

## DEPARTMENT OF NATURAL RESOURCES

### OFFICE OF MINERALS MANAGEMENT

#### LEASING STATE-OWNED UNDERGROUND GAS STORAGE 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 299.4051 Definitions.**

Rule 1. As used in these rules:

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

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

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

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

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

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

(g) "Lease" means a direct underground gas storage lease issued as the result of individual negotiations with the department.

(h) "Lessee" means the person or entity that has the exclusive right under lease to store natural gas as shown in the records of the department.

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

(j) "Nondevelopment lease" means a lease that does not allow any use of the land surface for gas storage activities without separate authorization from the department.

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

(l) "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 in the laws and administrative rules of the state of Michigan.

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

History: 1990 AACCS; 2018 AACCS.

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

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

(2) Applications for leasing lands 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. Applications must include a development plan.

(3) An application fee must accompany the written application and must be in accordance with the fee schedule approved by the department.

(4) The department shall identify all available lands requested for leasing and the recommended lease classifications of development, nondevelopment, or nonleasable. The lease applicant shall publish a notice describing the general location of the lands requested for leasing and the recommended classification 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 department takes final action on the lease request. This notice must 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 must be published in a newspaper in a county adjoining the county in which the lands are located.

History: 1990 AACS; 2018 AACS.

**R 299.4053 Direct lease; terms and conditions of lease; request by qualified party; payment of bonus payment.**

Rule 3. (1) The department may enter direct leases.

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

(3) Any qualified party may request a lease.

(4) The proposed lessee shall pay the full amount of the bonus payment upon receipt of a billing invoice from the lessor.

History: 1990 AACS; 2018 AACS.

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

Rule 4. (1) Department approval is required before any lease is granted. The department reserves the right to deny-all lease requests and shall state the reasons for denial.

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

(3) Before a lease is executed, the proposed lessee shall file a performance bond acceptable to the lessor. The department shall specify the amount of the performance bond, the maximum acreage covered, and when and how the bond may be drawn upon.

(4) The department shall provide 1 copy of each lease instrument to the proposed lessee for signature. Unless otherwise agreed to in writing by the lessor, the proposed lessee shall return the lease instrument(s), properly executed, with a proper performance bond

and payment, within 30 days from the date the lease instrument was sent by the department.

(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 proposed 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 bonus payment.

(6) The department shall return the original of the fully executed lease to the lessee and retain a copy.

(7) Operations on any state-owned land must not begin until a fully executed lease has been received by the lessee.

(8) All leases are subject to all applicable federal and state laws and administrative rules. Administrative rules promulgated 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 department 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 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, documentation that demonstrates a corporation's or legal entity's qualifications to do business in the state of Michigan.

History: 1990 AACS; 2018 AACS.

#### **R 299.4055 Lease terms and conditions.**

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

(2) A lease for gas storage on any lands must 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 are separately responsible for compliance with their respective obligations pursuant to the terms and conditions of the lease.

History: 1990 AACS; 2018 AACS.