

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 Section 7152(b) of Title 42 was repealed by Pub.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.

(c) Cooperative or unit plan for drilling operations; extension of term; renewal

Any lease for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for five years and so long thereafter, but not more than thirty-five years, as geothermal steam is produced or utilized in commercial quantities. If, at the end of such extended term, steam is being 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 term in accordance with such terms and conditions as the Secretary deems appropriate.

(d) "Produced or utilized in commercial quantities" defined

Except as otherwise provided for in this section, for purposes of this section the term "produced or utilized in commercial quantities" means the completion of a well producing geothermal steam in commercial quantities. Such term shall also include the completion of a well capable of producing geothermal steam in commercial quantities so long as the Secretary determines that diligent efforts are being made toward the utilization of the geothermal steam.

(e) Extension of term for byproduct production; conversion of geothermal lease to mineral lease; application, time for completion of location of mineral claims, and Federal agency terms and conditions when conversion affects lands withdrawn or acquired for Federal agency

Leases which have been extended by reasons of production, or which have produced geothermal steam, and have been determined by the Secretary to be incapable of further commercial production and utilization of geothermal steam may be further extended for a period of not more than five years from the date of such determination but only for so long as one or more valuable byproducts are produced in commercial quantities. If such byproducts 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 leasehold is primarily valuable for the production thereof, the lessee shall be entitled to convert his geothermal lease to a mineral lease under, and subject to all the terms and conditions of, such appropriate Act upon application at any time before expiration of the lease extension by reason of byproduct production. The lessee shall be entitled to locate under the mining laws all minerals which are not leasable and which would constitute a byproduct if commercial production or utilization of geothermal steam continued. The lessee in order to acquire the rights herein granted him shall complete the location of mineral claims within ninety days after the termination of the lease for geothermal steam. Any such converted lease or the surface of any mining claim located for geothermal byproducts mineral affecting lands withdrawn or acquired in aid of a function

of a Federal department or agency, including the Department of the Interior, shall be subject to such additional terms and conditions as may be prescribed by such department or agency with respect to the additional operations or effects resulting from such conversion upon adequate utilization of the lands for the purpose for which they are administered.

(f) Principles for location of minerals under mining laws when minerals are not associated with geothermal resources

Minerals locatable under the mining laws of the United States in lands subject to a geothermal lease issued under the provisions of this chapter which are not associated with the geothermal steam and associated geothermal resources of such lands as defined in section 1001(c) of this title shall be locatable under said mining laws in accordance with the principles of the Multiple Mineral Development Act (68 Stat. 708; found in 30 U.S.C. 521 et seq.).

(g) Five-year extensions; conditions

(1) Any geothermal lease issued pursuant to this chapter for land on which, or for which under an approved cooperative or unit plan of development or operation, geothermal steam has not been produced or utilized in commercial quantities by the end of its primary term, or by the end of any extension provided by subsection (c) of this section, may be extended for successive 5-year periods, but totaling not more than 10 years, if the Secretary determines that the lessee has met the bona fide effort requirement of subsection (h) of this section, and either of the following:

(A) the¹ payment in lieu of commercial quantities production requirement of subsection (i) of this section.

(B) The significant expenditure requirement of subsection (j) of this section.

(2) A lease extended pursuant to paragraph (1) shall continue so long thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional 25 years, for a total of 50 years, if such lease was also the subject of an extension under subsection (c) of this section or an additional 30 years, for a total of 50 years, if such lease is only extended pursuant to paragraph (1).

(3) If, at the end of either 50-year term referred to in paragraph (2), geothermal steam is being 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 term in accordance with such terms and conditions as the Secretary deems appropriate. For purposes of this paragraph only, the term "produced or utilized in commercial quantities" means a bona fide sale or the use of geothermal steam by the lessee to generate electricity in marketable quantities.

(h) Bona fide effort

To meet the bona fide effort requirement referred to in subsection (g)(1) of this section the

¹ So in original. Probably should be capitalized.

lessee must submit a report to the Secretary demonstrating bona fide efforts (as determined by the Secretary) to produce or utilize geothermal steam in commercial quantities for such lease, given the then current economic conditions.

(i) Payments in lieu of commercial quantities production

(1) To meet the payments in lieu of commercial quantities production requirement referred to in subsection (g)(1)(A) of this section the lessee must agree to the modification of the terms and conditions of the lease to require annual payments to the Secretary in accordance with this subsection.

(2) Payments under this subsection shall commence with the first year of the extension. Payments shall be equal to the following:

(A) In each of the first through the fifth payment years, at least \$3.00 per acre or fraction thereof, of lands under lease.

