

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 250
OIL AND GAS WELLS ON PUBLIC LANDS ACT

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AUTHORITY: Implemented and authorized by Section 16 of the Oil and Gas Wells on Public Lands Act [5 ILCS 615/16].

SOURCE: Adopted at 26 Ill. Reg. 4223, effective March 11, 2002.

Section 250.10 **Definitions**

“Act” – means the Oil and Gas Wells on Public Lands Act, [5 ILCS 615].

“Department” – means the Illinois Department of Natural Resources.

“Drilling Unit” – means a tract of land with sufficient acreage to allow an oil and gas well to be drilled in accordance with the Illinois Oil and Gas Act and implementing rules (62 Ill. Adm. Code 240).

“Office” – means the Office of Mines and Minerals in the Illinois Department of Natural Resources.

“Permittee” – means a person or entity who applies for and is issued a permit by the Office to explore unproven territory.

“Proven territory” – means *territory so situated with reference to known producing wells as to establish the general opinion that, because of its relation to them, petroleum is contained in it.* [5 ILCS 615/1]

“State owned land” – means a tract of land where the State owns 100% of the underlying mineral interests and the tract covers a large enough acreage to allow a properly spaced oil and/or gas well to be drilled in accordance with the Illinois Oil and Gas Act.

“Unknown territory” – means territory determined, in accordance with Section 250.20 of this Part, to lack proven petroleum reserves.

Section 250.20 Designation of State Lands

- a) Any person may request the Office to designate a tract of State owned land, where the State owns 100% of the underlying mineral interests and the tract covers a large enough acreage to allow a properly spaced oil and/or gas well to be drilled in accordance with the Illinois Oil and Gas Act, as proven or unknown territory.

- b) If the tract of State owned land requested to be designated as proven or unknown territory is owned by the Department of Natural Resources *no extraction activities shall be performed nor production equipment located on Department lands. Requests for extraction activities underlying lands owned by the Department of Natural Resources that utilize directional drilling techniques may be permitted at the discretion of the Department* and will be designated in accordance with this Section. *The Department shall not grant permits or leases for the extraction of oil, gas, and other petroleum deposits from the following classifications of lands if the State owns 100% of the underlying mineral interests under the proposed drilling unit:*
 - 1) *lands where threatened or endangered species occur, as determined pursuant to the federal Endangered Species Act (16 USCA 1531) or the Illinois Endangered Species Act [525 ILCS 10];*
 - 2) *Illinois Natural Area Inventory sites;*
 - 3) *nature preserves dedicated under the Illinois Natural Areas Preservation Act [525 ILCS 30];*
 - 4) *lands containing a wild and scenic river as designated under the Wild and Scenic River Area Act [20 ILCS 855];*
 - 5) *lands registered under the Register of Land and Water Reserves under 17 Illinois Administrative Code 4010; and*
 - 6) *lands on which federal or State laws or regulations prohibit the surface extraction or production facility activity. [5 ILCS 615/2]*

- c) The request must be submitted to the Office in writing and include:
 - 1) a legal description of the land;
 - 2) a brief synopsis of the oil and gas potential;
 - 3) documentation evidencing State ownership of the mineral rights; and
 - 4) general overview of the anticipated development or exploration plans.
- d) If the Office determines, based upon the information included in the designation request, that a tract of State owned land should be designated as unknown territory due to the lack of proven petroleum reserves, the entity submitting such request may apply for an exploration permit in accordance with Section 250.30 of this Part.
- e) If the Office determines, based upon the information included in the designation request, that a tract of State owned land should be designated as proven territory, in accordance with Section 250.50(a) and (b) of this Part, the designation request shall be processed in accordance with Section 250.50(c) of this Part.
- f) The Office will respond in writing to the inquiring party as to the final designation of the State land.

