



Michigan Department of Natural Resources POLICY AND PROCEDURE

27.23-09 – Nonmetallic Minerals Leasing (Revised: 07/01/2021)

Supersedes:

27.23-09 Nonmetallic Mineral Leasing - State-Owned Lands (Revised 02/04/2010)

Purpose:

To outline a process the Department of Natural Resources (DNR) shall follow for entering into contracts that provide access to State-owned mineral rights for the purpose of nonmetallic mineral exploration and development.

Definitions:

Amendment: A change in the original terms of a nonmetallic minerals lease.

Assignment: A transfer of working interest in a nonmetallic minerals lease.

Bonus: A one-time payment by the Lessee to the Lessor at the time of leasing as part of the consideration for initial acquisition of a nonmetallic minerals lease.

Extension: The period after the expiration of the primary term of a nonmetallic minerals lease.

Land Ownership Tracking System (LOTS): DNR's electronic land management database.

Lessee: The person or entity that is responsible for all covenants, express or implied, in the lease regardless of any partial interest assignments.

Lessor: The Director of the DNR or the Director's designee, on behalf of the State of Michigan.

Parcel Classification: Parcels are classified for mineral leasing based on their natural resource features. Classification categories consider the effects nonmetallic minerals exploration and potential development could have on current and future land uses and other resource values and recognize the DNR's responsibility to manage the land surface (and the expertise DNR resource specialists possess to help mitigate impacts to privately owned surface rights). Mineral leases are then classified based on the parcel classification within that lease. Classification categories are:

- *Leasable Development (LD)* – Leasable mineral rights on which some level of surface use may be allowed in compliance with standard nonmetallic minerals lease terms and all state and local laws, rules, regulations, and requirements.
- *Leasable Development with Restriction (LDR)* – Leasable mineral rights on which some level of surface use may be allowed in compliance with standard nonmetallic minerals lease terms *and* with additional specific restrictions due to environmental or other surface feature conditions.
- *Leasable Nondevelopment (LND)* – Leasable mineral rights where no surface use or disturbance is authorized without separate approval.

- *Nonleasable* (NL) – Lands that will not be leased for nonmetallic minerals exploration, development, or production.

Parcel Review System (PRS): DNR’s application used for coordinating and tracking mineral lease nominations and parcel classification reviews.

Policy:

Pursuant to Part 5, Section 502, Paragraph 3, of the NREPA, the DNR is responsible for managing State-owned lands and mineral resources to ensure protection and enhancement of the public trust and may enter into contracts for the taking of nonmetallic minerals from State-owned lands. As provided under the Michigan Administrative Code R299.4021 – R299.4027, “Leasing State-owned Nonmetallic Mineral Rights,” the DNR is authorized to enter into nonmetallic mineral leases through public auction (open oral or sealed bid) or direct leasing. Upon receipt of a direct lease application, the DNR may instead choose to enter into the lease through public auction if it is determined to be in the best interest of the State.

Administering Division:

Finance and Operations Division, Minerals Management Section (MMS).

Procedure: Public Auction

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| MMS Staff | 1. Sets a proposed lease auction sale date and associated nomination period. Determines lease auction type. |
| | 2. Makes arrangements to hold an auction. |
| | 3. Publishes notice of open nomination period as appropriate, including in trade journals and on the DNR website. |
| | 4. Nominates lands for lease where it is in the best interest of the State to pursue obtaining a nonmetallic minerals lease for parcels not currently nominated. |
| Nominator(s) | 5. Submits completed form PR4301 Nonmetallic Minerals Lease Application and Requirements, with a nonrefundable nomination fee, to the Cashier’s Office. |
| Cashier’s Office | 6. Validates and date stamps form PR4301 and deposits fee. |
| | 7. Forwards validated form PR4301 and supporting documentation, if applicable, to MMS. |
| MMS Staff | 8. Confirms State ownership of nonmetallic mineral rights for the nominated parcels. |
| | 9. Enters nomination information into LOTS and PRS. |
| | 10. Provides a list of nominated parcels to the Nominator(s) to check for accuracy. |
| | 11. Coordinates field review/parcel classification as outlined in the Parcel Classification process identified herein. |

