

## DEPARTMENT OF NATURAL RESOURCES

### REAL ESTATE DIVISION

#### NONMETALLIC MINERALS LEASED ON STATE LANDS

(By authority conferred on the department of natural resources by section 2 of Act No. 280 of the Public Acts of 1909, as amended, section 1 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, 322.401, and 299.2 of the Michigan Compiled Laws)

#### **R 299.4021 Definitions.**

Rule 1. 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 a nonmetallic minerals lease.

(c) "Department" means the Michigan department of natural resources.

(d) "Direct nonmetallic minerals lease" means a lease issued as the result of individual negotiations with the lessor.

(e) "Land" means any property in which the state owns any nonmetallic mineral rights.

(f) "Leasable with restriction" means the lands will be leased for nonmetallic mineral exploration, development, or production subject to special lease restrictions.

(g) "Lease sale unit" means the land described and numbered on the lease sale notice.

(h) "Lessee" means the working interest owner or owners of a lease as shown in the records of the department.

(i) "Lessor" means the Michigan natural resources commission.

(j) "Nonleasable lands" means lands that will not be leased for metallic mineral exploration, development, or production.

(k) "Nonmetallic minerals" or "nonmetallic mineral products" includes any of the following:

(i) Andalusite.

(ii) Anhydrite.

(iii) Asbestos.

(iv) Barite.

(v) Celestite.

(vi) Clay.

(vii) Coal.

(viii) Feldspar.

(ix) Garnet.

(x) Gem stones, excluding diamonds.

(xi) Graphite.

(xii) Gypsum.

- (xiii) Kyanite.
- (xiv) Limestone or dolomite.
- (xv) Marl.
- (xvi) Mica.
- (xvii) Natural salines, including iodine, bromine, calcium, and magnesium compounds.
- (xviii) Potash salts.
- (xix) Salt.
- (xx) Sand and gravel, both construction and industrial.
- (xxi) Sandstone.
- (xxii) Shale.
- (xxiii) Sillimanite.
- (xxiv) Slate.
- (xxv) Miscellaneous stone, both crushed and dimension.
- (xxvi) Sulphur.
- (xxvii) Talc.
- (l) "Nonmetallic minerals lease" means a lease that allows the use of state lands for nonmetallic mineral exploration, development, or production.
- (m) "Performance bond" means a surety or cash bond 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.
- (n) "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.

History: 1987 AACCS.

**R 299.4022 Lease sale applications; notice of land location and classification; manner of leasing approved lands.**

Rule 2. (1) Any party may submit applications identifying state lands desired for nonmetallic mineral 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. Applications shall include all of the following specific land descriptions:

- (a) County.
- (b) Town and range.
- (c) Section and fraction thereof, if applicable.
- (d) All of the following for platted subdivisions:
  - (i) The lot and block numbers.
  - (ii) Subdivision name.
  - (iii) City or township.
  - (iv) County.

(3) After receipt of properly submitted lease sale applications, the department shall conduct a field review to determine whether the property should be classified as leasable, nonleasable, or leasable with restrictions.

(4) 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 30 days before the lessor takes final action on the recommended land classifications. This notice shall be published at least once in a newspaper of general circulation in the county where the lands are situated.

(5) The department shall identify all available lands requested or recommended for leasing, shall notify, as appropriate, land surface owners of record and local units of government, and shall recommend to the lessor its classifications for leasing as leasable, nonleasable, or leasable with restrictions.

(6) The lessor shall offer lands approved by it for leasing at public auction or may enter into direct leases as defined in R 299.4021(d).

History: 1987 AACS.

**R 299.4023 Lease sales; notice; list of lands offered for leasing at public auction.**

Rule 3. (1) A notice of lease sales or direct leases 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 30 days before the sale. The notice shall be published in a newspaper of general circulation in the county where the lands are situated. A notice shall describe the general location of lands to be offered for lease and the date, time, and place of sale.

(2) Any party may request from the department the form of lease to be used and 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: 1987 AACS.

**R 299.4024 Offer at public auction; procedure.**

Rule 4. (1) Nonmetallic mineral lease rights in state lands may be offered at public auction (lease sale).

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

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

(4) The full amount of the bonus bid shall be paid to the lessor on the same date on which the lease rights are bid. Bidders may establish credit with the department through prior leasing activity or by filing 3 references relating to the financial performance of its bidder, 1 of which shall be a bank, in which case total payment may be made by personal or company check. Bidders who do not have an established credit rating with the department shall pay not less than 1/2 of the total bonus bid in cash or by certified

check or money order. All remittances shall be made payable to: "State of Michigan."

(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 lease sale unit or units involved.

(6) The lessor reserves the right to reject any bid or stop the sale of any lease sale unit when a bid is made that is less than the minimum bid or when the lessor determines that title ownership is in question.

(7) Available lands in lease sale units on which bids were not accepted or where the successful bidder defaults shall be offered at the following lease sale unless withdrawn from sale or leased under R 299.4025.

History: 1987 AACS.

### **R 299.4025 Direct nonmetallic minerals leases.**

Rule 5. (1) The lessor may enter into direct nonmetallic mineral leases for either of the following reasons:

(a) Completion of a mining operation area.

(b) Consolidation of fractional interests owned or controlled by the applicant.

(2) Direct lease sales shall follow the same applicable public notice requirements as for public auction lease sales.

History: 1987 AACS.

### **R 299.4026 Awarding of leases.**

Rule 6. (1) Lessor approval is required before any lease is issued.

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

(3) Before a lease shall be executed for any state lands, the successful bidder shall file a performance bond to the lessor, unless waived by the lessor. The amount of performance bond, maximum acreage covered, and when and how the bond may be drawn upon shall be specified by the lessor and shall be in accordance with the bond schedule approved by the lessor on April 10, 1986.

(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 performance bond, within 30 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 shall, upon request of the lessee, authorize additional time if the delay is not the fault of the 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 by the lessor or unless leased under R 299.4025.

(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) Operations on any leased lands shall not be conducted until a fully executed lease has been received by the lessee.

(8) All leases are subject to all federal, state, and local laws.

(9) The lessor shall require any lease applicant on any lease sale unit or assignee under any lease to submit all of the following information:

(a) If an individual, proof of attainment of legal age.

(b) If a co-partnership, 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 the entity's qualifications to do business in the state of Michigan. The lessee shall file these papers with the lessor within 30 days from the date of receipt of the lessor's notice of award as shown on the receipt form of the post office department.

History: 1987 AACCS.

**R 299.4027 Leases; form; lessor to determine terms; issuance in name of successful bidder required; responsibility for compliance with terms of lease.**

Rule 7. (1) A lease shall be on a form prescribed by the lessor.

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

(3) A lease on land offered at public auction shall be issued in the name of the successful bidder or bidders at the time of sale or in the name of the party or parties designated by them at the time of sale.

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

History: 1987 AACCS.