

## **PUBLIC NOTICE OF REQUEST FOR REVIEW OF COASTAL ZONE**

### **CONSISTENCY CERTIFICATION**

**The Mississippi Development Authority (MDA) has filed a request to review the Rules and Regulations Governing Leasing for Production or Extraction of Oil, Gas and Other Minerals from State-Owned Marine Waters for Coastal Zone Consistency with the Mississippi Coast Program (MCP).**

**Any Person wishing to make comments or objections pertaining to the proposed rules and regulations must submit those comments in writing to the Department of Marine Resources at 1141 Bayview Avenue, Biloxi, Mississippi 39530 and the Office of Pollution Control, Post Office Box 2261, Jackson, Mississippi 39225-2261 Before 1:00 p.m. on the day October 11, 2013**

## State of Mississippi Offshore Leasing Rules & Regulations

### PART VII: Rules and Regulations Governing Leasing for Production or Extraction of Oil, Gas and Other Minerals from State-Owned Marine Waters

#### Part VII Chapter 1: Purpose and Policy

*Rule 1.1 Purpose.* The following rules and regulations, promulgated under the authority of Sections 29-7-1 et seq., 57-75-1 et seq., and 53-5-1 et seq., Mississippi Code Annotated (1972), shall apply to all leases for oil, gas, or other mineral production or extraction from all state-owned marine waters where the tide may ebb and flow within the jurisdiction of the Mississippi Major Economic Impact Authority (MMEIA).

Source: Miss. Code Ann. § 29-7-1 (Rev. 2010)

*Rule 1.2 Policy.* It is the policy of the MMEIA not only to protect and preserve the mineral resources of the State of Mississippi but also to foster and facilitate the utilization, development and production of these resources whenever to do so would be in the best interest of the State and may be accomplished in an environmentally responsible manner. These regulations are designed and intended to establish uniform procedures governing the manner in which state-owned marine waters are nominated for mineral leasing, the advertising requirements for bids, the form and content of the lease itself, and other aspects of the leasing process.

Source: Miss. Code Ann. § 29-7-1 Rev. 2010); Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 1.3 Definitions.* For the purpose of these rules and regulations, the following terms shall have the meanings respectively ascribed to them hereby, except where applicable statutes may otherwise provide:

- A. Applicant - Any person requesting the State of Mississippi to either issue a call for nominations for leasing or offer for lease minerals owned by the State.
- B. Bid - The offer to pay a valuable consideration to obtain a mineral lease.
- C. Bidder - Any person submitting a bid.
- D. Bonus - A sum of money offered or paid by a lessee to the State as consideration for the execution of a lease.
- E. MMEIA - The Mississippi Major Economic Impact Authority.
- F. Delay Rental - An optional payment offered or made by a lessee to the State, on a per mineral acre basis, annually during each year of the primary term of a mineral lease after the first year thereof, to delay commencement of drilling operations.
- G. Executive Director - The Executive Director of the MMEIA or his designee
- H. Joint Bid - A proposal whereby two or more bidders combine in submitting a bid for a mineral lease.
- I. Lease - A mineral lease for specified marine waters covering oil, gas, and other minerals, both hydrocarbon and nonhydrocarbon which would be produced through a well borehole, but excluding, unless otherwise specifically included, hard minerals such as sand, clay, gravel, limestone, shell and coal.
- J. Lease Royalty - A share of the production, or the proceeds thereof, specified in a lease as a fraction, percentage or fixed sum, payable to the State by the lessee.
- K. Mineral - Oil, gas, and other minerals, both hydrocarbon and nonhydrocarbon which would be produced through a well borehole, except, unless otherwise specifically

## State of Mississippi Offshore Leasing Rules & Regulations

included, hard minerals such as sand, clay, gravel, limestone, shell and coal.

