

rulemaking, excepting any information claimed as CBI, are available for public review. This public record has been established for the rulemaking under Docket No. A-92-18 and contains supporting information used in developing the proposed rule. The docket, including paper versions of electronic comments, is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday, at the U.S. Environmental Protection Agency Air and Radiation Docket and Information Center (6102), Waterside Mall, Room M1500, 401 M Street, SW, Washington, DC 20460; telephone number (202) 260-7548, FAX (202) 260-4400. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Ducey, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5408.

SUPPLEMENTARY INFORMATION: On June 25, 1996, at 61 FR 32729, the EPA published the proposed National Volatile Organic Compound Emission Standards for Architectural Coatings and provided a 60-day public comment period. Requests were received to extend the public comment period beyond the 60 days originally provided. In consideration of these requests, some of which were from small businesses that will be affected by the rule, the EPA extended the comment period by 30 days (until September 30, 1996), in order to give all interested persons the opportunity to comment fully. Subsequent to this extension, the EPA received requests for additional time beyond the 90 days provided to submit comments. In response to these additional requests for a further extension of the comment period and because an extension of the compliance date is being proposed, the EPA is reopening the comment period until November 4, 1996.

The EPA has received numerous comments suggesting that the proposed compliance date of April 1, 1997 does not provide adequate time for some manufacturers and importers to meet the proposed rule requirements. Although the EPA is proposing requirements similar to those which have been in place for many years in certain areas of the country, some manufacturers who have not marketed into these areas have stated that they need time to complete reformulations, conduct product testing, and make

labeling changes. Many of these requests for more compliance lead time have been from small manufacturers. In consideration of these comments, the EPA is proposing an additional nine months of lead time for manufacturers and importers to meet requirements. The proposed compliance date is January 1, 1998. The EPA requests comment on this new compliance date. Comments in support of additional compliance time beyond this date should include detailed information about the types of activities and time frames involved in meeting requirements specific to a manufacturer's particular product lines. In detailing the anticipated timing for compliance with requirements in the proposed rule, the option to obtain a variance for some product lines should be addressed.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Architectural coatings, Ozone, Volatile organic compound.

Dated: October 2, 1996.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 96-25769 Filed 10-04-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210, 3220, 3240, 3250, and 3260

RIN: 1004-AB18

[AA-610-08-4141-02]

Geothermal Resources Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations which implement the Geothermal Steam Act of 1970, (Steam Act). This proposed rulemaking addresses leasing, permitting and operational and unitization requirements for geothermal exploration, drilling, and utilization operations. The proposed rulemaking proposes no additional permit requirements. The proposed regulations would put all the geothermal regulations in a plain English format; reduce and streamline permitting and information requirements; provide BLM the maximum possible flexibility

regarding permit issuance and thereby accommodate the full range of potential geothermal operations and development scenarios; and reorganize the regulations and provide specific permit application informational requirements to allow more consistent interpretation of requirements by BLM and its industrial customers.

DATES: Any comments must be received by BLM on or before January 6, 1997. Comments received which are postmarked after this date will not necessarily be considered in the decisionmaking process on the final rule.

ADDRESSES: If you wish to comment, you may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW., Washington, DC 20240. You also may transmit comments electronically via the Internet to WOCComment@WO0033wp.wo.blm.gov. Please include "attn: RIN 1004AB18" in your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly during regular business hours. You will be able to review comments at BLM's Regulatory Management Team office, Room 401, 1620 L Street, NW., Washington, DC, during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard Hoops, (702) 785-6568.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background and Discussion of Proposed Rule
- III. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment addresses. BLM may not necessarily consider or include in the Administrative Record for the rule comments which BLM receives after the close of the comment period (see "DATES") or comments delivered to an address other than those listed above (see "ADDRESSES").

II. Background and Discussion of Proposed Rule

This proposed rule would revise 43 CFR parts 3200, 3210, 3220, 3240, 3250, and 3260 which implement the classification, leasing, exploration, drilling, and utilization, requirements of the Geothermal Steam Act of 1970 and the Geothermal Steam Act Amendments of 1988 (the Steam Act). The new rule would eliminate existing parts 3210, 3220, 3240, 3250 and 3260, rewrite corresponding subparts under part 3200, and reorganize the existing regulations so that all permitting requirements and

operator responsibilities for each phase of development may be found in a specific subpart. The proposed rule would more clearly delineate the existing permitting and informational requirements.

The existing part 3280, concerning unit agreements, will not be affected by this proposed rule. BLM intends to revise part 3280 in harmony with this general revision of the 3200 regulations, but in a separate rulemaking in the very near future.

Existing parts 3200, 3210, 3220 and 3240 are consolidated and placed in

order corresponding to the sequence in which leasing procedures occur. The exploration regulations are moved from subparts 3209 and 3264 and redesignated as subpart 3250. Existing part 3260 is revised to describe only the requirements for drilling operations. The existing part 3250, Site License, and the existing portions of part 3260 addressing geothermal resource utilization are revised and redesignated as subpart 3270, Utilization of Geothermal Resources.

The following table lists how each subpart is reorganized:

Current regulations	Proposed regulations
3200—Geothermal Resources Leasing: General	3200—Geothermal Resources Leasing.
3201—Available Lands; Limitations; Unit Agreements	3201—Available Lands.
3202—Qualifications of Lessees	3202—Qualifications of Lessees.
3203—Leasing Terms	3206—Lease Issuance.
	3207—Additional Lease Term.
	3208—Extended Lease Term.
	3209—Additional Lease Information.
	[deleted].
3204—Surface Management Requirements	3210—Fees, Rentals and Royalties.
3205—Fees, Rentals and Royalties	3213—Personal and Surety Bonds.
3206—Lease Bonds	3214—Bonding and Lease Operations.
	3215—Certificate of Deposit and Letter of Credit.
	3216—Bond Collection After Default.
	3206—Lease Issuance.
3207—Leases for a Fractional or Future Interest	
3208—(Reserved)	
3209—Geothermal Resources Exploration Operations	3250—Geothermal Exploration.
3210—Noncompetitive Leases: General	3204—Noncompetitive Leasing.
3220—Competitive Leases: General	3205—Competitive Leasing.
3241—Transfers	3217—Transfers, Interest and Qualifications.
	3218—Requirements for Filing Transfers.
3242—Production and Use of Byproducts	3272—The Contents and Review of a Plan of Utilization.
3243—Cooperative Conservation Provisions	3219—Cooperative Conservation Provisions.
3244—Terminations and Expirations	3212—Relinquishment, Termination, Cancellation, and Expiration.
3250—Utilization of Geothermal Resources	3273—Applying for and Obtaining a Site License.
	3274—Joint utilization Agreements.
3260—Geothermal Resources Operations: General	3260—Geothermal Drilling Operation—General.
	3270—Utilization of Geothermal Resources General.
3261—Jurisdiction and Responsibility	3260—Geothermal Drilling Operation—General.
	3262—Conducting Drilling Operations.
	3263—Well Abandonment.
	3270—Utilization of Geothermal Resources General.
3262—Requirements for Operating Rights Owners	3261—Permitting (drilling).
	3262—Conducting Drilling Operations.
	3271—Permitting Utilization Operations.
	3272—Contents and Review of a Plan of Utilization.
	3276—Conducting Utilization Operations.
3263—Measurement of Production	3276—Conducting Utilization Operations.
3264—Reports to be Made by All Lessees	3261—Permitting (drilling).
	3266—Reports (drilling).
	3274—Submitting a Utilization Permit.
	3275—Submitting a Production Permit.
3265—Procedure in Case of Violation of the Regulations	3268—Inspection, Enforcement, and Noncompliance (drilling).
	3277—Inspection, Enforcement, and Noncompliance (utilization).
3266—Appeals	3255—Relief and Appeals (exploration).
	3269—Relief and Appeals (drilling).
	3278—Relief and Appeals (utilization).

Parts 3200—Geothermal Resources Leasing: General, 3210 Noncompetitive Leases, 3220—Competitive Leases, and 3240 Rules Governing Leasing

Firstly, the new rule would restructure the definitions section,

retaining many of the existing terms but also removing several technical terms (such as “the Secretary” and “the Service”) which no longer fit within the plain English style, and adding new terms (such as “MMS”) which play a

significant role in the new rule. Furthermore, some existing terms which have narrow applicability, such as “significant thermal features within units of the National Park System” would be relocated to the specific

sections to which they apply. To this extent, the new definitions section contains only terms which are used repeatedly throughout the regulations. Also, the definition of commercial quantities is expanded to address the difference between commercial quantities of individual lease and unit production. Finally, the terms would be alphabetized, and the designations markers (a), (b), (c) and so forth, removed, in keeping with Federal Register guidance.

Next, the section describing lands subject to geothermal leasing would be condensed and rewritten into 43 CFR 3201.10. Nothing in the new section alters what lands are available for geothermal leasing; rather, this section would just be streamlined and rewritten into plain English. Subpart 3202 would contain the qualifications for a lessee which, likewise, are intended to retain all substantive provisions from the existing regulations, streamlined and rewritten into plain English.

The proposed rule would completely restructure existing regulations concerning the general leasing processes. Firstly, proposed subpart 3203 would introduce the term Known Geothermal Resource Area (KGRA) and briefly describes how this designation determines whether an area can be leased through noncompetitive bidding or solely through the competitive bidding process. Subpart 3204 would then revise the manner in which noncompetitive leases become available. BLM will no longer prepare an availability list of relinquished or terminated leases; instead, lands will become available for noncompetitive leasing as soon as BLM closes each case. An offeror could apply for these lands at any time, and instead of collecting applications in one-month application periods, BLM would open each application upon submission and immediately begin processing.

This new process would substantially improve the way BLM handles noncompetitive lease applications. By eliminating the one-month delay, BLM would create a rolling application review process which would approve or deny an application much sooner than under the current process. BLM could determine at any time prior to issuing the lease that the land is a known geothermal resource area (KGRA), either as a result of overlapping applications for the same land or due to evidence indicating threshold geothermal activity (see the definition in 43 CFR 3203.11); which would mean that the area is subject to competitive leasing. Otherwise, once BLM approves a noncompetitive lease application, no KGRA designation would apply and any

later overlapping applications would be rejected.

If overlapping applications were filed prior to approval of the first application, this competitive interest would prompt BLM to examine the land for further evidence that might warrant a KGRA designation. If the designation were approved, all noncompetitive applications would be rejected and the lands would be made available under the competitive leasing provisions. If no KGRA designation were warranted, then the lease would be offered to the first qualified applicant, *i.e.*, the first person to submit an application which meets all requirements.

Under the proposed regulations BLM would continue to issue competitive leases as in the past, relying on published notices of available lands and a sealed bidding process. The regulations for competitive leasing would be relocated to subpart 3205, condensed and written into plain English. BLM would make no substantive changes to the manner in which we review applications, select the winning bid, notify the successful bidder, issue the lease, revoke offers when the successful bidder fails to respond, and so forth.

Most of the leasing terms at subpart 3203 of the existing regulations would be retained in condensed, plain English form in proposed subparts 3206 through 3210. However, some substantive and organizational changes are proposed. For example, BLM would change the requirements for diligent exploration under a lease. The current regulation (43 CFR 3203.5) requires that diligent exploration occur during lease years 11 through 15, but BLM proposes to remove this requirement since these lease years are not part of the primary period. Rather, the new regulations add a requirement at 43 CFR 3208.10(a) that a lease be extended due to diligent drilling over the end of the primary period. To qualify, the operator must diligently strive to reach a reasonable drilling target, which BLM will define based on local geology and the type of development proposed by the operator.

Under 43 CFR 3208.10 (b) and (c) of the proposed regulations leases would be eligible for extensions in two new, additional situations: (1) when committed to a unit, lease terms expiring prior to the unit could be extended to match the unit terms as long as diligent unit development is occurring; and (2) any lease not part of a participating area is eligible for two successive five-year extensions when it is eliminated from a unit by contraction or unit review. These extensions address industry concerns that leases adjacent to producing areas may be

terminated, regardless of diligence, due to the lack of electrical sales contracts or poor energy market lasting for extended periods.

The proposed rule would enact a few other minor substantive changes to lease terms. For example, BLM would delete the special requirements at 43 CFR 3203.4(d) for describing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska, since this part is rarely used, and since the general regulations for describing unsurveyed lands are adequate. Several other portions of existing subpart 3203 have been merged into other sections: section 3203.6, concerning plans of development and operation, has been incorporated into various sections within new subparts 3260 and 3270; 43 CFR 3203.7, concerning oil, gas and helium reservations, is covered by 43 CFR 3210.17. The 43 CFR 3203.1–6 concerning converting leases to a mineral lease would be relocated to 43 CFR 3209.10.

The provisions on fees, rentals and royalties in subpart 3205 would be replaced by subpart 3211 in streamlined, plain English form. Except as noted, BLM does not intend to change any of these existing substantive provisions, but merely to make the existing ones more readily understood by the public, and more manageable for BLM. The only notable change is that the existing provision at 43 CFR 3205.3–7(a), concerning waivers and suspensions of payments, would be relocated to 43 CFR 3212.14, grouping it with the regulations on suspension of operations or operations and production leases. Finally, subparts 3206–Lease Bonds, 3207–Leases for a Fractional or Future Interest, and 3209–Geothermal Resources Exploration Operations would be relocated to, respectively, subparts 3214, 3206, and 3250. In each case, except as otherwise discussed in this preamble, the changes enacted by the proposed regulation would be limited to consolidation and plain English rewrites.

Part 3250—Utilization of Geothermal Resources

In order to separate operational regulations from the leasing provisions, the geothermal resources utilization regulations currently found in part 3250 would be relocated to subpart 3270, and the new subpart 3250 would contain the geophysical exploration operation regulations currently found in subpart 3209. The permitting and operational responsibilities for geophysical exploration operations occurring on either unleased public lands, Indian

lands, or lands leased for geothermal resources activities conducted by a lessee or permittee are consolidated here into a single set of standards. An exploration permit application would consist of the permit form and any operational and environmental information necessary for BLM to provide a timely review and decision.

These flexible informational requirements would adequately cover the level of detail necessary to provide sufficient information for applications to drill shallow temperature gradient wells (up to 500 feet deep), temperature gradient wells (with depths of 4000 feet or more), or any exploratory drilling in areas of increased environmental concern. Currently, Geothermal Resources Operational Order 1 limits the depth of temperature gradient wells to 500 feet unless BLM grants specific authorization to drill deeper, but the proposed regulations at 43 CFR 3252.30 will allow an operator to propose a temperature gradient well to any depth necessary to adequately measure temperature gradients. Sections would be added for inspection, enforcement and noncompliance, and appeals, and the current exploration bond requirements would be retained.

Part 3260—Geothermal Resource Operations: General

In order to consolidate drilling operations regulations in one location, subpart 3260 as proposed would address only the drilling permit application, approval, and reporting requirements. Regulations addressing permits for utilization facilities and information requirements related to the utilization of geothermal resources would be moved to a new subpart 3270. To address concerns often expressed by the public as well as other regulatory agencies, the Jurisdiction and Responsibility section (current subpart 3261) would be amended to clarify BLM's existing authority to take post-permit actions, such as requiring modifications to or shutting down operations that are in noncompliance or pose an immediate threat to the public, the environment or private property.

Under proposed subpart 3260, a drilling application would consist of a plan of operation, geothermal drilling permit and drilling program, and all three documents could be submitted for review simultaneously. The plan of operation information requirements would be reduced to cover only specific drilling activities, eliminating the current requirement that applicants also address resource utilization. The plan of operation and drilling program could be written to apply to more than one well,

though separate geothermal drilling permits would be required for each proposed well. Pad construction could commence once BLM approved the plan of operation or a sundry notice specifically requesting authorization for the site construction, while the drilling program and geothermal drilling permit could be submitted later. The well location plat, as currently required, would need to be certified by a licensed surveyor.

A geothermal sundry notice would be necessary for actions such as casing program changes, well stimulation, or plugging and abandoning a well, but BLM could waive the sundry notice requirement for specific routine well work, surveys, or downhole maintenance. For activities that would result in an environmental impact not already described in the plan of operation, the applicant would be required to submit a geothermal sundry notice to amend the plan of operation, which would result in subsequent environmental review.

These permit review options would provide both BLM and resource users the maximum flexibility and the best opportunity to address the broad range of operational and environmental issues encountered during geothermal development. BLM would be able, as a result, to respond to industry requests more efficiently and ensure all environmental requirements are met.

Several other sections have been modified to improve the way in which BLM oversees existing operations. In new 43 CFR 3266.50, BLM would reduce the current requirements of notification or reports for all accidents occurring on federal lands (current 43 CFR 3262.7) to require notification and reports only when the accident affects operations or causes environmental hazards. Per the authority under section 5 of the lease terms, BLM can conduct inspections to ensure compliance with the permit, lease terms, regulations and the Steam Act. When the lessee submits information it regards as confidential, it would be clearly marked with the words "confidential information," although BLM would ultimately determine whether such information is exempt from public disclosure under the Freedom of Information Act regulations set forth in 43 CFR part 2.

The noncompliance subsection is revised to more clearly define what BLM can do when an operator fails to promptly commence or complete a required remedial action. This would include modification of project operations, temporary or permanent shut down of operations, or lease termination.

Because the requirements specified in some of the current Geothermal Resources Operational Orders have become out of date, BLM will revise the requirements and incorporate them into new regulations in 1997. This proposed action changes some standards and requirements from current Orders, and when finalized these changes will have precedence over the Orders standards.

