

Showing Current Law as Amended by H.R. 5350

[text to be added highlighted in yellow; text to be deleted bracketed and highlighted in blue]

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)

Sec. 1. Short Title.

This Act may be cited as the "Geothermal Steam Act of 1970".

Sec. 2. Definitions

As used in this chapter, the term-

- (a) "Secretary" means the Secretary of the Interior;
- (b) "geothermal lease" means a lease issued under authority of this chapter;
- (c) "geothermal resources" means (i) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (ii) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (iii) heat or other associated energy found in geothermal formations; and (iv) any byproduct derived from them;
- (d) "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;
- (e) "known geothermal resources area" means an area in which the geology, nearby discoveries, competitive interests, or other indicia would, in the opinion of the Secretary, engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal steam or associated geothermal resources are good enough to warrant expenditures of money for that purpose.
- (f) "Significant¹ thermal features within units of the National Park System" shall include, but not be limited to, the following:
 - (1) Thermal features within units of the National Park System listed in Section¹ 1026(a)(1) of this title and designated as significant in the Federal Register notice of August 3, 1987 (Vol. 52, No. 148 Fed. Reg. 28790).
 - (2) Crater Lake National Park.
 - (3) Thermal features within Big Bend National Park and Lake Mead National Recreation Area proposed as significant in the Federal Register notice of February 13, 1987 (Vol. 52, No. 30 Fed. Reg. 4700).
 - (4) Thermal features within units of the National Park System added to the significant thermal features list pursuant to [section 1026\(a\)\(2\) of this title](#).
- (g) "direct use" means utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity.

Sec. 3. 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 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 resources therein.

Sec. 4. Leasing procedures

(a) Nominations

The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this chapter.

(b) Competitive lease sale required

(1) In general

Except as otherwise specifically provided by this chapter, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

(2) Competitive lease sales

The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

(3) Lands subject to mining claims

Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency may be available for noncompetitive leasing under this section to the mining claim holder.

(4) Land subject to oil and gas lease

Land under an oil and gas lease issued pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) that is subject to an approved application for permit to drill and from which oil and gas production is occurring may be available for noncompetitive leasing under subsection (c) by the holder of the oil and gas lease-

(A) on a determination that geothermal energy will be produced from a well producing or capable of producing oil and gas; and

(B) to provide for the coproduction of geothermal energy with oil and gas.

(c) Noncompetitive leasing

The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

(d) Pending lease applications

(1) In general

It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on August 8, 2005.¹ All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

(2) Administration

An application described in paragraph (1) and any lease issued pursuant to the application-

(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before August 8, 2005; or

(B) at the election of the applicant, shall be subject to this section as in effect on August 8, 2005.

(e) Leases sold as a block

If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.

(f) Leasing for direct use of geothermal resources

Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this chapter exclusively for direct use of geothermal resources, without sale for purposes other than commercial generation of electricity, may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary-

(1) publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;

(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

(g) Area subject to lease for direct use

(1) In general

Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

(2) Limitations

The quantity of acreage covered by the lease shall not exceed the limitations established under [section 1006 of this title](#).

Sec. 5. Rents and royalties

(a) In general

Geothermal leases shall provide for-

(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be-

(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;

(2) a royalty on any byproduct that is a mineral specified in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act [30 U.S.C. 181 et seq.] to production of the mineral under a lease under that Act; and

(3) payment in advance of an annual rental of not less than-

(A) for each of the 1st through 10th years of the lease-

(i) in the case of a lease awarded in a noncompetitive lease sale, \$1 per acre or fraction thereof; or

(ii) in the case of a lease awarded in a competitive lease sale, \$2 per acre or fraction thereof for the 1st year and \$3 per acre or fraction thereof for each of the 2nd through 10th years; and

(B) for each year after the 10th year of the lease, \$5 per acre or fraction thereof; ¹

(b) Direct use

(1) In general

Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate-

(A) uses for a purpose other than the commercial generation of electricity; and

(B) does not sell.

