GUIDELINES FOR LEASING STATE HIGHWAY RIGHT-OF-WAY TRACTS
Revised September 1991

I. Highway Right-of-Way Tracts Subject to Lease

(a) At its discretion, the School Land Board may establish the size and boundaries of each right-of-way tract to be leased or to be exempted from leasing. However, each right-of-way tract shall extend across the entire width of each right-of-way, subject to the provisions relating to Preferentially Leasing to Adjacent Mineral Owners (see Section IV).

(b) The School Land Board may refuse to lease a particular right-of-way tract, either on its own motion or upon the request of the State Department of Highways and Public Transportation.

(c) A right-of-way on Relinquishment Act land will not be leased in accordance with these procedures. Such a right-of-way will be leased by sealed bid in the same manner as the leasing of state-owned public school land.

II. Initiating the Leasing Process

(a) Anyone may apply to lease acreage in a right-of-way tract by submitting the following materials to the Commissioner of the General Land Office at the address shown above:

(1) Written application which includes a map showing the boundaries and dimensions of the right-of way tract, which the applicant proposes to lease and

(2) Names and addresses of any adjacent mineral owners listed in the county records. See Section III; (a) for the definition of adjacent mineral owners as used in these procedures.

(3) A $100.00 processing fee payable to the Commissioner of the General Land Office.

b) A person who holds a lease or leases on lands which are adjacent to a right—of-way and who applies to lease an adjoining right-of-way must additionally submit the following materials:

(1) Written waiver of the statutory notice to which the applicant is entitled;

(2) A certified copy or a reproduction of a certified copy of his or her recorded lease or leases on the land adjacent to the right-of-way tract;

(3) Notarized affidavit of the consideration paid for the lease or leases on the adjacent land; and

(4) A map or plat which clearly indicates the mineral ownership (or if the tract is leased, the lease ownership) of all tracts adjacent to the right-of-way.

III. Notifying Adjacent Mineral Owners

(a) If land adjoining a right-of-way tract is unleased, then an “adjacent mineral owner” refers to the holder or holders of the mineral estate in the adjoining land. If the land adjoining a right-of-way tract is subject to an existing oil and gas lease, then an “adjacent mineral owner” refers to all working interest holders of the lease on the adjoining acreage.

(b) Each adjoining mineral owner must receive notice of the proposed leasing of the right-of-way tract: however, an adjacent mineral owner may waive this notice by mailing a written waiver to the Commissioner of the General Land Office.

IV. Adjacent Mineral Owners Right to Preferentially Lease

(a) An adjacent mineral owner is entitled to preferentially lease the right-of-way adjoining their mineral interest.

(b) If the adjacent mineral owners on opposite sides of a right-of-way tract differ, then each adjacent mineral owner is entitled to preferentially lease one-half of the right-of-way.

(c) If there is only one mineral owner on both sides of a right-of-way, he or she may exercise a preference to lease the entire right-of-way tract.

(d) If the adjacent mineral owners on opposite sides of a right-of-way tract differ and if only one-half of the tract was preferentially leased, then the unleased one-half can be preferentially leased by the mineral owner who has already preferentially leased the other half.

(e) When the mineral ownership of unleased lands adjoining a right-of-way tract is divided among several adjacent mineral owners, each adjacent mineral owner shall have a preferential right to lease a proportional interest in one-half of the right-of-way. Each adjacent mineral owner may lease an interest in the right-of-way tract in proportion to his or her interest in the adjoining acreage. However, if any adjacent mineral owners do not want to lease an interest in the right-of-way, the School Land Board shall equitably apportion the interests in the right-of-way tract among those adjacent mineral owners who wish to lease an interest.

(f) The terms of a preferential lease depend on whether lands adjacent to the right-of-way are leased. If the adjacent land is unleased then the School Land Board shall set the terms of the lease. If the adjacent land is leased, then the right-of-way shall be leased upon the same terms as the most favorable lease held on acreage adjoining the right-of-way tract.

(g) Any mineral owner may waive his or her preferential right to lease the adjacent right-of-way tract by providing the General Land Office with a written waiver executed and acknowledged by the mineral owner or his duly authorized agent. The filing of such written waiver with the General Land Office shall result in the forfeiture of the preferential right to lease the land.

V. Leasing Directly to Applicant or by Sealed Bid

(a) If an adjacent mineral owner's preferential right to lease is forfeited either due to the owner failing to exercise his or her preferential right to lease by failing to tender the appropriate bonus and statutory sales fee within 120 days of receipt of notice of the proposed leasing of the right-of-way, or by waiver as provided above, then the School Land Board may lease the right-of-way tract directly to an applicant or by sealed bid at any time' within 18 months after the preferential right to lease expires or is forfeited.

VI. Issuing the Leases

(a) A lease will only be issued after the School Land Board approves the lease and is in receipt of the applicable bonus payment and the statutory sales fee equal to 1½ percent of the bonus payment.

(b) Each lease issued on a right-of-way tract shall grant the lessee the authority to pool the tract.

(c) Additionally, each lease issued on a right-of-way tract shall provide for the payment of compensatory royalty.