

DEPARTMENT OF NATURAL RESOURCES

REAL ESTATE DIVISION

OIL AND GAS LEASES ON STATE LANDS

(By authority conferred on the department of natural resources by sections 2 and 12 of Act No. 280 of the Public Acts of 1909, as amended, sections 1 and 27 of Act No. 326 of the Public Acts of 1913, as amended, and section 2 of Act No. 17 of the Public Acts of 1921, as amended, being SS322.202, 322.212, 322.401, 322.427, and 299.2 of the Michigan Compiled Laws)

R 299.8101 Definitions.

Rule 101. As used in these rules:

- (a) "Auction lease" means a lease issued as the result of competitive bidding at public auction.
- (b) "Bonus bid" means a payment by the buyer to the lessor at the time of sale as part of the consideration for acquisition of an oil and gas lease.
- (c) "Commission" means the Michigan natural resources commission.
- (d) "Department" means the Michigan department of natural resources.
- (e) "Development lease" means a lease that allows the use of the surface of state lands for oil and gas exploration, development, and production.
- (f) "Direct lease" means a lease issued as the result of individual negotiations with the commission.
- (g) "Gas" means a mixture of hydrocarbons and varying quantities of non-hydrocarbons in a gaseous state which may or may not be associated with oil, including those liquids resulting from condensation, including, but not limited to, natural gas and casinghead gas.
- (h) "Land" means any property description in which the state owns any oil and gas rights.
- (i) "Lessee" means the working interest owner or owners of a lease as shown in the records of the department.
- (j) "Lessor" means the commission.
- (k) "Nondevelopment lease" means a lease that does not allow any use of the land surface, including the surface of submerged bottom lands, for oil and gas exploration, development, and production.
- (l) "Nonleasable lands" means lands that will not be leased for oil and gas exploration, development, and production.
- (m) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir, including, but not limited to, oil, casinghead gasoline, drip gasoline, and natural gasoline extracted from natural gas.
- (n) "Performance bond" means a surety to guarantee that the lessee and the lessee's heirs, executors, administrators, successors, and assigns shall faithfully perform the covenants, conditions, and agreements specified in the lease and the laws and rules of the state of Michigan.
- (o) "Qualified party" means an individual of the age of majority or a partnership, corporation, or other legal entity qualified to do business in the state of Michigan.
- (p) "Sale unit" means the land description or descriptions as numbered on the lease sale notice.

History: 1981 AACS.

R 299.8102 Lease sale applications; notice of location and classification of lands.

Rule 102. (1) Any party may submit applications identifying state lands desired for oil and gas leasing. The department may also identify lands for leasing.

(2) Applications for state lands desired to be offered for leasing shall be in writing and shall be submitted to the Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909, or such other address as applicable. Applications may be general or specific in nature. General applications shall specify the area by county, township, and range. Specific applications shall include all of the following information:

- (a) The specific land description, including private claims and submerged lands.
 - (b) County.
 - (c) Section.
 - (d) Township.
 - (e) Range.
 - (f) For platted subdivisions, the lot and block numbers, subdivision name, and county.
- (3) The minimum application fee shall accompany the written application and shall be in accordance with the fee schedule approved by the commission.
- (4) The department shall identify all available lands requested or recommended for leasing and shall recommend to the commission its classifications for leasing as development, non-development, or nonleasable. The department shall publish a notice describing the general location of the lands recommended for leasing and the recommended classification in a newspaper, as defined in section 1461 of Act No. 236 of the Public Acts of 1961, as amended, being S600.1461 of the Michigan Compiled Laws, not less than 10 days before the commission takes final action on the recommended land classifications. This notice shall be published at least once in a newspaper published in the county where the lands are situated. If a newspaper is not published in the county where the lands are situated, then notice shall be published in a newspaper published in a county adjoining the county in which the lands are located.
- (5) The commission shall offer lands approved by it for leasing at public auction or may enter into leases under R 299.8105.

History: 1981 AACCS.

R 299.8103 Sale by public auction; notice; list of lands offered for leasing.

Rule 103. (1) A notice of lease sales shall be published at least once in a newspaper, as defined in section 1461 of Act No. 236 of the Public Acts of 1961, as amended, being S600.1461 of the Michigan Compiled Laws, not less than 10 days before the sale. The newspaper shall be published in the county where the lands are situated. If a newspaper is not published in the county where the lands are situated, the notice shall be published in a newspaper published in a county adjoining the county in which the lands are located. A notice shall describe the general location of the land to be offered for lease and the date, time, and place of sale.

(2) Any party may request from the department a list of lands being offered for leasing at public auction. The lease sale list shall include all of the following information:

- (a) The date, time, and place of sale.
- (b) Descriptions of lands being offered.
- (c) The conditions of sale.

History: 1981 AACCS.

R 299.8104 Offer at public auction; procedure.

Rule 104. (1) Oil and gas lease rights in state lands may be offered at competitive public auction (lease sale).

(2) The commission shall stipulate the terms and conditions under which lands may be offered for lease sale.

(3) Any qualified party may make a bid on sale units offered for lease.

