LOUISIANA LEGISLATIVE AUDITOR
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DEPARTMENT OF NATURAL RESOURCES MINERAL ROYALTY PAYMENTS

The state may have lost millions of dollars in oil and gas royalty payments because the Office of Mineral Resources did not monitor royalty revenues from oil and gas companies as closely as it should have, according to a report released Monday by Louisiana Legislative Auditor Daryl Purpera.

The performance audit, which covered the period from July 1, 2007 to June 30, 2012, also pointed out that the State Mineral and Energy Board and the Office of Mineral Resources within the Department of Natural Resources did not impose penalties on all companies that made late royalty payments, and waived $5.8 million of the $12.8 million in penalties that were assessed in that period.

The agency also failed to collect another $1.7 million in royalties from companies that incorrectly deducted severance taxes from their royalty payments. The state allows a company that pays a severance tax to the Department of Revenue to deduct what they paid when figuring what is owed in royalty payments.

A total of 10 companies underpaid royalties by at least $1.4 million because they paid severance taxes to the state and later received severance tax refunds. However, they did not amend their royalty payments accordingly, the report said. The Office of Mineral Resources also did not collect $323,450 in royalties from companies that deducted more in severance taxes than they should have.

"We determined that OMR did not always ensure the state received complete, accurate and timely mineral royalty payments during fiscal years 2008 through 2012," the audit said. "As a result, Louisiana may not have received all the royalty revenue owed by companies that extracted minerals from state-owned land and water bottoms."

Royalties from oil and gas generate about 7 percent of the state general fund each year. The state received about $537 million in royalties during the fiscal year that ended June 30.

The Office of Mineral Royalties has cut back its internal audits of oil and gas royalties audited in the field from 23 percent in 2008 to 12.75 percent in 2012, for an average of 18 percent over the five-year period, the report said. "Overall, the amount of potentially underpaid royalties identified by OMR through field audits has decreased," going from $8.3 million to $3.5 million in 2012.

The performance audit said although underpaid royalties collected by OMR fluctuated from $2.8 million in 2008 to $6.4 million in 2009 to last year's total of $4.1 million, the amounts to be collected in future years may drop because the agency has decreased its field audits and is identifying less potentially underpaid royalties.

Auditors said that earlier this year, OMR returned to a system of volume audits which it stopped in 2000, an audit method that could capture more revenue. The report recommended the agency stay with the volume audits to identify underpaid royalties. It also recommended that OMR should possibly increase the annual percentage of royalties that are audited "considering (that) the amount of potentially underpaid royalties identified has decreased."

Although state law gives the mineral board or OMR the authority to waive penalties for late payment of royalties, non-payment, underpayment or royalty reports containing errors, the agencies imposed $12.8 million in sanctions in the 2008-12 period but waived 45 percent of that total, about $5.8 million.

"This practice may not deter companies" from failing to pay royalties, paying them late or underpaying them, the report said. OMR claims that waiving the penalties encourages companies to self-report underpaid royalties.

The audit recommended that OMR should assess late payments on all companies that do not submit royalty payments on time, and both the Mineral Board and OMR should re-evaluate their current penalty waiver practices. Auditors also recommended that OMR should coordinate with the revenue department and the Office of Conservation within DNR to make certain the oil and gas companies are paying the proper severance taxes and royalties.

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