A new subpart 3270 makes several changes to the existing permitting procedures and operator responsibilities for producing and utilizing geothermal resources. Several related definitions would be transferred to this part from existing part 3260, and adding a new definition for commercial operations that would specifically identify when the production permit is required. To gain a permit to construct and operate a utilization facility under this part, an operator would submit in an application a plan of utilization, utilization permit, production permit, site license and joint utilization agreement, where applicable. The applicant would need to submit the plan of utilization and the utilization permit together, while the remaining items could be submitted together or separately, although BLM will not approve the utilization permit until receiving a site license and related bond. These changes to the permitting process are intended to provide the operator increased flexibility in submitting the necessary information as it becomes available. The same process would apply to all types of utilization facility proposals, rather than using separate procedures for permitting research and demonstration facilities and individual well facilities, as the current regulations do.

Before any surface disturbing activities associated with utilization facility construction and testing could begin, BLM would have to approve the plan of utilization, utilization permit and site license. An approved utilization permit would authorize the site preparation, construction and testing of a facility located on lands leased for federal geothermal resources or Indian land. Production permit approval would then be needed to begin commercial operation (defined as delivering any form of geothermal resources for sale or for use by the operator) of the facility or the utilization of federal resources. By contrast, only the production permit would be needed to locate a proposed utilization facility on unleased public lands receiving production allocated to or from wells located on federal leases or Indian lands.

The plan of utilization would describe the proposed facility and its

environmental protection measures, and the operator could begin building the facility according to this plan once BLM approves the utilization permit. Those portions of the plan of operation, as described in the existing regulations, that involve requirements related to utilization would become requirements of the plan of utilization. However, instead of requiring the operator in all cases to collect baseline environmental data prior to the initiation of production, BLM would determine which, if any, specific environmental parameters should be addressed, and begin degradation monitoring. BLM could also require monitoring of facility operations as a condition of approval of the permit to ensure environmental compliance.

The site license requirements would be moved from part 3250 to proposed subpart 3270 and directly incorporated into the utilization permitting process. At the time of application, the site license area must be on federally leased lands, although the license term would not be based on the lease term. Applicants would be required to submit a site license bond with their license application. Other requirements, such as the minimum utilization bond amount of \$100,000 for any electrical generation facility and the current bonding requirement for direct use facilities, would remain unchanged. A site bond may not be required for a direct use facility.

The proposed regulations would eliminate the requirement that a lessee or unit operator pay a minimum annual rent of \$100 per acre for the site license area, because the lease already grants the right to utilize a reasonable amount of surface for utilization and the lessee has already paid either rental or royalties. However, if an entity other than a lessee or unit operator owns the utilization facility, the site license rental would still be required. Furthermore, should the location of a site license area occur on a federal lease which has terminated, the license could remain in effect with facility siting authorized by BLM under FLPMA for BLM-managed lands, or by the appropriate surface management agency (in coordination with BLM) for all other lands.

When the facility is owned by someone other than the lessee or unit operator, a joint utilization agreement would be required as part of the site license approval process. This document constitutes the agreement between a lessee or unit operator and a third party siting a unitization facility on their land. The third party, as the facility operator, would then assume

full responsibility for all phases of facility permitting and operations.

The production permit authorizes the sale and/or use of federal geothermal resources, and BLM must approve this permit before a utilization facility starts commercial operation. For this permit, the applicant must provide specific information about the proposed facility's operations, particularly its production and royalty metering. The new rules would reduce the current requirement for detailed engineering drawings to require only generalized schematics of the facility. BLM could attach conditions of approval to the production permit, such as monitoring of the facility to ensure compliance with environmental and/or operational standards, and BLM could modify or shut down the facility operation were it in noncompliance with environmental or operational standards.

The new regulations would incorporate and add greater detail to Geothermal Resource Operational Order 7, containing standards for the types and accuracy of meters used to measure production or utilization or to determine royalties. The proposed regulations would identify the following for both electrical generation and direct use facilities: (1) where the operator must locate the various types of meters (43 CFR 3276.41); (2) meter accuracy standards which vary depending on the volume of resource measures (43 CFR 3276.42); and (3) meter accuracy standards for installation and measurement.

Several issues regarding the site license and joint utilization agreements remain open questions, and BLM is seeking the public's input regarding these questions. First, BLM believes that the provisions for a site license should be eliminated, as a site license does not grant any additional authority to utilize the surface beyond that already granted by an approved utilization plan. BLM is therefore contemplating removing this provision in the future. If you believe the site license performs a necessary function, are there any alternatives to the current system that would serve the same purpose?

BLM is also seeking comments regarding whether the public believes BLM should continue to require a rental for a site license if the site licensee is other than a geothermal lessee.

Some final matters: editorial changes have been made to correct several cross-references; and BLM will modify its forms to accommodate the numerous changes in the proposed regulations, as well as to account for existing forms which have expired.

III. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA), and has found that the proposed rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**), and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the Written Comments section above, or contact us directly.

Paperwork Reduction Act

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004-0034, 1004-0074, 1004-0132 and 1004-0160.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Unfunded Mandates Reform Act

Revision of 43 CFR group 3200 will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of \$100,000,000 or more in any one year.

Executive Order 12612

The proposed rule would not have sufficient federalism implications to

warrant BLM preparation of a Federalism Assessment (FA).

Executive Order 12630

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically excludes actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the proposed rule is to abolish unnecessary regulations and rewrite existing ones, there will be no private property rights impaired as a result. Therefore, BLM has determined that the rule would not cause a taking of private property, or require further discussion of takings implications under this Executive Order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The principal authors of this proposed rule are Richard Hoops and Jack Lewis of the Nevada State Office, Sean Hagerty and Sonia Santillan of the California State Office, Richard Estabrook of the Ukiah District Office, Jack Feuer and Donna Kauffman of the Oregon State Office, Dennis Davis of the Prineville District Office, and Robert Henricks and Connie Seare of the Utah State Office, all of the Bureau of Land Management.

List of Subjects

43 CFR Part 3200

Environmental protection, geothermal energy, government contracts, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

43 CFR Part 3210

Geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

43 CFR Part 3220

Geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

43 CFR Part 3240

Geothermal energy, government contracts, land management bureau, mineral royalties, public lands-mineral resources, reporting and record keeping requirements, water resources.

43 CFR Part 3250

Geothermal energy, geothermal exploration, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

43 CFR Part 3260

Environmental protection, geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

Dated: September 27, 1996.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

For the reasons set forth above in the preamble, and under the authority of the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1027), The Freedom of Information Act (5 U.S.C. 552), and the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*), 43 CFR chapter II is amended as set forth below:

PARTS 3210, 3220, 3240, 3250 AND 3260—[REMOVED]

1. Parts 3210, 3220, 3240, 3250 and 3260 are removed.

2. The heading "GROUP 3200—GEOTHERMAL RESOURCES LEASING" and the accompanying note is removed.

3. Part 3200 is revised to read as follows:

PART 3200—GEOTHERMAL RESOURCE LEASING

Subpart 3200—Geothermal Resource Leasing—General

Sec.

3200.1 What are the meanings of terms I need to know to understand the regulations in this part?

3200.2 Information collection.

3200.3 What are my rights of appeal?

Subpart 3201—Available Lands

3201.10 What lands are available for geothermal leasing?

3201.11 What lands are not subject to geothermal leasing?

Subpart 3202—Lessee Qualifications

3202.10 Who can hold a geothermal lease?

3202.11 Must I prove I can hold a lease when filing a lease offer?

3202.12 Are other persons allowed to act in my behalf?

3202.13 What happens if the offeror dies before the lease is issued?

Subpart 3203—Obtaining a Lease

3203.10 How can I obtain a geothermal lease?

3203.11 How is a KGRA determined?

Subpart 3204—Noncompetitive Leasing

3204.10 How do I file an offer to lease?

3204.11 How do I describe the lands in my lease offer?

3204.12 What fees must accompany my offer?

3204.13 May I combine acquired and public domain lands on the same offer?

3204.14 What are the minimum and maximum acreage requirements for my offer?

3204.15 What happens when two or more applicants apply for a noncompetitive lease for the same land?

3204.16 How does BLM determine the first qualified applicant?

3204.17 May I withdraw my offer?

3204.18 May I amend my offer?

Subpart 3205—Competitive Leasing

3205.10 How does BLM lease competitive lands?

3205.11 How do I obtain information on the terms and conditions of leases being offered through competitive bidding?

3205.12 How do I bid for a parcel?

3205.13 What is the minimum acceptable bid?

3205.14 How does BLM conduct the sale?

3205.15 To whom does BLM issue the lease?

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- Authority: 5 U.S.C. 552; 30 U.S.C. 1001–1027; 43 U.S.C. 1733, 1740.

Subpart 3200—Geothermal Resource Leasing**§ 3200.1 What are the meanings of terms I need to know to understand the regulations in this part?**

Act means the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*).

Additional term means the 40 years beyond the primary term of a producing lease. The additional term is granted when geothermal steam is produced or utilized in commercial quantities within the primary term. This differs from an extended term because additional terms constitute a new lease term; whereas extensions lengthen the primary term without creating a new term. See the procedures in subpart 3207 of this part.

Assignment means a transfer of all or a portion of the lessee's record title interest in a lease.

Byproducts are minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam that are not of sufficient value to warrant extraction and production by themselves because they have a value of less than 75% of the value of the geothermal steam or because of technical difficulties in extraction and production.

Casual use means activities that ordinarily lead to no more than negligible disturbance or damage to lands, resources, or improvements.

Commercial quantities means either:

- (1) For production from a lease, a sufficient volume (in terms of flow and temperature) of the resource to provide a reasonable return after all variable costs of production are met; or
- (2) For production from a unit, a sufficient volume of the resource to provide a reasonable return after all variable costs of production and drilling are met.

Cooperative agreement means an agreement for the production and utilization of separately owned interests in the geothermal resources in which separate ownership units are independently operated without allocation of production.

Development contract means an agreement between one or more lessees and one or more entities which, when approved by BLM, facilitates resource exploration and serves to protect the public interest.

Exploration operations means any activity relating to the search for evidence of geothermal resources. This activity requires physical presence on the land and may result in damage to public lands or resources. Exploration includes, but is not limited to, geophysical operations such as drilling

shallow temperature gradient wells or holes used for explosive charges for seismic exploration. It also includes related construction of roads and trails, and cross-country transit by vehicles over public land. Exploration operations do not include the production or utilization of geothermal resources, which may only be conducted under a lease and in accordance with the regulations of this part (see subparts 3260 and 3270 of this part).

Extended term means an initial and any successive 5-year period beyond the primary term of a lease during which BLM will grant the lessee the right to continue activities under the existing lease. Extensions differ from an additional term because they serve to extend the primary term, rather than creating a new one. See the procedures in subpart 3208 of this part.

Facility operator means the entity receiving authorization from BLM to site, construct, test and/or operate a utilization facility. A facility operator may be a lessee, a unit operator, or a third party.

Geothermal exploration permit is an application you submit describing proposed exploration operations and which, when approved by BLM, authorizes geothermal exploration operations and associated surface disturbance.

Geothermal resources operational order means a formal, numbered order, issued by BLM, that implements or enforces the regulations in this Part.

Geothermal steam and associated geothermal resources are products of geothermal steam or hot water and hot brines, including those resulting from water, gas, or other fluids artificially introduced into geothermal formations, heat or other associated energy found in geothermal formations, and byproducts derived from these.

Geothermal sundry notice is a written request submitted by an operator for permission to deviate from operations in a previously approved permit or sundry notice. A geothermal sundry notice may also be submitted to obtain permission to perform work not otherwise covered in a permit or sundry notice.

Joint utilization agreement means an agreement between a facility operator and a Federal lessee or unit operator, if the two entities are different, which permits a facility operator to construct a utilization facility on Federal lands leased for geothermal resources. The agreement must provide for the construction, testing and operation of a utilization facility on the lease.

Known geothermal resource area (KGRA) is an area where BLM determines that persons knowledgeable

in geothermal development would expend money to develop geothermal resources. For more information on how BLM determines KGRAs, see 43 CFR 3203.11.

MMS means the Minerals Management Service.

Notice to lessees means a written notice issued by BLM that implements the regulations in this part or geothermal resource operational orders, and provides more specific instructions on geothermal issues within a state, district or resource area.

Operating rights owner means a person or entity holding operating rights in a lease. A lessee is also an operating rights owner if the operating rights or a portion of them have not been severed from record title.

Operator means any person or entity who has assumed responsibility for the operations conducted on the leased lands.

Plan of utilization means a plan which fully describes the utilization facility, including measures for environmental protection and mitigation. An approved plan of utilization permits the siting of a utilization facility on federal lands.

Primary term means the first 10 years of a lease, not including any periods of suspension.

Produced or utilized in commercial quantities means a well producing geothermal resources in commercial quantities, or the completion of a well capable of producing geothermal resources in commercial quantities when BLM determines the lessee is diligently attempting to utilize the geothermal steam.

Production permit means authorization from BLM allowing for the production of geothermal resources from federal lands.

Public domain lands or public lands means lands, including mineral estates, that never left the ownership of the United States, were obtained in exchange, reverted to the ownership of the United States through the operation of the public land laws, or have been identified by Congress as part of the public domain.

Record title means an interest in a lease which includes the responsibility for paying rent and the right to assign and relinquish the lease.

Relinquishment means action taken by the lessee to voluntarily end the lease in whole or in part.

Shallow temperature gradient wells means a well drilled up to 500 feet deep for the purpose of obtaining information on the change in temperature over the depth of the well in order to extrapolate temperatures at a greater depth.

Site license means authorization from BLM allowing the construction of a utilization facility on leased Federal lands.

Stipulation means a condition attached by BLM to a lease or permit.

Temperature gradient wells means a well drilled to a depth of 4000 feet or more for the purpose of obtaining information on the change in temperature over the depth of the well in order to extrapolate temperatures at a greater depth.

Termination means the cancellation of a lease due to nonpayment of annual rental, cessation of production, or other action by the lessee which breaches the contract.

Transfer means conveyance of any interest a party may have in a Federal lease. This definition includes the terms assignment and sublease.

Unit agreement means an agreement for the exploration, production and utilization of separately owned interests in geothermal resources as a single consolidated unit without regard to separate ownerships and which provides for the allocation of costs and benefits on a basis defined in the agreement.

Unit area means all tracts committed to an approved unit agreement.

Unit operator means any person or entity that has stated in writing to BLM that it is responsible for the operations conducted under the unit agreement and is so designated in the unit agreement.

Unitized substances means geothermal resources recovered from lands committed to a unit agreement.

Utilization permit means authorization from BLM allowing site preparation, construction, and testing of a utilization facility.

Waste means:

- (1) Physical waste, including refuse; and/or
- (2) Improper use or unnecessary dissipation of geothermal resources through inefficiency in drilling, production, transmission, or utilization.

Working Interest means an interest granted by a lease, operating agreement or other authorizing document in geothermal resources conveying the right to explore for, develop, produce, and use geothermal resources, except that such rights delegated to a unit operator by a unit agreement are not working interests.

§ 3200.2 Information collection.

(a) The collection of information contained in this part has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004–

0034, 1004–0074, 1004–0132 and 1004–0160. The information will be used to maintain an orderly program for leasing, development and production of Federal geothermal resources, to evaluate technical feasibility and environmental impacts of geothermal operations on Federal and Indian lands, and to determine whether exploration expenditures meet the requirements for diligence credit under 43 CFR 3202.5. The public must respond to the requests for information in order to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 1.6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimates or any other aspects of this collection of information, including suggestions for reducing the burden, to Administrative Record, Bureau of Land Management, Room 401 LS, 1849 C Street, NW., Washington, DC 20240; and the Paperwork Reduction Project (1004–0160), Office of Management and Budget, Washington, DC 20503.

(c) There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases that specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR part 270 or a specific section thereof. Those references must now be read to mean either the Bureau of Land Management or the Minerals Management Service as appropriate.

§ 3200.3 What are my rights of appeal?

You may appeal any decision made by BLM under this part in accordance with 43 CFR parts 4 and 1840.

Subpart 3201—Available Lands

§ 3201.10 What lands are available for geothermal leasing?

- (a) BLM may issue leases on:
 - (1) Lands administered by the Department of the Interior, including public, withdrawn and acquired lands;
 - (2) Lands administered by the Department of Agriculture with its concurrence;

(3) Lands conveyed by the United States where the geothermal resources were reserved to the United States; and

(4) Lands subject to section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with concurrence from the Secretary of Energy.

(b) BLM will not issue, extend, review or modify a lease that would result in a significant adverse effect on a significant thermal feature within a unit of the National Park system. If BLM determines such a potential exists, we will include in any lease action all stipulations required by law and necessary to protect such features.

§ 3201.11 What lands are not subject to geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuance of the lease would cause unnecessary or undue degradation;

(b) Lands that are contained within a unit of the National Park System, or are otherwise administered by the National Park Service;

(c) Lands within a national recreation area;

(d) Lands where the Secretary determines that geothermal operations are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

(e) Fish hatcheries or wildlife management areas administered by the Secretary;

(f) Indian trust or restricted lands within or without the boundaries of Indian reservations;

(g) The Island Park Geothermal Area; and

(h) Lands where section 43 of the Mineral Leasing Act (30 U.S.C. 226-3) prohibits leasing which includes:

(1) Wilderness areas or wilderness study areas administered by BLM or other surface management agencies;

(2) Lands designated by Congress as wilderness study areas, except where leasing is specifically allowed to continue by the statute designating the study area; and

(3) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an act of Congress.

Subpart 3202—Lessee Qualifications

§ 3202.10 Who can hold a geothermal lease?

You may hold a geothermal lease if you are:

(a) A citizen of the United States who has reached the age of majority;

(b) An association, including a partnership, of United States citizens;

(c) A corporation organized under the laws of the United States, any state or the District of Columbia; or

(d) Any domestic governmental unit.

§ 3202.11 Must I prove I can hold a lease when filing a lease offer?

Ordinarily you do not need to submit proof at the same time you submit the offer, but BLM has the right to request information regarding your qualifications at any time, including when you submit your offer. If BLM requires additional information, you have 30 days from your receipt of the request to submit the information.