12. Provides public notification regarding the proposed auction per Michigan Administrative Code R299.4021 – R299.4027.
13. Obtains written approval from DNR Director or Director's designee to offer nominated mineral rights for lease through auction.
14. Sends auction parcel list to Nominators.
15. Publishes auction parcel list on the DNR website.
16. Conducts a public lease auction of State-owned nonmetallic minerals lease rights through the open oral or sealed bid auction process, per Michigan Administrative Code R299.4021 – R299.4027.
17. After conclusion of auction, forwards request for approval to enter into leases to Director or Director's designee.
18. After approval, generates lease documents in LOTS.
19. Sends lease to the proposed Lessee for execution.
20. Reviews lease documents.
21. Returns lease documents to MMS, as requested.
22. Finalizes lease(s) by obtaining a notarized signature from MMS Manager, the DNR Director's designee.
23. Sends original executed lease to Lessee.

Procedure: Direct Lease

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| Nominator | 1. Submits completed form PR4301 Nonmetallic Minerals Lease Application and Requirements, with a nonrefundable nomination fee, to the Cashier's Office. |
| Cashier's Office | 2. Validates and date stamps form PR4301 and deposits fee.
3. Forwards validated form PR4301 and supporting documentation, if applicable, to MMS. |
| MMS Staff | 4. Reviews form PR4301 and supporting documents to determine if application is administratively complete.
5. Confirms State ownership of nonmetallic mineral rights for the nominated parcels.
6. Enters nomination information into LOTS and PRS.
7. Provides a list of nominated parcels to the Nominator to check for accuracy.
8. Coordinates field review/parcel classification as outlined in the Parcel Classification process identified herein.
9. Negotiates lease terms and Bonus with Nominator. |

10. Drafts public notification regarding the proposed lease and provides notification to the Nominator for publication per Michigan Administrative Code R299.4021 – R299.4027.
- Nominator 11. Publishes public notice per Michigan Administrative Code R299.4021 – R299-4027.
12. Sends original Affidavit of Publication to MMS.
- MMS Staff 13. Forwards request for approval to enter into lease(s) to Director or Director's designee.
14. Generates lease document in LOTS according to approved terms and form PR4346 Nonmetallic Minerals Lease Rent and Bonus Remittance.
15. Sends lease document and form PR4346 to Nominator.
- Nominator 16. Reviews lease document and obtains properly notarized signature of intended Lessee.
17. Sends copy of form PR4346, along with check for bonus and rental, to the Cashier's Office.
18. Returns original lease document and a copy of form PR4346 to MMS.
- Cashier's Office 19. Validates and date stamps form PR4346 and deposits fee.
20. Forwards validated form PR4346 and supporting documentation, if applicable, to MMS.
- MMS Staff 21. Verifies payment and finalizes lease(s) by obtaining notarized signature from the MMS Manager, the DNR Director's designee.
22. Sends original executed lease(s) to Lessee.

Procedure: Parcel Classification

- MMS Staff 1. Receives nominations of State-owned mineral rights to be offered for lease.
2. Verifies nomination information has been entered into LOTS and PRS.
3. Identifies parcels automatically classified as LND by PRS due to one or more of the following reasons:
 - Acquisition funding.
 - Deed restrictions.
 - Location within certain management boundaries.
4. Forwards list of nominated parcels acquired with federal funding to appropriate land managing division for their reference.

5. If applicable, sends a request to the following non-DNR agencies to review and classify lands for nonmetallic minerals leasing with a deadline for response:
 - Department of Military & Veterans Affairs (DMVA)
 - U.S. Forest Service (USFS)
6. If applicable, enters classification recommendations and supporting background information from DMVA/USFS into PRS within the time period specified.

NOTE: If there are any discrepancies and/or questions regarding the classification recommendations submitted, MMS will contact DMVA/USFS for clarification.
7. Sends a request to DNR Field Reviewers through PRS to review and classify lands for nonmetallic minerals leasing with a deadline for response.
- DNR Field Reviewers 8. Reviews nominated parcels and enters preliminary classification recommendations and comments into PRS.
- Division Field Coordinator or Assistant Chief/Designee 9. Reviews classification recommendations entered by the DNR Field Reviewers.
10. Resolves any classification disputes.
11. Designates a final parcel classification in PRS.
- MMS Staff 12. Uploads final parcel classification into LOTS.

Procedure: Lease Amendment - Parcel Reclassification

- Lessee or Designee 1. Submits a written application requesting a change in the classification of an existing nonmetallic minerals lease.