L. Mineral Acre - The equivalent of the full mineral interest in one acre of land.

M. Office of Mineral Lease - The office that administrates the mineral lease program for MMEIA.

N. Person - Any individual, trust, firm, joint stock company, consortium, partnership, association, corporation, (including a government corporation), state or any political subdivision or officer thereof, or other entity, or any agent, officer, or principal of any such individual or entity.

O. Primary Term - The fixed period of time during which a lease may be kept alive, even though there is no production in paying quantities, by virtue of drilling operations or the payment of delay rentals.

P. Shut-in Royalty - An amount specified in the lease to be paid for a time period also specified in the lease to hold the lease in force after a gas or oil well has been completed capable of production in paying quantities, but which has been shut-in under provisions specified in the lease.

Q. State - The State of Mississippi.

R. State-Owned Marine Waters - With respect to mineral ownership, All waters and submerged lands owned by the State of Mississippi, subject to the ebb and flow of the tide, which are below the watermark of mean high tide; all publicly owned accretions above the watermark of mean high tide, and all publicly owned submerged water-bottoms below the water mark of mean high tide.

S. Tract - That parcel of marine waters which will be covered by an individual lease.

Source: Miss. Code Ann. §29-7-3 (Rev. 2010)

### Part VII Chapter 2: Calls for Lease or Nominations for Lease For State Owned Marine Waters

*Rule 2.1 Purpose and Policy for Calls for Lease.* Any person desiring to have offered for lease any State-owned marine waters within the jurisdiction of the MMEIA may apply to the MMEIA to have the marine waters advertised as provided herein. The MMEIA may, without any prior request and upon its own motion, call for nominations for leasing or advertise for lease any lands within its jurisdiction. It is the policy of the MMEIA to lease all marine waters within its jurisdiction through the mechanism of competitive public bidding, according to the procedures hereinafter provided.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 2.2 Application.* Except for actions taken by the MMEIA upon its own motion, all applications for advertisement for leasing shall be made upon forms provided by the Office of Mineral Lease, or reproductions thereof. The MMEIA may elect to waive this requirement for any application submitted in substantial compliance with the format of the official form.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 2.3 Calls for Nominations.* Calls for nominations for leasing or advertisement for leasing for oil and gas development in state-owned marine waters shall reference lease blocks which are

## State of Mississippi Offshore Leasing Rules & Regulations

designated in Open File Report 151 of the Office of Geology in the Mississippi Department of Environmental Quality. Regular lease blocks contain approximately 5760 acres. Each lease put up for bid in these regular blocks will cover a tract which will consist of one half of a regular block containing approximately 2880 acres. The MMEIA will determine the configuration and acreages for leases covering irregular blocks, i.e. blocks which contain significantly more or less acres than the 5760 acres in regular blocks.

*Rule 2.4 Applications For Advertisement Requirements.* Applications for advertisement for leasing shall contain the following information:

The location shall reference lease blocks which are designated in Open File Report 151 of the Office of Geology in the Mississippi Department of Environmental Quality. For rivers and streams influenced by the ebb and flow of the tide, reference to section, township, range, and county or counties wherein the lands lie shall be used.

B. The approximate amount of acreage in the area or areas described.

C. A plat depicting in red or other contrasting color the area described.

D. All hard copy plats or electronic equivalents depicting the marine waters of interest shall be overlain on lease blocks which are designated in Open File Report 151 of the Office of Geology or for rivers and streams which are tidally influenced either an original or exact copy of an official United States Geological Survey Quadrangle Map, or equivalent, at a scale of 1:24,000 (7 1/2 Minute).

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 2.5 MMEIA Requirements prior to Publication of Call for Nominations.* Prior to publication of any call for nominations for leasing or advertisement for leasing, the MMEIA may prescribe and collect from each applicant a prepayment for publication expenses allocable to the respective tract or tracts applied for by each applicant.