(B) In each of the sixth through the tenth payment years, at least \$6.00 per acre or fraction thereof, of lands under lease.

(3) Failure to make the payments required by this subsection shall subject the lease to cancellation.

(4) No payments made pursuant to this subsection shall be required after the earlier of the following:

(A) The date of termination of the lease.

(B) The date of relinquishment of the lease.

(C) The date geothermal steam is produced or utilized in commercial quantities from the lease.

(5) No payments made pursuant to this subsection shall be used to reduce rentals or future production royalties.

(j) Significant expenditure

(1) To meet the significant expenditure requirement referred to in subsection (g)(1)(B) of this section the lessee must demonstrate to the Secretary on an annual basis during an extension that a significant expenditure of funds is being made on the lease.

(2) The following expenditures made by the lessee shall qualify as meeting the requirement of this subsection:

(A) Expenditures to conduct actual drilling operations on the lease, such as for exploratory or development wells, or geochemical or geophysical surveys for exploratory or development wells.

(B) Expenditures for road or generating facilities construction on the lease.

(C) Architectural or engineering services procured for the design of generating facilities to be located on the lease.

(D) Environmental studies required by State or Federal law.

(3) Expenditures shall be equal to the following:

(A) In each of the first through the fifth years, at least \$15.00 per acre or fraction thereof, of lands under lease.

(B) In each of the sixth through the tenth years, at least \$18.00 per acre or fraction thereof, of lands under lease.

(4) Failure to make the expenditures required by this subsection shall subject the lease to cancellation.

(5) No expenditures made pursuant to this subsection shall be required after the date geothermal steam is produced or utilized in commercial quantities from the lease.

(6) Expenditures made pursuant to this subsection shall be in lieu of any minimum per acre diligent exploration expenditure requirement in effect for the lease at the end of its primary term, or at the end of any extension provided by subsection (c) of this section, as the case may be.

(Pub. L. 91-581, §6, Dec. 24, 1970, 84 Stat. 1568; Pub. L. 100-443, §2(b), 3, Sept. 22, 1988, 102 Stat. 1766.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, referred to in subsec. (e), 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 for Acquired Lands, referred to in subsec. (e), is 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.

The mining laws of the United States, referred to in subsec. (f), are classified generally to this title.

The Multiple Mineral Development Act, referred to in subsec. (f), is act Aug. 13, 1954, ch. 730, 68 Stat. 708, as amended, which is classified principally to chapter 12 (§521 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 521 of this title and Tables.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-443, §2(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “For purposes of subsection (a) of this section, production or utilization of geothermal steam in commercial quantities shall be deemed to include the completion of one or more wells producing or capable of producing geothermal steam in commercial quantities and a bona fide sale of such geothermal steam for delivery to or utilization by a facility or facilities not yet installed but scheduled for installation not later than fifteen years from the date of commencement of the primary term of the lease.”

Subsecs. (g) to (j). Pub. L. 100-443, §3, added subsecs. (g) to (j).

CONSISTENCY PROVISION

Section 9 of Pub. L. 100-443 provided that: “To the extent that any provision in this Act [see Short Title of 1988 Amendment note set out under section 1001 of this title] is inconsistent with the provisions of section 115(2) of title I of section 101(h) of Public Law 99-591 (100 Stat. 3341-264 through 100 Stat. 3341-266) [set out below], this Act shall be deemed to supersede the provisions of such section.”

EXTENSION OF LEASE; LISTING, MONITORING AND PROTECTION OF SIGNIFICANT THERMAL FEATURES IN NATIONAL PARK SYSTEM; FACTORS CONSIDERED IN ISSUING OR DENYING LEASES; EFFECT ON OTHER PROVISIONS

Pub. L. 99-500, §101(h) [title I, §115], Oct. 18, 1986, 100 Stat. 1783-242, 1783-264, and Pub. L. 99-591, §101(h) [title I, §115], Oct. 30, 1986, 100 Stat. 3341-242, 3341-264, as amended by Pub. L. 106-510, §3(a)(2), (b)(2), Nov. 13, 2000, 114 Stat. 2363, provided that:

“(1) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal [Steam] Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1988, if the Secretary of the Interior finds that—

“(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

“(b) substantial investment in the development of or for the benefit of the lease has been made; and

“(c) the lease would otherwise expire prior to December 31, 1988.

