

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF MINERALS MANAGEMENT

LEASING STATE-OWNED METALLIC MINERAL RIGHTS

(By authority conferred on the department of natural resources by sections 502 and 504 of 1994 PA 451, MCL 324.502 and MCL 324.504)

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" means a payment by the lessee to the lessor at the time of the auction or direct lease 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 department.

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

(f) "Lessee" means the working interest owner of a lease as shown in the records of the department as the person or entity responsible for the lease.

(g) "Lessor" means the director of the Michigan department of natural resources, or the director's designee, for the state of Michigan.

(h) "Metallic minerals" means all metallic minerals, metallic mineral products, ores, and concentrates as defined in the metallic minerals lease document approved by the department.

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

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

(k) "Performance bond" means a surety bond, irrevocable letter of credit, certificate of deposit, or cash 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.

(l) "Qualified party" means an individual of the age of majority or a co-partnership, corporation, or other legal entity qualified to do business in the state of Michigan.

History: 1984 AACCS; 2018 AACCS.

Editor's Note: An obvious error in R 299.4001 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2018 MR 4. The memorandum requesting the correction was published in *Michigan Register*, 2018 MR 5.

R 299.4002 Lease applications; notice of land location and classification; manner of leasing approved lands.

Rule 2. (1) Any qualified party may submit applications identifying state lands desired for metallic mineral leasing. The department may also identify and nominate lands for leasing.

(2) Applications for state lands desired to be offered for leasing must be in writing on a form designated by the department and must be submitted to the department at the address listed on the form.

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

(4) After receipt of properly submitted lease applications, the department shall conduct a field review to determine the appropriate classification recommendations. For lease auctions, the department shall publish a notice describing the general location of the lands recommended for leasing, the recommended classification, and the date, time, and place of public auction in a newspaper, as defined in section 1461 of the revised judicature act of 1961, MCL 600.1461, not less than 30 days before the auction. This notice must 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 must be published in a newspaper published in a county adjoining the county in which the lands are located.

(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; 2018 AACCS.

R 299.4003 Notice of direct lease request; list of lands offered for leasing at public auction or by direct lease.

Rule 3. (1) A notice of direct lease request must be published by the lease applicant at least once in a newspaper, as defined in section 1461 of the revised judicature act of 1961, MCL 600.1461, not less than 30 days before the lessor takes final action on the lease request. The newspaper must 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 must be published in a newspaper published in a county adjoining the county in which the lands are located. A notice must describe the general location of lands recommended for lease and recommended lease classification.

(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 or considered for direct lease. The list must include all of the following information pertaining to leasing by auction:

- (a) The date, time, and place of lease auction.
- (b) The conditions of auction.

History: 1984 AACCS; 2018 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.

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

(3) Any qualified party may make a bid on metallic mineral rights offered for lease.

(4) The full amount of the bonus must be paid or arrangements which are satisfactory to the lessor must be made for the payment of the bonus 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 must be made payable to: "State of Michigan."

(5) Failure of the successful bidder to pay the total bid at the time of auction or make arrangements satisfactory to the lessor for payment thereof at the time of the auction shall result in the forfeiture of the bonus and the lease rights to the lands involved.

(6) The lessor reserves the right to reject any bid or stop the auction of any offered lease rights at any time for good and sufficient reasons.

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

(8) Available land on which bids were not accepted or where the successful bidder defaults must be offered at the following lease auction unless withdrawn from auction for any stated reason, or leased under R 299.4005.

History: 1984 AACS; 2018 AACS.

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R 299.4005 Direct metallic minerals leases.

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

History: 1984 AACS.

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 rights for which issuance of leases has been approved into 1 or more leases, depending on the location of the lease rights and any special lease conditions.

(3) Before a lease is executed for any state lands, the successful bidder or proposed direct lessee 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 must be specified by the lessor.

(4) The department shall provide 1 lease instrument to the proposed lessee for signature. Unless otherwise agreed to in writing by the lessor, the proposed lessee shall return all leases, properly executed, with proper performance bond and payment, within 30 days from the date the department sent the leases.

(5) If the proposed lessee is unable to return the lease forms, payment, 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 proposed lessee. Failure of the proposed lessee to comply within time limits authorized must result in forfeiture of the entire amount paid. Lands on which lease rights have been forfeited must 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 department shall return the original of the fully executed lease to the lessee and retain a copy.

(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 are 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 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 copy of the “Certificate of Co-partnership” or “Certificate of Persons Conducting Business Under Assumed Name” approved by the county clerk in the county where the leased lands are located.

(c) If a corporation or other legal entity, copies of the documents showing qualifications to do business in the state of Michigan.

History: 1984 AACCS; 2018 AACCS.

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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 must 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 must be issued in the name of the successful bidder or bidders at the time of auction or the party or parties designated by them at the time of auction.

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

History: 1984 AACCS; 2018 AACCS.