(2) Schedule of fees

The schedule of fees-

(A) may be based on the quantity or thermal content, or both, of geothermal resources used;

(B) shall ensure a fair return to the United States for use of the resource; and

(C) shall encourage development of the resource.

(3) State, tribal, or local governments

If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.

(4) Final regulation

In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek-

(A) to provide lessees with a simplified administrative system;

(B) to facilitate development of direct use of geothermal resources; and

(C) to contribute to sustainable economic development opportunities in the area.

(c) Final regulation establishing royalty rates

In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek-

(1) to provide lessees a simplified administrative system;

(2) to encourage new development; and

(3) to achieve the same level of royalty revenues over a 10-year period as the regulation in effect on August 8, 2005.

(d) Credits for in-kind payments of electricity

The Secretary may provide to a lessee a credit against royalties owed under this chapter, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under [section 1019 of this title](#), section 35 of the Mineral Leasing Act ([30 U.S.C. 191](#)), except as otherwise provided by this section, or [section 355 of this title](#), if-

(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

(2) the contract establishes a specific methodology to determine the value of such credits; and

(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.

(e) Crediting of rental toward royalty

Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.

(f) Advanced royalties required for cessation of production

(1) In general

Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

(2) Reduction

The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advanced royalties paid under the lease to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

(3) Exceptions

Paragraph (1) shall not apply if the cessation in production is required or otherwise caused by-

- (A) the Secretary;
- (B) the Secretary of the Air Force;
- (C) the Secretary of the Army;
- (D) the Secretary of the Navy;
- (E) a State or a political subdivision of a State; or
- (F) a force majeure.

(g) Termination of lease for failure to pay rental

(1) In general

The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this chapter and the terms of the lease under which the rental is required, on the expiration of the 45-day period beginning on the date of the failure to pay the rental.

(2) Notification

The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

(3) Reinstatement

A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of the amount.

Sec. 6. Lease term and work commitment requirements

(a) In general

(1) Primary term

A geothermal lease shall be for a primary term of 10 years.

(2) Initial extension

The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the 10th year of the lease-

(A) the Secretary determined under subsection (b) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

(B) the lessee paid in annual payments accordance with subsection (c).

(3) Additional extension

The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (b) that the lessee satisfied the minimum work requirements that applied to the lease for that year.

(b) Requirement to satisfy annual minimum work requirement

(1) In general

The lessee for a geothermal lease shall, for each year after the 10th year of the lease, satisfy minimum work requirements prescribed by the Secretary that apply to the lease for that year.

(2) Prescription of minimum work requirements

The Secretary shall issue regulations prescribing minimum work requirements for geothermal leases, that-

(A) establish a geothermal potential; and

(B) if a geothermal potential has been established, confirm the existence of producible geothermal resources.

(c) Payments in lieu of minimum work requirements

In lieu of the minimum work requirements set forth in subsection (b)(2), the Secretary shall by regulation establish minimum annual payments which may be made by the lessee for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource, but in no event shall the number of years exceed the duration of the extension period provided in subsection (a).

(d) Transition rules for leases issued prior to August 8, 2005

The Secretary shall by regulation establish transition rules for leases issued before August 8, 2005, including terms under which a lease that is near the end of its term on August 8, 2005, may be extended for up to 2 years-

(1) to allow achievement of production under the lease; or

(2) to allow the lease to be included in a producing unit.

(e) Geothermal lease overlying mining claim

(1) Exemption

The lessee for a geothermal lease of an area overlying an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this chapter, if development of the geothermal resource subject to the lease would interfere with the mining operations under such claim.

(2) Termination of exemption

An exemption under this paragraph expires upon the termination of the mining operations.

(f) Termination of application of requirements

Minimum work requirements prescribed under this section shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.

(g) 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.

(h) "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.

(i) 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 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.](#)).