“(2)(a) The Secretary of the Interior (hereinafter in this section referred to as ‘the Secretary’ shall publish for public comment in the Federal Register within 120 days after the date of enactment of this section [Oct. 18, 1986] a proposed list of significant thermal features within the following units of the National Park System:

“Mount Rainier National Park;
 “Lassen Volcanic National Park;
 “Yellowstone National Park;
 “Bering Land Bridge National Preserve;
 “Gates of the Arctic National Park and Preserve;
 “Yukon-Charley Rivers National Preserve;
 “Katmai National Park;
 “Aniakchak National Monument and Preserve;
 “Wrangell-St. Elias National Park and Preserve;
 “Glacier Bay National Park and Preserve;
 “Denali National Park and Preserve;
 “Lake Clark National Park and Preserve;
 “Hot Springs National Park;
 “Sequoia National Park;
 “Hawai’i Volcanoes National Park;
 “Lake Mead National Recreation Area;
 “Big Bend National Park;
 “Olympic National Park;
 “Grand Teton National Park;
 “John D. Rockefeller, Jr. Memorial Parkway;
 “Haleakalā National Park; and
 “Crater Lake National Park.

The Secretary shall include with such list the basis for his determination with respect to each thermal feature on the list. Based on public comment on such list, the Secretary is authorized to make additions to or deletions from the list. Not later than the 60th day from the date on which the proposed list was published in the Federal Register, the Secretary shall transmit the list to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives together with copies of all public comments which he has received and indicating any additions to or deletions from the list with a statement of the reasons therefor and the basis for inclusion of each thermal feature on the list. The Secretary shall consider the following criteria in determining the significance of thermal features:

“(1) size, extent, and uniqueness;
 “(2) scientific and geologic significance;
 “(3) the extent to which such features remain in a natural, undisturbed condition; and
 “(4) significance of thermal features to the authorized purposes for which the National Park System unit was created.

The Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566), as amended [30 U.S.C. 1001 et seq.], until such time as the Secretary has transmitted the list to the Committees of Congress as provided in this section.

“(b) The Secretary shall maintain a monitoring program for those significant thermal features listed pursuant to subsection (a) of this section.

“(c) Upon receipt of an application for a geothermal lease the Secretary shall determine on the basis of scientific evidence if exploration, development, or utilization

of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section. Such determination shall be subject to notice and public comment. If the Secretary determines on the basis of scientific evidence that the exploration, development, or utilization of the land subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section, the Secretary shall not issue such geothermal lease. In addition, the Secretary shall withdraw from leasing under the Geothermal Steam Act of 1970, as amended, those lands, or portion thereof, subject to the application for geothermal lease, the exploration, development, or utilization of which is reasonably likely to result, based on the Secretary’s determination, in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section.

“(d) With respect to all geothermal leases issued after the date of enactment of this section [Oct. 18, 1986] the Secretary shall include stipulations in leases necessary to protect significant thermal features listed pursuant to subsection (a) of this section where a determination is made based on scientific evidence that the exploration, development, or utilization of the lands subject to the lease is reasonably likely to adversely affect such significant features. Such stipulations shall include, but are not limited to:

“(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

“(2) requiring the lessee to report annually to the Secretary on its activities;

“(3) requiring the lessee to continuously monitor geothermal production and injection wells; and

“(4) requiring the lessee to suspend activity, temporarily or permanently, on the lease if the Secretary determines that ongoing exploration, development, or utilization activities are having a significant adverse effect on significant thermal features listed pursuant to subsection (a) of this section until such time as the significant adverse effect is eliminated.

“(e) The Secretary of Agriculture shall consider the effects on significant thermal features of those units of the National Park System identified in subsection (a) of this section in determining whether to consent to leasing under the Geothermal Steam Act of 1970, as amended, on national forest or other lands administered by the Department of Agriculture available for leasing under the Geothermal Steam Act of 1970, as amended, including public, withdrawn, and acquired lands.

“(f) Nothing contained in this section shall affect the ban on leasing under the Geothermal Steam Act of 1970, as amended, with respect to the Island Park Known Geothermal Resources Area, as provided for in Public Law 98-473 (98 Stat. 1837) [see Tables for classification] and Public Law 99-190 (99 Stat. 1267) [see Tables for classification].

“(g) Except as provided herein, nothing contained in this section shall affect or modify the authorities or responsibilities of the Secretary under the Geothermal Steam Act of 1970, as amended, or any other provision of law.

“(h) The provisions of this section shall remain in effect until Congress determines otherwise.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1017, 1019 of this title.

§ 1006. Acreage of geothermal lease; irregular subdivisions; State limitation; increase

A geothermal lease shall embrace a reasonably compact area of not more than two thousand five hundred and sixty acres, except where a de-