Application letter must contain:

 - a. Lease number(s).
 - b. Legal description of lands requested for reclassification.
 - c. Reason for reclassification and supporting information including an exploration plan or mining plan of operations, as appropriate, showing proposed work on the State lease(s) to warrant the reclassification.
 - d. Name(s) and address(es) of severed surface owner(s), if surface estate is not owned by the State. Pursuant to the terms of the lease, Lessee or Designee shall provide a copy of the voluntary agreement or stipulated settlement for surface use, if applicable.
- MMS Staff 2. Reviews application packet for completeness, verifies lease has a reclassification clause, and reviews LOTS to determine whether parcel(s) requested for reclassification are eligible.

3. Determines additional bonus due for reclassification, if applicable.
 - If additional bonus is due, notifies Lessee or Designee and ascertains whether they wish to proceed with reclassification request.
 - If Lessee or Designee declines to pursue reclassification, withdraws and closes request in LOTS.
4. Enters reclassification nomination information into LOTS and PRS.
5. Coordinates field review/parcel classification as outlined in the Parcel Classification process identified herein.
- DNR Field Reviewers
6. Reviews application packet information and supporting documentation.
7. Performs a site-specific review to determine whether approval of the request is appropriate and enter recommendation(s) into PRS within the time period specified.
- Division Field Coordinator or Assistant Chief/Designee
8. Reviews classification recommendation(s) entered by the DNR Field Reviewers.
9. Resolves any classification disputes.
10. Designates a final classification in PRS.
- MMS Staff
11. Reviews final classification submitted by division field coordinator or assistant chief/designee.
12. Updates LOTS as necessary.
13. If reclassification is approved, drafts public notification and provides the notification to the Lessee or Designee for publication regarding the proposed lease reclassification.
- Lessee or Designee
14. Publishes public notice in appropriate newspaper, as instructed.
15. Sends original Affidavit of Publication to MMS.
- MMS Staff
16. Forwards request for approval of reclassification to Director or Director's designee, as applicable.
17. Prepares Amendment and form PR4346 Nonmetallic Minerals Lease Rent and Bonus Remittance, if applicable.
18. Sends Amendment and form PR4346 to Lessee or Designee.
- Lessee or Designee
19. Reviews Amendment and obtains Lessee's notarized signature on Amendment.
20. Sends a copy of form PR4346 and a check for additional bonus due to the Cashier's Office, if applicable.

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| | 21. Returns executed Amendment and a copy of form PR4346 (if applicable) to MMS. |
| Cashier's Office (if applicable) | 22. Validates and date stamps form PR4346 and deposits fee.
23. Forwards validated form PR4346 and supporting documentation to MMS. |
| MMS Staff | 24. Verifies payment, if applicable, and finalizes Amendment by obtaining a notarized signature from MMS Manager.
25. Records Amendment with applicable county, if deemed in the State's best interest.
26. Sends original, fully executed Amendment to Lessee or Designee. |

Procedure: Lease Amendment - Add Parcel(s) to an Existing Lease

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| Lessee or MMS Staff | 1. Submits completed form PR4301 Nonmetallic Minerals Lease Application and Requirements, with a nonrefundable nomination fee, and a letter requesting to add parcel(s) to an existing lease, to the Cashier's Office.

NOTE: If MMS staff submits a lease on behalf of a Lessee, no nomination fee may be required. |
| Cashier's Office | 2. Validates and date stamps form PR4301 and deposits fee.
3. Forwards validated form PR4301 and supporting documentation, if applicable, to MMS. |
| MMS Staff | 4. Reviews form PR4301 and supporting documents to determine if application is administratively complete.
5. Coordinates field review/Parcel Classification as outlined in the Parcel Classification process identified herein.
6. Drafts public notification regarding the proposed Amendment and provides the notification to the Lessee for publication. |
| Lessee | 7. Publishes public notice as instructed.
8. Sends original Affidavit of Publication to MMS. |
| MMS Staff | 9. Forwards request for approval of Amendment to Director or Director's designee.
10. Prepares Amendment and, if applicable, form PR4346 Nonmetallic Minerals Lease Rent and Bonus Remittance.
11. Sends Amendment and form PR4346, if applicable, to Lessee. |