Sec. 7. Acreage limitations

A geothermal lease shall embrace a reasonably compact area of not more than 5,120 acres, except where a departure therefrom is occasioned by an irregular subdivision or subdivisions. No person, association, or corporation, except as otherwise provided in this chapter, shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, any direct or indirect interest in Federal geothermal leases in any one State exceeding 51,200 acres, including leases acquired under the provisions of [section 1003 of this title](#).

Sec. 8. Readjustment of lease terms and conditions

(a) Initial readjustment; periodic intervals; notice; objections, relinquishment, and termination

The Secretary may readjust the terms and conditions, except as otherwise provided herein, of any geothermal lease issued under this chapter at not less than ten-year intervals beginning ten years after the date the geothermal steam is produced, as determined by the Secretary. Each geothermal lease issued under this chapter shall provide for such readjustment. The Secretary shall give notice of any proposed readjustment of terms and conditions, and, unless the lessee files with the Secretary objection to the proposed terms or relinquishes the lease within thirty

days after receipt of such notice, the lessee shall conclusively be deemed to have agreed with such terms and conditions. If the lessee files objections, and no agreement can be reached between the Secretary and the lessee within a period of not less than sixty days, the lease may be terminated by either party.

(b) Rentals and royalties; initial readjustment; periodic intervals; limitation on increases and on royalties; notice; objections, relinquishment, and termination

The Secretary may readjust the rentals and royalties of any geothermal lease issued under this chapter at not less than twenty-year intervals beginning thirty-five years after the date geothermal steam is produced, as determined by the Secretary. In the event of any such readjustment neither the rental nor royalty may be increased by more than 50 per centum over the rental or royalty paid during the preceding period. Each geothermal lease issue ¹ under this chapter shall provide for such readjustment. The Secretary shall give notice of any proposed readjustment of rentals and royalties, and, unless the lessee files with the Secretary objection to the proposed rentals and royalties or relinquishes the lease within thirty days after receipt of such notice, the lessee shall conclusively be deemed to have agreed with such terms and conditions. If the lessee files objections, and no agreement can be reached between the Secretary and the lessee within a period of not less than sixty days, the lease may be terminated by either party.

(c) Surface use, protection, or restoration of lands withdrawn or acquired for Federal agency; notice; approval of agency

Any readjustment of the terms and conditions as to use, protection, or restoration of the surface of any lease of lands withdrawn or acquired in aid of a function of a Federal department or agency other than the Department of the Interior may be made only upon notice to, and with the approval of, such department or agency.

Sec. 9. Byproducts

If the production, use, or conversion of geothermal steam is susceptible of producing a valuable byproduct or byproducts, including commercially demineralized water for beneficial uses in accordance with applicable State water laws, the Secretary shall require substantial beneficial production or use thereof unless, in individual circumstances he modifies or waives this requirement in the interest of conservation of natural resources or for other reasons satisfactory to him. However, the production or use of such byproducts shall be subject to the rights of the holders of preexisting leases, claims, or permits covering the same land or the same minerals, if any.

Sec. 10. Relinquishment of geothermal rights

The holder of any geothermal lease at any time may make and file in the appropriate land office a written relinquishment of all rights under such lease or of any legal subdivision of the area covered by such lease. Such relinquishment shall be effective as of the date of its filing. Thereupon the lessee shall be released of all obligations thereafter accruing under said lease with respect to the lands relinquished, but no such relinquishment shall release such lessee, or his surety or bond, from any liability for breach of any obligation of the lease, other than an obligation to drill, accrued at the date of the relinquishment, or from the continued obligation, in accordance with the applicable lease terms and regulations, (1) to make payment of all accrued rentals and royalties, (2) to place all wells on the relinquished lands in condition for suspension or abandonment, and (3) to protect or restore substantially the surface and surface resources.

Sec. 11. Suspension of operations and production

The Secretary, upon application by the lessee, may authorize the lessee to suspend operations and production on a producing lease and he may, on his own motion, in the interest of conservation suspend operations on any lease but in either case he may extend the lease term for the period of any suspension, and he may waive, suspend, or reduce the rental or royalty required in such lease.