Section 250.30 Permit to Explore Unknown Territory

- a) Any person (applicant) may request a permit to explore for oil and gas on State owned land designated as unknown territory in accordance with Section 250.20 of this Part. The request shall not be made for more than three sections of land or equivalent acreage (1920 acres) and shall not contain any land where the oil and gas rights are not wholly owned by the State of Illinois. The request shall:
 - 1) be in writing;
 - 2) describe the method of exploration contemplated;
 - 3) contain a legal description of the land for which a permit to explore is sought that includes proof satisfactory to the Office that the oil and gas rights underlying the described land are wholly owned by the State;
 - 4) articulate a general plan for future development in the event oil and/or gas is discovered.

- b) If an applicant for a permit to explore for oil and gas on State owned land complies with the provisions of subsection (a), the Office will direct the applicant to secure a signed agreement with the State agency owning the land to be explored, encompassing the scope of all aspects of the exploration operations contemplated by the permittee, including but not limited to:
- 1) the amount paid for damages to the surface of the land;
 - 2) the method and timing of access to the site for exploration so as to minimize interference with State programs; and
 - 3) the procedures for the mitigation of damage to the site during exploration activities and for the restoration of the site following exploration activities.
- c) If the applicant for a permit to explore for oil and gas on State owned land secures a signed agreement with the State agency owning the land to be explored which complies with subsection (b), the Department, with the approval of the Governor, shall issue the exploration permit.
- d) The permit to explore shall:
- 1) specify the provisions and requirements of the state agency owning the land;
 - 2) specify the lease provisions, in accordance with Section 250.40 of this Part;
 - 3) shall be valid for one year;
 - 4) is non-transferrable; and
 - 5) be limited to the following exploration activities:
 - A) seismic exploration;
 - B) structure test holes not penetrating the oil-producing zone;
 - C) remote sensing; and
 - D) chemical analysis.
- e) Permittee may surrender the permit at any time and shall be relieved of all liability except for physical damage to the land and any other site mitigation and

restoration activities specified in the signed agreement with the State agency which has jurisdiction over the land to be explored.

Section 250.40 Granting a Lease to a Person Holding a Permit to Explore

- a) If the permittee has discharged all of the conditions required by the permit to explore to the satisfaction of the Department and the State agency owning the land, as evidenced by a release issued by the State agency, and has made an application to the Department for a lease not later than on the date of expiration of the permit to explore, the Department, with the approval of the Governor, shall grant to the permittee a lease for the extraction of petroleum not to exceed one section of land or an equivalent amount of acreage (640 acres).
- b) The form of leases granted to persons holding a permit to explore shall generally follow the format of a standard commercial petroleum lease generally in use in the territory in which the oil, gas or other petroleum deposits are located and shall incorporate at a minimum the following basic lease terms and restrictions:
 - 1) The lease shall be for a primary term not to exceed 10 years and for as long thereafter as oil in commercial quality and commercial quantity is produced from the lands embraced in the lease.
 - 2) The State agency with jurisdiction over the land encompassed within the lease shall receive royalties at a rate of 12 ½ percent of the market value of the petroleum produced.
 - 3) The State agency with jurisdiction over the land encompassed within the lease shall receive an annual rental, payable in advance, of \$10 per acre, which shall be credited against future royalties.
 - 4) The lease shall not be assigned or otherwise transferred without the prior consent of the State agency with jurisdiction over the land encompassed by the lease.
- c) The leases granted to persons holding a permit to explore shall include any additional terms specified in the agreement reached with the State agency with jurisdiction over the land encompassed within the lease. These additional lease terms may include, but are not limited to, any or all of the following considerations:
 - 1) the location, use, design and method of construction of the road network constructed by the lessee to gain access to the area being used for oil production and related operations;

- 2) the location, use, design and method of construction of electric generation and transmission network constructed by the lessee for oil production and related operations;
 - 3) the location, use, design and method of construction of the sites where the lessee will conduct oil production and related operations, including the location of the lessee's oil storage tanks and well sites;
 - 4) landscaping or other mitigation activities deemed necessary to preserve the environmental and aesthetic characteristics of the State land being used for oil production and related operations; and
 - 5) security and public safety considerations attendant to the lessee's oil production and related operations on State land.
- d) Any permittee who receives a lease of up to one section (640 acres) of land covered by such permittee's exploration permit shall have a preferential right to lease the remaining lands embraced by the permittee's original exploration permit. Specifically, the holder of the exploration permit has the right to lease the remaining lands by meeting the highest bid as to royalty or bonus that the Department may receive if the Department elects to offer the remainder of the lands contained in the permit to explore for lease in accordance with Section 250.60 of this Part. The Department shall notify the permittee of the time and place of the opening of bids in order that the permittee may have present a representative with authority to meet the highest bid as to royalty or bonus. The permittee's failure to have such representative present shall constitute a waiver of its preferential right under this subsection.