§ 3202.12 Are other persons allowed to act in my behalf?

Yes, one person may act on behalf of another, provided he or she notifies BLM. The person taking the action must sign the document, note his or her title, identify the person on whose behalf he or she is acting, and be qualified to hold a lease under 43 CFR 3202.10. BLM may require the person to provide written proof of his or her qualifications and authority to take such action.

§ 3202.13 What happens if the offeror dies before the lease is issued?

If the offeror dies before the lease is issued, BLM will issue the lease to either the administrator or executor of the estate or the heirs. If the heirs are minors, BLM will issue the lease to either a legal guardian or trustee, provided that the legal guardian or trustee is also qualified to hold a lease under 43 CFR 3202.10.

Subpart 3203—Obtaining a Lease

§ 3203.10 How can I obtain a geothermal lease?

You must first determine if the lands are located in a known geothermal resource area (KGRA). BLM leases lands within a KGRA through a competitive sale. If the lands you wish to lease are within a KGRA, you must follow the procedures for submitting a bid set out in subpart 3205 of this part. BLM issues a competitive lease to the person or entity submitting the highest qualified bid. BLM leases available lands outside a KGRA noncompetitively. You may lease lands outside a KGRA by submitting an offer following the

procedures set out in subpart 3204 of this part. BLM issues noncompetitive leases to the first qualified applicant. BLM may issue a lease for a fractional interest if we determine the public interest is well served by doing so.

§ 3203.11 How is a KGRA determined?

BLM determines the boundaries of a KGRA based on the following indicators:

(a) Geologic and technical evidence that indicates persons knowledgeable in geothermal resource development would spend money developing the area;

(b) Lands within 5 miles of a well capable of production in commercial quantities, or all lands in the same geologic structure, regardless of the distance from the well capable of production in commercial quantities; and

(c) Where competitive interest exists. Competitive interest exists where more than one person expresses interest in leasing an area for geothermal resources.

Subpart 3204—Noncompetitive Leasing

§ 3204.10 How do I file an offer to lease?

You or your authorized agent must submit three (3) executed copies of current Form 3200-24 to BLM. At least one form must have an original signature. We will accept only exact copies of the form on one two-sided page, to match the original. The application must accurately describe the lands covered by your application. You may obtain this form (and other BLM forms) by contacting the nearest BLM Office.

§ 3204.11 How do I describe the lands in my lease offer?

You must describe the lands as follows:

(a) For lands surveyed under the public land rectangular survey system, describe the lands by legal subdivision, section, township, and range;

(b) For unsurveyed lands, describe the lands by metes and bounds, giving courses and distances, and tie this information to an official corner of the public land surveys, or to a prominent topographic feature;

(c) For approved protracted surveys, include an entire section, township, and range. Do not divide protracted sections into aliquot parts;

(d) Discuss offers for unsurveyed lands in Louisiana and Alaska that have water boundaries with BLM prior to submission; and

(e) For fractional interest lands, identify the United States mineral ownership by percentage.

§ 3204.12 What fees must accompany my offer?

You must submit a nonrefundable filing fee of \$75 for each offer and advance rental in the amount of \$1 per acre, or fraction of an acre. BLM will refund the advance rental if we reject the offer, or you withdraw the offer before BLM accepts it. If your advance rental is deficient by more than 10 percent, BLM will reject the offer.

§ 3204.13 May I combine acquired and public domain lands on the same offer?

Yes, as long as you clearly identify both the acquired lands and the public domain lands.

§ 3204.14 What are the minimum and maximum acreage requirements for my offer?

The minimum size of a lease is 640 acres. Your offer must include all available lands in the section. If the section contains lands not available for leasing, the lease must include all the available lands in the section, which is then the minimum size of the lease. The maximum size of a lease is 2560 acres, although BLM will make an exception to this requirement when an offer includes an irregular subdivision. Leases must not extend outside a 6 mile square area.

§ 3204.15 What happens when two or more applicants apply for a noncompetitive lease for the same land?

BLM begins processing applications as soon as they are received. Once BLM approves a noncompetitive lease application, any later applications received for the same land are rejected. However, if BLM receives additional applications for the same land while the original application is still pending, BLM must determine if the overlapping applications warrant converting the land at issue to a KGRA.

(a) If BLM determines that the land should be considered a KGRA, then all noncompetitive applications are rejected, and applicants must follow the procedures for competitive bidding to obtain a lease.

(b) If BLM determines that KGRA status is not warranted despite the multiple applications, then the lease will be awarded to the first qualified applicant.

§ 3204.16 How does BLM determine the first qualified applicant?

BLM determines the first qualified applicant by the priority in which the application is filed. BLM issues a noncompetitive lease to the offeror who is first to file an application that meets all the application requirements.

§ 3204.17 May I withdraw my offer?

Yes, you may withdraw your offer in whole or in part prior to lease issuance, provided the remaining lands in a partial withdrawal comply with the acreage requirements.

§ 3204.18 May I amend my offer?

Yes, you may amend your offer prior to lease issuance provided your amended offer complies with all the lease offer requirements. BLM will give your amended offer a new priority based on the date we receive it.

Subpart 3205—Competitive Leasing**§ 3205.10 How does BLM lease competitive lands?**

BLM leases Federal lands within KGRAs through a sealed bid, competitive sale process. BLM generally establishes parcels of lands available for competitive leasing from terminated, expired, or relinquished leases and from public expressions of interest. BLM lists these parcels, with stipulations, if applicable, in a sale notice, posts the notice in an appropriate BLM office and publishes the notice for 3 consecutive weeks in a newspaper of general circulation in the area of the lands. The sale notice will tell you which lands are offered, and where and when to submit your bids. BLM can request you to pay the cost of publication, if you are awarded the lease.

§ 3205.11 How do I obtain information on the terms and conditions of the leases being offered through competitive bidding?

BLM will post a statement which will include the terms and conditions of the lease(s), including the rental and royalty rates. The statement will also tell you where you may obtain a form on which to submit your bid.

§ 3205.12 How do I bid for a parcel?

Unlawful combination or intimidation of bidders is prohibited by 18 U.S.C. 1860. You must follow these procedures:

(a) Submit your bid to the BLM office indicated in the notice prior to the date and time specified in the sale notice;

(b) Submit your bid on Form 3000-2 (or exact copy);

(c) Submit a bid in a separate, sealed envelope for each full parcel;

(d) Include in each bid a certified or cashier's check, bank draft, or money order equal to one-fifth of the amount bid, payable to the "Department of the Interior, Bureau of Land Management;" and

(e) Label each envelope with the parcel number and the statement "Not to be opened before (date posted in the sale notice)."

§ 3205.13 What is the minimum acceptable bid?

BLM will not accept bids which do not meet or exceed the fair market value as determined by BLM in accordance with generally acceptable appraisal methods. BLM determines the fair market value prior to the sale, but does not disclose it to the public.

§ 3205.14 How does BLM conduct the sale?

On the date, and at the place and time set out in the sale notice, BLM opens, announces, and records bids. BLM does not accept or reject any bid at that time. Bidders are not required to attend the sale.

§ 3205.15 To whom does BLM issue the lease?

BLM will issue the lease to the highest responsible qualified bidder within 30 days. If BLM determines that the highest bid is inadequate, BLM will reject the bid. BLM reserves the right to reject any and all bids.

§ 3205.16 How will I know if my bid is accepted?

(a) BLM will send you a letter accepting your bid. The letter will be accompanied by 3 copies of the lease. Upon receipt of the letter and lease forms, you have 15 days in which to submit:

- (1) The signed lease forms;
- (2) The remaining four-fifths of the bonus bid;
- (3) The first year's advance rental; and
- (4) Signed stipulations, if applicable.

(b) If you fail to comply with these requirements BLM will revoke acceptance of your bid and you will forfeit one-fifth of your bonus bid.

§ 3205.17 How will I know if my bid is not accepted?

BLM will send a letter rejecting your bid. At that time, BLM will return the one-fifth of the bonus bid that you submitted with your application.

Subpart 3206—Lease Issuance**§ 3206.10 Are there any additional requirements prior to lease issuance?**

Yes.

(a) You must:

- (1) Accept all lease stipulations;
- (2) Sign a unit joinder or waiver, if applicable; and
- (3) Comply with the maximum limits on acreage holdings.

(b) BLM must:

- (1) Make a determination of land availability;
- (2) Make a determination that development on your lease will not significantly impact any significant

thermal feature within any of the following units of the National Park System:

- (i) Mount Rainier National Park;
- (ii) Crater Lake National Park;
- (iii) Yellowstone National Park;
- (iv) John D. Rockefeller, Jr. Memorial Parkway;
- (v) Bering Land Bridge National Preserve;
- (vi) Gates of the Arctic National Park and Preserve;
- (vii) Katmai National Park;
- (viii) Aniakchak National Monument and Preserve;
- (ix) Wrangell-St. Elias National Park and Preserve;
- (x) Lake Clark National Park and Preserve;
- (xi) Hot Springs National Park;
- (xii) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park);
- (xiii) Lassen Volcanic National Park;
- (xiv) Hawaii Volcanoes National Park;
- (xv) Haleakala National Park;
- (xvi) Lake Mead National Recreation Area; and
- (xvii) Any other significant thermal features within National Park System Units which the Secretary may, after notice and public comment, in accordance with the criteria set out in 30 U.S.C. 1026(a)(3), add to the list of significant thermal features.

§ 3206.11 What is the maximum acreage I may hold?

You may not hold, either directly or indirectly, more than 51,200 acres in any one state, including any leases acquired under the provisions of sections 4(a)–4(f) of the Act. You are also not permitted to convert mineral leases, permits, applications for permits, or mining claims, pursuant to the provision of sections 4(a)–4(f) of the Act, into geothermal leases totaling more than 10,240 acres.

§ 3206.12 How does BLM compute acreage holdings?

BLM will compute acreage holdings in the following manner:

- (a) If you own an undivided interest in a lease, your accountable acreage will be your proportionate part of the total lease acreage.
- (b) If you own stock in a corporation or a beneficial interest in an association which holds a geothermal lease, your accountable acreage will be your proportionate part of the corporation's or association's acreage; except no one will be charged with a pro rata share of any acreage holdings of any association or corporation unless the person is a

beneficial owner of more than 10% of the stock of the corporation or the beneficial interest of the association.

(c) If you own a royalty interest, record title, or operating rights, you will be charged with your proportionate percentage of the total lease acreage only. You will not be charged twice for the same lease or for different interests in the same lease. For example, if you own a 2% overriding royalty, 10% of the operating rights and 50% of the record title in a lease, you will be charged with 50% of the total lease acreage.

§ 3206.13 Am I charged for acreage if the United States owns only a fractional interest in the geothermal resources?

Yes, you are charged with the same proportion as the United States owns of the mineral estate. For example, if you own 100% of record title in a 100 acre lease, and the United States owns 50% of the mineral estate, you are charged with 50 acres.

§ 3206.14 Are there any acreages which are not chargeable?

BLM does not count acreage in any approved unit or cooperative plan or acreage subject to an operating, drilling or development contract other than communitization or drilling agreements, in determining accountable acreage of the lessees or operators.

§ 3206.15 What procedures does BLM follow when a party holds or controls excess accountable acreage?

BLM will notify you of an excess acreage situation, and give you 90 days to divest yourself of the excess acreage. If you fail to comply BLM will cancel your leases, beginning with the lease most recently issued, until your chargeable acreage is within the maximum allowable.

§ 3206.16 What is the primary term of my lease?

Leases have a primary term of 10 years.

§ 3206.17 When will BLM issue my lease?

Leases are issued the day they are signed by BLM, and are effective the first day of the month following the issue date.

Subpart 3207—Additional Lease Term

§ 3207.10 Under what circumstances is my lease eligible for an additional term beyond its primary term?

A lease is eligible to be renewed for an additional term under the following conditions:

- (a) If you produce or use geothermal steam in commercial quantities within the primary term, the lease will

continue for as long as geothermal steam is produced or used in commercial quantities. However, the additional term may not exceed forty years beyond the primary term unless the provisions of paragraph (c) of this section apply.

(b) If, prior to the end of the primary term, you have a well capable of producing geothermal steam in commercial quantities, BLM may decide to continue the lease for an additional forty-year period, if we determine that you are making diligent efforts to commence production. You must submit to BLM a written description of the efforts completed for the lease year and the efforts planned for the next lease year 60 days before the lease expires. Your submission should include descriptions of negotiations for sales contract, marketing arrangements, and electrical generating and transmission agreements and any other information you believe supports a finding of diligent efforts.

(c) If at the end of the additional 40-year term, BLM does not need the lands for another purpose and you are producing geothermal steam in commercial quantities, you will have preferential right to renew the lease for an additional 40-year term under terms and conditions determined by BLM.

Subpart 3208—Extending the Current Lease Term

§ 3208.10 Under what circumstances is my lease eligible for an extension of the primary term?

(a) A lease is eligible for an extension under the following circumstances:

(1) If you commence drilling before the end of the primary term and diligently pursue drilling to a reasonable drilling target, as determined by BLM based on the local geology and type of development proposed by the operator, the lease will be extended for a 5-year period. If geothermal steam is produced or utilized during this 5-year period, the lease will be extended for a further period not to exceed 35 years. If at the end of that 35-year period you are producing or utilizing geothermal steam in commercial quantities and the lands are not needed for other purposes, you will have a preferential right to renew the lease for an additional 40-year period under such terms and conditions as BLM determines are appropriate.

(2) If the term of any lease committed to a unit agreement would expire prior to the term of the unit expiring, BLM will extend the term of the lease to match the term of the unit.

(3) BLM may extend any lease which at the end of its primary term or at the end of an extension provided by either

paragraphs (a)(1) or (a)(2) of this section is not producing geothermal steam, for up to 10 years in successive five-year extensions.

(4) If you have a lease which produced geothermal steam, and BLM determines that it is no longer capable of commercial production, BLM may extend the lease for a 5-year period. This extension will only continue if you are producing one or more valuable byproducts in commercial quantities. You should consult 43 CFR 3209.10 if you wish to convert your lease to a mineral lease for the byproduct.

(b) For an explanation of the difference between an "additional term" and an "extended term" please see the definitions in 43 CFR 3200.1.

§ 3208.11 What procedures must I follow to obtain an extension of my lease?

(a) If you are obtaining an extension under 43 CFR 3208.10 (a)(2) or (a)(4), you need not take any action. BLM will grant your lease the applicable extension. If your lease is eligible for the extension under 43 CFR 3208.10(a)(1), you should notify BLM of your drilling activities so we may document that you conducted the required drilling at the end of the primary term of your lease.

(b) If you are requesting an extension under 43 CFR 3208.10(a)(3), you must:

(1) Submit a written request to BLM for lease extension 60 days prior to the end of the primary or extended term of your lease;

(2) Include a report documenting that you have made *bona fide* efforts to produce or utilize geothermal resources in commercial quantities given the current economic conditions for marketing geothermal steam; and

(3) Indicate whether you choose to make payments in lieu of commercial quantities production or to make significant expenditures during the period of extension.

(c) Within 30 days of receipt of your request for extension, BLM will notify you whether the request is approved or disapproved, or we will request additional information from you, if necessary.

§ 3208.12 What information must I include in the report to document that I have made bona fide efforts?

The report must include a description of:

(a) Operations conducted during the primary term of the lease and currently in progress to identify and define the geothermal resource on the lease;

(b) A summary of the results of those operations;

(c) Actions taken in support of operations such as obtaining permits,

conducting environmental studies, meeting permit requirements or other related activities;

(d) Actions taken during the primary term of the lease and currently in progress to negotiate marketing arrangements, sales contracts, drilling agreements, financing for electrical generation and transmission projects, or other related actions; and

(e) Current economic factors and conditions which affect your efforts to produce or utilize geothermal resources in commercial quantities on the lease.

§ 3208.13 What will BLM do if I choose to make payments in lieu of commercial operation?

If you elect to make payments in lieu of commercial quantities production and BLM approves the extension, BLM will modify the lease to require that you make an annual payment in lieu of production in the amount specified by BLM, but not less than \$3.00 per acre or fraction of an acre of the lands under lease during an initial extension, or \$6.00 per acre or fraction of an acre for a subsequent extension. The actual payment per acre is fixed for the period of the extension. If you request it, BLM will inform you of the rate before you submit your petition for extension. You must submit in lieu payments to MMS at the same time you pay the lease rental. The lease is subject to cancellation if you do not make these payments.

§ 3208.14 What will BLM do if I choose to make significant expenditures?

If you elect to make significant expenditures, and BLM approves the extension, we modify the lease to require you to make annual expenditures of at least \$15.00 per acre or fraction of an acre for lands under lease during an initial extension. You must have expenditures of \$18.00 per acre or fraction of an acre during a subsequent extension. BLM credits expenditures you make in excess of the minimum required to subsequent years within the same period of extension. Expenditures that qualify as significant expenditures are limited to those involving actual drilling operations on the lease, geochemical or geophysical surveys for exploratory or development wells, road or generating facility construction on the lease, architectural or engineering services procured for the design of generating facilities located on the lease, and environmental studies required by State or Federal law. To obtain credit toward meeting the significant expenditure requirement, you must submit to BLM a report of qualifying expenditures no later than 60

days after the end of the lease year in which the expenditures were made. BLM may cancel your lease if you fail to make such expenditures.

§ 3208.15 May I change my election of making payments in lieu of commercial quantities or making significant expenditures during the extension?

No. You may not change election during a period of extension, but must continue either to make payments in lieu of production or make significant expenditures until you drill a well that is capable of producing geothermal resources in commercial quantities.

Subpart 3209—Conversion of Lease Producing Byproducts

§ 3209.10 May I convert my geothermal lease to a mineral lease?