Sec. 12. Termination of leases

Leases may be terminated by the Secretary for any violation of the regulations or lease terms after thirty days notice provided that such violation is not corrected within the notice period, or in the event the violation is such that it cannot be corrected within the notice period then provided that lessee has not commenced in good faith within said notice period to correct such violation and thereafter to proceed diligently to correct such violation. Lessee shall be entitled to a hearing on the matter of such claimed violation or proposed termination of lease if request for a hearing is made to the Secretary within the thirty-day period after notice. The period for correction of violation or commencement to correct such violation of regulations or of lease terms, as aforesaid, shall be extended to thirty days after the Secretary's decision after such hearing if the Secretary shall find that a violation exists.

Sec. 13. Waiver, suspension, or reduction of rental or royalty

The Secretary may waive, suspend, or reduce the rental or royalty for any lease or portion thereof in the interests of conservation and to encourage the greatest ultimate recovery of geothermal resources, if he determines that this is necessary to promote development or that the lease cannot be successfully operated under the lease terms.

Sec. 14. Surface land use

Subject to the other provisions of this chapter, a lessee shall be entitled to use so much of the surface of the land covered by his geothermal lease as may be found by the Secretary to be necessary for the production, utilization, and conservation of geothermal resources.

Sec. 15. Lands subject to geothermal leasing

(a) Terms and conditions for lands withdrawn or acquired for Department of the Interior

Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of the Interior may be issued only under such terms and conditions as the Secretary may prescribe to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired.

(b) Consent and terms and conditions for lands withdrawn or acquired for Department of Agriculture or for lands for power and related purposes

Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of Agriculture may be issued only with the consent of, and subject to such terms and conditions as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired. Geothermal leases for lands to

which [section 818 of title 16](#) is applicable, may be issued only with the consent of, and subject to, such terms and conditions as the Secretary of Energy may prescribe to insure adequate utilization of such lands for power and related purposes.

(c) Exemption of certain Federal lands

Geothermal leases under this chapter shall not be issued for lands administered in accordance with (1) the Act of August 25, 1916 (39 Stat. 535),¹ as amended or supplemented, (2) for lands within a national recreation area, (3) for lands in a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction, (4) for tribally or individually owned Indian trust or restricted lands, within or without the boundaries of Indian reservations.

Sec. 16. Requirement for lessees

Leases under this chapter may be issued only to citizens of the United States, associations of such citizens, corporations organized under the laws of the United States or of any State or the District of Columbia, or governmental units, including, without limitation, municipalities.

Sec. 17. Administration

Administration of this chapter shall be under the principles of multiple use of lands and resources, and geothermal leases shall, insofar as feasible, allow for coexistence of other leases of the same lands for deposits of minerals under the laws applicable to them, for the location and production of claims under the mining laws, and for other uses of the areas covered by them. Operations under such other leases or for such other uses, however, shall not unreasonably interfere with or endanger operations under any lease issued pursuant to this chapter, nor shall operations under leases so issued unreasonably interfere with or endanger operations under any lease, license, claim, or permit issued pursuant to the provisions of any other Act.

Sec. 18. Unit and communitization agreements

(a) Adoption of units by lessees

(1) In general

For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal reservoir, field, or like area, is subject to any cooperative plan of development or operation (referred to in this section as a "unit agreement")), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for the reservoir, field, or like area, or any part thereof, including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest.

(2) Majority interest of single leases

A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

(3) Initiative of Secretary

The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

(4) Modification of lease requirements by Secretary

(A) In general

The Secretary may, in the discretion of the Secretary and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of the leases and make conditions with respect to the leases, with the consent of the lessees, in connection with the creation and operation of any such unit agreement as the Secretary may consider necessary or advisable to secure the protection of the public interest.

