

Leasing of Natural Resources

22-5-801. Leases and permits — Purpose of this section and §§ 22-5-802 — 22-5-813 — Definition.

((a) It is the purpose and intent of this section and §§ 22-5-802

— 22-5-813 to charge the Commissioner of State Lands with the authority and responsibility for considering applications for and granting leases and permits for the taking of sand, gravel, oil, natural gas, casinghead gas, coal and other minerals, and timber or logs from the beds and bars of navigable rivers and lakes in this state or from any other lands or interests in lands held in the name of the State of Arkansas or any state agency or institution, excluding tax-forfeited lands and minerals, and to supervise activities on state-owned lands by leaseholders and permittees.

(b) As used in this subchapter, “log” means a bulky piece or length of unshaped timber, a length of a tree trunk ready for sawing, or

a portion of the trunk of a felled tree that is sunk on the bed of submerged land owned by the State of Arkansas.

(c) The Commissioner of State Lands shall:

(1) Provide the necessary hardware and software systems to allow for the electronic acceptance, solicitation, communication, and the electronic publishing of all information, records, reports, applications, and other required material relating to sand and gravel extraction;

(2) Create and maintain a website to allow for the filing of all bids, correspondence, permit or lease issuance, production reports, and payments relating to sand and gravel extraction; and

(3) Maintain a database accessible through the website required under subdivision (c)(2) of this section to allow complete electronic access to all filings of bids, correspondence, permit or lease issuance, production reports, and payments relating to sand and gravel extraction.

(d) The Commissioner of State Lands shall:

(1) Provide the necessary hardware and software systems to allow for the electronic acceptance, solicitation, communication, and the electronic publishing of all information, records, reports, applications, and other required material relating to the extraction of oil, natural gas, casinghead gas, coal and other minerals, and timber or logs;

(2) Create and maintain a website to allow for the electronic filing of all bids, correspondence, permit or lease issuance, production reports, and payments relating to the extraction of oil, natural gas, casinghead gas, coal and other minerals, and timber or logs; and

(3) Maintain a database accessible through the website required under subdivision (d)(2) of this section to allow complete electronic access to all filings of bids, correspondence, permit or lease issuance, production reports, and payments relating to the extraction of oil, natural gas, casinghead gas, coal and other minerals, and timber or logs.

History

Acts 1975, No. 524, § 13; A.S.A. 1947, § 10-1026; Acts 1993, No. 509, § 1; 2005, No. 786, § 1; 2021, No. 455, §§ 1, 2.

22-5-802. Leases and permits — Exemptions for state agencies.

(a) The provisions of this section and §§ 22-5-801 and 22-5-803

— 22-5-813 shall not be applicable to the severance, sale, or other disposition of sand, gravel, timber or logs, or minerals salvaged, severed, or removed by a state agency from lands held in the name of or managed by the agency if the sand, gravel, timber or logs, or minerals are salvaged, severed, or removed in the course of managing, developing, and improving the lands by the state agency. This exemption shall not apply to sales for commercial purposes.

(b) Any state agency, department, or institution or any county, municipality, or other division of government desiring to sever or take any sand, gravel, timber or logs, or minerals from any lands

held in the name of or managed by the state or a state agency or from the beds and bars of rivers in this state, other than lands held in the name of or managed by the agency or division of government so desiring, shall obtain a permit to do so from the Commissioner of State Lands but shall not be required to comply with the bid procedures contained in this section and §§ 22-5-801 and 22-5-803 — 22-5-813 or to pay any fee, royalty, or taxes otherwise required by this section and §§ 22-5-801 and 22-5-803 — 22-5-813.

(c) The provisions of this section and §§ 22-5-801 and 22-5-803 — 22-5-813 relating to the authority to lease and permit lands held in the name of or managed by the Arkansas State Game and Fish Commission shall not be applicable to the lands of that agency. The commission shall retain control over the procedures for awarding and shall retain the authority over the issuance of leases for the mineral rights and of permits for the rights to produce and sever minerals from lands held in its name or managed by it. Provided, that the commission shall use the same requirements, procedures, standards, and methods required under this section and §§ 22-5-801 and 22-5-803 — 22-5-813 for other state agencies to lease mineral rights and to issue permits to produce and sever minerals.