Yes, you may under the following conditions:

(a) If you have received a 5-year extension under subpart 3208 and the byproducts being produced are leasable under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 *et seq.*), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358), and the lease is primarily valuable for the production of that mineral, you are entitled to convert your geothermal lease to a mineral lease, provided you convert your lease prior to the end of the 5-year period. You will be subject to all the terms and conditions of the act permitting leasing of the mineral.

(b) If the minerals are not leasable but are locatable and would be considered a byproduct if geothermal steam production were to continue, you are entitled to locate these minerals under the mining laws. To acquire these rights, you must complete the location of the mining claim within 90 days after the termination of the geothermal lease, as long as there has been no intervening location and the lands are open to entry under the mining laws.

(c) If leases converted under either paragraphs (a) or (b) of this section affect lands withdrawn or acquired in aid of a function of a federal department or agency, including the Department of the Interior, you may be subject to additional terms and conditions as prescribed by the appropriate agency.

Subpart 3210—Additional Lease Information

§ 3210.10 When does lease segregation occur?

(a) Lease segregation occurs when:

(1) A portion of a lease is committed to a unit agreement, communitization agreement, drilling agreement, or

cooperative plan, and a portion of the lease is not committed; or

(2) Only a portion of a lease is located in a participating area and the unit contracts. The portion of the lease outside the participating area is eliminated from the unit agreement and segregated as of the effective date of the unit agreement.

(b) The portion of the lease within the plan or agreement will keep the same serial number. BLM will give the portion outside the plan or agreement a new serial number with the same lease terms as the original lease.

§ 3210.11 Is a lease segregated from an agreement or plan eligible for an extension?

No. The new lease will stand alone, and will not receive any of the benefits provided to the original lease by virtue of the agreement or plan. The eliminated portion of the lease is not eligible for extension due to production in commercial quantities, or the existence of a producible well on the lands remaining in the agreement or plan, or by virtue of the segregation.

§ 3210.12 May I consolidate leases?

BLM may approve the consolidation of two or more contiguous leases that have the same ownership and same lease terms, as long as the combined leases do not exceed 2,560 acres in size.

§ 3210.13 What is the diligent exploration requirement?

Diligent exploration is a lease requirement to perform activities which derive new geologic information regarding the lease or related lands. You must conduct diligent exploration beginning in the sixth year of the primary term until there is a well capable of commercial production. Some examples of activities that would qualify as diligent exploration are geochemical surveys, heat flow measurement, core drilling or drilling of test drill wells.

§ 3210.14 How do I meet the diligent exploration requirement?

(a) During the first 5 years of the primary term, you only need to pay your rentals. If you conduct activities during these first five years that would otherwise qualify as diligent exploration expenditures, and BLM approves them as such during those five years, BLM will count them toward the requirements of future years.

(b) To qualify as diligent exploration expenditures in lease years 6 through 10, you must make expenditures equal to the minimum amounts set forth in the table below. BLM will apply approved expenditures in excess of the

requirement in any one year to subsequent years.

Lease year	Expenditure per acre
6	\$4
7	6
8	8
9	10
10	12

(c) To obtain credit for the expenditures you must submit a report to BLM no later than 60 days after the end of the lease year in which you made the expenditures. You must include the following information in your report:

- (1) The types of operations conducted;
- (2) The location of the operations;
- (3) When the operations occurred;
- (4) The amount of money spent conducting those operations; and
- (5) All geologic information obtained from your operations.

(d) After BLM reviews your report, we will notify you in writing whether you have met the diligent expenditure requirement. BLM must approve the type of work done and the expenditures claimed in your report before they will be credited toward your diligent exploration requirements.

§ 3210.15 Is there an option to performing diligent exploration?

Yes. If you do not wish to conduct diligent exploration or if your total expenditures do not fully meet the requirement for any lease year, you may meet the diligent exploration requirement by paying an additional rental of \$3 per acre or fraction of an acre. If you choose this option, you must submit the additional rental to MMS prior to the end of the lease year.

§ 3210.16 What happens if I don't meet the diligence requirement or pay the additional rental?

BLM will cancel your lease if you fail to perform and report the necessary operations and expenditures or pay the additional rental for each lease year prior to the end of that lease year.

§ 3210.17 Can leases or locations for other mineral commodities occur on the same lands that my geothermal lease is located?

Yes. The United States reserves the ownership of and the right to extract helium, oil and hydrocarbon gas from all geothermal steam and associated geothermal resources. In addition, mineral leasing or location is allowed on the same lands that are leased for geothermal resources, provided that operations under the mineral leasing or

mining laws do not unreasonably interfere with or endanger geothermal operations, and the lands are not withdrawn.

§ 3210.18 May BLM readjust the terms and conditions of my lease?

Yes. Ten years after the commencement of production from your lease and at not less than 10-year intervals thereafter, BLM may readjust the terms and conditions of your lease as they pertain to stipulations and surface disturbance requirements. If the readjustment pertains to use, protection or restoration of the surface and the lands are managed by another federal agency, that agency must approve the adjustments.

§ 3210.19 How will BLM readjust the terms and conditions of my lease?

BLM will provide you with a written proposal for adjustment of the terms and conditions of your lease. You have 30 days to object to the new terms or relinquish your lease. If BLM does not receive an objection, these terms will become part of your lease.

§ 3210.20 May BLM readjust the rental and royalty rates of my lease?

Yes. Your lease rates are subject to readjustment at not less than 20-year intervals beginning thirty-five years after BLM determines that your lease is producing. Your rental and royalty will not be increased by more than 50 percent of what was paid during the preceding period. In no case will BLM raise the royalty rate beyond 22½ percent. You will be provided with written notice of BLM's proposed adjustments. If you do not object to the adjustment or relinquish your lease within 30 days of receipt of the notice, the new rate will become a part of your lease.

§ 3210.21 What happens if I object to the proposed readjusted terms and conditions or rental and royalty rates?

BLM will issue a decision responding to your objections. If we cannot reach an agreement within a 60-day period, either party may terminate the lease.

§ 3210.22 What lease obligations am I accountable for during readjustment negotiations?

If you object to the proposed terms and conditions of your lease, you are still bound by the current lease terms. To avoid termination of the lease, you must pay the proposed rentals and royalties timely, under protest. If we reach an agreement on rentals that differs from BLM's proposal, BLM will refund the difference.

§ 3210.23 When do the readjusted terms become effective?

The new terms and conditions will be effective at the end of the prior term.

§ 3210.24 Must I prevent the drainage of geothermal resources from my lease?

Yes. You must prevent the drainage of geothermal resources from your lease by either:

(a) Diligently drilling and producing wells which will protect the Federal geothermal resource from loss caused by production from other properties; or

(b) Paying a sum determined by BLM as adequate compensation for failure to drill and produce any wells necessary to protect the Federal resource. BLM must agree to your use of this option.

Subpart 3211—Fees, Rentals, and Royalties**§ 3211.10 What are the filing fees, rentals, and royalties for leases?**

Rental and royalty payments are calculated based on the acreage amount. Therefore, prior to calculating rental

and minimum royalty payments, you must determine the acreage amount. You must round up partial acreage to the next whole acre. You would then multiply the rounded acreage by the appropriate amount set out in the following chart to determine the amount you owe. Example: Rental on a lease containing 2,456.39 acres is calculated based on 2,457.00 acres.

FILING FEES, RENTALS, AND ROYALTIES

Type	Competitive	Non competitive
Lease Filing Fee	N/A	\$75.00.
Lease Rental	\$2.00 per acre	\$1.00 per acre.
Lease Assignment Filing Fee	\$50.00	\$50.00.
Royalties:		
steam, heat, or energy	between 10% and 15%	between 10% and 15%.
demineralized water	5%	5%
byproducts	5% ^a	5% ^a .
minimum royalty	\$2.00 per acre	\$2.00 per acre.
Additional rental/In lieu of diligent exploration	\$3.00 per acre in addition to regular lease rental.	\$3.00 per acre in addition to regular lease rental.
Additional rental/In lieu of commercial quantities production.	\$3.00 per year/first 5 years, \$6.00 per year/second 5 years.	\$3.00 per year/first 5 years, \$6.00 per year/second 5 years.

^a Note the exception stated in 43 CFR 3211.17(b).

§ 3211.11 When is my annual rental payment due?

(a) You must submit your annual rental payments so they are received by BLM or MMS, as appropriate, on or before the anniversary date of each lease year. There is no grace period for rental payments. If the rental for your lease is not timely paid, the lease will automatically terminate by operation of law, unless you meet the conditions of 43 CFR 3213.15 of this part. Rental payments are considered timely received if they are postmarked by the United States Postal Service, common carrier, or their equivalent, on or before the anniversary of the lease. This does not include private postal meters. If less than a full year remains on a lease, you are still responsible for paying a full year's rental on or before the anniversary date of the lease.

(b) When BLM terminates a lease suspension (see subpart 3212 of this part) and you had paid rent in advance, BLM applies a prorated amount to the annual rental or minimum royalty to complete the lease year requirement and return to the next anniversary date. BLM applies any remaining monies to the next year's rental. You must pay the balance due on or before the next anniversary date to fulfill your rental obligation for the next year. If you relinquish the lease, or fail to pay the balance due on or before the next

anniversary date, BLM will refund the outstanding monies. If there is insufficient rental to complete payment on the lease year (i.e., to return the next anniversary date), BLM will notify you of payment due and grant you 30 days from receipt of the notification to remit the balance.

(c) If payment is due on a day in which the designated payment office is closed, payment received on the next official working day is considered timely.

§ 3211.12 How and where do I submit my rental payment?

You must pay BLM the first year's advance rental. You must pay subsequent rentals, royalties, and in lieu payments to MMS. Payments may be made to the BLM in the form of personal or cashier's check or money order and should be made payable to the Department of the Interior—Bureau of Land Management. You may also make payments by credit card or electronic funds transfer when specifically authorized by BLM. Payments to the MMS by personal or cashier's check, money order, or electronic funds transfer, should be made payable to the Department of the Interior—Minerals Management Service.

§ 3211.13 Is there a different rental or minimum royalty amount for a fractional interest lease?

BLM will not prorate rentals and minimum royalties payable under leases for lands in which the United States owns only a fractional mineral interest. You must pay for the full acreage in the lease.

§ 3211.14 Prior to production, am I expected to pay rental if my lease is committed to an approved cooperative or unit plan?

Yes. You are expected to pay rental in accordance with 43 CFR 3211.10.

§ 3211.15 When unit production starts, am I expected to pay rental if my lease is committed to an approved cooperative or unit plan?

As soon as production is established on your lease, lands included in an approved cooperative or unit plan, which are within the participating area, are subject to royalties in accordance with 43 CFR 3211.17. All other unitized lands remain subject to rental in accordance with 43 CFR 3211.10.

§ 3211.16 Will I always pay rental on my lease?

No, you are required to pay rentals only until you achieve production in commercial quantities. At that time the lease converts to royalty status.

§ 3211.17 What are the possible royalty rates of my lease?

(a) BLM will set out the royalty rate in the lease. BLM will determine the royalty rate based on the following:

(1) The royalty rate for heat or energy derived from lease production may range from 10–15% of the heat or energy value.

(2) The royalty rate for the value of byproducts derived from production under the lease and sold or utilized or reasonably susceptible to sale or utilization may not exceed 5%, except that the royalty rate for minerals listed in section 1 of the Mineral Leasing Act (MLA), 30 U.S.C. 181, will be the same as that provided in the MLA.

(3) The royalty rate for demineralized water produced on a lease may not exceed 5%, except that BLM will not charge a royalty for water used in the operations of a utilization facility.

(4) The minimum royalty rate on a producing lease is \$2.00 per acre.

(b) Occasions when the minimum royalty rate might apply are when an initial positive well commerciality determination is made but actual production has not yet begun, or when the value of actual production is so low that royalty due under the applicable schedule (in paragraphs (a)(1) through (a)(3) of this section) is less than \$2.00 per acre.

Subpart 3212—Suspension of Operations or Operations and Production**§ 3212.10 May I obtain a suspension of operations or operations and production on my lease, and if so, for what reasons?**

The operator may request in writing that BLM place a producing lease in suspension. Your request must fully describe the need for the suspension. BLM, on its own, may suspend operations on any lease in the interest of conservation. The suspension may include leases committed to an approved unit agreement. Suspending the leases in a unit does not affect unit obligations.

§ 3212.11 When is a lease suspension effective or terminated?

(a) A suspension will take effect and will last for the period specified by BLM. Prior to the expiration of the time specified, you may request in writing that BLM lift the suspension. If BLM agrees to lift the suspension and permit you to resume operations, you must also resume payment of rentals and royalty, as applicable.

(b) BLM may, upon information obtained by or furnished to BLM, order the resumption of operations, if BLM determines that the operations are

necessary to protect the interests of the United States.

§ 3212.12 How does a suspension affect the lease terms?

An approved suspension stays all lease obligations. You do not have to conduct drilling, produce thermal steam or pay rents or royalties. The time during which the suspension is effective does not count toward the lease term.

§ 3212.13 What happens when the suspension is lifted or removed?

When BLM lifts a suspension, we extend the lease term by adding the number of days the lease was under suspension to the term. BLM suspends rental or minimum royalty payments the first day of the lease month following the effective date of the suspension. Your obligation to resume these payments begins on the first day of the lease month in which BLM lifts the suspension.

§ 3212.14 May BLM reduce or suspend the royalty or rental rate of my lease?

Yes, if you submit an application requesting a waiver, suspension or reduction of your rent or royalty, BLM may grant the request if it determines the following:

- (a) It is in the interests of conservation;
- (b) Doing so will encourage the greatest ultimate recovery of resources;
- (c) It is necessary to promote development; or
- (d) The lease cannot be successfully operated under the current lease terms.

§ 3212.15 What information must I submit when requesting a reduction or suspension of the royalty or rental rate of my lease?

- (a) Your request must include:
 - (1) The type of reduction being requested;
 - (2) The serial number of the lease;
 - (3) The name of the lessee and operator;
 - (4) The number, location, and status of each well;
 - (5) A summary of monthly production from the lease during the last 6 months;
 - (6) A detailed statement of expenses and costs, and all facts necessary for BLM to determine if the well can be operated under its current terms; and
 - (7) Any other information requested by BLM.
- (b) If the application is for a reduction in royalty, you must also submit a list of names and amounts of royalties or payments out of production paid to each individual, and every effort you have made to reduce these payments.

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration**§ 3213.10 Who may relinquish a lease?**

The record title holder or its authorized agent may relinquish a lease in full or in part, and must sign the relinquishment. If there is more than one record title holder to a lease, all record title holders or their authorized agents must sign the relinquishment.

§ 3213.11 What form must I submit to relinquish a lease?

You must submit a written request to BLM that includes the serial number of each lease you are relinquishing. If you are relinquishing the entire lease, no legal description of the land is required. If you are relinquishing part of the lease, you must describe the lands relinquished.

§ 3213.12 Can BLM accept a partial relinquishment resulting in less than 640 acres?

BLM may not accept a partial relinquishment that reduces the lease acreage to less than 640 acres or all of the land in the section if less than 640 acres is available. BLM may waive the minimum acreage provision found at 43 CFR 3204.14, if BLM determines that an exception is justified to further development of the resource.

§ 3213.13 When does my relinquishment take effect?

Once approved by BLM, your relinquishment takes effect as of the date it is filed, provided that you and your surety have fulfilled your obligations to:

- (a) Pay all rentals and royalties due prior to relinquishment;
- (b) Plug and abandon all wells on the relinquished land; and
- (c) Restore the surface resources and comply with environmental stipulations in accordance with all applicable laws and regulations and lease terms.

§ 3213.14 How does a lease terminate?

A lease terminates under the following conditions:

- (a) If you fail to produce or commence production prior to the end of the primary term or obtain an extension, the lease terminates at the end of that period; or
- (b) If you fail to pay the rental on or before the anniversary date, the lease automatically terminates by operation of law, unless you meet the conditions of 43 CFR 3213.15.

§ 3213.15 What if I don't pay the entire amount of rental due?

If your payment is received timely, but is deficient by a nominal amount,

your lease will not automatically terminate. A nominal amount is not more than \$100 or 5% of the total payment due, whichever is less. BLM will notify you if your payment is deficient and will set a date by which the deficient payment must be made. Failure to submit the deficiency in the time allowed will result in lease termination as of its anniversary date.

§ 3213.16 Will BLM notify me if my lease terminates?

Yes, BLM will send a notice by certified mail, return receipt requested.

§ 3213.17 Can my lease be reinstated? If so, how?

Yes, if the lease was terminated for failure to timely pay your rentals. You will be given 30 days to petition for reinstatement.

§ 3213.18 Who may petition to reinstate a lease?

Every record title holder of the lease must sign a petition for reinstatement.

§ 3213.19 What must I do to obtain a reinstatement?

You must submit a petition to BLM requesting reinstatement. The petition should include the serial number for each lease and state your reason for late payment. You must also submit the rental, including any back rental which has accrued from the date of termination with your petition, if you have not already paid it to MMS. You must also include an explanation of why the delay in payment was justifiable and not due to a lack of diligence.

§ 3213.20 Are there reasons why BLM would not approve a reinstatement?

Yes, BLM will not approve a reinstatement if:

(a) You do not prove that failure to pay rent on or before the anniversary date was justifiable or was not due to a lack of diligence on the part of the lessee;

(b) A valid lease has been issued for any of the lands prior to the filing of a petition for reinstatement (BLM will not issue another lease for at least 90 days after the date of termination); or

(c) The land has become unavailable for leasing.

§ 3213.21 When will my lease expire?

A lease expires at the end of its primary term (10 years) unless it meets requirements for an extended or additional term. BLM will not notify you when your lease expires at the end of the primary term.

§ 3213.22 Will BLM notify me when my lease expires if it is in an extended term?