(B) Unlike terms or rates

Leases with unlike lease terms or royalty rates shall not be required to be modified to be in the same unit.

(b) Requirement of plans under new leases

The Secretary may-

- (1) provide that geothermal leases issued under this chapter shall contain a provision requiring the lessee to operate under a unit agreement; and
- (2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

(c) Modification of rate of prospecting, development, and production

The Secretary may require that any unit agreement authorized by this section that applies to land owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the unit agreement to alter or modify, from time to time, the rate of prospecting and development and the quantity and rate of production under the unit agreement.

(d) Exclusion from determination of holding or control

Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under [section 1006 of this title](#).

(e) Pooling of certain land

If separate tracts of land cannot be independently developed and operated to use geothermal resources pursuant to any section of this chapter-

- (1) the land, or a portion of the land, may be pooled with other land, whether or not owned by the United States, for purposes of development and operation under a communitization agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if the pooling is determined by the Secretary to be in the public interest; and
- (2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

(f) Unit agreement review

(1) In general

Not later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall-

- (A) review each unit agreement; and

(B) after notice and opportunity for comment, eliminate from inclusion in the unit agreement any land that the Secretary determines is not reasonably necessary for unit operations under the unit agreement.

(2) Basis for elimination

The elimination shall-

(A) be based on scientific evidence; and

(B) occur only if the elimination is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource.

(3) Extension

Any land eliminated under this subsection shall be eligible for an extension under [section 1005\(g\) of this title](#) if the land meets the requirements for the extension.

(g) Drilling or development contracts

(1) In general

The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by one or more lessees of geothermal leases, with one or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served by the approval.

(2) Holdings or control

Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under [section 1006 of this title](#).

(h) Coordination with State governments

The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.

Sec. 19. Data from Federal agencies

Upon request of the Secretary, other Federal departments and agencies shall furnish him with any relevant data then in their possession or knowledge concerning or having bearing upon fair and adequate charges to be made for geothermal steam produced or to be produced for conversion to electric power or other purposes. Data given to any department or agency as confidential under law shall not be furnished in any fashion which identifies or tends to identify the business entity whose activities are the subject of such data or the person or persons who furnished such information.

Sec. 20. Disposal of moneys from sales, bonuses, rentals, and royalties

(a) In general

Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this chapter shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of [section 191 of this title](#) and [section 1004\(a\)\(2\) of this title](#)-

(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

(2) 25 percent shall be paid to the county within the boundaries of which the leased lands or geothermal resources are or were located.

(b) Use of payments

Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of [section 191 of this title](#).

Sec. 21. Publication in Federal Register; reservation of mineral rights

Geothermal resources in lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States shall not be developed or produced except under geothermal leases made pursuant to this chapter. If the Secretary of the Interior finds that such development is imminent, or that production from a well heretofore drilled on such lands is imminent, he shall so report to the Attorney General, and the Attorney General is authorized and directed to institute an appropriate proceeding in the United States district court of the district in which such lands are located, to quiet the title of the United States in such resources, and if the court determines that the reservation of minerals to the United States in the lands involved included the geothermal resources, to enjoin their production otherwise than under the terms of this chapter: *Provided*, That upon an authoritative judicial determination that Federal mineral reservation does not include geothermal resources the duties of the Secretary of the Interior to report and of the Attorney General to institute proceedings, as hereinbefore set forth, shall cease.

Sec. 22. Federal exemption from State water laws

Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to its exemption from State water laws.

Sec. 23. Prevention of waste; exclusivity

(a) All leases under this chapter shall be subject to the condition that the lessee will, in conducting his exploration, development, and producing operations, use all reasonable precautions to prevent waste of geothermal resources developed in the lands leased.

(b) Rights to develop and utilize geothermal resources underlying lands owned by the United States may be acquired solely in accordance with the provisions of this chapter.