(d) The Commissioner of State Lands shall:

(1) Provide the necessary hardware and software systems to allow for the electronic acceptance, solicitation, communication, and the electronic publishing of all information, records, reports, applications, and other required material relating to sand, gravel, timber or logs, or minerals extraction;

(2) Create and maintain a website to allow for the filing of all bids, correspondence, permit or lease issuance, production reports, and payments relating to sand, gravel, timber or logs, or minerals extraction; and

(3) Maintain a database accessible through the website required under subdivision (d)(2) of this section to allow complete electronic access to all filings of bids, correspondence, permit or lease issuance, production reports, and payments relating to sand, gravel, timber or logs, or minerals extraction.

History

Acts 1975, No. 524, §§ 11, 12; 1981, No. 684, §§ 8, 9; A.S.A. 1947, §§ 10-1024, 10-1025; Acts 1991, No. 537, § 1; 1993, No. 509, § 1; 2005, No. 786, § 2; 2021, No. 455, § 3.

22-5-803. Leases and permits — Penalties.

(a)(a)

(1) Upon conviction, a person, firm, company, corporation, or association is guilty of a Class D felony if the person, firm, company, corporation, or association without first obtaining a lease or permit to do so from the Commissioner of State Lands knowingly removes any sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or any timber or logs from:

(A) The beds or bars of navigable rivers and lakes in this state; or

(B) Any other lands or interest in lands held in the name of the state.

(2) Each day of unauthorized taking shall constitute a separate offense.

(b) In addition to the fine mentioned in subsection (a) of this section, the State of Arkansas may bring suit in the name of the state to recover the value of the sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or timber or logs which have been illegally removed, as well as all severance taxes and royalties due as a result of the removal.

History

Acts 1975, No. 524, § 9; A.S.A. 1947, § 10-1022; Acts 1993, No. 509, § 1; 2005, No. 786, § 3; 2015, No. 1132, § 1.

22-5-804. Leases and permits — Natural Resources Committee — Arkansas State Game and Fish Commission.

(a)

(1) The Natural Resources Committee is created and shall be composed of the following members:

- (A) The Secretary of the Department of Finance and Administration;
- (B) The Director of Production and Conservation of the Oil and Gas Commission;
- (C) The State Geologist;
- (D) The Secretary of the Department of Agriculture;
- (E) The Commissioner of State Lands;
- (F) The Executive Secretary of the Arkansas State Game and Fish Commission;
- (G) The Secretary of the Department of Parks, Heritage, and Tourism;
- (H) The Director of the Division of Environmental Quality; and
- (I) The Chair of the Arkansas Natural Heritage Commission.

(2) A member of the committee may designate a person within the member's organization to attend meetings and conduct committee business on the member's behalf.

(b) The chair of the committee shall be the Commissioner of State Lands.

(c) The committee shall establish a schedule of minimum fees and royalties, as well as the terms and conditions for various types of permits and leases. No permit or lease shall be granted for less than the minimums prescribed in the schedule.

(d) The committee shall have the authority to change the schedule of minimum fees and royalties and the terms of permits and leases.

(e) The Arkansas State Game and Fish Commission shall have the authority, for all lands held in the name of and managed by its agency:

(1) To establish a schedule of minimum fees and royalties, as well as the terms and conditions for various types of permits and leases for Arkansas State Game and Fish Commission lands;

(2) To take bids on and to award the leases and permits to produce or sever minerals from those lands and to set up application procedures and fees for those leases and permits;

(3) To set the length of time for leases or permits to expire and the terms and conditions for their transfer or renewal;

(4) To set the minimum fees and royalties for leases and permits and to ensure that severance taxes on minerals from such leases or permits are paid to the proper agencies; and

(5) Shall have such other duties, responsibilities, and authority required for the issuance of mineral leases and permits under this section and §§ 22-5-801 — 22-5-803 and 22-5-805 — 22-5-813 for other state lands.

