 30:136.B(2) and La. R.S. 30:136.B(3), the Board may waive the whole or any part of any such penalty assessed; and

**WHEREAS**, by Resolution adopted April 12, 1995, reaffirmed by Resolutions dated December 12, 2007, March 12, 2008 and September 8, 2010, the Board authorized the OMR Assistant Secretary (or designee) to evaluate and process penalty waiver requests on penalties assessed pursuant to La. R.S. 30:136.B(2) and La. R.S. 30:136.B(3) in amounts less than Ten Thousand (\$10,000.00) Dollars in accordance with the following protocol:

- 100% waiver – For cause
- 75% waiver – For royalty amounts outstanding up to three years
- 50% waiver – For royalty amounts outstanding in excess of three but less than six years
- 0% waiver – For royalty amounts outstanding in excess of six years

**WHEREAS**, by Resolution #15-04-008, dated April 8, 2015, the Board directed OMR Staff to reevaluate the current penalty waiver protocol for penalties assessed for non-payment or underpayment of royalties; and

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**WHEREAS**, having reevaluated the nature, circumstances, amounts and volume of penalties assessed and related penalty waiver requests, OMR Staff recommends that the Board rescind the Resolutions dated April 12, 1995, December 12, 2007 and September 8, 2010, and that portion of the Resolution dated March 12, 2008 reaffirming the current penalty waiver protocol for penalties assessed in accordance with La. R.S. 30:136.B(2) and La. R.S. 30:136.B(3); and

**WHEREAS**, OMR Staff further recommends that the Board authorize the OMR Assistant Secretary and Deputy Assistant Secretary to evaluate and process penalty waiver requests for penalties assessed pursuant to these statutory provisions in amounts up to Twenty-Five Thousand (\$25,000.00) Dollars; and

**WHEREAS**, OMR Staff further recommends that the Board utilize the following penalty waiver protocol for penalties assessed pursuant to La. R.S. 30:136.B(3) for non-payment or underpayment of royalties:

- 100% waiver – For cause
- 75% waiver – For royalty amounts outstanding up to three years
- 50% waiver – For royalty amounts outstanding in excess of three but less than six years
- 0% waiver – For royalty amounts outstanding in excess of six years

**WHEREAS**, OMR Staff further recommends that the Board retain the authority to review challenges to the OMR Assistant Secretary's or Deputy Assistant Secretary's decisions on penalty waiver requests, but that the Board implement a requirement that Payor requests for review be received by OMR within thirty (30) calendar days of the decision on the penalty waiver request being rendered, and further requiring that the Payor (or representative) be present to explain the basis for the request for review to the Audit Committee at its monthly meeting.

**ON MOTION** of Mr. Segura, seconded by Mr. Sanders, after discussion and careful consideration, the foregoing OMR Staff recommendations were offered and unanimously accepted by the Audit Committee.

**WHEREAS**, in response to the foregoing OMR Staff recommendations and action of the Audit Committee;

**ON MOTION** of Mr. Segura, seconded by Mr. Sanders, the following Resolution was offered and unanimously adopted by the Board:

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**NOW THEREFORE, BE IT RESOLVED:**

- 1) That the Resolutions dated April 12, 1995, December 12, 2007 and September 8, 2010, and that portion of the Resolution dated March 12, 2008 reaffirming the penalty waiver protocol for penalties assessed pursuant to La. R.S. 30:136.B(2) and La. R.S. 30:136.B(3) be and are hereby rescinded;
- 2) That the OMR Assistant Secretary and Deputy Assistant Secretary be and are hereby authorized to evaluate and process penalty waiver requests for penalties assessed pursuant to La. R.S. 30:136.B(2) and La. R.S. 30:136.B(3) in amounts up to Twenty-Five Thousand (\$25,000.00) Dollars;
- 3) That the OMR Assistant Secretary or Deputy Assistant Secretary process penalty waiver requests for penalties assessed pursuant to La. R.S. 30:136.B(3) in accordance with the following protocol:
  - 100% waiver – For cause
  - 75% waiver – For royalty amounts outstanding up to three years
  - 50% waiver – For royalty amounts outstanding in excess of three but less than six years
  - 0% waiver – for royalty amounts outstanding in excess of six years

**BE IT FURTHER RESOLVED** that in determining the duration of time royalty payments are outstanding for purposes of processing penalty waiver requests, OMR Staff is required to use the earliest disposition date reported in a single report by product.

**BE IT FURTHER RESOLVED** that the foregoing penalty waiver protocol is effective and applicable to penalties for non-payment or underpayment of royalties pursuant to La. R.S. 30:136.B(3) assessed on or after October 1, 2015.

**BE IT FURTHER RESOLVED** that any decision by the OMR Assistant Secretary or Deputy Assistant Secretary on a penalty waiver request rendered in accordance with the authority granted hereby is subject to review by the Board on a case-by-case basis. Such review will occur only if:

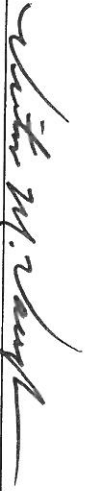
- 1) A request for review, in writing, from the Payor is received by OMR within thirty (30) calendar days of the decision on the penalty waiver request being rendered; and

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- 2) The Payor (or representative) is present to explain the basis for the request for review to the Audit Committee at its monthly meeting.

**CERTIFICATE**

**I HEREBY CERTIFY** that the above is a true and correct copy of a Resolution adopted at a meeting on the 12th day of August 2015 of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of the Board and is now in full force and effect.



**Victor M. Vaughn, Executive Officer  
State Mineral and Energy Board**