Sec. 24. Rules and regulations

The Secretary shall prescribe such rules and regulations as he may deem appropriate to carry out the provisions of this chapter. Such regulations may include, without limitation, provisions for (a) the prevention of waste, (b) development and conservation of geothermal and other natural resources, (c) the protection of the public interest, (d) assignment, segregation, extension of terms, relinquishment of leases, development contracts, unitization, pooling, and drilling agreements, (e) compensatory royalty agreements, suspension of operations or production, and suspension or reduction of rentals or royalties, (f) the filing of surety bonds to assure compliance with the terms of the lease and to protect surface use and resources, (g) use of the surface by a lessee of the lands embraced in his lease, (h) the maintenance by the lessee

of an active development program, and (i) protection of water quality and other environmental qualities.

Sec. 25. Inclusion of geothermal leasing under certain other laws

As to any land subject to geothermal leasing under [section 1002 of this title](#), all laws which either (a) provide for the disposal of land by patent or other form of conveyance or by grant or by operation of law subject to a reservation of any mineral or (b) prevent or restrict the disposal of such land because of the mineral character of the land, shall hereafter be deemed to embrace geothermal resources as a substance which either must be reserved or must prevent or restrict the disposal of such land, as the case may be. This section shall not be construed to affect grants, patents, or other forms of conveyances made prior to December 24, 1970.

Sec. 26. Amendment

The first two clauses in section 11 of the Act of August 13, 1954 (68 Stat. 708, 716), are amended to read as follows:

“As used in this Act, ‘mineral leasing laws’ shall mean the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057); Geothermal Steam Act of 1970, and all Act heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts; ‘Leasing Act minerals’ shall mean all minerals which, upon the effective date of this Act, are provided in the mineral leasing laws to be disposed of thereunder and all geothermal resources which, upon the effective date of the Geothermal Steam Act of 1970, are provided in that Act to be disposed of thereunder.”.

Sec. 27. Federal reservation of certain mineral rights

The United States reserves the ownership of and the right to extract under such rules and regulations as the Secretary may prescribe oil, hydrocarbon gas, and helium from all geothermal resources produced from lands leased under this chapter in accordance with presently applicable laws: *Provided*, That whenever the right to extract oil, hydrocarbon gas, and helium from geothermal resources produced from such lands is exercised pursuant to this section, it shall be exercised so as to cause no substantial interference with the production of geothermal resources from such lands.

Sec. 28. Significant thermal features

(a) Units of National Park System

(1) The Secretary shall maintain a list of significant thermal features, as defined in [section 1001\(f\) of this title](#), within units of the National Park System, including but not limited to the following units:

- (A) Mount Rainier National Park.
- (B) Crater Lake National Park.
- (C) Yellowstone National Park.
- (D) John D. Rockefeller, Jr. Memorial Parkway.
- (E) Bering Land Bridge National Preserve.
- (F) Gates of the Arctic National Park and Preserve.

- (G) Katmai National Park.
- (H) Aniakchak National Monument and Preserve.
- (I) Wrangell-St. Elias National Park and Preserve.
- (J) Lake Clark National Park and Preserve.
- (K) Hot Springs National Park.
- (L) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park).
- (M) Lassen Volcanic National Park.
- (N) Hawai'i Volcanoes National Park.
- (O) Haleakalā National Park.
- (P) Lake Mead National Recreation Area.

(2) The Secretary may, after notice and public comment, add significant thermal features within units of the National Park System to the significant thermal features list.

(3) The Secretary shall consider the following criteria in determining the significance of thermal features:

- (A) Size, extent and uniqueness.
- (B) Scientific and geologic significance.
- (C) The extent to which such features remain in a natural, undisturbed condition.
- (D) Significance of thermal features to the authorized purposes for which the National Park System unit was established.

(b) Monitoring program

(1) The Secretary shall maintain a monitoring program for significant thermal features within units of the National Park System.