BLM will notify the lessee by decision that BLM has determined that diligent efforts are not being made to use the geothermal resources. The lease will expire 30 days after you receive the decision. During those 30 days, you may request reconsideration of the decision by submitting information detailing why you believe you have made diligent efforts to use the resource.

§ 3213.23 May BLM cancel my lease?

BLM may cancel a lease after 30 days notice if we determine that you violated the laws and regulations governing geothermal leases and operations or you violated the lease terms. BLM may also cancel a lease that was issued in error.

§ 3213.24 When is a cancellation effective?

(a) If cancellation is due to a violation of the laws, regulations or lease terms, the cancellation is effective 30 days from your receipt of notification of the violation. The cancellation of a lease issued in error is effective upon issuance of the notice of cancellation. BLM will not cancel the lease if:

(1) You have corrected the violation; or

(2) BLM determines that the violation can not be corrected during the 30 day period and BLM determines you are making a good faith attempt to timely correct the violation.

(b) You may request an evidentiary hearing regarding the violation or proposed lease cancellation within 30 days from receipt of the violation notification, in accordance with 43 CFR parts 4 and 1840. If a hearing occurs and the administrative law judge decides a violation occurred, you will have 30 days from receipt of the decision to commence or complete any corrective action.

Subpart 3214—Personal and Surety Bonds

§ 3214.10 Who must post a geothermal bond?

The lessee, operating rights owner, or operator must file a bond prior to the commencement of exploration operations, drilling operations or whenever the operator is changed.

§ 3214.11 Who is covered by the bond?

The principals named on the bond and any other parties the principal or surety has consented to cover are covered by the bond.

§ 3214.12 What does my bond cover?

Your bond covers all surface disturbing and down hole activities related to drilling and associated

operations on a Federal lease, reclamation, payment of rentals and royalties, performance of all other lease terms and conditions, and compliance with all applicable laws and regulations.

§ 3214.13 What is the minimum dollar amount required under each type of operation bond?

(a) For exploration activities, the bond may not be less than \$5,000 for each operation;

(b) For an individual lease, the bond may not be less than \$10,000 for each lease;

(c) For a statewide bond which covers all of your leases and operations in any one state, the amount may not be less than \$50,000; or

(d) For a nationwide bond which covers all of your leases and operations nationwide, the amount may not be less than \$150,000.

§ 3214.14 What kind of financial guarantee will BLM accept to back my bond?

BLM will accept:

(a) Corporate surety bonds, provided that the surety company is approved by the Department of Treasury (see Department of the Treasury Circular No. 570 which is published in the Federal Register every year on or about July 1); and

(b) Personal bonds, which are guaranteed by a cashier's check, certified check, certificate of deposit, negotiable securities such as Treasury notes, or irrevocable letter of credit (see 43 CFR 3214.22). BLM will not accept cash to back a bond.

§ 3214.15 Is there a special bond form I must use?

You must use a bond Form (Form 3000-4, June 1988 or later editions) approved by BLM for either a corporate surety bond or a personal bond.

§ 3214.16 Where must I submit my bond?

You must file personal or corporate surety bonds and statewide bonds in the BLM State Office having jurisdiction over your lease or operations. You may file nationwide bonds in any BLM State Office. You must file bond riders in the BLM State Office where your bond is located. For personal or corporate surety bonds you must file a single, originally signed copy of the bond.

§ 3214.17 Who will BLM hold liable under the bond and what are they liable for?

All interest owners in a lease assume full liability, jointly and severally, from the effective date of the lease for compliance with all applicable laws, regulations, lease terms and conditions. Among other things, all interest owners are liable for:

- (a) Well plugging and abandonment;
- (b) Surface reclamation;
- (c) Outstanding rental or royalty payments;
- (d) Assessed royalties to compensate for drainage; and
- (e) Other requirements related to operations on the lease.

§ 3214.18 What are my bonding requirements when a lease interest is transferred to me?

(a) If the lands transferred to you contain a well or any other surface disturbing activity which was not reclaimed by the original lessee, you must post a bond. The bond must cover all of the transferee's liability, and those holding an interest or engaging in operations on the lease.

(b) If you previously furnished a statewide or nationwide bond, you do not need to post an additional bond.

(c) If the operator provided the original bond, and the operator does not change, you do not need to post a new bond.

(d) If the original lessee does not transfer all interest in the lease to you, you may become a co-principal on the original bond.

§ 3214.19 How do I modify or extend the terms and conditions of my bond?

You may modify your bond by submitting a rider to the BLM State Office where your bond is held. There is no special form required.

§ 3214.20 Can BLM ever increase the bond amount above the minimums?

Yes. BLM may increase the bond amount beyond the minimums set out in 43 CFR 3214.13, if those amounts will not cover the estimated costs of plugging and abandoning wells, abandoning utilization facilities, and/or performing surface reclamation. BLM may also increase the amount of your bond if BLM determines that:

- (a) The liability on the lease exceeds the amount of the bond; or
- (b) The operator has a history of noncompliance.

§ 3214.21 Where can I get a certificate of deposit or a letter of credit?

You must obtain a certificate of deposit or letter of credit through a Federally insured financial institution authorized to do business in the United States.

§ 3214.22 What special requirements are there if I want to use a certificate of deposit to back my bond?

Your certificate of deposit must:

- (a) Be issued by a federally insured financial institution;
- (b) Include on its face the statement, "The Secretary of the Interior or his

delegate must approve redemption of this certificate by any party";

- (c) Not expire;
- (d) Automatically renew; and
- (e) Show it is payable to the Department of the Interior—Bureau of Land Management.

§ 3214.23 What special requirements are there if I want to use a letter of credit to back my bond?

Your letter of credit must:

- (a) Be issued by a federally insured financial institution authorized to do business in the United States;
- (b) Be payable to the Department of the Interior—BLM;
- (c) Be irrevocable during its term and have an initial expiration date of not less than one year following the date BLM receives it;
- (d) Be automatically renewable for a period of not less than one year, unless the issuing financial institution provides BLM with written notice that it will no longer be renewed at least 90 days before the letter of credit expires; and
- (e) Include a clause that grants the Secretary authority to demand immediate payment, if you fail to meet your obligations under the regulations and lease terms.

Subpart 3215—Bond Collection After Default

§ 3215.10 In what circumstances does BLM collect on a bond?

If you fail to meet your obligations under the regulations or the lease terms, BLM may collect up to the face amount of the bond. Examples of some activities that may result in forfeiture of the bond are failure to:

- (a) Properly plug and abandon a well;
- (b) Reclaim the lease area;
- (c) Pay outstanding rental and royalty payments;
- (d) Pay assessed royalties to compensate for drainage; and,
- (e) Meet other requirements related to lease operations.

§ 3215.11 As the principal on the bond, may BLM require me to restore the face amount of my bond or require me to replace my bond after BLM collects on default?

Yes. If the bond is reduced or fully depleted, you must either:

- (a) Post a new bond of equal value; or
- (b) Restore the existing bond to the amount previously held, before continuing any operations on the lease.

§ 3215.12 What if I do not restore the face amount or file a new bond?

BLM may initiate action to shut-in any well(s) and proceed to cancel all of your leases covered by the subject bond.

§ 3215.13 When will BLM cancel or terminate my bond?

(a) BLM does not cancel or terminate bonds. However, BLM will:

(1) Terminate the period of liability of a surety or other provider of a bond at any time. The bond provider must provide 30 days' notice to BLM and to the principals whose obligations are secured. You may not conduct any operations after a bond is terminated, without providing a new bond satisfactory to BLM. BLM will also terminate the period of liability on an old bond once a new bond has been filed and BLM accepts it; and

(2) Release your bond when we have determined, after the passage of a reasonable period of time, that you have paid all royalties, rentals, penalties, and assessments, satisfied all permit or lease obligations, reclaimed the site, and taken effective measures to ensure that the mineral prospecting or development activities will not have an adverse effect on surface or subsurface resources.

(b) Any release of the bond does not release or waive any claim the BLM may have against any person under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*, or under any other applicable laws or any regulations.

Subpart 3216—Transfers

§ 3216.10 What types of lease interests can I transfer?

You can transfer record title, operating rights, or overriding royalty interests.

§ 3216.11 Where and when am I required to file a transfer of interest?

You must file your transfer in the BLM State Office in which your lease is located if:

- (a) You are conveying any interest in your lease;
- (b) An interest holder dies; or
- (c) A corporate merger or name change occurs.

§ 3216.12 When does a transferee assume responsibility for lease obligations?

Upon BLM's approval of your transfer, the transferee assumes full liability for performance of all lease obligations incurred after the date of the transfer.

§ 3216.13 What are the responsibilities of the transferor?

The transferor remains responsible for payment of rents and royalties accrued prior to the transfer, payment due to any drainage, and all lease obligations that accrued prior to the transfer.

§ 3216.14 Are there required filing fees and forms associated with filing my transfer?

Yes. The following table identifies filing requirements:

Type of transfer	Form required	Form number	Number of copies	Filing fee
Record Title	Yes	3000-3	3 executed copies	\$50.00
Operating Rights	Yes	3000-3(a)	3 executed copies	\$50.00
Overriding Royalty	No	Form 3000-3 or in letter form.	2 executed copies	\$50.00
Estate Transfers	No	N/A	1 List of Leases	None
Corporate Mergers	No	N/A	1 List of Leases	None
Name Changes	No	N/A	1 List of Leases	None

§ 3216.15 Is there a required time frame for filing requests for approvals of transfers?

Yes.

(a) You must file a request for approval of transfers of record title, operating rights, and overriding royalty within 90 days from the date the transferor signs the document. If you do not file the request within the 90 days, BLM may require you to recertify that the transfer is still in force and effect.

(b) No specific time frame is required for filing estate transfers, corporate mergers, and name changes. However, such documents must be filed within a reasonable time.

§ 3216.16 Must I file separate requests for approval of transfers for each lease?

Yes. You must file a separate request for approval of transfer for each lease involving transfers of record title or operating rights, unless you are transferring rights on more than one lease to the same entity. In that case, you may file just one transfer application.

§ 3216.17 Where must I file estate transfers, corporate mergers and name changes?

(a) If you hold a bond for any Federal lease, you must file estate transfers, corporate mergers, and name changes in the BLM State Office that maintains your bond.

(b) If you do not hold a bond, you must file estate transfer, corporate merger and name change documents in the State Office having jurisdiction over the lease.

§ 3216.18 How do I describe the lands in my lease transfer?

(a) If you are transferring the entire lease, a legal description of the land is not required.

(b) If you are transferring a portion of the lease, describe the lands in the same manner as they are described on the lease.

§ 3216.19 Can I transfer record title interest for less than 640 acres?

BLM will not approve a record title assignment in whole or in part if the lease size is reduced to less than 640 acres, unless the total acreage in the lease includes an irregular subdivision. BLM may make an exception to the minimum acreage provision found at 43 CFR 3204.14, if it is necessary to conserve the resource.

§ 3216.20 When does an assignment segregate a lease?

If you assign 100% of the record title interest in a portion of your lease, BLM segregates the assigned portion from the original lease and gives it a new serial number with the same terms and conditions as those in the original lease.

§ 3216.21 When is my assignment/transfer effective?

Your transfer or assignment becomes effective the first day of the month following its approval by BLM.

§ 3216.22 Does BLM grant all requests for approval of transfer?

No. BLM will not approve a transfer if the lease account is not in good standing or the transferee does not qualify to hold a lease under this part.

Subpart 3217—Cooperative Conservation Provisions**§ 3217.10 What is the purpose of unit agreements and cooperative plans?**

Lessees enter into a unit agreement or a cooperative plan to conserve the resources of any geothermal field or area. Conservation of the resource is achieved by collectively developing and operating a geothermal field or area. BLM will not approve unit agreements which BLM determines are not in the public interest. Unit agreement application procedures are provided in 43 CFR part 3280.

§ 3217.11 What is the purpose for communitization or drilling agreements?

Communitization or drilling agreements provide for resource

development when operators cannot independently develop separate tracts due to established well spacing or well development programs. Lessees may request approval of communitization or drilling agreements or BLM may require the lessees to enter into such agreements.

§ 3217.12 What information regarding a proposed communitization or drilling agreement must you submit to BLM?

You must provide the following information:

(a) The location of the separate tracts comprising the drilling or spacing unit;

(b) The apportionment of production or royalties to each separate tract;

(c) The name of each tract operator; and

(d) Provisions for the protection of the interests of all parties, including the United States.

§ 3217.13 When is a communitization or drilling agreement effective?

A communitization or drilling agreement is effective when it is signed by BLM. BLM will not approve the agreement unless all involved parties sign the agreement, and BLM determines that the tracts cannot be independently developed.

§ 3217.14 Under what conditions will BLM approve operating, drilling or development contracts?

BLM may approve an operating, drilling or development contract when:

(a) The contract is entered into by one or more geothermal lessees with one or more persons or partnerships;

(b) The contract is necessary for large scale operations and financing related to the discovery, development, production, or transmission, transportation or utilization of geothermal resources; and

(c) BLM determines that the contract is required for the conservation of the resource, or public convenience, or the interest of the United States would be served by the approval.

§ 3217.15 What information must I submit to BLM regarding proposed operating, drilling or development contracts?

You must submit:

- (a) The contract and a statement of its need;
- (b) All the interests held by the contractor in the area or field;
- (c) The types and scheduling of operations to be conducted under the contract;
- (d) Indication that approval of the contract will not result in any concentration of control over the production or sale of geothermal resources which would violate the antimonopoly laws of the United States;
- (e) Copies of all contracts held by the same contractor in the area or field; and
- (f) Any other information BLM may require to make a decision regarding the proposed contract or to attach any conditions of approval.

Subpart 3250—Exploration Operations—General

§ 3250.10 What is the purpose, scope and authority of the subparts pertaining to exploration operations?

(a) The regulations in this subpart establish procedures for conducting geothermal exploration operations:

- (1) On BLM administered public lands, whether leased or unleased for geothermal resources, and covers lessees and nonlessees; and
- (2) On any Federally owned lands leased for geothermal resources.

(b) The regulations in this subpart do not apply to:

- (1) Unleased land when the surface is administered by an agency other than the Bureau of Land Management, unless the surface management agency decides to apply them;
- (2) Privately owned land; or
- (3) Casual use activities.

Subpart 3251—Permitting of Exploration Operations

§ 3251.10 What types of operations may I propose when submitting an application for an exploration permit?

You may propose any activity fitting the definition of "exploration operations".

§ 3251.11 May I conduct exploration operations on my lease, someone else's lease or unleased land?

Yes. You may conduct exploration operations on any public lands open to geothermal leasing regardless of whether or not the lands are leased. The right to conduct exploration operations under an approved permit is nonexclusive. If the lands are already

leased for geothermal resources or other minerals, your operations may not unreasonably interfere with or endanger other operations. In addition, you must not unreasonably interfere with or endanger other authorized uses, or cause unnecessary or undue degradation of the lands.

§ 3251.12 Do I need a permit prior to conducting exploration operations?

Yes. You must have an approved exploration permit prior to beginning any exploration operations, whether you have a geothermal lease covering the lands or not.

§ 3251.13 What information must I submit with my application for an exploration permit?

(a) For any exploration operation other than temperature gradient wells, you must fully describe your exploration plans and procedures, and include the approximate commencement and termination dates.

(b) For temperature gradient wells, you must fully describe your drilling and completion procedures. You must submit the following information submitted for a single well or for several wells proposed to be drilled in an area of geologic and environmental similarity:

- (1) A detailed description of the equipment, materials, and procedures you will use;
- (2) The depth of the well;
- (3) The casing and cementing program;
- (4) The circulation media (mud, air, foam, etc.);
- (5) A description of the logs that you will run;
- (6) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;
- (7) The expected depth and thickness of fresh water zones;
- (8) Anticipated lost circulation zones;
- (9) Anticipated temperature gradient in the area;
- (10) Well site layout and design;
- (11) Existing and planned access roads or ancillary facilities;
- (12) Source of drill pad and road building material and water supply; and
- (13) Any other information BLM may require.

(c) For both (a) and (b) above, you must provide:

- (1) Evidence of bond coverage;
- (2) Estimates of how much surface disturbance your exploration may cause;
- (3) A narrative statement describing the proposed measures to be taken for the protection of the environment;

(4) Methods for reclamation of the surface; and

(5) All other information or data that BLM may require.

§ 3251.14 What action will BLM take on my permit?

BLM will notify you if additional information is needed to process your permit. You will also be notified as to whether your permit has been approved or denied.

§ 3251.15 How do I receive BLM approval to change permitted exploration operations?

You may request a change to an approved exploration permit by submitting a sundry notice. The sundry notice must fully describe the requested changes. You may not proceed with the change until you receive approval from BLM.

§ 3251.16 Must I submit data obtained through exploration operations to BLM?

Yes. When you conduct exploration operations on your lease(s), you must submit all data obtained as a result of the operations with the notice of completion of exploration operations, unless BLM approves a later submission.

§ 3251.17 Are there any bonding requirements for conducting exploration operations?

(a) Yes. Before you start any operation BLM must receive and approve one of the following:

- (1) A surety or personal bond for the individual permit or lease for at least \$5,000;
- (2) A statewide exploration bond of at least \$25,000 covering all exploration operations in the state in which the exploration is being conducted;
- (3) A nationwide exploration bond of at least \$50,000 or

(4) A rider to an existing nationwide or statewide oil and gas exploration bond to include geothermal resources exploration operations.

(b) These bond amounts are minimums. BLM may require an increase if you have a history of noncompliance or if the minimum amounts will not cover the estimated costs of reclamation, or performance of other permit terms.

§ 3251.18 When will the bond be released?

BLM will not release any bond until we are satisfied that you have complied with the terms and conditions of the exploration permit, including reclamation, associated sundry notices, and all applicable requirements.