History

Acts 1975, No. 524, § 2; 1981, No. 684, § 1; 1983, No. 691, § 15; 1985, No. 1035, § 1; A.S.A. 1947, §§ 10-1015, 10-1015.2, 10-1015.3; Acts 1991, No. 537, § 2; 1993, No. 509, § 1; 1999, No. 1164, § 177; 2015, No. 1132, § 2; 2019, No. 910, § 120.

22-5-805. Leases and permits — Requirements — Application — Terms.

(a) No person, firm, company, corporation, or association shall take any sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or sever any timber or logs from the beds or bars of navigable rivers and lakes in this state or from any other land or interest in lands held in the name of the State of Arkansas or

any agency, department, or institution of the state, excluding tax- forfeited lands and minerals, unless that person has first procured a lease or permit to do so from the Commissioner of State Lands.

(b)(b)

(1) Any person, firm, company, corporation, or association desiring to take sand, gravel, oil, natural gas, casinghead gas, coal or other minerals, or to sever any timber or logs from state-owned lands shall make application for a lease or permit to do so to the Commissioner of State Lands.

(2) Each application shall be on forms prescribed by the Commissioner of State Lands and shall contain such information as shall be prescribed by the Commissioner of State Lands regarding the applicant and the business of the applicant, the sand, gravel, minerals, or timber or logs proposed to be removed from the lands under the lease or permit, and any other information as the Commissioner of State Lands shall deem necessary and appropriate to properly protect the interest of the state and to assure that the leaseholder will in good faith carry out all his or her responsibilities under the lease or permit.

(c)(c)

(1) Every lease or permit issued under the provisions of this section and §§ 22-5-801 — 22-5-804 and 22-5-806 — 22-5-813 shall define the limit of the area from which the lessee or permittee shall be permitted the exclusive right to take the sand, gravel, minerals, or timber or logs designated in the lease or permit.

(2) Each lease or permit issued by the Commissioner of State Lands under the provisions of this section and §§ 22-5-801 — 22-5-804 and 22-5-806 — 22-5-813 shall be for a specific term as may be determined by the Commissioner of State Lands; shall require that reasonable commercial production of the sand, gravel, mineral, or timber or logs covered by the lease or permit shall commence within a specified period of time as determined by the Commissioner of State Lands; and shall provide that the lease or permit shall automatically terminate unless commercial production is commenced within the time prescribed unless the time is extended by the Commissioner of State Lands upon a showing that expenses have been incurred and actual operations are in the process of completion for the commercial production of the oil, natural gas, casinghead gas, sand, gravel, coal or other minerals, or the severance of timber or logs under the lease or permit.

(d) Once reasonable commercial production is commenced under any lease or permit issued under this section and §§ 22-5-801 — 22-5-804 and 22-5-806 — 22-5-813, the lease or permit shall automatically terminate if commercial production is discontinued for a period of six (6) months or such other period as may be prescribed in the lease.

History

Acts 1975, No. 524, § 1; A.S.A. 1947, § 10-1014; Acts 1993, No. 509, § 1; 2005, No. 786, § 4.

22-5-806. Leases and permits — Offer to pay minimums

— Notice — Award.

(a) Any person applying for a lease or permit under the provisions of this section and §§ 22-5-801 — 22-5-805 and 22-5-807 — 22-5-813 shall offer in the application to pay at least the minimums prescribed in the schedule for the lease or permit.

(b)

(1) Upon receipt of an application for a lease or permit, the office of the Commissioner of State Lands shall determine whether issuing a permit or lease would be in the best interests of the State of Arkansas. If so, the Commissioner of State Lands, within ten

(10) days after that determination, shall cause to be published in a newspaper of general circulation in this state for no fewer than three (3) consecutive days, and in a newspaper of general circulation in the county or counties in which the property is located for not less than one (1) day, a notice that an application has been filed.

(2) The notice shall contain a description of the permit or lease sought, the minimum fee or royalty, and the terms and conditions prescribed for the permit or lease and shall state that persons may bid on the lease or

permit by filing a sealed bid in writing with the office of the Commissioner of State Lands within the time specified in the publication.