- A. The prepayment shall be made to the MMEIA, P.O. Box 849, Jackson, Mississippi 39205.
- B. If no bids are received, or if the applicant does not submit a bid for the tract for which he applied and all other bids are rejected, the entire prepayment shall be forfeited to the State as liquidated damages.
- C. If the applicant does submit a bid for the tract for which he applied and all bids are rejected, or if the applicant is an unsuccessful bidder, the entire prepayment shall be refunded.
- D. The successful bidder for each tract on which a mineral lease is awarded shall pay all publication costs allocable to the leased tract as a condition precedent to execution of the lease by the MMEIA.
- E. In the event the applicant forfeits the prepayment as provided hereinabove, the applicant shall also be required to pay any amount by which the actual publication costs allocable to the tract for which he applied exceed the prepayment.

Miss. Code Ann. §29-7-3 (Rev. 2010)

**Part VII Chapter 3: Procedure for Publication of Calls for Nominations for Leasing and Advertisement for Leasing .**

## State of Mississippi Offshore Leasing Rules & Regulations

*Rule 3.1 Publication Requirements of Calls for nominations for leasing and advertisements.* All calls for nominations for leasing and advertisements for leasing shall be published in: The Southeastern Oil Review; and one (1) or more Jackson, Mississippi newspapers having general circulation in the area wherein the involved lands lie; and one (1) or more newspapers, of general circulation in the county or counties wherein the involved lands lie; and any other advertising media deemed by the MMEIA to be appropriate.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 3.2 Requirement to Publish.* All calls for nominations for leasing shall be published. The MMEIA shall prescribe the publication periods and frequency of publication. The MMEIA shall set the time between the last publication calling for nominations and the first advertisement calling for bids.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 3.3 Purpose of Advertising Requirements.* The advertising requirements specified herein are intended by the MMEIA to maximize interest and participation in, not to unduly complicate, the bidding process. To this end, only one of the advertisements required by Rule 3.1 hereof shall be deemed to be jurisdictional insofar as the validity of the bidding process is concerned. All other advertisements are for informational purposes only and shall be published in the manner prescribed by the MMEIA prior to each lease offering.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 3.4 Jurisdictional Requirements.* The jurisdictional advertisement for leasing shall be published in a Jackson, Mississippi newspaper having general circulation throughout the State of Mississippi. The publication periods and frequency shall be defined by the MMEIA. The minimum advertisement period for leasing shall be 30 days.

- A. The formal advertisement for leasing particular marine waters shall provide:
- (i) A description of the tract or tracts to be leased, by either the Open File 151 lease block map or for rivers and streams influenced by the ebb and flow of the tide reference to section, township, range, and county or counties wherein the marine waters lie shall be leased including an approximation of the acreage involved.
  - (ii) The place, date and time where any interested party may obtain additional information about the advertised blocks or the leasing procedure.
  - (iii) The place, date and time bids will be received.
  - (iv) The place, date and time where bids will be publicly opened.
  - (v) The only item subject to bid is the lease bonus. All other lease terms will be set forth on the lease form.
  - (vi) Any conditions or limitations known by the MMEIA at the time of the advertisement to be required of the lessee by the MMEIA.
  - (vii) A description of the form of the lease or the location in which such lease forms are filed and available for public inspection.
  - (viii) Any other information deemed by the MMEIA to be necessary or appropriate.

## State of Mississippi Offshore Leasing Rules & Regulations

B. Regarding any of the items specified hereinabove in the actual published advertisement, the MMEIA may waive as inconsequential any minor irregularity that does not materially affect the accuracy of the advertisement or cause the same to be ambiguous or misleading. Further, if any material error is corrected and not repeated after the first publication, the advertisement shall be deemed to have been made correctly in the first instance and the validity of any lease awarded pursuant to the advertisement shall not be affected or impaired. If the material error is corrected after the second publication at least 30 days will be required between the final corrected publication and bids received.