Section 250.50 Designation of Proven Territory

- a) The Office may designate any State owned land as proven territory if the Office determines that the land is underlain by recoverable oil or gas reserves based upon the producing wells in the vicinity and upon geological data in the Office's possession.
- b) The Department, with the approval of the Governor, shall request competitive bids to lease proven territory, as set forth in Section 250.60 of this Part, within 120 days after designating the State owned land as proven territory.

Section 250.60 Leasing Proven Territory

- a) The Department shall provide public notice, in accordance with Section 250.80 of this Part, of the availability of proven territory for lease, subject to competitive

bid. The public notice of proven territory shall contain a legal description of the designated land and state that interested parties may request an "invitation for bid" from the Department.

- b) All invitations for bids developed by the Department shall:
 - 1) state the legal description of the land proposed to be leased;
 - 2) include the basic lease terms and conditions for the State owned land, as enumerated in Section 250.40(b) of this Part;
 - 3) include any additional terms specified by the State agency with jurisdiction over the land encompassed within the lease, as enumerated in but not limited to Section 250.40(c) of this Part;
 - 4) inform the bidder of the amount of the required bond; and
 - 5) state a minimum bonus payment for the acquisition of the lease in addition to the annual rental payments specified in Section 250.40(b)(3) of this Part.
- c) No less than five days prior to the opening of the sealed bids, bidder must file with the Department a bid bond (letter of credit) in the amount fixed by the Department in the invitation for bid to guarantee the posting of a performance bond in the event he is the successful bidder.
- d) At the date, time and location of the bid opening designated in the notice, the Department shall open all bids actually received. Any bid not received at the designated location on or before the designated time shall not be considered in making a determination on high bidder.
- e) The highest responsible bidder shall be contacted and offered a lease containing the terms provided by subsection (b) and for the consideration as bid, unless the proven acreage is covered by a permit to explore and a preferential right is granted in accordance with Section 250.40(d) of this Part. If the highest bidder does not wish to accept the lease, then the next highest bidder shall be contacted to lease the State owned land.
- f) After receipt of all bids, the Department may make a determination that no bid is reasonable and reject them all, notwithstanding the provisions of subsection (a). If the Department makes such a determination, the Department may again solicit bids in accordance with this Section or it may choose not to lease out such land.

Section 250.70 Bonding Requirements

Prior to drilling any well, lessee shall file an individual well bond with the Department. The bond shall be maintained until the well is plugged and the well site restored in accordance with the Illinois Oil and Gas Act [225 ILCS 725]. The amount of the bond shall be:

- a) \$1500 for a well less than 2,000 feet deep; or
- b) \$3000 for a well 2,000 or more feet deep.

Section 250.80 Public Notice

All public notices, when required by the provisions of this Part, shall be made as follows:

- a) by placing a notice in one or more oil and gas industry publications distributed statewide and in the Official State Newspaper;
- b) by placing a notice in a newspaper of general circulation in the county in which the State owned land is located; and
- c) by sending notice to persons on the Office Lease Notice List in accordance with Section 250.90 of this Part.

Section 250.90 Public Lands Lease Notice List

- a) The Office shall maintain a list of persons entitled to directly receive any public notice required by this Part.
- b) To be placed on the notice list under this Section, a person must submit a written request stating that the person wishes to be placed on the list for notice of any action under this Part requiring public notice and identify the person's name and address. A written request for notice shall be valid for five years from the date of receipt by the Office. A request for notice may be renewed by submitting a new written request.