

**6125.0610 PREFERENCE RIGHTS LEASES.**

Subpart 1. **Purpose.** When the commissioner determines the best interests of the state will be served, the commissioner may establish a list of mining units available for preference rights leasing through application. Mining units may only be included in the preference rights lease availability list if they do not contain an identified mineral resource and the area is not being explored by multiple parties.

Subp. 2. **Compilation of preference rights lease availability list.** Mining units may be included in a preference rights lease availability list only if they meet all of the following criteria:

A. the mining unit has been offered at a public metallic minerals lease sale held under parts 6125.0100 to 6125.0700 after December 31, 1994;

B. the mining unit has been offered at a public metallic minerals lease sale held under parts 6125.0100 to 6125.0700 within the last four years;

C. the mining unit does not contain an identified mineral resource;

D. state metallic minerals leases are not in effect within three miles of the mining unit, unless the state metallic minerals leases are held by only one party;

E. a state metallic minerals lease is not in effect for other lands in the same government section of lands as covered by the mining unit under consideration; and

F. the mining unit is not within an area being offered at a public metallic minerals lease sale, as identified through a published notice of intent to hold a public metallic minerals lease sale.

Parties may submit to the commissioner suggestions of mining units to be considered for inclusion on the preference rights lease availability list.

Prior to including selected mining units on the preference rights lease availability list, the commissioner shall give public notice of intent to offer mining units available through preference rights leasing. The public notice shall be published in the State Register, the EQB Monitor, and a qualified newspaper that has its known office of issue in the county seat of the county in which the mining units to be included on the preference rights lease availability list are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county. Like notice may be published in other publications as the commissioner may direct. The notice shall be published at least 30 days prior to including the selected mining units on the preference rights lease availability list.

The commissioner may add mining units to the preference rights lease availability list only on the first business day of each month. The commissioner may withdraw mining units

from the preference rights lease availability list at any time. Mining units shall be deemed withdrawn from the preference rights lease availability list without any further action by the commissioner as soon as the mining units no longer meet the criteria to be included on the list.

A written record must be maintained of the date and time of all additions and withdrawals from the preference rights lease availability list.

Subp. 3. **Preference rights lease availability list.** The preference rights lease availability list must be maintained and available for inspection in the office of the Division of Minerals, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045.

Those interested in obtaining a copy of the preference rights lease availability list may obtain one by submitting a request to the commissioner. The commissioner shall charge a fee for each copy of the list based on copying and mailing costs.

Subp. 4. **Application for preference rights lease.** Application for a preference rights lease shall be submitted on a form obtained from the commissioner and shall contain information the commissioner may prescribe. The applicant shall submit with the application evidence that the applicant is qualified to hold a mineral lease as specified in part 6125.0410. The applicant shall submit with the application a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the sum of the following amounts:

A. an application fee of \$100 for each mining unit for which a preference rights lease is requested; and

B. rental for one full calendar year for each mining unit for which a preference rights lease is requested. For the purposes of this payment, rental is calculated at \$1.50 per acre times the gross acreage of the lands for which a preference rights lease is requested. The remaining rentals, due at the time the lease is issued, shall be due upon the effective date of the lease.

If the application for a preference rights lease is rejected, the rental payment accompanying the application shall be returned to the applicant. The application fee will not be refunded under any circumstances.

Applications may be submitted in person or by mail to the office of the Division of Minerals, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045. Applications will only be accepted during the hours of 8:30 a.m. to 4:00 p.m. on regularly scheduled business days. Applications received at any other time will not be officially accepted until the next regularly scheduled business day, and the commissioner assumes no responsibility for applications submitted in person at any time other than the time specified in this subpart. Applications will not be accepted by facsimile transmission.

Subp. 5. **Commissioner's review of application.** Within ten days after receipt of an application, the commissioner will send written acknowledgment that the application was received. The commissioner must review the application to determine if:

- A. the application was completed and signed;
- B. the application fee was submitted; and
- C. evidence of qualification to hold a state lease, as specified in part 6125.0410, was submitted.

The applicant must also be advised if additional evidence is required by the commissioner to determine if the applicant is qualified to hold a state lease as specified in part 6125.0410.

Subp. 6. **Rejection of application.** Applications for preference rights leases will be rejected by the commissioner under the following circumstances:

- A. the application was not completed or signed;
- B. the application fee was not submitted;
- C. the applicant failed to submit evidence of qualification to hold a state lease as specified in part 6125.0410, or the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to qualification to hold a state lease as specified in part 6125.0410;
- D. there was a simultaneous filing of applications for a preference rights lease on the same mining unit and more than one of the applicants meets the requirements of part 6125.0410. For the purpose of parts 6125.0100 to 6125.0700, "simultaneous filings" means filings that arrive in the mail or in person on the same day;
- E. an application for a preference rights lease was filed on a prior day for the same mining unit and the commissioner has determined that the prior applicant meets the requirements of part 6125.0410, and the prior application is not rejected pursuant to this part;
- F. the mining unit was not on the preference rights lease availability list at the time of the application; or
- G. the mining unit had been deemed withdrawn from the preference rights lease availability list prior to the time of application because the mining unit no longer met the criteria to be included on the preference rights lease availability list.

Prior to filing an application for a preference rights lease, any party may contact the commissioner for information as to whether the circumstances described in this part exist as to the mining units the party is interested in for a lease. Prior to filing an application for a

preference rights lease, any party may contact the commissioner for a review of the party's qualification to hold a mineral lease as specified in part 6125.0410.

The right is reserved to the state to reject any or all applications for preference rights leases. However, if the commissioner rejects the application based on item D, then no preference rights lease may be issued for the mining unit until after it has first been offered at public lease sale.

Subp. 7. **Issuance of leases.** A lease shall be awarded by the commissioner, with the approval of the state Executive Council, to the first qualified applicant who files an application that is not rejected pursuant to subpart 6. The preference rights leases so issued shall be in the form set forth in part 6125.0700. The rental and royalty rates shall not be less than those prescribed in part 6125.0700.

Subp. 8. **Report to state Executive Council.** The commissioner must provide annual reports to the state Executive Council on the use and results of the preference rights leasing system.

**Statutory Authority:** *MS s 93.08 to 92.12*

**History:** *19 SR 2434*

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