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| Lessee | 12. Reviews Amendment and obtains Lessee’s notarized signature on Amendment.
13. If applicable, sends copy of form PR4346 and check for additional bonus due to the Cashier’s Office.
14. Returns executed Amendment and a copy of form PR4346 to MMS. |
| Cashier’s Office (if applicable) | 15. Validates and date stamps form PR4346 and deposits fee.
16. Forwards validated form PR4346 and supporting documentation to MMS. |
| MMS Staff | 17. Verifies payment, if applicable, and finalizes Amendment by obtaining a notarized signature from MMS Manager.
18. Records Amendment with applicable county, if deemed in the State’s best interest.
19. Sends original, fully executed Amendment to Lessee. |

Procedure: Lease Amendment - Variance in Lease Terms

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| Lessee/Applicant | 1. Submits a written request for a variance in lease terms. |
| MMS Staff | 2. Reviews request including field review, if necessary. |
| MMS Manager | 3. Reviews request and supporting documents and makes final recommendation for approval or denial. |
| MMS Staff | 4. Prepares lease Amendment.
5. Sends Amendment to Lessee/Applicant. |
| Lessee/Applicant | 6. Reviews Amendment and obtains Lessee’s notarized signature on Amendment.
7. Returns executed Amendment to MMS. |
| MMS Staff | 8. Finalizes Amendment by obtaining a notarized signature from MMS Manager.
9. Records Amendment with applicable county, if deemed in the State’s best interest.
10. Sends original, fully executed Amendment to Lessee/Applicant. |

Procedure: Lease Assignment

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| Applicant | 1. Submits completed form PR4058 Assignment of Lease(s) and required fee to the Cashier’s Office. |
| Cashier’s Office | 2. Validates and date stamps form PR4058 and deposits fee.
3. Forwards validated form PR4058 and supporting documentation, if applicable, to MMS. |

- MMS Staff
4. Reviews form PR4058 and processes per the assignment requirements outlined in form IC4307 Lease Assignment Requirements.
 5. Obtains approval and returns Assignment to Applicant.
 6. Records Assignment with applicable county, if deemed in the State's best interest.

Procedure: Lease Extension

- Applicant
1. Submits a written request for a Lease Extension.
- MMS Staff
2. Verifies lease includes option for Extension.
 3. If approved, prepares form PR4227-4 Nonmetallic Mineral Lease Minimum Royalty Remittance.
 4. Prepares Lease Extension Agreement.
 5. Sends form PR4227-4 and Lease Extension Agreement to Applicant.
- Applicant
6. Reviews Lease Extension Agreement and obtains Lessee's notarized signature on Agreement.
 7. Sends a copy of form PR4227-4 and a check for minimum royalty due to the Cashier's Office.
 8. Returns executed Lease Extension Agreement and a copy of form PR4227-4 to MMS.
- Cashier's Office
9. Validates and date-stamps form PR4227-4 and deposits fee.
 10. Forwards validated form PR4346 and supporting documentation, if applicable, to MMS.
- MMS Staff
11. Verifies payment and finalizes Lease Extension Agreement by obtaining a notarized signature from MMS Manager.
 12. Records Extension with applicable county, if deemed in the State's best interest
 13. Sends original, fully executed Lease Extension Agreement to Applicant.

Procedure: Lease Release

- MMS Staff
1. Reviews lease file to determine whether lease can be released, working with field staff as applicable.
 2. Prepares form PR4058-1 Partial Release of Lease(s) or form PR4058-2 Full Release of Lease(s) and sends to Lessee.
- Lessee
3. Executes and sends form PR4058-1 or PR4058-2 to MMS.

MMS Staff

4. If executed release form not received after 30 days, administratively release in LOTS.
5. Updates LOTS and lease file(s) as necessary.

Related Reference:

Michigan Administrative Code R299.4021 – R299.4027 Leasing State-owned Nonmetallic Mineral Rights

IC4307 Lease Assignment Requirements

PR4058 Assignment of Lease(s)

PR4058-1 Partial Release of Lease(s)

PR4058-2 Full Release of Lease(s)

PR4227-4 Nonmetallic Mineral Lease Minimum Royalty Remittance

PR4301 Nonmetallic/Metallic Minerals Lease Application and Requirements

PR4346 Nonmetallic Mineral Lease Rental and Bonus Remittance

27.23-09 – Nonmetallic Minerals Leasing is hereby approved.



Dan Eichinger, Director

7/1/2021

Effective Date