

## **Chapter 6 Mineral Leases**

### **65A-6-1 Coal and mineral deposits reserved -- Exceptions.**

- (1)
  - (a) Except as otherwise expressly provided by law, coal and mineral deposits in state-owned lands are reserved to the state. Each certificate of sale and patent issued shall contain such a reservation.
  - (b) The purchaser of any lands belonging to the state:
    - (i) acquires no right, title, or interest in coal or mineral deposits; and
    - (ii) is subject to the conditions and limitations prescribed by law providing for the state and any person authorized by it to:
      - (A) prospect or mine;
      - (B) remove the deposits; and
      - (C) occupy and use as much of the surface of the lands as may be required for any purpose reasonably incident to the mining and removal of the deposits.
  - (c) Improved farm lands acquired by the state through foreclosure proceedings or conveyed to the state by deed in satisfaction of farm loan mortgages may be sold by the state without mineral reservations.
  - (d) Coal and mineral deposits in state-owned lands may not be sold but may be leased on a rental and royalty basis.
- (2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C. Sections 870-871, mineral interests in state-owned lands may be exchanged for mineral interests of comparable value or otherwise disposed of, if their retention would create a liability exceeding their value.
- (3)
  - (a) Salts and other minerals in the waters of navigable lakes and streams are reserved to the state and may be sold by the division only upon a royalty basis.
  - (b) A contract for the recovery of salts or minerals from navigable waters shall be subject to the use of the waters for public purposes.
  - (c) Before a contract for the recovery of salts or minerals from navigable waters is executed, the applicant shall provide evidence that:
    - (i) an application for the appropriation of water for that purpose has been filed with the state engineer; and
    - (ii) the application is pending or accepted in that office.
- (4) Common varieties of sand, gravel, and cinders are not considered to be minerals under this section. Common varieties do not include deposits which are valuable because the deposit contains other materials giving it distinct and special value.

Amended by Chapter 283, 1991 General Session

### **65A-6-2 Mineral leases -- Division to prescribe rules.**

The division shall by rule prescribe:

- (1) the term of the lease;
- (2) the annual rental;
- (3) the amount of royalty in addition to or in lieu of rental; and
- (4) the basis upon which the royalty shall be computed.

Amended by Chapter 294, 1994 General Session

**65A-6-3 Applications for mineral leases -- Compliance with business laws.**

Applicants for mineral leases shall fully comply with all of the laws of the state as to qualification to do business within this state and must not be in default under any such laws during the pendency of the application and throughout the duration of the lease.

Amended by Chapter 294, 1994 General Session

**65A-6-4 Mineral leases -- Multiple leases on same land -- Rentals and royalties -- Lease terms.**

- (1)
  - (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals covering any portion of state lands or the reserved mineral interests of the state.
  - (b)
    - (i) Leases may be issued for different types of minerals on the same land.
    - (ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations.
  - (c) No more than one lease may be issued for the same resource on the same land.
- (2)
  - (a) Each mineral lease issued by the division shall provide for an annual rental of not less than \$1 per acre per year.
  - (b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rule.
- (3) The primary term of a mineral lease may not exceed:
  - (a) 20 years for oil shale and tar sands; and
  - (b) 10 years for oil and gas and any other mineral.
- (4) The division shall make rules regarding the continuation of a mineral lease after the primary term has expired, which shall provide that a mineral lease shall continue so long as:
  - (a) the mineral covered by the lease is being produced in paying quantities from:
    - (i) the leased premises;
    - (ii) lands pooled, communitized, or unitized with the leased premises; or
    - (iii) lands constituting an approved mining or drilling unit with respect to the leased premises; or
  - (b)
    - (i) the lessee is engaged in diligent operations, exploration, research, or development which is reasonably calculated to advance development or production of the mineral covered by the lease from:
      - (A) the leased premises;
      - (B) lands pooled, communitized, or unitized with the leased premises; or
      - (C) lands constituting an approved mining or drilling unit with respect to the leased premises;and
    - (ii) the lessee pays a minimum royalty.
- (5) For the purposes of Subsection (4), diligent operations with respect to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90 days in duration.

Amended by Chapter 294, 1994 General Session

**65A-6-5 Division may withdraw lands from leasing -- Mineral lease application procedures.**

- (1) The division may at any time withdraw state lands from leasing.
- (2) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other division rule prohibiting the lease of the lands, shall be offered for lease as provided in this section.
- (3) A notice of the land available for leasing shall be posted in the office of the division. The notice shall:
  - (a) describe the land;
  - (b) indicate what mineral interest in each tract is available for leasing; and
  - (c) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.
- (4)
  - (a) Applications for the lease of lands filed before the closing date stated in the notice shall be considered to be filed simultaneously.
  - (b) The applications shall be:
    - (i) submitted in sealed envelopes; and
    - (ii) opened in the office of the division at 10:00 a.m. of the first business day following the last day on which bids may be received.
  - (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.
  - (d)
    - (i) In cases of identical bids of successful bidders, the right to lease shall be determined by drawing.
    - (ii) The drawing shall be held in public at the office of the division.
- (5)
  - (a) At the discretion of the division, mineral leases may be offered at an oral public auction.
  - (b) The division may set a minimum bid for a public auction.
- (6) The division may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the state a prior mining claim, mineral lease, or other right which in the opinion of the division might otherwise cloud the title to any of those lands.
- (7) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned.
- (8)
  - (a) Lands acquired through exchange from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.
  - (b) This provision does not prevent the state from negotiating the accommodation of vested rights through any method acceptable to the parties.
- (9) The division may lease lands in the order in which applications are filed if:
  - (a) the division offers newly acquired or existing state lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or
  - (b) a period of time of one year or more has elapsed following:
    - (i) a revocation of a withdrawal; or
    - (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or for any reason terminated.

