



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

December 18, 2020

**NOTICE OF FILING**

**ADMINISTRATIVE RULES**

To: Secretary of the Senate  
Clerk of the House of Representatives  
Joint Committee on Administrative Rules  
Michigan Office of Administrative Hearings and Rules (Administrative Rule #2020-083-NR)  
Legislative Service Bureau (Secretary of State Filing #20-12-07)  
Department of Natural Resources

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2020-083-NR (Secretary of State Filing #20-12-07) on this date at 03:16 P.M. for the Department of Natural Resources entitled, "Leasing State-Owned Oil and gas Rights."

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson  
Secretary of State


*Melissa Malerman 10/18*

Melissa Malerman, Departmental Supervisor  
Office of the Great Seal

Enclosure

## CERTIFICATE OF ADOPTION

By authority conferred on the department of natural resources by sections 502 and 504 of 451 PA 1994, MCL 324.502 and MCL 324.504, Administrative Rules R 299.8101, R 299.8102, R 299.8103, R 299.8104, R 299.8105, R 299.8106, and R 299.8107 of the Michigan Administrative Code are amended.

Adopted by:  December 16, 2020  
Daniel Eichinger,, Director      Date



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

## LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated November 24, 2020, in which the Department of Natural Resources proposes to modify a portion of the Michigan Administrative Code entitled “**Leasing State-Owned Oil and Gas Rights**” by:


- ◆ Amending R 299.8101, R 299.8102, R 299.8103, R 299.8104, R 299.8105, R 299.8106, and R 299.8107.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: December 8, 2020

Michigan Office of Administrative Hearings and Rules

By:   
Katie Wienczewski,  
Attorney



Since 1941

**Legal Division**

**Kevin H. Studebaker, Director**

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Department of Natural Resources dated November 24, 2020, amending R 299.8101, R 299.8102, R 299.8103, R 299.8104, R 299.8105, R 299.8106, and R 299.8107 of the Department's rules entitled "Leasing State-Owned Oil and Gas Rights." I approve the rules as to form, classification, and arrangement.

Pursuant to section 44(1) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.244(1), these rules are being processed without a public hearing.

Dated: December 7, 2020

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,  
Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

MINERALS MANAGEMENT SECTION

LEASING STATE-OWNED OIL AND GAS RIGHTS

Filed with the secretary of state on December 18, 2020

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

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

R 299.8101, R 299.8102, R 299.8103, R 299.8104, R 299.8105, R 299.8106, and R 299.8107 of the Michigan Administrative Code are amended, as follows:

R 299.8101 Definitions.

Rule 101. 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 an oil and gas lease.

(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 oil and gas exploration, development, and production.

(e) "Direct lease" means a lease issued as the result of individual negotiations with the department.

(f) "Gas" means a mixture of hydrocarbons and varying quantities of non-hydrocarbons in a gaseous state which may or may not be associated with oil, including those liquids resulting from condensation, including, but not limited to, natural gas and casinghead gas.

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

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

(i) "Lessor" means the department.

(j) "Nondevelopment lease" means a lease that does not allow any use of the land surface, including the surface of submerged bottom lands, for oil and gas exploration, development, and production.

(k) "Nonleasable lands" means lands that will not be leased for oil and gas exploration, development, and production.

(l) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, that are produced at the well in liquid form by ordinary production methods and that are not the result of condensation of gas after it leaves the underground reservoir,

including, but not limited to, oil, casinghead gasoline, drip gasoline, and natural gasoline extracted from natural gas.

(m) "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.

(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.

(o) "Sale unit" means the land description or descriptions as numbered on the lease sale notice.

R 299.8102 Lease sale applications; notice of location and classification of lands.

Rule 102. (1) Any party may submit applications identifying state lands desired for oil and gas leasing. The department may also identify lands for leasing.

(2) Applications for state lands desired to be offered for leasing must be in writing and must be submitted to the Department of Natural Resources, P.O. Box 30451, Lansing, Michigan 48909-7951, or such other address as applicable. Applications may be general or specific in nature. General applications must specify the area by county, township, and range. Specific applications must 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.

(3) The minimum 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 nominated for leasing and shall recommend classifications for leasing as development, non-development, or nonleasable. A public notice describing the general location of the lands requested for leasing must be published in a newspaper, as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the director of the department takes final action on the recommended land classifications. 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 where the lands are located.

(5) The department shall offer lands approved for leasing at public auction or may enter into leases under R 299.8105.

R 299.8103 Sale by public auction; notice; list of lands offered for leasing.

Rule 103. (1) A notice of lease sales must be published at least once in a newspaper, as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. 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 where the lands are located. A notice must describe the general location of the land to be offered for lease and the date, time, and place of sale.

(2) Any party may request from the department a list of lands being offered for leasing at public auction. The lease sale list must 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.

R 299.8104 Offer at public auction; procedure.

Rule 104. (1) Oil and gas lease rights in state lands may be offered at competitive public auction (lease sale).

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

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

(4) The full amount of the bonus bid must be paid as directed by the department.

(5) Failure of the successful bidder to pay the total bid shall result in the forfeiture of the bonus bid and the lease rights to the sale unit or units involved.

(6) The department reserves the right to reject any bid and may, in its discretion, stop the sale of any sale unit at any time and for any stated reason.

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

R 299.8105 Direct leases.

Rule 105. (1) The department may enter into direct leases for lands needed to complete a drilling unit. Qualified parties shall submit written application as described in R 299.8102(2) and shall submit proof that they own or control lease rights to the majority of the land in the proposed drilling unit.

(2) The department may also enter into direct leases for lands offered but not leased at public auction if the lands have been offered at 2 previous lease sales within a 1-year period without receiving the required number of bidders. Qualified parties shall submit written application as described in R 299.8102(2).

(3) Direct leases entered into under subrules (1) and (2) of this rule normally require payment of a bonus, rental rate, and rate of royalty at least equal to those under which other lease rights in the proposed unit were acquired, but must not be less than the minimum rates established for leases on lands offered at public auction.

(4) This rule and R 299.8104 notwithstanding, when the department determines that state land not under lease is being drained, the department may enter into a direct lease on those lands being drained.

R 299.8106 Awarding of leases.

Rule 106. (1) Department approval is required before any lease may be issued. The department reserves the right to reject any and all bids with reasons stated.

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

(3) Before a lease is executed for any state lands, the successful bidder shall file a performance bond acceptable to the lessor, unless waived by the department. The amount of performance bond, maximum acreage covered, and when and how the bond may be drawn upon shall be specified by the department.

(4) The lessee shall return all copies, properly executed, with proper performance bond, within 15 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 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 must be offered for leasing at the earliest possible date, unless withdrawn for any stated reason by the department or unless leased under R 299.8105.

(6) The original copy of the properly executed lease must be returned to the lessee and a duplicate copy must be retained by the lessor.

(7) No operations on any leased land shall begin 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 department may require any lease applicant or the successful bidder on any sale unit or assignee under any lease to submit the following information:

- (a) If an individual, proof of attainment of the age of majority.
- (b) If a copartnership, 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.

R 299.8107 Leases; forms; determination of terms; preclusion of certain other leases prohibited; issuance in name of party other than successful bidder prohibited; responsibility for compliance with terms and conditions.

Rule 107. (1) A lease must be on a form prescribed by the department.

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

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

(4) The lessee shall comply with all terms and conditions of the lease.