(3) All bids shall be submitted not less than twenty (20) days from the last day of publication.

(c)

(1) If no other bids for the lease or permit are filed with the Commissioner of State Lands within the specified time period, the lease or permit may be awarded to the person applying therefor.

(2) If other bids are received, the lease or permit may be awarded to the highest bidder, but if two (2) or more bids are, in the judgment of the Commissioner of State Lands, reasonably close, the Commissioner of State Lands may require an open auction between the high bidders.

(3) After the bidding process is completed, the Commissioner of State Lands, with the recommendations of the Natural Resources Committee, may reject all offers considered unreasonable or may establish terms considered reasonable and in the best interest of the state, which the highest bidder may accept, without further advertising by the state.

History

Acts 1975, No. 524, § 2; 1981, No. 684, § 1; A.S.A. 1947, § 10-1015; Acts 1993, No. 509, § 1.

22-5-807. Leases and permits — Notice to, and recommendations from, interested agencies.

(a) When an application for a lease or permit is filed with the Commissioner of State Lands for the taking or production of any sand, gravel, oil, natural gas, casinghead gas, coal, or other minerals or the severance of any timber or logs from state-owned lands, the Commissioner of State Lands shall so notify the Arkansas Geological Survey, the Arkansas Natural Resources Commission, the Oil and Gas Commission, the Arkansas State Game and Fish Commission, the Department of Parks, Heritage, and Tourism, the Division of Environmental Quality, the Arkansas Forestry Commission, and any other appropriate state agency that has or may have a particular interest in the area proposed to be covered by the lease or permit.

(b) Any interested agency shall have an opportunity to investigate the proposed production or taking of sand, gravel, or minerals or the severance of timber or logs under the lease or permit and to report its findings and recommendations to the Commissioner of State Lands, including any recommendations for conditions or limitations to be imposed on the lessee or permittee with respect to the production of sand, gravel, minerals, or the severance of timber or logs under the lease or permit, within the time specified in the notice.

(c) The Commissioner of State Lands may deny an application or may grant a permit or lease subject to such conditions and requirements as he or she deems appropriate to properly protect the interests of the State of Arkansas.

(d) No permit or lease shall be granted on interests held in the name of or managed by a state agency or institution without the written consent of the agency or institution.

(e) The issuance of a permit or lease shall not be unreasonably delayed or denied without justifiable cause.

History

Acts 1975, No. 524, § 3; 1981, No. 684, § 2; A.S.A. 1947, § 10-1016; Acts 1993, No. 509, § 1; 1999, No. 1164, § 178; 2005, No. 786, § 5; 2019, No. 910, § 3238.

22-5-808. Leases and permits — Records — Fees — Disposition of funds.

(a) The office of the Commissioner of State Lands shall maintain a permanent record of all leases and permits issued under this section and §§ 22-5-801 — 22-5-807 and 22-5-809 — 22-5-813.

(b)

(1) The person, firm, company, corporation, or association making application or filing a competitive bid for a lease or permit with the State of Arkansas shall pay a fee to cover the cost of processing its application and providing public notice.

(2) The amount of the fee shall be set by the Commissioner of State Lands and shall be deposited as cash

funds as defined by §19-4-801.

(c) The funds shall be used to pay for the advertising, processing, and recording of applications received.

History

Acts 1975, No. 524, § 4; 1977, No. 572, § 2; 1981, No. 684, § 3; A.S.A. 1947, § 10-1017; Acts 1993, No. 509, § 1; 2009, No. 610, § 8; 2021, No. 455, § 4.

22-5-809. Leases and permits — Monthly statements — Payment of severance tax.

(a)

(1) Every person obtaining a lease or permit under this section and §§ 22-5-801 — 22-5-808 and 22-5-810 — 22-5-813 shall keep an accurate record and account of all sand, gravel, oil, natural gas, casinghead gas, coal and other minerals taken, and all timber or logs severed from the land covered by the lease or permit and shall file with the Revenue Division of the Department of Finance and Administration monthly an itemized verified statement of the total conventional weight or volume of any and all minerals and timber or logs taken under the lease or permit during the preceding month. These reports shall be made on forms prescribed by the division.

