

(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.

(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 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.