(4) The full amount of the bonus bid shall be paid on the same date on which the lease rights are bid. Bidders who have an established credit rating with the department through prior leasing activity may pay the total bid by personal or company check. Bidders who do not have an established credit rating with the department through prior leasing activity shall pay not less than 1/2 of the total bonus bid in cash or by certified check or money order. The balance may be paid by company or personal check. All remittances shall be made payable to: "State of Michigan." Bidders may establish a credit rating by filing 3 references acceptable to the department, 1 of which shall be a bank, with the department.

(5) Failure of the successful bidder to pay the total bid at the time of sale shall result in the forfeiture of the bonus bid and the lease rights to the sale unit or units involved.

(6) The department reserves the right to reject any bid and may, in its discretion, stop the sale of any sale unit at any time and for any stated reason.

(7) Lands in sale units for which no bids are received shall not be offered at lease sale unless applied for again. The commission, in its discretion, may include the unbid land in a future sale or sales.

(8) Where available lands in sale units do not receive sufficient bidders or where the successful bidder defaults for any reason, the lands shall be offered at the following lease sale unless withdrawn from sale for any stated reason or if leased under R 299.8105.

(9) Available lands in sale units in which bids were not accepted shall be offered at the following lease sale unless withdrawn from sale for any stated reason or if leased under R 299.8105.

History: 1981 AACS.

R 299.8105 Direct leases.

Rule 105. (1) The commission may enter into direct leases for lands needed to complete a drilling unit. Qualified parties shall submit written application as described in R 299.8102(2) and shall submit proof that they own or control lease rights to the majority of the land in the proposed drilling unit.

(2) The commission may also enter into direct leases for lands offered but not leased at public auction if the lands have been offered at 2 previous lease sales within a 1-year period without receiving the required number of bidders. Qualified parties shall submit written application as described in R 299.8102(2).

(3) Direct leases entered into under subrules (1) and (2) of this rule normally require payment of a bid consideration, rental rate, and rate of royalty at least equal to those under which other lease rights in the proposed unit were acquired, but shall not be less than the minimum rates established for leases on lands offered at public auction.

(4) This rule and R 299.8104 notwithstanding, when the department determines that state land not under lease is being drained, it may recommend to the commission that the commission enter into a direct lease on those lands being drained, and the commission may enter into such a lease.

History: 1981 AACS.

R 299.8106 Awarding of leases.

Rule 106. (1) Commission approval is required before any lease may be issued. The commission reserves the right to reject any and all bids with reasons stated.

(2) The department may group descriptions for which issuance of leases has been approved into 1 or more leases, depending on the location of the descriptions and any special lease conditions.

(3) Before a lease shall be executed for any state lands, the successful bidder shall file a performance bond acceptable to the lessor, unless waived by the commission. The amount of performance bond, maximum acreage covered, and when and how the bond may be drawn upon shall be specified by the commission.

(4) Two copies of each lease instrument shall be provided, by certified mail, to the lessee for signature. Unless otherwise agreed to in writing by the lessor, the lessee shall return all copies, properly executed, with proper performance bond, within 15 days from the date of receipt shown on the receipt form of the post office department.

(5) If the lessee is unable to return the lease forms and performance bond within the time specified, the lessor may, upon request of the lessee, authorize additional time if the lessor determines that the delay is not the fault of lessee. Failure of the lessee to comply within time limits authorized shall result in forfeiture of the entire bid paid. Lands on which lease rights have been forfeited shall be offered for leasing at the earliest possible date, unless withdrawn for any stated reason by the commission or unless leased under R 299.8105.

(6) The original copy of the properly executed lease shall be returned to the lessee and the duplicate copy shall be retained by the lessor.

(7) No operations on any leased land shall begin until a fully executed lease has been received by the lessee.

(8) All leases shall be subject to all present and future applicable federal and state laws and rules.

(9) The commission may require any lease applicant or the successful bidder on any sale unit or assignee under any lease to submit the following information:

- (a) If an individual, proof of attainment of the age of majority.
- (b) If a copartnership, a certified copy of the registration or a sworn statement signed by 1 partner setting forth the names and addresses of all partners and the articles of partnership.
- (c) If a corporation or other legal entity, copies of the incorporation papers showing qualifications to do business in the state of Michigan. The lessee shall file these papers with the lessor within 15 days from the date of receipt of the lessor's notice as shown on the receipt form of the post office department.

History: 1981 AACCS.

R 299.8107 Leases; forms; determination of terms; preclusion of certain other leases prohibited; issuance in name of party other than successful bidder prohibited; responsibility for compliance with terms and conditions.

Rule 107. (1) A lease shall be on a form prescribed by the commission.

(2) The commission shall determine the royalty and rental rates, minimum bonus, primary lease term, and other lease terms.

(3) A lease for oil and gas on any lands shall not preclude other leases for metallic or nonmetallic minerals where such joint operations might prove feasible.

(4) A lease on land offered at public auction shall not be issued in the name of any party other than the designated successful bidder or bidders at the time of sale.

(5) The lessee shall be responsible for compliance with all terms and conditions of the lease.

History: 1981 AACCS.