Amended by Chapter 294, 1994 General Session

**65A-6-6 Mineral lease covenants.**

Each mineral lease shall contain the following covenants:

- (1) the lessee shall promptly pay any rent annually in advance;
- (2) waste may not be committed on the land;
- (3) the premises shall be surrendered at the expiration of the term;
- (4) the lessee may not assign or sublet without the written authorization of the director; and
- (5) where improvements have been placed on the land by any person other than the lessee, the lessee will allow the owner of the improvements to remove them within 90 days.

Amended by Chapter 283, 1991 General Session

**65A-6-7 Mineral information to be furnished -- Confidentiality.**

- (1) The division may require the lessee to furnish any information necessary to carry out the duties of this chapter, including geological and mine maps, well logs, and assays.
- (2) Any information submitted to the division which the lessee and the division agree is of a proprietary nature shall be classified as protected and may not be released without written permission from the lessee.

Amended by Chapter 294, 1994 General Session

**65A-6-8 Mineral leases -- Cancellation -- Use of surface land -- Liability for damage.**

- (1) Upon violation by the lessee of any lawful provision in a mineral lease, the division may cancel the lease after 30 days' notice by registered or certified return receipt mail, unless the lessee:
  - (a) remedies the violation;
  - (b) rectifies the condition; or
  - (c) requests a hearing within:
    - (i) the 30 days; or
    - (ii) any extension of time the division grants.
- (2)
  - (a) A mineral lessee, subject to conditions required by the division, shall have:
    - (i) the right at all times to enter upon the leasehold for prospecting, exploring, developing, and producing minerals; and
    - (ii) reasonable use of the surface.
  - (b) The lessee shall not injure, damage, or destroy the improvements of the surface owner or lessee.
  - (c) The lessee is liable to the surface owner or lessee for all damage to the surface of the land and improvements, except for reasonable use.
- (3) Any mineral lessee may occupy as much of the surface of the leased land as may be required for all purposes reasonably incident to the exercise of lessee's rights under the lease by:
  - (a) securing the written consent or waiver of the surface owner or lessee;
  - (b) payment for the damage to the surface of the land and improvements to the surface owner or lessee where there is agreement as to the amount of the damage; or
  - (c) upon the execution of a good and sufficient bond to the state for the use and benefit of the surface owner or lessee of the land to secure the payment of damages as may be determined and fixed by agreement or in action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties of the bond.

- (4) The bond required by Subsection (3)(c) shall be:
  - (a) in a form and amount as prescribed by the division; and
  - (b) filed with the division.

Amended by Chapter 136, 2007 General Session

**65A-6-9 Shut-in gas wells.**

- (1) Under a mineral lease for oil and gas, gas is considered to be produced in paying quantities from a shut-in gas well if the shut-in gas well is capable of producing gas in paying quantities, but the gas cannot be marketed at a reasonable price due to existing marketing or transportation conditions.
- (2)
  - (a) The division shall make rules establishing:
    - (i) a minimum rental or minimum royalty for a shut-in gas well that is considered to be producing gas in paying quantities; and
    - (ii) the basis upon which the minimum rental or minimum royalty shall be paid.
  - (b) The minimum rental or minimum royalty may not be less than twice the annual lease rental.

Amended by Chapter 294, 1994 General Session

**65A-6-10 Unitization of mineral leases.**

- (1) Mineral lessees, upon prior written authorization from the division, may commit leased state lands to unit, cooperative, or other plans of development with other lands.
- (2) The division may, with the consent of the mineral lessee, modify any term of a mineral lease for lands that are committed to a unit, cooperative, or other plan of development.
- (3) Production allocated to leased state lands under the terms of a unit, cooperative, or other plan of development shall be considered produced from the leased lands whether or not the point of production is located on the leased state lands.

Amended by Chapter 283, 1991 General Session

**65A-6-11 Land subject to a federal mineral lease.**

- (1) With respect to any tract of land in which the state acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which he would have had under the permit or lease had the state not acquired its interest in the tract.
- (2) In consideration of the voluntary termination by the federal lessee or permittee of his lease or permit as it relates to that tract, the division may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances upon terms that the lessee shall have all the rights, privileges, and benefits with reference to that tract which he would have had by reason of his lease or permit from the United States had the state not acquired its interest in the tract.

Enacted by Chapter 121, 1988 General Session

**65A-6-12 Agreements for the administration of mineral leases by a federal agency.**

- (1) If the state has succeeded or will succeed to the position of the United States under a federal mineral or prospecting permit in which only a portion of the lands are subject to the permit, agreements may be entered into with the federal agency having jurisdiction over the remaining portion providing for the continued administration by that agency of the entire lease or permit or any lease pursuant to that permit.
- (2) Consideration for continued administration of the federal agency may not exceed 10% of the revenue allocable to the state's portion.

Amended by Chapter 294, 1994 General Session