Subpart 3252—Conducting Exploration Operations**§ 3252.10 What operational requirements must I meet when conducting exploration operations?**

(a) You must comply with BLM orders and other standards and procedures found in the applicable laws, regulations, geothermal resources operational orders, notice to lessees, conditions to the approved plan or permit, and lease terms.

(b) You must also:

(1) Take all necessary precautions to keep all exploration operations under control at all times;

(2) Use trained and competent personnel;

(3) Use properly maintained equipment and materials;

(4) Use operating practices which ensure the safety of life and property;

(5) Prevent the unnecessary waste of or damage to geothermal or other energy and mineral resources; and

(6) Prevent injury.

§ 3252.11 What environmental requirements must I meet when conducting exploration operations?

(a) You must conduct all operations performed under this part in a workmanlike manner to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic and recreational resources;

(3) Accommodate, as much as possible, other land uses; and

(4) Protect human and wildlife resources from unacceptable noise level.

(b) You must remove or, with BLM's permission, properly store all equipment and materials not in use.

(c) You must provide and use pits, tanks and sumps of adequate capacity. They must be designed to retain all materials and fluids resulting from drilling of temperature gradient wells or other operations, unless otherwise specified by BLM. When no longer needed, you must properly abandon pits and sumps.

(d) BLM may require you to submit a contingency plan describing procedures to protect life, property, and the environment.

§ 3252.12 How deep may I drill a temperature gradient well?

You may drill a temperature gradient well to any depth approved by BLM in your exploration permit or sundry notice. Regardless of depth, you are not permitted to produce or inject geothermal resources. BLM may modify your permitted depth at any time before

or during drilling, when the bottom hole temperature or other information indicates that drilling to the original permitted depth could create risks to human health, safety or the environment.

§ 3252.13 How long may I collect information from my temperature gradient well?

You may collect information from your temperature gradient well for as long as approved by BLM. BLM will require you to abandon a well when BLM determines it is necessary to protect the environment or to meet operational standards.

§ 3252.14 What are the requirements for completing and abandoning a temperature gradient well?

You must submit a sundry notice to obtain BLM approval before abandoning a well and conducting surface reclamation. You must complete temperature gradient wells in a manner which will allow for abandonment and which will prevent interzonal migration of fluids. Tubing must be capped when not in use. You must also reclaim the surface to BLM specifications.

§ 3252.15 Must I notify BLM when I have completed my exploration operations?

Yes. You must file with BLM a notice of completion of exploration operations describing the exploration operations, well history, completion, abandonment procedures, and site reclamation measures within 30 days after:

(a) Completion of any geophysical exploration operations;

(b) Completion of the drilling of temperature gradient wells;

(c) Abandonment of a temperature gradient well; and

(d) When all exploration sites are abandoned.

Subpart 3253—Inspection, Enforcement, and Noncompliance**§ 3253.10 Will BLM inspect my exploration operations?**

Yes. BLM may inspect all exploration operations to ensure compliance with all applicable laws, regulations, permit terms and conditions of approval, lease terms, if applicable, orders, and notices to lessees. BLM may require additional measures to be taken to correct any unnecessary or undue damage to the lands. BLM will notify you of the nature and extent of any required measures and the time during which they must be completed.

§ 3253.11 What action may BLM take if my exploration operations are not in compliance?

(a) If BLM finds your operation to be in noncompliance, BLM may take one or both of the following actions:

(1) Issue you a written Incident of Noncompliance, directing you to correct any deficiencies within a specific time period;

(2) Require you to mitigate unnecessary and undue degradation caused by your operations; or

(3) Revoke or suspend your exploration permit, after notice and a hearing in accordance with 43 CFR parts 4 and 1840.

(b) If the noncompliance continues or is of a serious nature, BLM will take one or more of the following actions:

(1) Correct any operational deficiencies at your expense;

(2) Forfeit all or part of your bond;

(3) Direct modification or shutdown of your operations;

(4) Temporarily suspend your exploration permit if necessary to protect public health, safety, or the environment. This temporary suspension will go into effect immediately and will remain in effect while appeals are pending; or

(5) Initiate cancellation of the lease, if applicable.

Subpart 3255—Exploration Operations Relief and Appeals**§ 3255.10 May I request variances from notices to lessees, permit conditions of approval, and operational or other orders issued by the BLM?**

Yes. BLM may approve variances which:

(a) Continue to accomplish the purpose of a requirement; and

(b) Are necessary for the proper control of:

(1) Exploration operations;

(2) Conservation of natural resources; or

(3) Protection of human health and safety, property, or the environment.

§ 3255.11 How may I appeal a BLM decision regarding my exploration operations?

(a) A party adversely affected by a decision of the BLM may appeal that decision to the Interior Board of Land Appeals as set forth in 43 CFR parts 4 and 1840.

(b) All decisions or approvals of BLM under this subpart shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise under 43 CFR part 4.

Subpart 3260—Geothermal Drilling Operations—General

§ 3260.10 What types of geothermal operations are covered under this subpart?

(a) This subpart establishes permitting and operating procedures for drilling wells intended to flow test or produce geothermal fluids and related activities, or inject fluids into a geothermal reservoir. This subpart also addresses redrilling, deepening, plugging back, and other subsequent well operations.

(b) This subpart does not address the drilling of temperature gradient wells, which is described in subpart 3250 of this part, or the utilization of geothermal resources, which is described in subpart 3270 of this part.

§ 3260.11 What standards apply to my drilling operations?

You must conduct all drilling operations:

- (a) In a prudent manner;
- (b) To prevent unnecessary and undue degradation to the surface and subsurface;
- (c) To maximize ultimate recovery;
- (d) To result in the beneficial utilization of geothermal resources with minimum waste; and
- (e) In a manner consistent with the principles of multiple use and protection of the environment.

§ 3260.12 Can BLM issue additional orders or instructions?

(a) Yes. BLM can issue detailed procedures under this subpart, so long as they are consistent with the regulations under this part. Detailed procedures will be in the form of:

- (1) Geothermal Resource Operational Orders, for detailed requirements on a nationwide basis;
- (2) Notices to Lessees, for detailed requirements on a statewide or regional basis;
- (3) Other orders and instructions specific to a field or area;
- (4) Permit conditions of approval; and
- (5) Verbal orders which will be confirmed in writing.

(b) Before issuing Geothermal Resource Operation Orders or Notices to Lessees, BLM will consult with appropriate Federal and state agencies, lessees, operators, and other interested parties.

Subpart 3261—Permitting of Drilling Operations

§ 3261.10 What approval must I obtain prior to well pad construction drilling?

You must have either an approved geothermal drilling permit, and sundry

notice for well pad construction, prior to beginning any surface disturbance or drilling activities.

§ 3261.11 What information must I submit to get approval for drilling operations or well pad construction?

(a) You must submit a completed and signed drilling permit or sundry notice form. The drilling permit application must include at least the following information:

- (1) A detailed description of the equipment, materials, and procedures you will use;
 - (2) The depth of the well;
 - (3) If applicable, a directional program including:
 - (i) The bottom hole location and distances from the nearest section or tract lines;
 - (ii) The kick-off point;
 - (iii) The direction of deviation;
 - (iiii) The angle build-up and maximum angle; and
 - (iiiii) Plan and cross section maps indicating the surface and bottom hole locations;
 - (4) The casing and cementing program;
 - (5) The circulation media (mud, air, foam, etc.);
 - (6) A description of the logs that you will run;
 - (7) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;
 - (8) The expected depth and thickness of fresh water zones;
 - (9) Anticipated lost circulation zones;
 - (10) Anticipated reservoir temperature and pressure;
 - (11) Anticipated temperature gradient in the area;
 - (12) A plat certified by a licensed surveyor showing the surveyed surface location and distances from the nearest section or tract lines; and
 - (13) Any other information BLM may require.
- (b) A sundry notice for well pad construction must include a description of the well pad layout and design.

§ 3261.12 What is a plan of operations?

A plan of operation describes your plans and procedures for production and utilization of the geothermal resources from the lease. It contains enough information about your proposal to permit BLM to assess the environmental impacts of your operations. This generally includes:

- (a) Well pad layout and design;
- (b) A description of existing and planned access roads;
- (c) A description of any ancillary facilities;

(d) The source of drill pad and road building material;

(e) The source for water;

(f) A statement of surface ownership;

(g) Plans for reclamation of the surface;

(h) A description of environmental protection measures; and

(i) Any other information BLM may require.

§ 3261.13 When must I have an approved plan of operations?

You must submit a plan of operations and have it approved by BLM prior to commencing production operations on a lease. You do not need an approved plan for subsequent well operations, the construction of new production facilities or the alteration of existing production facilities, unless BLM notifies you that you must submit a plan.

§ 3261.14 Must I submit my drilling permit application and the plan of operations at the same time?

No.

(a) You may submit your drilling permit application and plan of operations simultaneously or separately. If you submit them separately:

- (1) You must submit the plan of operations before the drilling permit application to allow BLM time to comply with the National Environmental Policy Act (NEPA);
- (2) You must submit a sundry notice for well pad construction when you are ready to begin actual pad construction; and
- (3) You must submit the plan of operations and drilling permit application when you are ready to drill a well. You should submit the plan of operations and drilling permit application at the same time.

(b) If you submit the drilling permit application and plan of operations simultaneously, the approved drilling permit application will authorize both the pad construction and the drilling and testing of the well.

§ 3261.15 Can a plan of operations and drilling permit apply to more than one well?

Yes.

(a) The plan of operation can apply to any number of well sites that are in areas of similar geology and environment.

(b) A drilling permit application may apply to more than one well if you will drill the wells in the same manner, and you expect to encounter similar reservoir conditions.

§ 3261.16 How do I amend a plan of operations or a drilling permit application?

If you want to amend a plan of operations or drilling permit application . . .	Then . . .
(a) That has not been approved.	Submit an amended plan of operation or drilling permit application.
(b) That has been approved.	Submit a sundry notice describing your proposed change.

§ 3261.17 Do I need a bond before I build a well pad or drill a well?

Before starting any operation, BLM must approve either a surety or personal bond in the amounts identified under 43 CFR 3214.13(b), (c), or (d).

§ 3261.18 How will BLM review my application documents and notify me of their status?

(a) When BLM receives your plan of operations, BLM will begin a review in accordance with NEPA. You will be notified if BLM needs more information during the NEPA review process. You will also be notified when BLM signs the Record of Decision (ROD).

(b) BLM will review your drilling permit application or sundry notice for well pad construction for conformance with your plan of operation and any mitigation measures developed during review of your plan of operation. BLM will notify you if we need additional information and will return the drilling permit application or sundry notice to you for correction.

(c) BLM will review your drilling permit application for technical adequacy and compliance with geothermal resource operation orders, notices to lessees, or other orders that BLM may have issued. BLM will notify you if we need additional information and will return the drilling permit application to you for correction.

§ 3261.19 How do I get approval to change an approved drilling operation?

(a) You must submit a sundry notice describing the proposed changes. You may not proceed with the changes until you have received approval from BLM. For operations such as redrilling, deepening, or plugging back a well, we may require you to submit a new drilling permit application (see 43 CFR 3261.20), if we determine that you are proposing a significant change to the approved drilling permit application. An example of a significant change would be redrilling the well to a completely different target, especially a target in an unknown area.

(b) For changes that will create additional surface disturbance, BLM may also require you to submit an amendment to the plan of operation.

(c) BLM may give you verbal approval for a change requiring immediate action, such as those necessary to protect life or property. In this case, you must submit a written sundry notice within 48 hours of BLM's verbal approval.

§ 3261.20 How do I get approval for subsequent well operations?

(a) You must submit a sundry notice describing your proposed operation. You may not proceed with the operation until you have received approval from BLM.

(b) BLM may waive the requirement for a sundry notice for work we determine to be routine such as cleanouts, surveys, or general maintenance. You must continue to submit sundry notices for the specific operation unless you receive a waiver from BLM. For information on how to obtain a waiver, contact BLM.

Subpart 3262—Conducting Drilling Operations**§ 3262.10 What operational requirements must I meet when drilling a well?**

- (a) You must:
 - (1) Take all necessary precautions to keep the well under control at all times;
 - (2) Use trained and competent personnel;
 - (3) Use properly maintained equipment; and
 - (4) Use operating practices that ensure the safety of life and property.
- (b) You must use sound engineering principles and take into account all pertinent data when:
 - (1) Selecting the types and weights of drilling fluids;
 - (2) Designing a system for controlling fluid temperatures;
 - (3) Designing a blowout prevention equipment; and
 - (4) Designing a casing and cementing program.

(c) You must conduct your operation in accordance with:

- (1) The Act and the regulations of this part;
- (2) Orders;
- (3) Notices to lessees;
- (4) Lease terms;
- (5) Approved plans and permits;
- (6) Conditions of approval;
- (7) Other instructions from BLM; and
- (8) Any other applicable laws and regulations.

§ 3262.11 What environmental requirements must I meet when drilling a well?

(a) You must conduct operations to:

(1) Protect the quality of surface and subsurface water, air, natural resources including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic, and recreational resources;

(3) Accommodate, as much as possible, other land uses;

(4) Minimize noise;

(5) Prevent injury; and

(6) Prevent damage to property and unnecessary or undue degradation of the lands.

(b) You must remove or, with BLM's approval, properly store all equipment and materials that are not in use.

(c) You must retain all fluids from drilling and testing the well in properly designed pits, sumps, or tanks.

(d) When a pit or sump is no longer needed, you must abandon it and restore the site as directed by BLM.

(e) BLM may require you to submit a contingency plan describing how you will protect life, property, and the environment.

§ 3262.12 Must I post a sign at every well?

(a) Prior to drilling a well, you must place a sign in a conspicuous place containing the following information:

- (1) The name of the lessee or operator;
- (2) Lease serial number;
- (3) Well number; and
- (4) Well location described by section, township, range, and quarter quarter-section.

(b) You must maintain each well sign until the well site is reclaimed.

§ 3262.13 Can BLM require well spacing?

Yes. BLM can require well spacing if we determine that it is necessary for proper development. If BLM does require well spacing, we will consider the following factors:

- (a) Hydrologic, geologic, and reservoir characteristics of the field minimizing well interference;
- (b) Topography;
- (c) Unreasonable interference with multiple use of land; and
- (d) Protection of the environment, including ground water.

§ 3262.14 Can BLM require me to take samples or perform tests and surveys?

Yes. We may require you to sample or test the well to determine any or all of the following:

- (a) The mechanical integrity of a well;
- (b) The identity and characteristics of formations;
- (c) Presence of geothermal resources, water, or reservoir energy;
- (d) Quality and quantity of geothermal resources;
- (e) Well bore angle and direction of deviation;

- (f) Formation, casing, or tubing pressures;
- (g) Temperatures; or
- (h) Rate of heat or fluid flow.

Subpart 3263—Well Abandonment

§ 3263.10 May I abandon a well without notifying BLM?

No. You must have an approved sundry notice before you start abandoning any well.

§ 3263.11 What information must I submit to get my sundry notice for abandonment approved?

You must submit the following information along with the sundry notice:

- (a) All the information required in the well completion report (see 43 CFR 3266.10), unless BLM already has that information;
- (b) A detailed description of the proposed work;
- (c) Type, depth, length, and interval of plugs;
- (d) How you will verify the plugs (tagging, pressure testing, etc.);
- (e) Mud weight and viscosity that you will use in the uncemented portions;
- (f) Plans for perforating or removing casing;
- (g) Plans for surface restoration; and
- (h) Any other information that BLM may require.

§ 3263.12 How will BLM review my sundry notice for abandonment and notify me of its status?

- (a) After BLM receives your sundry notice, we will review it for technical and environmental adequacy. BLM will notify you if we need more information and will send you an approved sundry notice.
- (b) BLM may grant verbal approval for plugging requiring immediate action. You must promptly submit the information required in 43 CFR 3263.11 within 48 hours of BLM's verbal approval.

§ 3263.13 What must I do to restore the site?

You must remove all equipment and materials and restore the site to a condition that BLM or the surface management agency specifies.

§ 3263.14 Can BLM require me to abandon a well?

Yes. If BLM determines that the well is no longer necessary for geothermal resource production, injection, or monitoring, we can require you to abandon the well. BLM may also require you to abandon a well if we determine that the well is not mechanically sound. In either case, you will be given the opportunity to justify why the well

should not be abandoned before BLM issues final orders to abandon the well.

§ 3263.15 Can I abandon a producible well?

Yes. You must submit the information required in 43 CFR 3263.11. BLM may also require you to submit a statement of why you want to abandon the well. BLM may deny the request if we determine the well is needed to protect a lease from drainage, or to protect the interests of the United States or to protect the environment.

Subpart 3266—Reports

§ 3266.10 What information must I submit after completing a well?

You must submit a well completion report within 30 days after you complete a well. Your report should include at least the following:

- (a) A complete chronological well history;
- (b) A copy of all logs;
- (c) Copies of all directional surveys; and
- (d) Copies of all mechanical, flow, reservoir, and other test data.

§ 3266.11 What information must I submit after completing subsequent well operations?

(a) You must submit a report of subsequent well operations within 30 days of completing the operations. At a minimum, your report must include:

- (1) A complete chronological history of the work done;
- (2) A copy of all logs;
- (3) Copies of all directional surveys;
- (4) Copies of all mechanical, flow, reservoir, and other test data; and
- (5) A statement of whether you accomplished the desired result. For example, if the well was acidized to increase production, say whether there was an increase in the production rate when you put the well back on line.

(b) BLM may waive the requirement for a report of subsequent operations for work we determine is routine such as cleanouts, surveys, or general maintenance. You must submit the report unless you receive a waiver. You may obtain a waiver by verbally requesting one from BLM at least 24 hours prior to the planned operations.

§ 3266.12 What information must I submit after abandoning a well?

