

DEPARTMENT OF NATURAL RESOURCES

REAL ESTATE DIVISION

METALLIC 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 299.4001 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 metallic minerals lease.

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

(d) "Direct metallic 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 metallic mineral rights.

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

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

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

(i) "Metallic minerals" means all metallic minerals, metallic mineral products, ores, and concentrates as defined in the metallic minerals lease document approved by the natural resources commission.

(j) "Metallic minerals lease" means a lease that allows the use of state lands for metallic mineral exploration, development, and production.

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

(l) "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.

(m) "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: 1984 AACCS.

R 299.4002 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 metallic 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, or such other address as applicable. Applications shall include all of the following specific land descriptions:

(a) County.

(b) Town and range.

(c) Section and fraction thereof, if applicable.

(d) For platted subdivisions, the lot and block number, subdivision name, city or township, and county.

(3) The minimum application fee shall accompany the written application and shall be in accordance with the fee schedule approved by the lessor.

(4) After receipt of properly submitted lease sale applications, the department will conduct a field review to determine the appropriate classification recommendations. 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 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. The department shall identify all available lands requested or recommended for leasing and shall recommend to the lessor its classifications for leasing as leasable or nonleasable.

(5) The lessor shall offer lands approved by it for leasing at public auction or may enter into leases under R 299.4005.

History: 1984 AACCS.

R 299.4003 Lease sales; notice; list of lands offered for leasing at public auction.

Rule 3. (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 30 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 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: 1984 AACCS.

R 299.4004 Offer at public auction; procedure.

Rule 4. (1) Metallic 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 or arrangements which are satisfactory to the lessor shall be made for the payment of the bonus bid 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 acceptable to the department, 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 or make arrangements satisfactory to the lessor for payment thereof at the time of the 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 at any time for good and sufficient reasons.

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

(8) 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 for any stated reason or leased under R 299.4005.

History: 1984 AACCS.

R 299.4005 Direct metallic minerals leases.

Rule 5. The lessor may enter into direct metallic minerals leases.

History: 1984 AACCS.

R 299.4006 Awarding of leases.

Rule 6. (1) Lessor approval is required before any lease may be issued. Approval may be withheld for good and sufficient reasons.

(2) The department may group lease sale units for which 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 acceptable 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.

(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 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 may, upon request of the lessee, authorize additional time if the lessor determines that 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 for any stated reason by the lessor or unless leased under R 299.4005.

(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) Without the written consent of the department, no operations on any leased lands will be conducted 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 lessor may require any lease applicant or the successful bidder on any lease sale unit or assignee under any lease to submit 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 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: 1984 AACCS.

R 299.4007 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 action shall be issued in the name of the successful bidder or bidders at the time of sale or the party or parties designated by them at the time of sale.

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

History: 1984 AACCS.