(2) Every person obtaining a lease or permit under this section and §§ 22-5-801 — 22-5-808 and 22-5-810 — 22-5-813 shall keep an accurate record and account of all sand, gravel, oil, natural gas, casinghead gas, coal and other minerals taken, and all timber or logs severed from the land covered by the lease or permit and shall file with the Commissioner of State Lands monthly an itemized verified statement of the total number of tons of sand and gravel, barrels of oil, thousands of cubic feet of natural gas and casinghead gas, tons of coal, and the conventional weight or volume of any and all other minerals and timber or logs taken under the lease or permit during the preceding month. These reports shall be made on forms prescribed by the Commissioner of State Lands.

(b)

(1) At the time of filing the reports, the lessee or permittee shall pay the severance tax to the Department of Finance and Administration in the same manner and at the same rate as all other severance taxes collected by the division.

(2) The lessee or permittee shall also pay monthly to the Commissioner of State Lands royalties on the amount of actual consideration for the sand, gravel, minerals, or timber or logs taken or severed from the state-owned lands under the conditions of the lease or permit issued by the Commissioner of State Lands.

(3) The Commissioner of State Lands shall be further authorized to require the posting of a corporate surety bond by any lessee or permittee to guarantee the payment of the taxes, royalties, and consideration.

(c)

(1) Except for application and bid fees, all funds received by the Commissioner of State Lands as fees, compensation, or royalties for leases or permits issued for the taking of any sand, gravel, minerals, or timber for lands owned or held in the name of a state agency shall be special revenues and shall be deposited into the State Treasury and credited to the fund or account from which the agency receives its support and for lands owned or held in the name of a state institution of higher education shall be deposited into the State Treasury and transferred by warrant to the institution of higher education for deposit into the institution's cash fund account established outside the State Treasury.

(2) Except for application and bid fees, all funds received by the Commissioner of State Lands for leases or permits for the taking of any sand, gravel, minerals, or timber from all other state-

owned lands shall be deposited into the State Treasury as general revenues.

(3) Except for application and bid fees derived from the removal of logs, all funds received by the Commissioner of State Lands for leases or permits for the taking of logs from lands owned or held in the name of the state shall be deposited as cash funds into the State Treasury for the State Land Department. The Commissioner of State Lands shall distribute cash revenues deposited into the State Treasury for the State Land Department to counties from which logs were removed in accordance with the value of the logs as determined by the Commissioner of State Lands.

(4) All funds received by the Arkansas State Game and Fish Commission as fees, compensation, or royalties, including any application or bid fees, for leases or permits issued for the taking of any minerals for lands held in the name of the commission shall be special revenues and shall be deposited into the State Treasury and credited to the Game Protection Fund for the use of the commission.

History

Acts 1975, No. 524, § 5; 1981, No. 684, § 4; A.S.A. 1947, § 10-1018; Acts 1991, No. 537, § 3; 1993, No. 509, § 1; 2005, No. 786, § 6; 2009, No. 1416, § 41.

22-5-810. Leases and permits — Liability — Transferability — Renewal.

(a) Each person, firm, company, corporation, association, or other business entity holding a lease or permit for the taking or production of any sand, gravel, timber or logs, minerals, or other natural resources shall be absolutely liable for all severance taxes, royalties, and actual consideration for all the sand, gravel, or minerals produced or timber or logs severed under the lease or permit regardless of whether the lessee or permittee is actually producing or severing the minerals or timber or logs from the land.

(b)(b)

(1) All leases issued under the authority of this section and §§ 22-5-801 — 22-5-809 and 22-5-811 — 22-5-813 shall be transferable only with the approval of the Commissioner of State Lands.

(2) Any lease transferred in violation of subdivision (b)(1) of this section shall be subject to cancellation by the Commissioner of State Lands.

(3) All permits issued under the authority of this section and §§ 22-5-801 — 22-5-809 and 22-5-811 — 22-5-813 shall not be transferable.