(2) As part of the monitoring program required by paragraph (1), the Secretary shall establish a research program to collect and assess data on the geothermal resources within units of the National Park System with significant thermal features. Such program shall be carried out by the National Park Service in cooperation with the U.S. Geological Survey and shall begin with the collection and assessment of data for significant thermal features near current or proposed geothermal development and shall also include such features near areas of potential geothermal development.

(c) Lease application; adverse effect

(1) Upon receipt of an application for a lease under this chapter, the Secretary shall determine on the basis of scientific evidence if exploration, development or utilization of the lands subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System. Such determination shall be subject to notice and public comment.

(2) If the Secretary determines that the exploration, development or utilization of the land subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System, the Secretary shall not issue such lease.

(3) The Secretary shall not issue any lease under this chapter for those lands, or portions thereof, which are the subject of a determination made pursuant to subparagraph (2).

(d) Lease stipulations

With respect to all leases or drilling permits issued, extended, renewed or modified under this chapter, the Secretary shall include stipulations in such leases and permits necessary to protect significant thermal features within units of the National Park System where the Secretary

determines that, based on scientific evidence, the exploration, development or utilization of the land subject to the lease or drilling permit is reasonably likely to adversely affect any such significant thermal feature. Stipulations shall include, but not be 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 activities taken on the lease;
- (3) requiring the lessee to continuously monitor geothermal resources production and injection wells; and
- (4) requiring the lessee to suspend activity on the lease if the Secretary determines that ongoing exploration, development or utilization activities are having a significant adverse effect on a significant thermal feature within a unit of the National Park System until such time as the significant adverse effect is eliminated. The stipulation shall provide for the termination of the lease by the Secretary if the significant adverse effect cannot be eliminated within a reasonable period of time.

(e) Lands administered by Department of Agriculture

The Secretary of Agriculture shall consider the effects on significant thermal features within units of the National Park System in determining whether to consent to leasing under this chapter on national forest lands or other lands administered by the Department of Agriculture available for leasing under this chapter, including public, withdrawn, and acquired lands.

(f) Prohibition

Nothing in this chapter shall affect the ban on leasing under this chapter with respect to the Island Park Geothermal Area, as designated by the map in the "Final Environmental Impact Statement of the Island Park Geothermal Area" (January 15, 1980, p. XI), and provided for in Public Law 98-473.

Sec. 29. Land subject to prohibition on leasing

The Secretary shall not issue any lease under this chapter on those lands subject to the prohibition provided under section 226-3 of this title.

SEC. 30. GEOTHERMAL EXPLORATION TEST PROJECTS.

(a) DEFINITION OF GEOTHERMAL EXPLORATION TEST PROJECT.—In this section, the term ‘geothermal exploration test project’ means the drilling of a well to test or explore for geothermal resources on lands for which the Secretary has issued a lease under this Act, that—

- (1) is carried out by the holder of the lease;
- (2) causes—
 - (A) less than 5 acres of soil or vegetation disruption at the location of each geothermal exploration well; and
 - (B) not more than an additional 5 acres of soil or vegetation disruption during access or egress to the test site;
- (3) is developed—
 - (A) less than 12 inches in diameter;
 - (B) in a manner that does not require off-road motorized access other than to and from the well site along an identified off-road route;
 - (C) without construction of new roads other than upgrading of existing drainage crossings for safety purposes;
 - (D) with the use of rubber-tired digging or drilling equipment vehicles; and
 - (E) without the use of high-pressure well stimulation;

(4) is completed in less than 90 days, including the removal of any surface infrastructure from the site; and

(5) requires the restoration of the project site within 3 years of the date of first exploration drilling to approximately the condition that existed at the time the project began, unless the site is subsequently used as part of energy development under the lease.

(b) CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—Unless extraordinary circumstances exist, a project that the Secretary determines under subsection (c) is a geothermal exploration test project shall be categorically excluded from the requirements for an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)) or section 1501.4 of title 40, Code of Federal Regulations (or a successor regulation).

