

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1005, 1026 of this title.

§ 1002. Lands subject to geothermal leasing

Subject to the provisions of section 1014 of this title, the Secretary of the Interior may issue leases for the development and utilization of geothermal steam and associated geothermal resources (1) in lands administered by him, including public, withdrawn, and acquired lands, (2) in any national forest or other lands administered by the Department of Agriculture through the Forest Service, including public, withdrawn, and acquired lands, and (3) in lands which have been conveyed by the United States subject to a reservation to the United States of the geothermal steam and associated geothermal resources therein.

(Pub. L. 91-581, § 3, Dec. 24, 1970, 84 Stat. 1566.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1024 of this title.

§ 1002a. Repealed. Pub. L. 97-214, § 7(16), July 12, 1982, 96 Stat. 174

Section, Pub. L. 95-356, title VIII, § 803(a), (b), Sept. 8, 1978, 92 Stat. 585; Pub. L. 96-125, title VIII, § 802(2), Nov. 26, 1979, 93 Stat. 948; Pub. L. 97-99, title IX, § 908, Dec. 23, 1981, 95 Stat. 1385, related to development of geothermal energy sources on military lands, contracts for provision and operation of production facilities and energy purchases, and terms, conditions and prerequisites of such contracts. See sections 2689 and 2394 of Title 10, Armed Forces.

Section 803(c) of Pub. L. 95-356, which provided that this section take effect Oct. 1, 1978, was repealed by Pub. L. 97-214, § 7(16), July 12, 1982, 96 Stat. 174.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

§ 1003. Bids; competitive bidding; first application of qualified person without competitive bidding

If lands to be leased under this chapter are within any known geothermal resources area, they shall be leased to the highest responsible qualified bidder by competitive bidding under regulations formulated by the Secretary. If the lands to be leased are not within any known geothermal resources area, the qualified person first making application for the lease shall be entitled to a lease of such lands without competitive bidding. Notwithstanding the foregoing, at any time within one hundred and eighty days following December 24, 1970:

(a) Conversion to geothermal lease

with respect to all lands which were on September 7, 1965, subject to valid leases or permits issued under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or under the Mineral Leasing Act of Acquired Lands, as amended (30 U.S.C. 351, 358), or to existing mining claims located on or prior to September 7, 1965, the lessees or per-

mittees or claimants or their successors in interest who are qualified to hold geothermal leases shall have the right to convert such leases or permits or claims to geothermal leases covering the same lands;

(b) Consideration of first person in conflicting land interests

where there are conflicting claims, leases, or permits therefor embracing the same land, the person who first was issued a lease or permit, or who first recorded the mining claim shall be entitled to first consideration;

(c) Conversion to application for geothermal lease

with respect to all lands which were on September 7, 1965, the subject of applications for leases or permits under the above Acts, the applicants may convert their applications to applications for geothermal leases having priorities dating from the time of filing of such applications under such Acts;

(d) Acreage limitation

no person shall be permitted to convert mineral leases, permits, applications therefor, or mining claims for more than 10,240 acres; and

(e) Regulations; substantial expenditures for exploration, development, or production of geothermal steam requisite for conversion

the conversion of leases, permits, and mining claims and applications for leases and permits shall be accomplished in accordance with regulations prescribed by the Secretary. No right to conversion to a geothermal lease shall accrue to any person under this section unless such person shows to the reasonable satisfaction of the Secretary that substantial expenditures for the exploration, development, or production of geothermal steam have been made by the applicant who is seeking conversion, on the lands for which a lease is sought or on adjoining, adjacent, or nearby Federal or non-Federal lands.

(f) Competitive geothermal lease; time for payment of highest bid and first year rental

with respect to lands within any known geothermal resources area and which are subject to a right to conversion to a geothermal lease, such lands shall be leased by competitive bidding: *Provided*, That, the competitive geothermal lease shall be issued to the person owning the right to conversion to a geothermal lease if he makes payment of an amount equal to the highest bona fide bid for the competitive geothermal lease, plus the rental for the first year, within thirty days after he receives written notice from the Secretary of the amount of the highest bid.

(Pub. L. 91-581, § 4, Dec. 24, 1970, 84 Stat. 1566.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, referred to in subsecs. (a) and (c), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

The Mineral Leasing Act of Acquired Lands, referred to in subsecs. (a) and (c), probably means the Mineral

Leasing Act for Acquired Lands, act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1006 of this title.

§ 1004. Rents and royalties

Geothermal leases shall provide for—

(a) Royalty provision for percentage of amount or value of steam or other form of heat or energy

a royalty of not less than 10 per centum or more than 15 per centum of the amount or value of steam, or any other form of heat or energy derived from production under the lease and sold or utilized by the lessee or reasonably susceptible to sale or utilization by the lessee;

(b) Royalty provision for percentage of value of byproduct; rate for certain mineral byproducts

a royalty of not more than 5 per centum of the value of any byproduct derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, except that as to any byproduct which is a mineral named in section 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181), the rate of royalty for such mineral shall be the same as that provided in that Act [30 U.S.C. 181 et seq.] and the maximum rate of royalty for such mineral shall not exceed the maximum royalty applicable under that Act;

(c) Annual rental; advance payment; amount; termination of lease for nonpayment; deficiency payments; notice and payment of deficiency; reinstatement of lease: reasons and conditions

payment in advance of an annual rental of not less than \$1 per acre or fraction thereof for each year of the lease. If there is no well on the leased lands capable of producing geothermal resources in commercial quantities, the failure to pay rental on or before the anniversary date shall terminate the lease by operation of law: *Provided, however*, That whenever the Secretary discovers that the rental payment due under a lease is paid timely but the amount of the payment is deficient because of

an error or other reason and the deficiency is nominal, as determined by the Secretary pursuant to regulations prescribed by him, he shall notify the lessee of the deficiency and such lease shall not automatically terminate unless the lessee fails to pay the deficiency within the period prescribed in the notice: *Provided further*, That, where any lease has been terminated automatically by operation of law under this section for failure to pay rental timely and it is shown to the satisfaction of the Secretary of the Interior that the failure to pay timely the lease rental was justifiable or not due to a lack of reasonable diligence, he in his judgment may reinstate the lease if—

(1) a petition for reinstatement, together with the required rental, is filed with the Secretary of the Interior; and

(2) no valid lease has been issued affecting any of the lands in the terminated lease prior to the filing of the petition for reinstatement; and

(d) Royalties in lieu of rentals for producing leases; amount; initial payment; value of unsold geothermal steam and byproducts; consideration of exploration and production costs and use value

a minimum royalty of \$2 per acre or fraction thereof in lieu of rental payable at the expiration of each lease year for each producing lease, commencing with the lease year beginning on or after the commencement of production in commercial quantities. For the purpose of determining royalties hereunder the value of any geothermal steam and byproduct used by the lessee and not sold and reasonably susceptible of sale shall be determined by the Secretary, who shall take into consideration the cost of exploration and production and the economic value of the resource in terms of its ultimate utilization.

(Pub. L. 91-581, §5, Dec. 24, 1970, 84 Stat. 1567.)

REFERENCES IN TEXT

That Act, referred to in subsec. (b), is the Mineral Leasing Act of February 25, 1920, act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

§ 1005. Duration of leases

(a) Primary and continuation terms

Geothermal leases shall be for a primary term of ten years. If geothermal steam is produced or utilized in commercial quantities within this term, such lease shall continue for so long thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional forty years.

(b) Renewal

If, at the end of such forty years, steam is produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second forty-year term in accordance with such terms and conditions as the Secretary deems appropriate.