You must submit a report of well abandonment within 30 days of abandoning the well. If site restoration is to be done at a later date, you may submit a separate report within 30 days of completing site restoration. The well abandonment report must contain the following information:

(a) A complete chronological history of work done;

(b) A description of each plug, including:

- (1) Amount of cement used;
- (2) Type of cement used;
- (3) Depth that the drill pipe or tubing was run to set the plug;
- (4) Depth to top of plug; and
- (5) If the plug was verified, was it verified by tagging or pressure testing; and

(c) A description of surface restoration procedures.

§ 3266.13 What well records must I maintain for each well?

Yes. You must keep the following information for each well at a location that is available to BLM:

- (a) A complete and accurate drilling log in chronological order;
- (b) All logs;
- (c) Water or steam analyses;
- (d) Hydrologic or heat flow tests;
- (e) Directional surveys; and
- (f) A complete log of all subsequent well operations such as cementing, perforating, acidizing, and well cleanouts.

§ 3266.14 Must I notify BLM of accidents occurring on my lease?

Yes. You must inform BLM of all accidents within 24 hours which affect operations or create environmental hazards. You must also submit a report fully describing the incident, if required by BLM.

Subpart 3267—Confidential, Proprietary Information

§ 3267.10 Must I identify confidential, proprietary information that I submit to BLM?

Yes. You must clearly mark every page with the words "Confidential Information".

§ 3267.11 Will BLM treat information marked as confidential, as such?

Not necessarily. BLM will treat information that is exempt from release under the Freedom of Information Act as confidential. See 43 CFR part 2 for the regulations addressing privileged documents. BLM will not treat surface location, surface elevation, or well status as confidential.

§ 3267.12 How long will confidential information I submit to BLM remain confidential?

BLM will consider the information confidential as long as it remains exempt from release under the Freedom of Information Act (see 43 CFR part 2).

Subpart 3268—Inspection, Enforcement, and Noncompliance**§ 3268.10 What part of my drilling operations can BLM inspect?**

(a) BLM can inspect all of your drilling operations on Federal and Indian land regardless of surface ownership. We may inspect your drilling operations for compliance with:

- (1) Your approved plan of operation;
- (2) Your approved drilling permit;
- (3) Conditions of approval;
- (4) Lease terms and conditions;
- (5) Regulations and orders; and
- (6) Notices to lessees.

(b) BLM can also inspect all of your maps, well logs, surveys, records, books, and accounts relative to your drilling operation.

§ 3268.11 What action can BLM take if my operations are in noncompliance?

(a) If BLM determines your operations are in noncompliance, we may take the following action:

(1) Issue you a written Incident of Noncompliance, directing you to correct any deficiencies within a specific time period;

(2) Require you to mitigate unacceptable environmental impacts caused by your operation; and

(3) Revoke or suspend your plan of operations after notice and hearing in accordance with 43 CFR parts 4 and 1840.

(b) If the noncompliance continues or is of a serious nature, BLM will take one of the following actions:

(1) Enter your lease, and correct any deficiencies at your expense;

(2) Forfeit all or part of your bond;

(3) Direct modification or shutdown of your operations if the operations are unsafe or have the potential to cause significant or irrevocable harm to the environment;

(4) Temporarily suspend your exploration permit if necessary to

protect public health, safety, or the environment. This temporary suspension will go into effect immediately and will remain in effect while appeals are pending;

(5) Initiate cancellation of the lease; or

(6) Take action against the lessee, who is ultimately responsible for noncompliance.

Subpart 3269—Geothermal Drilling Operations Relief and Appeals**§ 3269.10 May I request a variance from notices to lessees, permit conditions of approval, and operational and other orders issued by BLM?**

Yes.

(a) Your request must include enough information to explain:

(1) Why you cannot meet the provisions of the NTL, permit condition of approval, geothermal resource operational order, or other orders issued by BLM; and

(2) Why you need the variance to control your well, conserve natural resources, protect human health and safety, protect property, or protect the environment.

(b) BLM may approve your request verbally or in writing. If BLM gives you a verbal approval, we will follow up with written confirmation.

Subpart 3270—Utilization of Geothermal Resources—General**§ 3270.10 What types of geothermal operations are permitted under this part?**

The regulations in this subpart cover the permitting and operating procedures for the utilization of geothermal resources. This includes the following types of development on leased Federal land or Indian land:

(a) Electrical generation facilities;

(b) Direct use facilities;

(c) Related utilization facility operations;

(d) Actual and allocated well field production and injection;

(e) Related well field operations; and

(f) Research and demonstration projects.

§ 3270.11 What standards apply to my utilization operations?

You must make certain that all utilization:

(a) Conforms to prudent operating practices;

(b) Is conducted in a manner that prevents unnecessary and undue degradation to surface and subsurface resources;

(c) Results in the maximum ultimate recovery; and

(d) Results in the beneficial use of geothermal resources with minimum waste.

§ 3270.12 What are my responsibilities for utilizing geothermal resources on a lease?

(a) The facility operator must comply with:

(1) Lease terms and stipulations;

(2) The approved plan of utilization;

(3) Utilization permit and production permit conditions of approval;

(4) All applicable laws and regulations;

(5) Geothermal resources operational orders, and

(6) Other written or oral orders that BLM may issue.

(b) The facility operator must also take all reasonable precautions to prevent waste, injury to persons, damage to real or personal property, and must minimize impacts to surface and subsurface resources and the environment.

Subpart 3271—Permitting of Utilization Operations**§ 3271.10 How do I obtain authorization to construct and test a utilization facility?**

If you want to construct a facility * * *	Then you need * * *
(a) on Federal lands leased for geothermal resources and you are the lessee and facility operator.	POU, UP, and SLA.
(b) on Federal lands leased for geothermal resources, and you are not the lessee.	POU, UP, SLA, and JUA.
(c) on Federal lands leased for geothermal resources committed to a unit and you are the unit operator.	POU, UP, and SLA.
(d) on Federal lands leased for geothermal resources committed to a unit and you are not the unit operator.	POU, UP, SLA, and JUA.
(e) on private land committed to a Federal unit and you are the unit operator.	POU and UP only addressing pipelines or other facilities on Federal land.
(f) on private land committed to a Federal unit and you are not the unit operator.	POU and UP only addressing pipelines or other facilities on Federal land, and JUA.
(g) on private land that will utilize Federal geothermal resources from other Federal leases.	POU and UP only addressing pipelines or other facilities on Federal land.
(h) on your Federal split estate lease	no permits required to construct and test facility.
(i) on a Federal split estate lease and you are not the lessee	POU and UP only addressing pipelines or other facilities on Federal land, and JUA.

If you want to construct a facility * * *	Then you need * * *
(j) on unleased public land	FLPMA R—O—W.

Note: "POU" is a Plan of Utilization
 A"UP" is a Utilization Permit
 A"SLA" is a Site License Agreement
 A"JUA" is a Joint Utilization Agreement
 A"FLPMA" is the Federal Land Policy and Management Act
 A"ROW" is a Right of Way

§ 3271.11 How do I obtain authorization to begin commercial operations?

The lessee, operator, or third party facility operator must submit an application for a production permit to BLM for approval if the commercial operations involve Federal mineral resources.

Subpart 3272—The Contents and Review of a Plan of Utilization and Utilization Permit

§ 3272.10 What must I do prior to commencing site preparation, construction and testing of the facility?

You must submit a plan of utilization and a utilization permit, and both must be approved by BLM before you begin.

§ 3272.11 What information must I submit in a plan of utilization?

A plan of utilization consists of a description of the proposed facilities and anticipated environmental impacts and proposed measures for mitigating environmental impacts.

§ 3272.12 How should I describe the proposed facility?

Your description of the proposed facility should include the following information:

- (a) A generalized description of all proposed structures and facilities, including their size, location, and function;
- (b) A generalized description of proposed facility operations including estimated total production and injection rates, estimated well flow rates, pressures, and temperatures, facility net and gross electrical generation, and, if applicable, interconnection with other utilization facilities. If it is a direct use facility, you must submit information required by BLM to permit BLM to determine the amount of resource utilized;
- (c) A contour map covering the entire utilization site showing production and injection well pads, pipeline routes, facility locations, drainage structures, and existing and planned access and lateral roads;
- (d) A description of site preparation and associated surface disturbance including the source for site or road building materials, amounts of cut and fill, drainage structures; an analysis of

all site evaluation studies prepared for the site(s), and a description of any additional tests, studies, or surveys which are planned to assess the geologic suitability of the site(s);

(e) The source, quality, and proposed consumption rate of water used during facility operations, and the source and quantity of water used during facility construction;

(f) The methods for disposing of, or abating the emission of, noncondensable gases;

(g) An estimated number of personnel needed during construction and operation of the facility;

(h) A construction schedule;

(i) A schedule for testing of the facility and/or well equipment, and for the start of commercial operations;

(j) A description of architectural landscaping or other measures to minimize visual impacts; and

(k) Any additional information or data which BLM may require.

§ 3272.13 How should I describe the environmental protection measures I intend to take?

(a) Your description should include, at a minimum, measures proposed to:

- (1) Prevent or control fires;
- (2) Prevent soil erosion;
- (3) Protect surface or ground water;
- (4) Protect fish and wildlife;
- (5) Protect cultural, visual, and other natural resources;

(6) Minimize air and noise pollution; and

(7) Minimize hazards to public health and safety during normal operations.

(b) Your description should also include provisions for monitoring facility operations to ensure continuing compliance with applicable regulations, geothermal resources operational orders, and noise, air, and water quality standards, and for other environmental parameters identified by BLM.

(c) BLM may require you to collect data concerning the existing air and water quality, noise, seismicity, subsidence, and ecological systems, or other environmental information for a period of at least one year prior to production. BLM will approve data collection methodologies. BLM may reduce the data collection requirements of this paragraph, including the

duration of data collection, commensurate with the level of potential environmental impacts from the proposed operations.

(d) A description of the methods for the abandonment of the utilization facilities and the site restoration procedures to comply with applicable requirements of the regulations, lease, geothermal resources operational orders or other BLM orders, notices to lessees, and permit conditions of approval.

(e) You must also submit any additional information or data which BLM may require.

§ 3272.14 How will BLM review my plan of utilization and notify me of its status?

(a) BLM will review the plan of utilization for completeness, technical soundness and environmental acceptability. In coordination with the appropriate Federal surface management agency and in cooperation with other concerned Federal, state, and local agencies, BLM will comply with the National Environmental Policy Act. We will notify you if we need additional information and when we approve, modify or deny the Plan of Utilization.

(b) BLM will make all documents submitted as part of or in support of a Plan of Utilization available to all appropriate Federal, state, and local agencies, and interested members of the public for review; except that we will not make available for public review any information that is not releasable under the Freedom of Information Act, and which was submitted as part of the plan. See 43 CFR 3267.11.

(c) Before approving your plan of utilization, BLM will determine that the lease is in good standing, and you have filed an acceptable bond in accordance with the requirements of 43 CFR 3214.13 and 3273.19.

§ 3272.15 How do I obtain authorization to construct and test my facility?

You must submit a utilization permit along with your plan of utilization. BLM must approve the permit before you construct or test your facility.

Subpart 3273—Applying for and Obtaining a Site License**§ 3273.10 When do I need a site license?**

You must have an approved site license if you plan to construct and operate a utilization facility on Federal lands leased for geothermal resources.

§ 3273.11 Are there any situations in which I do not need a site license?

(a) You do not need a site license if your facility will be on split estate land where the surface is not owned by the United States.

(b) You do not need a site license for installing a testing facility or using the production of an individual well for electrical power generation or another non-electrical beneficial use. However, you do need a site license if your facility is for transmission or use of more than 10 megawatt (MW) maximum output.

(c) You do not need a site license for a research and demonstration project sited on a Federal geothermal lease, if:

- (1) The project does not have more than 20 MWs electrical capacity; and
- (2) The facility does not have a projected life of more than 5 years from the date it becomes operational. If you intend to convert your research and development facility to a permanent commercial operation after the initial 5 year period, you must apply for a license prior to the end of the 5 years. However, you do need a drilling permit under subpart 3260 of this part for such facilities.

§ 3273.12 What if the lands I want a license for are not administered by BLM?

(a) If you want a license for land that is withdrawn or reserved for the use of a Federal agency other than BLM, BLM will consult with the surface management agency before issuing the license, and include any terms and conditions requested by the agency.

(b) Where the land is subject to section 24 of the Federal Power Act, BLM will issue the license subject to terms and conditions requested by the Federal Energy Regulatory Commission.

§ 3273.13 Are any lands not available for geothermal site licenses?

BLM may not issue a site license for lands that are not available for geothermal leasing. A list of these lands is set out at 43 CFR 3201.11.

§ 3273.14 What area does a site license include?

The site license area will, as determined by BLM, be a reasonably compact tract of Federal land limited to as much of the surface as is necessary for the adequate utilization of geothermal resources.

§ 3273.15 What information must I include in my site license application?

Your site license application must include:

(a) A description of the boundaries and the area of the land applied for, as determined by a certified licensed surveyor, along with a description of the land by legal subdivision, section, township and range, or by approved protraction surveys, if applicable;

(b) A non-refundable fee of \$50;

(c) A site license bond;

(d) The first year's rental, if applicable (see 43 CFR 3273.16);

(e) A copy of the joint utilization agreement, when required (see 43 CFR 3274.10);

(f) A description of the proposed facility, including any substations, indicating whether you intend to interconnect your proposed facility with other facilities and to sell the energy you produce to others or use it yourself; and

(g) A statement showing the amount of merchantable timber, if any, that you will use or destroy by constructing your facility, and a statement agreeing to deposit with BLM, in advance of construction, the stumpage value of the timber to be used or destroyed. BLM will determine the value, which will not exceed fair market value.

§ 3273.16 What is the annual rental for a site license or direct use facility?

The annual site license area rental will be determined by BLM and will be set forth in your approved site license. The amount will be not less than \$100 per acre or fraction thereof for an electrical generation facility or direct use area and not less than \$10 per acre or fraction thereof for a facility for non-electrical purposes. You must submit the first year's rental to BLM. All subsequent rental payments must be made to MMS.

§ 3273.17 Can BLM reassess the annual rental for my site license?

Yes. The site license will contain a provision permitting BLM to reassess the rental for lands covered by the license beginning with the tenth year and then in ten-year intervals.

§ 3273.18 Must all facility operators pay the annual site license rental?

No. A lessee siting a unitization facility on his or her lease, or a unit operator siting a utilization facility on leases committed to his or her unit, need not pay the annual rental. Only a facility operator other than a lessee or unit operator must pay the annual rental.

§ 3273.19 What are the bonding requirements for a site license?

(a) Before BLM issues a site license for an electrical generation facility, the facility operator must submit a surety or personal bond of at least \$100,000. BLM can waive this requirement if we determine that any nonelectrical uses are unlikely to cause significant environmental harm.

(b) Before BLM issues a site license for a direct use facility, the facility operator must furnish BLM with a surety or personal bond in an amount specified by BLM.

(c) In either case, the terms of the bond must provide for compliance with conditions of the site license, lease terms, and the regulations of this part.

§ 3273.20 What are my obligations under the site license?

As the facility operator, you:

(a) Are liable for all damages to the lands or property of the United States caused by yourself, your employees or contractors or employees of such contractors;

(b) Must indemnify the United States against any liability for damages or injury to persons or property arising from the occupancy or use of the lands authorized under the site license; and

(c) Must remove any structure(s) and restore any surface disturbance, when no longer needed during facility construction or operation. This will also include the utilization facility if you are unable to operate the facility and BLM determines that you are not diligent in your efforts to return the facility to operation.

§ 3273.21 How long will my site license remain in effect?

BLM will grant a site license for a primary term of 30 years, independent of the term of the lease on which the facility is sited. The site license will remain in effect as long as you use Federal geothermal resources in a diligent manner and you are complying with all provisions of the license. Should the lease on which the site license is located expire or terminate, you may apply to convert the authority for the facility siting to a permitted facility under the provisions of section 501 of FLPMA, 43 U.S.C. 1761, if the lands are located on BLM-managed lands. For all other lands, you must obtain authorization to continue using the surface for the facility siting from the appropriate surface management agency, unless that continuing authorization has already been granted by the surface management agency.

§ 3273.22 May BLM terminate my site license?

Yes, BLM may terminate your site license by written order for any of the following reasons:

(a) BLM may terminate your site license for any violation of the license terms and conditions, lease terms, applicable laws and regulations, geothermal resources operational orders and conditions of the plan of utilization, utilization permit, and/or production permit, including any conditions, after a 30 day notice. The termination will not take effect if, within the 30 day notice period, you correct the violation or BLM determines the violation can not be corrected within 30 days and you initiate and continue diligent efforts to correct the violation.

(b) BLM may also terminate your site license if we determine you are no longer diligently utilizing Federal geothermal resources.

§ 3273.23 May I relinquish my site license?

Yes. You may relinquish your license by submitting a written notice for BLM review and approval. BLM will not approve the relinquishment until the conditions or requirements identified in 43 CFR 3273.20 are met.

§ 3273.24 May I assign or transfer my site license?

Yes. You may transfer your site license in whole or in part. You must submit any transfer to BLM for approval, along with a \$50 filing fee. Your application for transfer must include a written statement from the person or entity to whom you are transferring the license that they are qualified to hold a lease under 43 CFR 3201.11, and a written statement that they will comply with all terms and conditions of the license. The transfer is not valid until BLM approves it.

§ 3273.25 What if my site license application involves lands under the jurisdiction of another agency?

BLM will consult with and obtain the consent of the appropriate surface management agency prior to issuing the site license.

Subpart 3274—Submitting a Joint Utilization Agreement**§ 3274.10 What is the purpose of a joint utilization agreement?**

A joint utilization agreement documents that:

(a) A lessee or unit operator is allowing a third party to occupy the lease or unit for facility construction and operation of a utilization facility, when the facility is located on Federal land leased for geothermal resources.