(2) EXTRAORDINARY CIRCUMSTANCES DEFINITION.—In this subsection, the term ‘extraordinary circumstances’ has the same meaning given such term in the Department of the Interior Departmental Manual, 516 DM 2.3A(3) and 516 DM 2, Appendix 2 (or successor provisions).

(c) PROCESS.—

(1) REQUIREMENT TO PROVIDE NOTICE.—A leaseholder shall provide notice to the Secretary of the leaseholder’s intent to carry out a geothermal exploration test project at least 30 days before the start of drilling under the project.

(2) REVIEW AND DETERMINATION.—Not later than 10 days after receipt of a notice of intent under paragraph (1), the Secretary shall, with respect to the project described in the notice of intent—

(A) determine if the project qualifies for a categorical exclusion under subsection (b); and

(B) notify the leaseholder of such determination.

(3) OPPORTUNITY TO REMEDY.—If the Secretary determines under paragraph (2)(A) that the project does not qualify for a categorical exclusion under subsection (b), the Secretary shall—

(A) include in such notice clear and detailed findings on any deficiencies in the project that resulted in such determination; and

(B) allow the leaseholder to remedy any such deficiencies and resubmit the notice of intent under paragraph (1).

SEC. 31. GEOTHERMAL LEASING PRIORITY AREAS.

(a) DEFINITION OF COVERED LAND.—In this section, the term ‘covered land’ means land that is—

(1) Federal land; and

(2) not excluded from the development of geothermal energy under—

(A) a land use plan established under the Federal Land Policy and Management Act of 1976 ([43 U.S.C. 1701 et seq.](#)); or

(B) any other Federal law.

(b) DESIGNATION OF GEOTHERMAL LEASING PRIORITY AREAS.—The Secretary, in consultation with the Secretary of Energy, shall designate portions of covered land as geothermal leasing priority areas as soon as practicable, but not later than 5 years, after the date of the enactment of this section.

(c) CRITERIA FOR SELECTION.—In determining which covered lands to designate as geothermal leasing priority areas under subsection (b), the Secretary, in consultation with the Secretary of Energy, shall consider if—

(1) the covered land is preferable for geothermal leasing;

(2) production of geothermal energy on such land is economically viable, including if such land has access to methods of energy transmission; and

(3) the designation would be in compliance with section 202 of the Federal Land Policy and Management Act of 1976 ([43 U.S.C. 1712](#)), including subsection (c)(9) of that section.

(d) REVIEW AND MODIFICATION.—Not less frequently than once every 5 years, the Secretary shall—

(1) review covered land and, if appropriate, make additional designations of geothermal leasing priority areas; and

(2) review each area designated as a geothermal leasing priority area under this section, and, if appropriate, remove such designation.

(e) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—

(1) INITIAL DESIGNATIONS.—No later than one year after the initial designation of a geothermal leasing priority area, the Secretary shall prepare a supplement to any final programmatic environmental impact statement for geothermal leasing that is the most recently finalized such statement with respect to covered land designated as a geothermal leasing priority area under subsection (b).

(2) SUBSEQUENT DESIGNATIONS.—Each designation of a geothermal leasing priority area under subsection (d) shall be included in a programmatic environmental impact statement for geothermal leasing or in a supplement to such a statement.

(3) CONSULTATIONS.—In developing any programmatic environmental impact statement for geothermal leasing or supplement to such a statement under this section, the Secretary shall consult, on an ongoing basis, with appropriate State, Tribal, and local governments, transmission infrastructure owners and operators, developers, and other appropriate entities.

(4) PROCEDURE.—The Secretary may not delay issuing a permit or holding a lease sale under this Act because the supplement required under paragraph (1) has not been finalized by the Secretary.

(f) COMPLIANCE WITH NEPA.—If the Secretary determines that the designation of a geothermal leasing priority area has been sufficiently analyzed by a programmatic environmental impact statement, the Secretary shall not prepare any additional analysis under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)) with respect to geothermal lease sales for such geothermal leasing priority area.