Miss. Code Ann. §29-7-3 (Rev. 2010)

### Part VII Chapter 4: Procedures forbidding

*Rule 4.1 Requirement for Submission of Bids on Bidding Forms.* All bids shall be submitted on the forms provided by the Office of Mineral Lease, or reproductions thereof. However, the MMEIA may elect to waive this requirement for any bid submitted in substantial compliance with the format of the official form.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.2 Items Upon which Bids May Be Submitted.* Bids may be submitted on any or all of the tracts advertised. A separate bid shall be submitted on each advertised tract.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.3 Invitations on Certain Bids Only.* The MMEIA will invite bids only on the lease bonus. Other terms of the lease will be set forth in the lease form. The MMEIA may also prescribe in the advertisement for bid the method in which bids may be submitted and opened.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.4 Method for Submitting Bids.* Each bid, whether submitted in person, by mail, or by courier, shall be placed in a sealed envelope with a description or designation of the tract covered by the bid on the face of the envelope. The bid shall then be transmitted, as directed in the advertisement, either separately or along with other bids related to the same lease offering, in a large envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.5 Specifications.* Bids shall specify the full bonus consideration and the bonus per acre equivalent offered for each tract.

Miss. Code Ann. §29-7-3 (Rev. 2010)

## State of Mississippi Offshore Leasing Rules & Regulations

*Rule 4.6 Joint Bids.* Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of three decimal places after the decimal point.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.7 Security Submitted with Each Bid.* Bidders shall submit with each bid, as security therefor, a cashier's check, certified check, or bank exchange draft in the amount of one hundred percent (100%) of the bonus amount bid.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.8 Opening of Bids.* On the date and at the time and place specified in the advertisement, all bids will be publicly opened by the MMEIA, in regular or special meeting assembled, and either accepted, rejected, or taken under advisement for deferred action. As the bid system employed by the MMEIA calls for an award only to the highest bidder, the MMEIA shall, upon opening the bids, return the bid security of the apparently unsuccessful bidders, and may take the bid of the high bidder under advisement. If the bid system requires evaluation of the bids of several bidders, the MMEIA may take all such bids under advisement. Whenever bids are taken under advisement, the MMEIA, in its discretion, may allow the bidders to retrieve their actual bid security and substitute therefor equivalent security in a form acceptable to the MMEIA. Bids must be accepted or rejected by MMEIA within five business days of the opening of the bids. In the event of a tie bid for a lease, all bidders present, who so desire, may submit an increased scaled bid within one hour of the original opening of the bids. If a tie occurs again on the rebid, then bidding will be repeated until one person has the highest bid. The winner will have five business days to tender an additional bonus in excess of his original bid.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.9 Conditions for Execution of Lease Agreement.* Full payment of the cost of publication of the advertisement for lease attributable to the tract leased shall be a condition precedent to execution of the lease agreement.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 4.10 Bonus Payments.* All bonus payments shall be made by Certified Check, Cashier's Check, or Bank Exchange Draft, drawn to the order of the MMEIA.

Miss. Code Ann. §29-7-3 (Rev. 2010)

### **Part VII Chapter 5: Lease Provisions and Approval Procedure**

*Rule 5.1 Final Review of Bids.* Upon final review of the bids, the MMEIA shall determine the highest bonus bid for each tract. The MMEIA reserves the right to reject any or all bids, in its sole discretion.

Miss. Code Ann. §29-7-3 (Rev. 2010)

## State of Mississippi Offshore Leasing Rules & Regulations

*Rule 5.2 No Warranty.* The State shall neither warrant nor agree to defend either the title to the leased property or the accuracy of the description therefor. The State shall not refund any bonus or other payments in the event of discovery that the leased acreage is overestimated. In the event the state acreage is underestimated the state shall either 1) require additional payment sufficient to cover the underestimated acreage or 2) negotiate a new lease with any person covering the underestimated acreage. Moreover, the lease shall be neither affected nor impaired by discovery of a minor overestimate or underestimate in the leased acreage.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 5.3 Limitations of the Lease.* The lessee shall not be authorized by the lease in any way to subrogate or offset the payments to the State arising under the lease to any other payments made by the lessee in connection with the leased property.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 5.4 Tract Covered by the Lease.* No mineral lease shall cover more than one tract, as described in the advertisement.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 5.5 Leases to Joint Bidders.* All leases to joint bidders shall be executed to the bidders according to the proportionate interests depicted in the bid.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 5.6 Minimum Requirements for All Leases.* Minimum requirements for all leases shall be as follows:

A. The MMEIA shall specify the delay rental. For all oil and gas leases, the delay rental shall be not less than two dollars (\$2.00) per mineral acre, and may be made upon such terms and conditions as the MMEIA may prescribe.