(c) Upon the expiration of any lease or permit issued under the authority of this section and §§ 22-5-801 — 22-5-809 and 22-5-811 — 22-5-813, the lease or permit shall not be renewed or reissued.

History

Acts 1975, No. 524, § 7; 1981, No. 684, § 5; A.S.A. 1947, § 10-1020; Acts 1993, No. 509, § 1; 2005, No. 786, § 7.

22-5-811. Leases and permits — Existing ones to continue. Any person, firm, company, corporation, state agency, or other business entity holding a lease or permit on March 21, 1975, for the taking or production of any sand, gravel, minerals, or timber or logs from state-owned lands shall be permitted to continue to take or produce sand, gravel, minerals, or timber or logs from state-owned lands in accordance with the existing lease or permit.

History

Acts 1975, No. 524, § 8; 1981, No. 684, § 6; A.S.A. 1947, § 10-1021; Acts 2005, No. 786, § 8.

22-5-812. Leases and permits — Rules.

(a) The Commissioner of State Lands shall promulgate any rules which may be deemed necessary to carry out the provisions of this section and §§ 22-5-801 — 22-5-811 and 22-5-813.

(b) The Commissioner of State Lands shall include in the rules all grounds and conditions for the revocation or termination of any lease or permit issued under this section and §§ 22-5-801 — 22-5-811 and 22-5-813 and shall provide for reasonable notice to the lessee or permittee of an opportunity to be heard prior to terminating or revoking any lease or permit.

(c) The Arkansas State Game and Fish Commission shall promulgate rules and regulations necessary to lease

mineral rights and to issue permits to produce and sever minerals on commission lands in conformity with the requirements, procedures, standards, and methods as provided in this section and §§ 22-5-801 — 22-5-811 and 22-5-813.

History

Acts 1975, No. 524, § 10; 1981, No. 684, § 7; A.S.A. 1947, § 10-1023; Acts 1991, No. 537, § 4; 1993, No. 509, § 2; 2019, No. 315, § 2368.

22-5-813. Leases and permits — Compliance with this section and §§ 22-5-801 — 22-5-812.

The office of the Commissioner of State Lands may conduct a continuing check of the operations by lessees or permittees to assure that each lessee or permittee is meeting all the requirements and complying with the conditions of the lease or permit and the provisions of this section and §§ 22-5-801 — 22-5-812.

History

Acts 1975, No. 524, § 6; A.S.A. 1947, § 10-1019; Acts 1993, No. 509, § 2.

22-5-814. Removal of sand or gravel from navigable waters.



(a) Sand and gravel may be removed from the beds or bars of any navigable river or lake by the Arkansas Department of Transportation, any county or road district, or any federal agency to be used for road building or maintenance, without paying the State of Arkansas any amount whatsoever.

(b) All persons, firms, or corporations taking or removing sand or gravel from the beds or bars of any navigable river or lake within the State of Arkansas, and selling the sand or gravel for commercial gain to the department, to any county or road district, or to any federal agency for the purpose of road construction or maintenance, and all highway contractors who remove sand or gravel from the beds or bars of any navigable river or lake within the State of Arkansas for the purpose of road building or maintenance, shall be required to pay to the State of Arkansas the customary royalties as provided by law.

(c) Any person, firm, or corporation taking or removing sand or gravel from the beds or bars of any navigable river or lake within the State of Arkansas, to be used in road building, shall keep a detailed account of all gravel or sand so removed.

(d) A copy of the account shall be filed with the Commissioner of State Lands, a copy with the county judge of the county where the sand or gravel is taken and removed, and a copy shall be retained by the person removing the sand or gravel.

History

Acts 1919 (2nd Ex. Sess.), No. 262, §§ 1, 2, p. 4255; C. & M. Dig., §§ 6793, 6794; Pope's Dig., §§ 8736, 8737; Acts 1941, No. 424, § 1; A.S.A. 1947, §§ 10-1005, 10-1006; Acts 1993, No. 509, § 2; 2017, No. 707, § 82.