

DEPARTMENT OF NATURAL RESOURCES

REAL ESTATE DIVISION

UNDERGROUND GAS STORAGE LEASES 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 2 of Act No. 17 of the Public Acts of 1921, as amended, and section 252 of Act No. 380 of the Public Acts of 1965, as amended, being SS322.202, 299.2, and 16.352 of the Michigan Compiled Laws)

R 299.4051 Definitions.

Rule 1. As used in these rules:

(a) "Bonus payment" means a payment by the buyer to the lessor at the time of sale as part of the consideration for acquisition of a gas storage lease.

(b) "Commission" means the Michigan natural resources commission.

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

(d) "Development lease" means a lease that allows the use of the surface of state lands for gas storage activities.

(e) "Development plan" means a storage field plan that includes proposed locations for surface equipment, well locations, pipelines, and roads.

(f) "Gas" means a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in subsurface reservoirs, often in association with petroleum.

(g) "Land" means any property description in which the state owns any gas storage rights.

(h) "Lease" means a direct lease issued as the result of individual negotiations with the commission.

(i) "Lessee" means the owner or owners of a gas storage 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 bottomlands, for gas storage activities.

(l) "Nonleasable lands" means lands that will not be leased for gas storage purposes.

(m) "Performance bond" means a surety bond, irrevocable letter of credit, 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 in the laws and administrative rules of the state of Michigan.

(n) "Qualified party" means an individual who is not less than the age of majority or a partnership, corporation, or other legal entity that is qualified to do business in the state of Michigan.

History: 1990 AACS.

R 299.4052 Lease applications; notice of location and classification of lands.

Rule 2. (1) Any party may submit applications identifying lands desired for gas storage leasing.

(2) Applications for leasing lands 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 the department may designate. 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.
- (g) Development plan.

(3) An 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 for leasing and shall recommend to the commission its classifications for leasing as development, nondevelopment, or nonleasable. The department shall publish a notice describing the general location of the lands for leasing and the 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 land classifications. This notice shall be published at least once in a newspaper 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 in a county adjoining the county in which the lands are located.

History: 1990 AACS.

R 299.4053 Circumstances under which commission may enter into lease; terms and conditions of lease offer; request by qualified party; payment of bonus payment.

Rule 3. (1) The commission may enter into leases under any of the following circumstances:

- (a) When it is determined to be in the best interest of the state.
- (b) For completion of a gas storage field.
- (c) For consolidation of fractional interests owned or controlled by the applicant.

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

(3) Any qualified party may request a lease.

(4) The full amount of the bonus payment shall be paid upon receipt of a billing invoice from the lessor.

History: 1990 AACS.

R 299.4054 Commission approval of lease; lessee performance bond; signing and return of lease copies; effect of federal and state laws and rules on lease; commission-required information.

Rule 4. (1) Commission approval is required before any lease may be granted. The commission reserves the right to deny any and all lease requests and shall state the reasons for denial.

(2) Any lease issued will include all state-owned surface descriptions within the development plan as approved by the commission.

(3) Before a lease is executed for any state lands, the lessee shall file a performance bond acceptable to the lessor. The amount of the performance bond, the 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 a proper performance bond, within 30 days from the date of receipt shown on the receipt form of the United States postal service.

(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 bonus payment.

(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 state-owned land shall not begin until a fully executed lease has been received by the lessee.

(8) All leases shall be subject to all applicable federal and state laws and administrative rules. Administrative rules made after the approval of a lease shall not operate to affect the primary term of the lease, the rental rate, or the acreage included in the lease, unless agreed to by both parties.

(9) The commission may require a lease applicant to submit the following information, as applicable:

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

(b) If a copartnership, a certified copy of the partnership registration or a sworn statement which is signed by 1 partner and which sets 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 which demonstrate a corporation's or legal 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 as shown on the receipt form of the United States postal service.

History: 1990 AACCS.

R 299.4055 Lease terms and conditions.

Rule 5. (1) Lease terms and conditions shall be on a lease form prescribed by the commission.

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

(3) The lessee and the lessor shall be separately responsible for compliance with their respective obligations pursuant to the terms and conditions of the lease.

History: 1990 AACRS.