B. The MMEIA shall specify the lease royalty as a fixed fraction or percentage. For all oil and gas mineral leases, lease royalties shall be not less than: (i) Three-sixteenth (3/16), at the well, on all oil, gas, casinghead gas or other gaseous substance produced and saved, or the proceeds thereof.

(ii) Three-sixteenth (3/16) or two dollars (\$2.00) per long ton, on sulfur, whichever is greater, on sulfur produced and marketed.

(iv) Three-sixteenth (3/16) or ten cents (\$.10) per ton, whichever is greater, on potash produced and marketed.

(v) Three-sixteenth (3/16) at the well, on all other minerals produced and marketed, or the proceeds thereof.

C. All lease terms including bonus, delay rental, and royalty requirements for all leases other than oil, gas and other minerals, both hydrocarbon and nonhydrocarbon which would be produced through a well borehole shall be prescribed by the MMEIA as required.

D. The minimum rentals and royalties specified hereinabove shall not be construed as values necessarily acceptable to the MMEIA, it being the policy of the MMEIA to reject any bid which does not in all respects reflect tract potential.

E. The "force majeure" clause of the lease shall apply to the procurement of all

## State of Mississippi Offshore Leasing Rules & Regulations

required drilling and other permits by the lessee when inordinate delays are caused by the permitting authorities.

F. The lease will permit assignment or transfer of all or any interest therein only upon prior written approval by the State.

G. Marine waters leases shall also contain the following conditions:

(i) The lease shall contain a condition requiring the lessee to comply with all applicable rules and regulations of the Department of Marine Resources. This may include the submission of environmental data and assessments and field monitoring plans prior to obtaining from the Oil and Gas Board technical approval to initiate operations. Further, the lease shall contain a provision directing the lessee to complete and submit a Joint Application form with the Mississippi Department of Marine Resources as required by the Mississippi Coastal Program.

(ii) The lease shall contain a condition requiring the lessee to obtain any necessary agreement(s) from the Secretary of State's Office addressing the use of water bottoms for production purposes.

Miss. Code Ann. §29-7-3 (Rev. 2010)

### Part VII Chapter 6: Recording

*Rule 6.1 Recording of Leases.* All leases shall be duly recorded by the lessee, in compliance with all applicable State statutes in the office of chancery clerk in the county in which the marine waters are located, as soon as reasonably possible after execution and delivery by the MMEIA. Likewise, a release shall be recorded in said office upon expiration, and a copy of the recorded release shall be furnished free of charge to the MMEIA.

Miss. Code Ann. §29-7-3 (Rev. 2010)

*Rule 6.2 Mineral Documentary Stamps Requirement.* All mineral documentary stamps shall be purchased by the lessee for recording purposes, and all recording fees shall likewise be paid by the lessee.

Miss. Code Ann. §29-7-3 (Rev. 2010)

### Part VII Chapter 7: Miscellaneous

*Rule 7.1 Additional Considerations.*

A. The execution of the lease to the lessee does not relieve the lessee of the responsibility to obtain additional authorization from other local, state, and federal entities. For example, an Oil and Gas permit is required prior to drilling.

B. Upon written request and justification by the applicant, and with the agreement of both the Executive Director and the Executive director of the Department of Marine Resources, the provisions herein may be modified or waived. In such cases the public would be notified when there is a modification or waiver granted and the justification.

Miss. Code Ann. §29-7-3 (Rev. 2010)