(b) You do not need a joint utilization agreement when a site license is not required.

§ 3274.11 Which parties must sign the joint utilization agreement?

Any third part facility operator must sign. Additionally,

(a) If the utilization facility is located on a Federal lease not committed to a unit agreement, the Federal geothermal lessee must sign; or

(b) If the utilization facility is located on a lease committed to a unit agreement, the unit operator must sign.

Subpart 3275—Applying for and Obtaining a Production Permit**§ 3275.10 What information must I include in my application for a production permit?**

The facility operator must include the following information in a production permit application:

(a) The design, specifications, observation, and calibration schedule of production, injection, and royalty meters;

(b) A schematic diagram of the utilization site or individual well indicating the location of each production and royalty meter. If the sales point is located off the utilization site, then you must provide a generalized schematic diagram of the electrical transmission or pipeline system, including the location of meters;

(c) A copy of the sales contract for the sale and/or utilization of geothermal resources;

(d) A description and analysis of reservoir, production, and injection characteristics, including the flow rates, temperatures, and pressures of each production and injection well;

(e) A schematic diagram of each production or injection well showing the wellhead configuration including meters;

(f) A schematic flow diagram of the utilization facility including, if applicable, interconnections with other facilities;

(g) A description of the utilization process in sufficient detail to enable BLM to determine if the resource will be utilized in an acceptable manner;

(h) The planned safety provisions for emergency shutdown to protect public health and safety and for protection of the environment. This should include a schedule for the testing and maintenance of safety devices;

(i) The environmental and operational parameters to be monitored during the operation of the facility and/or well(s); and

(j) Any additional information or data that BLM may require.

§ 3275.11 How will BLM review my application for a production permit?

BLM will review the documents for completeness and technical soundness and will inform you if we need additional information. BLM will ensure that your meters meet our accuracy standards.

§ 3275.12 Can I get an authorization even if I cannot prove I can operate within required standards?

Yes, but BLM may limit your authorization to operate your facility to a specified period of time. During that time, you may obtain actual facility and well data, or both, to verify that the facility can operate within environmental and operational standards. BLM may extend the permit through approval of a sundry notice.

Subpart 3276—Conducting Utilization Operations**§ 3276.10 Can I change my approved plan of utilization or production permit?**

Yes. You must submit a sundry notice describing your proposed change. You may not proceed with your change until you receive BLM approval.

§ 3276.11 What are the facility operator's obligations?

(a) The facility operator must comply with BLM's orders, applicable laws and regulations, geothermal resources operational orders, notice to lessees, lease terms, the approved plan, and conditions to the approved plan or permit. You must use:

- (1) Prudent operating practices to ensure the safety of life and property;
- (2) Trained and competent personnel; and
- (3) Properly maintained equipment and materials.

(b) You must base the design of the utilization facility siting and operation on sound engineering principles and other pertinent geologic and engineering data.

(c) You are responsible for preventing waste of or damage to geothermal and other energy and minerals resources, and unnecessary or undue degradation to the lands.

(d) You are responsible for any noncompliance resulting from any utilization related operations.

§ 3276.12 Are there environmental and safety requirements for lease operations?

Yes. The facility operator must:

- (a) Perform all utilization facility operations in a workmanlike manner to:
 - (1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

- (2) Protect the quality of cultural, scenic and recreational resources;
- (3) Accommodate, as much as possible, other land uses;
- (4) Protect human and wildlife resources from unacceptable levels of noise;
- (5) Prevent injury; and
- (6) Prevent damage to property, and unnecessary or undue degradation to the lands;
- (b) Monitor facility operations to address identifiable, localized

environmental resources and concerns associated with the facility or lease operations;

(c) Remove or, with BLM approval, properly store all equipment and materials not in use;

(d) When no longer needed during facility construction or operation, properly abandon and reclaim any surface disturbance, as approved or prescribed by BLM; and

(e) When required by BLM, submit a contingency plan describing procedures to protect life, property, and the environment.

§ 3276.13 Are there reporting requirements for lease operations?

(a) You must notify BLM within 5 business days of when you begin commercial production and utilization.

(b) You must submit monthly reports to BLM as described below:

If...	Then...
(1) you are the operator of a lease	you must submit a monthly report of well operations for each well on your lease.
(2) you are a unit operator	you must submit a monthly report of well operations for each well in your unit.
(3) you are a facility operator	you must submit a monthly report of facility operations.
(4) you are both a lease or unit operator and the facility operator	you must submit a monthly report of well operations for your lease or unit, and you must submit a monthly report of facility operations. You may combine all the information into one report.

(c) You must submit monthly reports due to BLM by the end of the month following the month that the report covers. For example, the report covering the month of July is due by August 31.

§ 3276.14 What information must be included for each well in monthly well reports?

Include the following information for each well in the monthly report of well operations:

- (a) Any drilling operations or changes made to a well;
- (b) Total production or injection in thousands of pounds (klbs);
- (c) Production or injection temperature in degrees Fahrenheit (°F);
- (d) Production or injection pressure in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);
- (e) The number of days the well was producing or injecting;
- (f) The well status at the end of the month;
- (g) The amount of steam or hot water lost to venting or leakage;
- (h) The lease number or unit the well is located on;
- (i) The month and year the report is for;
- (j) Your name, title, signature, and a phone number where BLM may contact you; and
- (k) Any other information the BLM may require.

§ 3276.15 What information must be included in the monthly report for generation facilities?

For all electrical generation facilities, include the following information in your monthly facility report:

(a) Mass of steam and/or hot water into the facility in thousands of pounds (klbs). For facilities using both steam and hot water, you must report the mass of each;

(b) The temperature of the steam or hot water in degrees Fahrenheit (°F);

(c) The pressure of the steam or hot water in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);

(d) Gross generation in kiloWatt hours (kWh);

(e) Net generation at the tailgate of the facility in kiloWatt hours (kWh);

(f) Amount of electricity delivered to the sales point in kiloWatt-hours (kWh), if the sales point is different from the tailgate of the facility;

(g) Amount of electricity lost to transmission, if applicable;

(h) Temperature in degrees Fahrenheit (°F) and volume of the steam or hot water exiting the facility;

(i) The number of hours the plant was on line; and

(j) A brief description of any outages.

§ 3276.16 What additional information must be submitted in the monthly report for flash and dry facilities?

You must submit the following information in addition to that specified in 43 CFR 3276.15 for flash and dry steam facilities:

(a) Steam flow into the turbine in thousands of pounds (klbs); for dual flash facilities, you must separate the steam flow into high pressure steam and low pressure steam;

(b) Condenser pressure in pounds per square inch absolute (psia);

(c) Condenser temperature in degrees Fahrenheit (°F);

(d) Auxiliary steam flow used for gas ejectors, steam seals, pumps, etc., in thousands of pounds (klbs);

(e) Flow of condensate out of the plant (after the cooling towers) in thousands of pounds (klbs); and

(f) Any other information BLM may require.

§ 3276.17 What information must be included in the monthly report for direct use facilities?

For direct use facilities, submit the following information:

(a) A daily breakdown of flow, average temperature in, and average temperature out, in degrees Fahrenheit (°F);

(b) Total monthly flow through the facility in thousands of gallons (kgal) or thousands of pounds (klbs);

(c) Monthly average temperature in, in degrees Fahrenheit (°F);

(d) Monthly average temperature out, in degrees Fahrenheit (°F);

(e) Total heat used in millions of BTU's (MMBTU);

(f) Number of hours that geothermal heat was used; and

(g) Any other information BLM may require.

§ 3276.18 Does the facility operator have to measure the geothermal resources?

Yes. You must:

(a) Measure all production, injection and utilization in accordance with methods and standards approved by BLM; and

(b) Maintain and test all metering equipment, and if BLM finds the equipment out of tolerance or defective, you must promptly recalibrate, repair, or replace it. You must determine the amount of production and/or utilization

in accordance with the methods and procedures approved and prescribed by BLM.

§ 3276.19 What aspects of my geothermal operation must I measure?

(a) For all well operations, you must measure wellhead flow, wellhead temperature, and wellhead pressure.

(b) For all electrical generation facilities, you must measure:

- (1) Steam and/or hot water flow into the facility;
 - (2) Temperature of the water and/or steam into the facility;
 - (3) Pressure of the water and/or steam into the facility;
 - (4) Gross electricity generated;
 - (5) Net electricity at the facility tailgate;
 - (6) Electricity delivered to the sales point; and
 - (7) Temperature of the steam and/or hot water exiting the facility.
- (c) For direct use facilities, you must measure:

- (1) Flow of steam and/or hot water;
 - (2) Temperature into the facility; and
 - (3) Temperature out of the facility.
- (d) BLM may also require additional measurements depending on the type of facility, the type and quality of the resource, and the terms of the sales contract.

§ 3276.20 How accurately must I measure my production and utilization?

The meter accuracy that BLM requires depends on whether you use the meter in calculating Federal production or royalty and what quantity of resource you are measuring.

(a) For meters that you will use to calculate Federal royalty:

(1) If the meter measures electricity, it must have an accuracy of $\pm 0.25\%$ or better of reading;

(2) If the meter measures steam flowing more than 100,000 lbs/hr. on a monthly basis, it must have an accuracy of $\pm 2\%$ or better of reading;

(3) If the meter measures steam flowing less than 100,000 lbs/hr on a monthly basis, it must have an accuracy of $\pm 4\%$ or better of reading;

(4) If the meter measures water flowing more than 500,000 lbs/hr on a monthly basis, it must have an accuracy of $\pm 2\%$ or better of reading;

(5) If the meter measures water flowing 500,000 lbs/hr or less on a monthly basis, it must have an accuracy of $\pm 4\%$ or better of reading;

(6) If the meter measures heat content, it must have an accuracy of $\pm 4\%$ or better; or

(7) If the meter measures two phase flow at any rate, BLM will determine meter accuracy requirements. However,

such meters are generally not allowable, and you must obtain the prior written approval of BLM before installation and use.

(b) Any meters that you do not use to calculate Federal royalty are considered production meters. Any production meter must maintain an accuracy of $\pm 5\%$ or better of reading.

(c) BLM may modify these requirements as necessary to protect the interests of the United States.

§ 3276.21 To what standards must I install and maintain my meters?

(a) You must install and maintain all meters required by BLM according to the manufacturer's recommendations and specifications or BLM's requirements, whichever is more restrictive.

(b) If you use an orifice plate to calculate Federal royalty, the orifice plate installation must comply with "API Manual of Petroleum Standards, Chapter 14, Section 3, Part 2, Third Edition, February, 1991".

(c) For meters used to calculate Federal royalty, you must calibrate the meter against a known standard as specified in paragraphs (c) (1) through (3) of this section:

(1) Meters measuring electricity must be calibrated annually;

(2) Meters measuring steam or hot water flow with a turbine, vortex shedder, ultrasonics, or other linear devices, must be calibrated every six months, or as recommended by the manufacturer, whichever is more frequent; and

(3) Meters measuring steam or hot water flow with an orifice plate, venturi, pilot tube, or other differential device, must be calibrated every month and you must inspect and repair the primary device (orifice plate, venturi, pitot tube) annually.

(d) You must use calibration equipment that is more accurate than the equipment you are calibrating.

(e) BLM may modify any of these requirements as necessary to protect the interests of the United States.

§ 3276.22 What must I do if I find an error in a meter?

(a) If the meter is used to calculate Federal royalty, you must correct the error immediately and notify BLM by the next working day of its discovery.

(b) If the meter is not used to calculate Federal royalty, you must correct the error and notify BLM within three days of its discovery.

(c) If correcting the error will cause a change in the sales quantity of more than 2% for the month(s) in which the error occurred, you must adjust the sales

quantity for that month(s) and submit an amended facility report to BLM within 3 working days.

§ 3276.23 May BLM require me to test for byproducts associated with the production of geothermal resources?

Yes. You must conduct any tests required by BLM.

§ 3276.24 May I commingle production?

Yes, if you obtain BLM's prior approval. BLM will review your request to commingle production from wells on your lease with production from other leases held by you or other lessees and may grant approval subject to conditions we prescribe.

§ 3276.25 What action will BLM take if I waste geothermal resources?

BLM will make a determination on the amount of production lost through waste of the geothermal resource. If BLM determines that you have not taken all reasonable precautions to prevent waste of geothermal resources, we will require compensation based on the value of the lost production. BLM may also terminate your site license.

§ 3276.26 Can BLM order me to drill and produce wells on my lease?

Yes. BLM can order you to promptly drill and produce any wells necessary to ensure that lease development and production occur in accordance with sound operating practices.

Subpart 3277—Inspections, Enforcement, and Noncompliance

§ 3277.10 Will BLM inspect my operations?

Yes. All operations are subject to inspection by BLM to ensure compliance with permit terms and conditions of approval, lease terms and conditions, orders, and notices to lessees, applicable regulations and laws. During normal operating hours, you must allow BLM to inspect all facilities utilizing Federal geothermal resources.

§ 3277.11 What records must I keep available for inspection?

The operator or facility operator must keep all records and information pertaining to royalty and production meters available for BLM inspection for a period of at least six years from the time of collection. This includes records and information from meters located off your lease or unit when such records or information are necessary to determine resource production to a utilization facility or the allocation of resource production to your lease or unit.

§ 3277.12 What actions may BLM take if I am in noncompliance?

(a) If BLM finds your operation to be in noncompliance, we may take the following action:

(1) Issue you a written Incident of Noncompliance, directing you to correct any deficiencies within a specific time period;

(2) Require you to mitigate unacceptable environmental impacts caused by your operation; or

(3) Revoke or suspend your utilization permit, after notice and a hearing in accordance with 43 CFR parts 4 and 1840.

(b) If the noncompliance continues or is of a serious nature, BLM will take one of the following actions:

(1) Enter your lease, and correct any deficiencies at your expense;

(2) Collect all or part of your bond;

(3) Direct modification or shutdown of your operations;

(4) Temporarily suspend your utilization permit if necessary to protect public health, safety or the environment. This temporary suspension will go into effect immediately, and remain in effect while any appeals are pending; or

(5) Initiate cancellation of the lease.

Subpart 3278—Utilization Relief and Appeals**§ 3278.10 May I request a variance from notices to lessees, permit conditions of approval, and operational and other orders issued by BLM?**

Yes.

(a) Your request must include enough information to explain:

(1) Why the notice to lessees, permit condition of approval, geothermal resource operational order, or other orders issued by BLM cannot be met; and

(2) Why the variance is necessary to control your well, conserve natural resources, protect human health and safety, protect property, or protect the environment.

(b) BLM may approve your request verbally or in writing. We will follow up a verbal approval with written confirmation.

§ 3278.11 Can I appeal a BLM decision regarding my utilization operations?

You may file an appeal with BLM in accordance with the procedures of 43 CFR parts 4 and 1840.

[FR Doc. 96-25254 Filed 10-7-96; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 97**

[WT Docket No. 96-188; FCC 96-375]

Authorization of Visiting Foreign Amateur Operators to Operate Stations in the United States

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the amateur service rules to authorize citizens of certain countries in Europe and the Americas to operate stations while on short visits in the United States by facilitating implementation of two pending international reciprocal operating arrangements—European Conference of Postal and Telecommunications Administrations (CEPT) radio-amateur license and the Inter-American Convention on an International Amateur Radio Permit (CITEL/Amateur Convention). It is necessary so that U.S. amateur operators can operate in twenty-two European countries, eight South American countries, Mexico, and Honduras, and so that operators from those countries can operate their amateur stations in places where the amateur service is regulated by the Commission. The effect of the action will be to provide a convenient procedure for tourists, conference attendees, students, and professors whereby they can operate their amateur stations while visiting in the United States.

DATES: Comments are due on or before December 13, 1996. Reply Comments are due on or before January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Wireless Telecommunications Bureau, Washington, DC 20554, (202) 418-0690.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, adopted September 9, 1996, and released September 20, 1996. The complete text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this Notice of Proposed Rule Making may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 2100 Street, NW., Suite 140, Washington, DC 20037, Telephone number (202) 857-3800.

Summary of Notice of Proposed Rule Making

1. There are two pending reciprocal operating arrangements that will provide convenient ways for foreign amateur operators to operate stations in the United States. They are the European Conference of Postal and Telecommunications Administrations (CEPT) radio-amateur license and the Inter-American Convention on an International Amateur Radio Permit (CITEL/Amateur Convention).

2. With the United States as a participating non-CEPT country, citizens of our country could operate amateur stations temporarily in participating European countries, and their citizens could enjoy similar operating privileges in the United States.

3. The CITEL/Amateur Convention is an arrangement for countries in the Americas. Under the CITEL/Amateur Convention, individual amateur operators with an International Amateur Radio Permit (IARP) would have reciprocal operating privileges in each other's countries. The American Radio Relay League, Inc. (ARRL) has offered its services to the Department of State to issue IARPs on a non-discriminatory basis, at no cost, charge, or expense to the United States Government.

4. Under a CEPT radio-amateur license or an IARP, we do not anticipate that sophisticated station operations, such as beacon, repeater, or auxiliary station operations would be attempted. In addition, our rules do not permit these two new categories of licensees/permittees to engage in such sophisticated operations.

5. Citizens of European countries and countries in the Americas, such as tourists, students, professors, and conference attendees would benefit from the proposed convenient procedures. Likewise, United States citizens who travel in Europe or in the Americas for short visits would similarly benefit.

6. Comments are invited on the proposal.

7. This Notice of Proposed Rule Making is issued under the authority contained in 47 U.S.C. 154(i) and 303(r).

List of Subjects in 47 CFR Part 97

Foreign visitors, Radio, Treaties.
Federal Communications Commission
LaVera F. Marshall,
Acting Secretary.

Proposed Rules

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows: