

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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

[AA-610-08-4141-02]

RIN 1004-AB18

Geothermal Resources Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations which implement the Geothermal Steam Act of 1970, as amended (the Steam Act). This rulemaking addresses leasing, permitting and operational requirements for geothermal exploration, drilling, and utilization operations. The final rule rewrites all the geothermal resource development regulations in a plain language style; reduces and streamlines permitting and information requirements; provides the Bureau of Land Management (BLM) with the maximum possible flexibility regarding

permit issuance allowing BLM to accommodate the full range of potential geothermal operations and development scenarios; and reorganizes the regulations to provide specific permit application informational requirements allowing BLM and our customers to interpret regulatory requirements more consistently.

EFFECTIVE DATE: October 1, 1998.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, N.W., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard Hoops, (702) 861-6568.

SUPPLEMENTARY INFORMATION:

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I. Background

This final rule revises 43 CFR parts 3200, 3210, 3220, 3240, 3250, and 3260 which implement the classification, leasing, exploration, drilling, and utilization requirements of the Steam Act. The new rule eliminates existing parts 3210, 3220, 3240, 3250, and 3260 as currently written. It also rewrites the

corresponding subparts under part 3200 into plain language, and reorganizes the existing regulations so that all permitting requirements and operator responsibilities for each phase of development may be found in a specific subpart. The rule more clearly delineates the existing permitting and informational requirements.

The existing part 3280, concerning unit agreements, is not affected by this final rule. We intend to revise part 3280 along similar lines in a separate rulemaking sometime very soon.

Existing parts 3200, 3210, 3220 and 3240 are consolidated and reordered to correspond with the sequence in which leasing procedures occur. The exploration regulations are moved from existing subparts 3209 and 3264 to a new subpart 3250. Existing part 3260 is revised to describe only the requirements for drilling operations. The existing part 3250, Site License, and the existing portions of part 3260 addressing geothermal resource utilization are revised and redesignated in the new rule as subpart 3270.

The following table lists how each subpart is reorganized:

Existing regulations	New regulations as revised
3200—Geothermal Leasing: General	3200—Geothermal Resource Leasing.
	3201—Available Lands.
	3203—Obtaining a Lease.
3202—Qualifications of Lessees	3202—Lessee Qualifications.
	3216—Transfers.
3203—Leasing Terms	3206—Lease Issuance.
	3207—Additional Lease Term.
	3208—Extending the Primary Lease Term.
	3209—Conversion of a Lease Producing Byproducts.
	3210—Additional Lease Information.
3204—Surface Management Requirements	3250, 3260, 3270—Exploration, Drilling, Utilization Operations.
3205—Fees, Rentals and Royalties	3211—Fees, Rents, and Royalties.
3206—Lease Bonds	3214—Personal and Surety Bonds.
	3215—Bond Collection After Default.
	3206—Lease Issuance.
3207—Leases for a Fractional or Future Interest	
3208—(Reserved).	
3209—Geothermal Resources Exploration	3250—Exploration Operations.
3210—Noncompetitive Leases: General	3204—Noncompetitive Leasing.
3220—Competitive Leases: General	3205—Competitive Leasing.
3241—Transfers	3216—Transfers.
3242—Production and Use of Byproducts	3272—The Contents and Review of a Plan of Utilization and Facility Construction Permit.
3243—Cooperative Conservation Provisions	3217—Cooperative Conservation Provisions.
3244—Terminations and Expirations	3213—Relinquishment, Termination, Cancellation, and Expiration.
3250—Utilization of Geothermal Resources	3273—Applying for and Obtaining a Site License.
3260—Geothermal Resources Operations:	3260—Geothermal Drilling Operations:
—General	3270—Utilization of Geothermal Resources—General.
3261—Jurisdiction and Responsibility	3260—Geothermal Drilling Operations—General.
	3262—Conducting Drilling Operations.
	3263—Well Abandonment.
	3270—Utilization of Geothermal Resources—General.
3262—Requirements for Operating Rights Own-	3261—Permitting of Drilling Operations.
ers.	
	3262—Conducting Drilling Operations.
	3271—Permitting of Utilization Operations.
	3272—The Contents and Review of a Plan of Utilization and Facility Construction Permit.
	3275—Conducting Utilization Operations.
3263—Measurement of Production	3275—Conducting Utilization Operations.
3264—Reports to be Made by All Lessees	3261—Permitting of Drilling Operations.
	3264—Reports: Drilling Operations.

Existing regulations	New regulations as revised
3265—Procedure in Case of Violation of the Regulations.	3274—Applying for and Obtaining a Commercial Use Permit. 3265—Inspection, Enforcement, and Noncompliance (drilling).
3264—Appeals	3277—Inspection, Enforcement, and Noncompliance (utilization). 3256—Exploration Operations Relief and Appeals. 3267—Geothermal Drilling Operations Relief and Appeals. 3279—Utilization Relief and Appeals.

The final rule published today is the last stage of a rulemaking process that amends the regulations in 43 CFR group 3200. This rule was preceded by a proposed rule published in the **Federal Register** on October 8, 1996 (61 FR 52736). The proposed rule invited public comments for 90 days, from October 8, 1996, through January 6, 1997. BLM received comments from four members of the geothermal industry and from the Forest Service. These comments were carefully considered prior to making any changes to the final rule.

II. Final Rule as Adopted

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

Because this rule is structurally different from the existing rule, we are including here a full discussion of the changes between the existing and final rule.

First, the final rule restructures the definitions section at 43 CFR 3200.1. The new definitions section retains many of the existing terms, removes several technical terms (such as “the Secretary” and “the Service”) which no longer fit within the plain language style, and adds new terms (such as “MMS”) which play a significant role in the new rule. For the sake of clarification, BLM has also added several common leasing terms which are often misused or misunderstood. For example, BLM has defined the terms “primary term,” “extended term” and “additional term.”

We have also added definitions for the new or revised permit applications. We have clarified other terms, such as “commercial operation” and “exploration operations.” We have expanded the definition of “commercial quantities” to address the difference between quantities for individual leases and unit production.

Unlike the existing rules, the revised definitions section contains only those terms which are used repeatedly throughout the regulations. Therefore, some existing definitions of terms which have narrow applicability, such as “significant thermal features within

units of the National Park System,” have been relocated to the specific sections to which they apply. Finally, we have alphabetized the definitions and removed the designations markers (a), (b), (c) and so forth, in keeping with current **Federal Register** guidance.

Section 3200.2 describes the information collection requirements associated with the regulations under part 3200, section 3200.3 describes changes of agency responsibilities, and section 3200.5 indicates where the hearings and appeals regulations are found. Neither section contains any substantive change from current practices.

Next, BLM has condensed and rewritten into plain language subpart 3201, which describes lands subject to geothermal leasing. Section 3201.10 describes those lands which are available while section 3201.11 covers those which are not. Neither section changes the existing rules in any substantive way.

New subpart 3202 contains the provisions setting forth the qualifications for a lessee. Again, no substantive changes have been made. Lessees must meet the same citizenship requirements; we may request that a lease offeror submit proof that it qualifies; offerors may act through another person; and if the offeror dies before we issue the lease, we will continue to use the current procedures to resolve the situation.

New subpart 3203 contains all of the existing provisions generally applicable to geothermal resource leasing, such as how to obtain a lease. Most significantly, this subpart describes how we determine whether leases will be issued through competitive or noncompetitive bidding. Subpart 3204 then describes the procedures for obtaining a noncompetitive lease, while subpart 3205 describes the competitive bidding process.

The only substantive change between the existing and final rule in subpart 3204 is that we will no longer prepare an availability list of relinquished or terminated leases. Instead, lands will become available for noncompetitive leasing as soon as we close each case. Under the new 43 CFR 3204.15, an

offeror may apply for these lands at any time, and instead of collecting applications in one-month application periods, we will open each application upon receipt and immediately begin processing it. This new process will substantially improve the way BLM handles noncompetitive lease applications. By eliminating the one-month delay, we will create a rolling application review process which will permit us to approve or deny an application much sooner than under the existing, more formal process. If we receive multiple, overlapping applications before approving a noncompetitive lease, we will examine the land to determine whether to designate a known geothermal resource area (KGRA), in which case we will reject all noncompetitive applications and the lands will be leased competitively. Otherwise, we will offer the lease to the first person who submits an application which meets all the requirements.

New subpart 3205 contains the provisions for competitive leasing. No substantive changes have been made to the core provisions between the existing and final rule. We will continue to issue competitive leases as in the past, relying on published notices of available lands and a sealed bidding process. However, the new regulations permit us to use a wider variety of methods for providing public notice of a sale, such as posting the list in local BLM offices or on the Internet, or preparing external affairs news releases. Publishing sale notices in local newspapers is no longer required, but remains an option for providing notice of the sale.

Subparts 3206 through 3210 cover generally applicable lease terms, such as length of lease terms, acreage limitations, and other obligations. These subparts contain most of the existing lease terms, although we have made a few substantive and organizational changes since the proposed rule. For example, we no longer require operators to conduct diligent exploration during lease years 11 through 15, since these lease years are not part of the primary period. In addition, final 43 CFR 3208.10(a)(1) modified the current option to extend a lease by performing

diligent drilling over the end of the primary period. To qualify, the operator must diligently strive to reach a reasonable drilling target with a well permitted and designed for production, which we will define based on local geology and the type of development proposed by the operator.

Under 43 CFR 3208.10(a)(4) of the final rule, leases may be extended in an additional situation. For leases committed to a unit, leases which expire before the unit does could be extended to match the unit term, as long as diligent unit development is occurring. So, any lease or portion of a lease not part of a participating area may then be eligible for other types of extensions. This is true even after it is eliminated from a unit by contraction or unit review—unless the lease previously was extended under 3208.10(a)(2), as these extensions must be successive. Extensions are intended to alleviate operator's concerns that leases adjacent to producing areas may be terminated, regardless of diligence, due to the lack of viable electrical sales contracts or continual poor energy market conditions.

While this rule does not define "diligent unit development," BLM generally measures diligence by comparing your actions in that year with the objectives you set in your currently approved plan of development. We will establish clearer guidance on what is "diligent unit development" in the forthcoming unit regulations.

The final rule includes other minor substantive changes. For example, we eliminated the special requirements (formerly at 43 CFR 3203.4(d)) for describing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska. If you wish to lease minerals in these areas you must describe the unsurveyed land in accordance with the general regulations now found at 43 CFR 3204.11. Several other portions of existing subpart 3203 are relocated. Plans of development and operation (existing section 3203.6) are now described in various sections within new subparts 3260 and 3270. Provisions for oil, gas and helium reservations are moved from section 3203.7 to section 3210.17. The section concerning converting leases to a mineral lease are relocated from section 3203.1–6 to section 3209.10.

The new subpart 3211 replaces existing provisions for fees, rents and royalties previously found in subpart 3205 with regulations that are easier for the public to understand and for BLM to manage. The only substantive change here is that we have removed the

limitations on overriding royalties for two reasons: we no longer track overriding royalties and therefore cannot enforce this requirement; and maintaining the limitation requirement may unnecessarily involve the government in private business negotiations. Sections 3212.15 and 3212.16 of the revised rule contain procedures which provide sufficient protection for the United States' royalty interests.

Subparts 3212 and 3213 contain consolidated procedures for altering the terms of a lease, including suspensions, relinquishments, terminations, cancellations, and expirations. The only significant change between the existing and final rule is that we have relocated the waivers and suspensions of payments provisions from the fees, rents and royalties regulations in part 3205 to a separate section in subpart 3212. All other changes in the final rule are limited to consolidation and plain language rewrites.

Subpart 3214 expands existing bonding regulations to give greater detail about how bond amounts may change. We may increase a bond amount when we determine an operator has a history of noncompliance or is deficient in paying royalties to the Minerals Management Service (MMS). BLM will not set a bond amount higher than the total sum of the estimated costs of plugging and abandoning a well and reclaiming the surface, uncollected royalties due to MMS, and any unpaid amount owed to BLM due to previous violations.

Subpart 3215, formerly 43 CFR 3206.7, deals with bond collection after default. Subpart 3216, formerly 43 CFR 3241, contains the regulations governing transfers. Subpart 3217, formerly 43 CFR 3243, governs cooperative conservation provisions. These sections do not substantively differ from the existing regulations.

Subpart 3250—Geothermal Resource Exploration Operations: General

One of the most important changes this final rule will make is to relocate separate functions to separate subparts, in order to make each function easier to locate and understand. Subpart 3250 will contain the exploration operation rules previously published at part 3209. Also, in order to separate operational regulations from the leasing provisions, the geothermal resources utilization regulations previously found in part 3250 are now relocated to subpart 3270. This change allows us to consolidate the permitting procedures and operational responsibilities for exploration

operations into a single set of standards which will now be found in part 3250.

Part 3250 sets out the regulations applicable to exploration operations. Subpart 3250 explains when the exploration regulations apply and general operational standards. Subpart 3251 sets forth the permitting requirements for exploration operations. The regulation is formatted to follow the logical exploration sequence from stating what permits are required (3251.10), to the contents of the permit applications (3251.12), to the actions we will take on a permit (3251.13), to bonding requirements for exploration operations (3251.15).

This final rule clarifies several other requirements: operational (section 3252.10) and environmental (3252.11) requirements; what types of resource evaluation activities you may conduct (3252.13); and gradient well completion and abandonment requirements (3252.14 and 3252.16). We are also changing some requirements. For example, Geothermal Resources Operational Order 1 limited the depth of temperature gradient wells to 500 feet unless we granted specific authorization to drill deeper. However, new section 3252.12 allows an operator to propose a temperature gradient well to any depth necessary to adequately measure temperature gradients. Subpart 3254 sets out the provisions applicable to inspection, enforcement and non-compliance. Section 3254.10 permits BLM to inspect exploration operations, and under section 3254.11 we can require corrective action when operations are not in compliance. The new regulations will also allow the core drilling of temperature gradient wells, whereas the existing regulations limited this use of core drilling. Finally, sections are added which identify how proprietary and confidential information will be handled (subpart 3255) and explain appeals procedures (subpart 3256).

Subpart 3260—Geothermal Resource Operations: General

In order to consolidate drilling operations regulations into a single, separate location, we amended subpart 3260 to address only drilling permit application, approval, reporting and related requirements. Regulations addressing permits for utilization facilities and information requirements related to the utilization of geothermal resources are moved to a new part 3270. In the noncompliance provisions (section 3265.12) we clarified our authority to take post-permit actions, such as requiring modifications or shutting down operations that are in

noncompliance or pose an immediate threat to the public, the environment or private property.

We rewrote the regulations in subpart 3261 for permitting drilling operations to make them more flexible by allowing the operator two options to submit the required plan and permits. Under the first option, the operator could submit an operations plan, drilling permit and drilling program at the same time. If and when we complete the applicable environmental review and approve a drilling permit, the operator could commence pad construction and drill and test the well. Under the second option, the operator could submit the operations plan and a sundry notice for pad construction only. We would then begin an environmental review of both the pad construction and drilling operations. If and when that was completed, and we determined that the plan was acceptable, we would approve the sundry notice, authorizing drill pad and access road construction. The operator would then submit the drilling permit and drilling program for review at a later date.

The final regulations reduce the operations plan information requirements to cover only specific drilling activities. This eliminates the existing requirement that applicants also address resource utilization, which will now be covered by the utilization plan. An applicant may prepare an operations plan and drilling program which could apply to more than one well when similar environmental situations exist and the same drilling procedures are utilized. However, separate geothermal drilling permits are required for each proposed well.

New subpart 3262 contains the requirements for conducting drilling operations. These regulations clarify the operational (3262.10) and environmental (3262.11) requirements an operator must meet when drilling a well. We may also require permittees to post signs at each well (3262.12), to space wells (3262.13), and to take samples or perform certain tests and surveys (3262.14). We already require each of these actions under the existing regulations.

New subpart 3263 discusses well abandonment requirements. These regulations do not differ substantially from existing rules. Subpart 3264 as revised identifies the informational requirements of each report an operator must submit during the completion, use, and abandonment of a well. Operators must submit a geothermal sundry notice for actions such as casing program changes, well stimulation, or plugging and abandoning a well, or to amend an

approved permit or sundry notice. We may waive the sundry notice requirement for specific, routine well work, surveys, or downhole maintenance. For activities resulting in an environmental impact not already described in an operations plan, the applicant must submit a geothermal sundry notice to amend the operations plan. You may not begin activity described in the sundry notice until we have approved the notice.

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

Several other sections were modified to improve the way in which we oversee existing drilling operations. New section 3264.14 will change the existing requirement to notify BLM of all accidents occurring on Federal lands (current 43 CFR 3262.7) to requiring notification and reports only when an accident affects geothermal operations or causes environmental hazards. Section 3266 as revised sets forth how we treat confidential documents. If we require you to submit a document you regard as confidential, you must clearly mark each page of the document with the words "confidential information." We must ultimately determine whether the document contains any information exempt from public disclosure under the Freedom of Information Act (FOIA) and the Department of the Interior regulations set forth in 43 CFR part 2.

We have revised the noncompliance rules in subpart 3265 to more clearly define what we can do when an operator fails to promptly commence or complete a required remedial action. Our responses may include requiring modification of project operations, temporary or permanent shut down of operations, or lease termination. Subpart 3267 provides procedures for requesting operational variances and filing appeals.

Because the requirements specified in some of the current Geothermal Resources Operational Orders have become out-dated, we revised the requirements and incorporated them into these regulations. This final rule changes some standards and requirements from existing Orders.

Subpart 3270—Geothermal Resource Utilization: General

This final rule establishes a new part 3270, consolidating the existing permitting procedures and operator

responsibilities for producing and utilizing geothermal resources, with some changes.

In order for the permit titles to more clearly identify the operational authorization each permit grants when it is approved, we have renamed the current utilization permit as the "facility construction permit," and production permits as the "commercial use permit."

Subpart 3270 identifies general operational standards and facility operator responsibilities when utilizing geothermal resources. Subpart 3271 explains what authorization an operator needs to construct and test a utilization facility. Subpart 3272 describes the utilization plan and facility construction permit requirements, while the site license requirements are found in subpart 3273. The requirements will vary depending on the status of the lands and any underlying leases, but in general, an operator must submit a utilization plan, facility construction permit, and a site license, where applicable (3271.10). Applicants must also submit the utilization plan and facility construction permit together. You could choose to submit the site license separately, though BLM will not approve the facility construction permit until we receive an acceptable site license and related bond. If the operator wishes to use Federal geothermal resources to test a utilization facility located on private or split estate lands, the Federal lessee or unit operator must submit a sundry notice for our approval prior to the use of Federal geothermal resources (3271.13). To obtain authorization to place a utilization facility into commercial operation, an operator must submit a commercial use permit (3271.14).

We changed the utilization permitting process to make the application process more flexible by allowing the operator to submit necessary information as it becomes available. Also, all types of utilization facility proposals will go through the same permitting process; operators will no longer have to undergo separate permitting procedures based on generation capacity, research and demonstration facilities, and individual well facilities.

Before you can begin any utilization facility construction and testing that will cause a surface disturbance, BLM must review your utilization plan and approve your facility construction permit and site license. What permits you need to begin operations depends on what part of your operation is on Federal lands. If your facility is located on Federal lands leased for Federal geothermal resources, you need an

approved facility construction permit and site license to begin site preparation, construction and testing, and a commercial use permit to begin operating the facility or using the resources. [Commercial operation is defined as delivering any form of geothermal resources for sale or for use by the operator.] By contrast, if a proposed utilization facility, pipelines and other related structures are located on private or split estate (private surface and Federal mineral) lands, and the facility is receiving production allocated to or from wells located on BLM-managed leases, you only need a commercial use permit to begin utilizing Federal resources.

If the pipelines are located on BLM-managed lands and the utilization facility is not, the utilization plan only needs to address the pipelines. Approval of a commercial use permit authorizes construction of the pipelines. An approved sundry notice also authorizes preliminary site investigations if not already described in a utilization plan.

A utilization plan describes the proposed facility and its environmental protection measures, and consists of most of the same information which the existing regulations require for an operations plan (existing 43 CFR 3262.4). However, the new utilization plan will differ from the old operations plan in some respects. For example, instead of always requiring you to collect baseline environmental data before beginning commercial operations, we will determine which, if any, specific environmental parameters must be addressed, and how long (not exceeding one year) each parameter will be monitored (3272.12(c)). We may also require monitoring of facility operations as a condition of approval of a commercial use permit to ensure environmental compliance (3272.12(b)).

The site license requirements are relocated from 43 CFR 3250.6 to subpart 3273 and incorporated directly into the utilization permitting process. Now, when you apply for a utilization permit, you must also identify a site license area located on Federally-leased lands. Applicants will have to submit a site license bond with their license application (3273.19). Other requirements, such as the minimum utilization bond amount of \$100,000 for any electrical generation facility and the current bonding requirement for direct use facilities, remain unchanged. BLM may not require a site bond for a direct use facility.

These regulations eliminate the requirement that a lessee or unit operator pay a minimum annual rent of

\$100 per acre for the site license area, because a lease already grants the right to utilize a reasonable amount of surface (3273.18). However, if an entity other than a lessee or unit operator owns the utilization facility, you must pay the site license rent.

We eliminated the requirements for a joint utilization agreement found under existing part 3250 because they duplicate the authorization granted under the site license. When a proposed facility is owned by someone other than the lessee or unit operator, the facility operator must provide us a copy of its written agreement with the lessee or unit operator to site a utilization facility on the leased land. The third party, as the facility operator, then assumes full responsibility for all phases of facility permitting and operations.

Subpart 3274 addresses the requirements for obtaining a commercial use permit, which authorizes the sale and/or use of Federal geothermal resources. We must approve this permit before a utilization facility starts commercial operation. To apply, you must provide specific information about the proposed facility's operations, particularly its production and royalty metering. The new rules no longer require detailed engineering drawings; generalized schematics of the facility are adequate. We may attach conditions of approval to the commercial use permit, such as monitoring of the facility to ensure compliance with environmental and/or operational standards, and we may modify or shut down the facility operation when it is in noncompliance with environmental or operational standards.

Subpart 3275 identifies the operational and environmental requirements the facility operator must meet. The revised regulations incorporate and add greater detail to Geothermal Resource Operational Order 7, which contains standards for the types and accuracy of meters used to measure production or utilization or to determine royalties. The new rules specify the following for both electrical generation and direct use facilities: (1) where the operator must locate the various types of meters (43 CFR 3275.16); (2) meter accuracy standards which vary depending on the volume of resource measured (43 CFR 3275.15); and, (3) meter accuracy standards for installation and measurement (3275.16).

Subpart 3276 contains monthly well and facility operations reporting requirements, including contents and accuracy standards. The information you must provide in the monthly facility report will vary depending on the type of utilization facility operated.

For simplicity, you may combine monthly well and facility reports in certain instances.

Subpart 3277 addresses inspection, enforcement and noncompliance procedures. We will routinely inspect utilization facility operations, and these rules identify the types of records an operator must have available for inspection. In cases of noncompliance, we will issue an Incidence of Noncompliance requiring corrective action to be taken within a specified time period. This subpart identifies what additional action we may take to correct problems of noncompliance which continues or is serious in nature, including bond collection, modification of project operations, temporary or permanent shut down of operations, or lease termination. Finally, sections are revised which identify how proprietary and confidential information will be handled (subpart 3278) and appeals procedures (subpart 3279).

We have made a number of other changes between the proposed and final rule. The vast majority of these changes were made to further clarify a provision or are merely editorial in nature. We also made a few substantive changes to the rule which are necessary to correct errors in the proposed rule. For example, we revised and added definitions in section 3200.1 for "interest" and "person." Each of these was added to enable us to simplify other definitions, such as "lessee." We also edited the definition of operating rights to bring it in line with the same term used in the BLM's oil and gas regulations.

We added a provision at section 3208.17 to make it clear that if production begins, a person is not entitled to a credit for payments made in lieu of production in commercial quantities or significant expenditures. This is not a substantive change from the existing regulations, but this provision is necessary to avoid any disputes in the future.

Section 3214.18 also re-defines what a person is liable for. The final rule now states that the liability of an interest owner for rents and royalties will be determined under the applicable MMS regulations. The proposed rule had stated that all interest owners assume full liability for rents and royalties, and this was not in keeping with MMS regulations.

Finally, we made editorial changes between the existing and new rule to correct several cross-references. We will modify our forms to accommodate the numerous changes in the proposed regulations, as well as to account for existing forms which have expired.

III. Responses to Comments

During the public comment period in response to the proposed rule, BLM received a total of five comments. The commenters included four private geothermal resource developers and the Forest Service, and generally consisted of suggestions to revise lease extension provisions and address unitization issues. The commenters also addressed the need to maintain a site license provision in the regulations, suggested changing the names of some of the permits to more accurately describe the authorization provided by the permit, noted the need for additional, required coordination between BLM and institutions financing power plant projects, and identified issues pertaining to confidential and proprietary information requirements, and production reporting. The Forest Service suggested means for improving BLM and surface management agency coordination of permit application review and completing the National Environmental Policy Act of 1969 (NEPA) documentation.

Lease extensions. Several comments suggested that we change the proposed procedures for requesting successive 5-year lease extensions, at sections 3208.11–12. Two commenters said BLM should allow a lessee to change its election to either make payments in lieu of commercial quantities production or to make significant expenditures on an annual basis during each 5-year extension period. This change would allow companies much greater flexibility in deciding how to allocate resources as energy market conditions fluctuate. Another comment suggested that BLM allow excess significant expenditures from the first extension period to be applied to the second extension period.

BLM is not adopting these recommendations because we believe they contradict the intent of Congress expressed in the Steam Act amendments. Our review of the legislative history suggests that the House Committee on Interior and Insular Affairs (Report 100–664) did not intend to provide such options. Lessees must make the election to either make payments in lieu of commercial quantities production or to make significant expenditures at the beginning of each extension period, and significant expenditures from one extension period may not be applied to a subsequent extension period.

A number of comments suggested changing the lease extension provisions related to unitization. Several companies requested that BLM allow 5-

year lease extensions upon removing a lease from a unit either by segregation or contraction. We cannot adopt this suggestion, however, because we believe that unit administration actions should not directly result in lease extensions. The new provisions at subpart 3208 broaden lease extension provisions when a lessee diligently completes unit operations, and also on an individual lease basis once a lease is no longer involved in a unit. These rules give diligent lessees ample opportunities to extend their lease.

Unit Administration. Many comments addressed unit administration procedures such as effective dates of a participating area and suspensions of drilling obligations and unit contraction provisions. We intend to publish a proposed rule in the **Federal Register** to rewrite the unit regulations (part 3280) and we will address these issues at that time.

Project Financing. One company submitted several comments regarding the requirement that we coordinate with the lending institution which has provided project financing. The comments recommended requiring us to provide formal notice to the lender of a recorded lien on the Federal lease when an operator is in noncompliance with lease terms or permit conditions of approval. BLM would then be required to allow and accept corrective action taken by the lender. Another comment said that we should grant a replacement lease directly to the lender and cancel the operator's lease if the operator files for bankruptcy.

We believe these are standard business arrangements which are best resolved and coordinated between the operator and lender themselves. The operator and lender should decide among themselves as to when the operator will notify the lender of our actions taken on the lease. We cannot justify the additional administrative burden we would undertake by adopting this comment. Furthermore, we cannot replace a lessee on its own initiative, although BLM does have the authority to cancel a lease.

Site Licenses. In the preamble to the proposed rule, we requested comments regarding the need for maintaining the site license provisions (subpart 3273). Two companies responded that the site license should be maintained, but the term of the site license should be longer and independent of the Federal lease on which it is located. These changes would lessen a lender's concerns for the continued viability of a project. Unfortunately, we cannot adopt these suggestions because they would go

beyond our authority under the Steam Act.

Expenditures. Another comment recommended that the types of activities for which an operator may receive approval of significant expenditures (subpart 3208) and diligent exploration expenditures (DEE) (subpart 3210) should be broadened to include expenditures related to well field maintenance, environmental compliance, and negotiating power purchase contracts.

BLM has decided not to accept this recommendation. Under the existing regulations, activities qualifying as significant expenditures already include environmental review and the design and construction of utilization facilities, in addition to conducting drilling and geophysical operations. The purpose of the DEE requirement is to identify new geologic information related to the lease. Thus, the qualifying activities are limited to drilling and geophysical operations and activities related to obtaining permits to conduct those operations. Maintenance of a well field and related facilities are routine expenses incurred once the facilities are in place and therefore do not meet the requirements of either significant expenditures or DEE.

Utilization Permits. Several comments suggested changing the names of the various permits related to the utilization phase of development (part 3270). Some companies believed that the titles of the proposed permits made it difficult to understand what types of activities each permit authorized. Based on these comments, we have revised the title of each permit granting authorization to utilize Federal geothermal resources to more accurately describe the authorization granted by each permit. The new names are identified in Section II of this preamble discussing rule revisions of part 3270—Utilization of Geothermal Resources.

Proprietary and Confidential Information. One commenter suggested that instead of requiring operators to stamp each page of a document it considers to be proprietary or confidential information (PCI) as "confidential," only the document cover should be stamped. Otherwise, to implement the proposed PCI policy of stamping each page we would have to stamp every page of PCI received and filed over the past 20 years, which would be very burdensome for both BLM and the geothermal industry. We are unable to accept this comment. BLM is currently preparing language to use in all BLM regulations which will call for people in this situation to mark confidential information page by page.

The reason is that when we consider releasing documents under the FOIA, we cannot withhold an entire document if only part of it qualifies for withholding. We must exercise our FOIA duties on a line-by-line basis, protecting only that information which qualifies for protection and releasing the rest. Therefore, the final rule now requests that you mark each page that you think contains confidential information, consistent with the forthcoming BLM FOIA rules. This does not mean that we have to review every document filed in the last 20 years. As FOIA requests come in, we will review the documents included in the request for confidentiality as FOIA requires us to do, whether past documents are marked as PCI or not.

Reporting Venting and Leakage. One comment recommended that proposed section 3276.11(g), requiring the operator to report the amount of steam or hot water lost to venting or leakage, not be required for every well every month, because significant venting or leakage is a relatively rare occurrence, and it adds an additional reporting requirement that would almost always be "zero." We agree, and the final rule requires operators to report venting or leakage only if it is in significant quantities, which is defined to be more than 0.5 percent of total lease production in any given month.

Surface Management Agency Involvement. The Forest Service recommended that for leases located on lands managed by the Department of Agriculture, we obtain concurrence from the surface management agency prior to renewing a lease which is in an additional term and eligible to be renewed for a second 40-year term. We agree with the comment since this situation involves a leasing decision. In this final rule we revised section 3207.11 to require surface management agency concurrence before we grant the renewal. Another comment from the Forest Service suggested BLM revise section 3250.10(a)(2) to state that the surface management agency must concur with surface use and reclamation requirements before we grant an exploration permit. BLM disagrees with this comment since it exceeds the standard of the Steam Act. We will consult with the Federal surface management agency.

Well Pad Authorization. One comment expressed the concern that authorizing an operator to construct a well pad prior to granting authorization to drill a well (section 3261.15) may cause well pads to remain unattended for extended periods of time, or cause operators to build well pads which are

not used. However, we do not share this concern; it is unlikely that an operator will waste money building drill pads and access roads without drilling a well in a reasonable amount of time. Furthermore, this provision is necessary to permit flexible solutions when well pad construction cannot occur in close timing to the drilling of the well. For example, in some areas the dirt work associated with access road and pad construction can occur only during limited periods of the year without causing significant soil erosion. As a result, an operator may not know which specific drilling equipment will be used, or which drilling procedures to follow, at the time the pad construction must take place. This provision would give BLM and the operator the tools to prevent unnecessary delays.

Accident Reporting Requirements. One commenter, concerned with overlapping reporting requirements, recommended we revise the accident reporting requirements in section 3264.14 and 3276.15 to allow other notification requirements, such as the requirement to report hazardous spills, to supersede this requirement. We do not agree with this comment. We should be notified of accidents regardless of whatever other reporting requirements are in effect. The operator may send us a copy of another report to satisfy this requirement.

A related comment recommended that we should include language to require reporting within less than 24 hours in some instances. Because of the numerous types of accidents that could occur, we felt that it would be overly burdensome to define different reporting requirements for different types of accidents. Each individual office will still have the flexibility to reduce reporting times on a case by case basis.

Environmental Protection Requirements. BLM received two comments regarding environmental protection requirements an operator must meet when drilling a well. One suggested changing the phrase "as much as possible" in section 3262.11(a)(3) to "as necessary," because while accommodating other land uses could involve a wide variety of possible actions, we will determine which are actually necessary. We have made this change. A second comment suggested adding another requirement to this section: "Meet any other specific environmental conditions, stipulations, or mitigation measures required as a result of the NEPA environmental review." We have not adopted this suggestion. All mitigation measures developed during the NEPA review will

be included as conditions of approval on the permit authorizing the action. Therefore, this comment has already been addressed in section 3262.10 (c), which says "[y]ou must conduct operations in accordance with conditions of approval."

Finally, two comments addressed facility operations environmental and safety requirements. One suggested adding the phrase "and the surface management agency" to the end of the paragraph at section 3275.12(f). This change was not adopted. Although we will consult with the surface management agency before approving facility abandonment procedures, we are ultimately responsible for issuing the approval of the operation. The other comment suggested requiring operators to "meet all conditions, stipulations, and mitigation measures required by the environmental review." We will incorporate any mitigation measures developed through the NEPA review process into the conditions of approval for the permit authorizing the action. Under 3275.11(d), the operator must comply with conditions to the approved plan or permit. Therefore, we do not believe the change is necessary and have not adopted it.

IV. Procedural Matters

National Environmental Policy Act

BLM prepared an environmental assessment (EA) and determined that this final rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see ADDRESSES).

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the final rule under 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004-0132. Sections of this final rule with information collection requirements include several sections in subparts 3260-3267, and BLM estimates the public reporting burden of these sections to average as follows:

- (1) Geothermal drilling permit, 10 hours per response.
- (2) Geothermal sundry notice, 1 hour per response.
- (3) Geothermal well completion report, 2-6 hours per response.

(4) Monthly report of geothermal operations, 1 hour per response.

This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, N.W., Mail Stop 401-LS, Washington, DC 20240, and the Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior (1004-AB18), Office of Management and Budget, Washington, DC 20503.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601 *et seq.*, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact on a substantial number of small entities. BLM has determined that this rule will not have a significant economic impact on a substantial number of small entities for two reasons. First, the Small Business Administration has defined a small entity, for purposes of geothermal resource development, as a business with no more than 500 employees or a business with no more than \$9 million in annual receipts. 13 CFR 121.201 (1997). Based on ongoing operations, BLM estimates that there are no more than two existing operators that would qualify as small entities under either definition. Second, as the rule is focused on reorganizing and streamlining BLM's current regulations without making any major substantive changes, it will not have any economic impact on any sector of the geothermal resources industry. BLM therefore certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a "major rule" and therefore does not require Congressional approval under Subchapter E of the Small Business Regulatory Enforcement Fairness Act, P.L. 104-121 Title II, 5 U.S.C. 804(2). Because these regulations are limited to the stylistic, organizational and minimal substantive changes described above, they will not

have an annual effect on the economy greater than \$100 million; they will not result in major cost or price increases for consumers, industries, government agencies, or regions; nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Because these regulations are limited to the stylistic, organizational and minimal substantive changes described above, they will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor will they have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12612, Federalism Assessments

Again, because these regulations are limited to the stylistic, organizational and minimal substantive changes described above, the final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, BLM has determined that this final rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630, Takings Assessments

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the final rule is to modify regulations to make them easier to read, streamline them and make only minimal substantive changes intended to enhance the geothermal resource leasing process, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private

property or require further discussion of takings implications under this Executive Order.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action and was not subject to review by the Office of Management and Budget under Executive Order 12866. These revised regulations will not have an effect of \$100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These revised regulations will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Finally, these regulations will not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor will they raise novel legal or policy issues.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Author: The principal authors of this rule are Richard Hoops and Jack Lewis of the BLM Nevada State Office, Sean Hagerty and Sonia Santillian of the BLM California State Office, Richard Estabrook of the BLM Ukiah District Office, Jack Feuer and Donna Kauffman of the BLM Oregon State Office, Dennis Davis of the BLM Prineville District Office, Robert Henricks and Connie Seare of the BLM Utah State Office, and Chris Fontecchio of the BLM Regulatory Affairs Group in Washington, DC.

List of Subjects

43 CFR Part 3200

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

43 CFR Part 3210

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

43 CFR Part 3220

Geothermal energy, government contracts, land management bureau, public lands-mineral resources,

reporting and recordkeeping requirements.

43 CFR Part 3240

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

43 CFR Part 3250

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

43 CFR Part 3260

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

Dated: September 18, 1998.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

Accordingly, 43 CFR Chapter II is amended as follows:

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

1. Under the authority of 43 U.S.C. 1740, parts 3210, 3220, 3240, 3250 and 3260 are removed.

2. Part 3200 is revised to read as set forth below:

PART 3200—GEOTHERMAL RESOURCE LEASING

Subpart 3200—Geothermal Resource Leasing

Sec.

- 3200.1 Definitions.
- 3200.2 Information collection.
- 3200.3 Changes in agency duties.
- 3200.4 What requirements must I comply with when taking any actions or conducting any operations under this part?
- 3200.5 What are my rights of appeal?

Subpart 3201—Available Lands

- 3201.10 What lands are available for geothermal leasing?
- 3201.11 What lands are not available for geothermal leasing?

Subpart 3202—Lessee Qualifications

- 3202.10 Who may hold a geothermal lease?
- 3202.11 Must I prove I am qualified to hold a lease when filing an offer to lease?
- 3202.12 Are other persons allowed to act on my behalf to file an offer to lease?
- 3202.13 What happens if the offeror dies before the lease is issued?

Subpart 3203—Obtaining a Lease

- 3203.10 How can I obtain a geothermal lease?
- 3203.11 How is a KGRA determined?

Subpart 3204—Noncompetitive Leasing

- 3204.10 How do I file a lease offer?
- 3204.11 How do I describe the lands in my lease offer?
- 3204.12 What fees must I pay with my lease offer?
- 3204.13 May I combine acquired and public domain lands on the same lease offer?
- 3204.14 What is the largest and smallest lease I can apply for?
- 3204.15 What happens when two or more offerors apply for a noncompetitive lease for the same land?
- 3204.16 How does BLM determine the first qualified offeror?
- 3204.17 May I withdraw my lease offer?
- 3204.18 May I amend my lease offer?

Subpart 3205—Competitive Leasing

- 3205.10 How does BLM lease lands competitively?
- 3205.11 How do I get information about competitive lease terms and conditions?
- 3205.12 How do I bid for a parcel?
- 3205.13 What is the minimum acceptable bid?
- 3205.14 How does BLM conduct the sale?
- 3205.15 To whom does BLM issue the lease?
- 3205.16 How will I know whether my bid is accepted?

Subpart 3206—Lease Issuance

- 3206.10 What must I do for BLM to issue my lease?
- 3206.11 What must BLM do before issuing my lease?
- 3206.12 What is the maximum acreage I may hold?
- 3206.13 How does BLM compute acreage holdings?
- 3206.14 How will BLM charge acreage holdings if the United States owns only a fractional interest in the geothermal resources?
- 3206.15 Is there any acreage which is not chargeable?
- 3206.16 What will BLM do if my holdings exceed the maximum acreage limits?
- 3206.17 What is the primary term of my lease?
- 3206.18 When will BLM issue my lease?

Subpart 3207—Additional Lease Term

- 3207.10 When may I get an additional lease term beyond the primary term?
- 3207.11 May I renew my lease at the end of its additional term?

Subpart 3208—Extending the Primary Lease Term

- 3208.10 When may I extend my lease beyond the primary term?
- 3208.11 What must I do to have my lease extended?
- 3208.12 What information must I give BLM to show that I have made bona fide efforts to produce or utilize geothermal resources in commercial quantities?
- 3208.13 Will BLM extend my lease if I choose to pay instead of produce in commercial quantities?
- 3208.14 What will BLM do if I choose to make significant expenditures?
- 3208.15 What actions may I take which will count as significant expenditures?

- 3208.16 During the extension, may I switch my choice to either pay instead of produce in commercial quantities or make significant expenditures?
- 3208.17 If I begin production, do I get credit for payments made instead of production in commercial quantities or significant expenditures?

Subpart 3209—Conversion of a Lease Producing Byproducts

- 3209.10 May I convert my geothermal lease to a mineral lease?
- 3209.11 May I convert my geothermal lease to a mining claim?
- 3209.12 May BLM include additional terms and conditions to my converted lease?
- 3209.13 How do I convert my geothermal lease to a mineral lease or a mining claim?

Subpart 3210—Additional Lease Information

- 3210.10 When does lease segregation occur?
- 3210.11 Does a lease segregated from an agreement or plan receive any benefits from unitization of the committed portion of the original lease?
- 3210.12 May I consolidate leases?
- 3210.13 What is the diligent exploration requirement?
- 3210.14 How do I meet the diligent exploration requirement?
- 3210.15 Can I do something instead of performing diligent exploration?
- 3210.16 What happens if I do not meet the diligent exploration requirement or pay the additional rent?
- 3210.17 Can someone lease or locate other minerals on the same lands as my geothermal lease?
- 3210.18 May BLM readjust the terms and conditions in my lease?
- 3210.19 How will BLM readjust the terms and conditions in my lease?
- 3210.20 May BLM readjust the rental and royalty rates in my lease?
- 3210.21 What if I appeal BLM's decision to adjust my lease terms?
- 3210.22 Must I prevent drainage of geothermal resources from my lease?
- 3210.23 What will BLM do if I do not protect my lease from drainage?

Subpart 3211—Fees, Rent, and Royalties

- 3211.10 What are the filing fees, rent, and minimum royalties for leases?
- 3211.11 When is my annual rental payment due?
- 3211.12 How and where do I pay my rent?
- 3211.13 Is there a different rental or minimum royalty amount for a fractional interest lease?
- 3211.14 Will I always pay rent on my lease?
- 3211.15 Must I pay rent if my lease is committed to an approved cooperative or unit plan?
- 3211.16 What is the royalty rate for production from or attributable to my lease?
- 3211.17 When do I owe minimum royalty?

Subpart 3212—Lease Suspensions and Royalty Rate Reductions

- 3212.10 What is the difference between a suspension of operations and production and a suspension of operations?
- 3212.11 How do I obtain a suspension of operations or operations and production on my lease?
- 3212.12 How long does a suspension of operations or operations and production last?
- 3212.13 How does a suspension affect my lease terms?
- 3212.14 What happens when the suspension ends?
- 3212.15 May BLM reduce or suspend the royalty or rental rate of my lease?
- 3212.16 What information must I submit when I request that BLM suspend, reduce or waive my royalty or rental rate?

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration

- 3213.10 Who may relinquish a lease?
- 3213.11 What must I do to relinquish a lease?
- 3213.12 May BLM accept a partial relinquishment if it will reduce my lease to less than 640 acres?
- 3213.13 When does my relinquishment take effect?
- 3213.14 How can my lease automatically terminate?
- 3213.15 Will my lease automatically terminate if my rental payment is on time but for the wrong amount?
- 3213.16 Will BLM notify me if my lease terminates?
- 3213.17 May BLM reinstate my lease?
- 3213.18 Who may petition to reinstate a lease?
- 3213.19 What must I do to have my lease reinstated?
- 3213.20 Are there reasons why BLM would not reinstate my lease?
- 3213.21 When will my lease expire?
- 3213.22 Will BLM notify me when my lease's extended term expires?
- 3213.23 May BLM cancel my lease?
- 3213.24 When is a cancellation effective?
- 3213.25 What can I do if BLM notifies me that my lease is being canceled due to violations of the laws, regulations or lease terms?

Subpart 3214—Personal and Surety Bonds

- 3214.10 Who must post a geothermal bond?
- 3214.11 Who must my bond cover?
- 3214.12 What activities must my bond cover?
- 3214.13 What is the minimum dollar amount required for a bond?
- 3214.14 May BLM increase the bond amount above the minimum?
- 3214.15 What kind of financial guarantee will BLM accept to back my bond?
- 3214.16 Is there a special bond form I must use?
- 3214.17 Where must I submit my bond?
- 3214.18 Who will BLM hold liable under the bond and what are they liable for?
- 3214.19 What are my bonding requirements when a lease interest is transferred to me?

3214.20 How do I modify or extend the terms and conditions of my bond?

- 3214.21 What must I do if I want to use a certificate of deposit to back my bond?
- 3214.22 What must I do if I want to use a letter of credit to back my bond?

Subpart 3215—Bond Collection After Default

- 3215.10 When may BLM collect against my bond?
- 3215.11 Must I replace my bond after BLM collects against it?
- 3215.12 What will BLM do if I do not restore the face amount or file a new bond?
- 3215.13 Will BLM cancel or terminate my bond?
- 3215.14 When BLM releases my bond, does that end my responsibilities?

Subpart 3216—Transfers

- 3216.10 What types of lease interests may I transfer?
- 3216.11 Where must I file a transfer request?
- 3216.12 When does a transferee take responsibility for lease obligations?
- 3216.13 What are my responsibilities after I transfer my interest?
- 3216.14 What filing fees and forms does a transfer require?
- 3216.15 When must I file my transfer request?
- 3216.16 Must I file separate transfer requests for each lease?
- 3216.17 Where must I file estate transfers, corporate mergers and name changes?
- 3216.18 How do I describe the lands in my lease transfer?
- 3216.19 May I transfer record title interest for less than 640 acres?
- 3216.20 When does a transfer segregate a lease?
- 3216.21 When is my transfer effective?
- 3216.22 Does BLM grant all transfer requests?

Subpart 3217—Cooperative Conservation Provisions

- 3217.10 What are unit agreements and cooperative plans?
- 3217.11 What are communitization agreements?
- 3217.12 What does BLM need to approve my communitization agreement?
- 3217.13 When does my communitization agreement go into effect?
- 3217.14 When will BLM approve my operating, drilling or development contract?
- 3217.15 What information does BLM need to approve my operating, drilling or development contract?

Subpart 3250—Exploration Operations—General

- 3250.10 When do the exploration operations regulations apply?
- 3250.11 What types of operations may I propose when I send BLM my exploration permit application?
- 3250.12 What general standards apply to my exploration operations?
- 3250.13 What orders or instructions may BLM issue me?

Subpart 3251—Exploration Operations: Getting a Permit

- 3251.10 Do I need a permit before I start my exploration operations?
- 3251.11 May I conduct exploration operations on my lease, someone else's lease or unleased lands?
- 3251.12 What does BLM need to approve my exploration permit?
- 3251.13 What action will BLM take on my permit?
- 3251.14 Once I have a permit, how can I change my exploration operations?
- 3251.15 Do I need a bond for conducting exploration operations?
- 3251.16 When will BLM release my bond?

Subpart 3252—Conducting Exploration Operations

- 3252.10 What operational standards apply to my exploration operations?
- 3252.11 What environmental requirements must I meet when conducting exploration operations?
- 3252.12 How deep may I drill a temperature gradient well?
- 3252.13 How long may I collect information from my temperature gradient well?
- 3252.14 How must I complete a temperature gradient well?
- 3252.15 When must I abandon a temperature gradient well?
- 3252.16 How must I abandon a temperature gradient well?

Subpart 3253—Reports: Exploration operations

- 3253.10 Must I share the data I collect through exploration operations with BLM?
- 3253.11 Must I notify BLM when I have completed my exploration operations?

Subpart 3254—Inspection, Enforcement, and Noncompliance for Exploration Operations

- 3254.10 May BLM inspect my exploration operations?
- 3254.11 What will BLM do if my exploration operations do not meet all requirements?

Subpart 3255—Confidential, Proprietary Information

- 3255.10 Will BLM disclose information I submit under these regulations?
- 3255.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?
- 3255.12 How long will information I give BLM remain confidential or proprietary?

Subpart 3256—Exploration Operations Relief and Appeals

- 3256.10 May I request a variance from any BLM requirements?
- 3256.11 How may I appeal a BLM decision regarding my exploration operations?

Subpart 3260—Geothermal Drilling Operations—General

- 3260.10 What types of geothermal operations are covered by these regulations?
- 3260.11 What general standards apply to my drilling operations?
- 3260.12 What other orders or instructions may BLM issue me?

Subpart 3261—Drilling Operations: Getting a Permit

- 3261.10 How do I get approval to begin well pad construction?
- 3261.11 How do I get approval for drilling operations and well pad construction?
- 3261.12 What is an operations plan?
- 3261.13 What is a drilling program?
- 3261.14 When must I give BLM my operations plan?
- 3261.15 Must I give BLM my drilling permit application, drilling program and operations plan at the same time?
- 3261.16 Can my operations plan, drilling permit and drilling program apply to more than one well?
- 3261.17 How do I amend my operations plan or drilling permit?
- 3261.18 Do I need a bond before I build a well pad or drill a well?
- 3261.19 When will BLM release my bond?
- 3261.20 How will BLM review my application documents and notify me of their decision?
- 3261.21 How do I get approval to change an approved drilling operation?
- 3261.22 How do I get approval for subsequent well operations?

Subpart 3262—Conducting Drilling Operations

- 3262.10 What operational requirements must I meet when drilling a well?
- 3262.11 What environmental requirements must I meet when drilling a well?
- 3262.12 Must I post a sign at every well?
- 3262.13 May BLM require me to follow a well spacing program?
- 3262.14 May BLM require me to take samples or perform tests and surveys?

Subpart 3263—Well Abandonment

- 3263.10 May I abandon a well without BLM's approval?
- 3263.11 What must I give BLM to approve my sundry notice for abandoning a well?
- 3263.12 How will BLM review my sundry notice to abandon my well and notify me of their decision?
- 3263.13 What must I do to restore the site?
- 3263.14 May BLM require me to abandon a well?
- 3263.15 May I abandon a producible well?

Subpart 3264—Reports: Drilling operations

- 3264.10 What must I give BLM after I complete a well?
- 3264.11 What must I give BLM after I finish subsequent well operations?
- 3264.12 What must I give BLM after I abandon a well?
- 3264.13 What drilling and operational records must I maintain for each well?
- 3264.14 Must I notify BLM of accidents occurring on my lease?

Subpart 3265—Inspection, Enforcement, and Noncompliance for Drilling Operations

- 3265.10 What part of my drilling operations may BLM inspect?
- 3265.11 What records must I keep available for inspection?
- 3265.12 What will BLM do if my operations do not comply with all requirements?

Subpart 3266—Confidential, Proprietary Information

- 3266.10 Will BLM disclose information I submit under these regulations?
- 3266.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?
- 3266.12 How long will information I give BLM remain confidential or proprietary?

Subpart 3267—Geothermal Drilling Operations Relief and Appeals

- 3267.10 May I request a variance from any BLM requirements which apply to my drilling operations?
- 3267.11 How may I appeal a BLM decision regarding my drilling operations?

Subpart 3270—Utilizing Geothermal Resources—General

- 3270.10 What types of geothermal operations are governed by the utilization regulations?
- 3270.11 What general standards apply to my utilization operations?
- 3270.12 What other orders or instructions may BLM issue me?

Subpart 3271—Utilization Operations: Getting a Permit

- 3271.10 What do I need to start preparing a site and building and testing a utilization facility on Federal land leased for geothermal resources?
- 3271.11 Who may apply for a permit to build a utilization facility?
- 3271.12 What do I need to start preliminary site investigations which may disturb the surface?
- 3271.13 What do I need to start building and testing a utilization facility which is not located on Federal lands leased for geothermal resources, but the pipelines and facilities connecting the well field are?
- 3271.14 How do I get a permit to begin commercial operations?

Subpart 3272—What is in a Utilization Plan and Facility Construction Permit?

- 3272.10 What must I give BLM in my utilization plan?
- 3272.11 How should I describe the proposed utilization facility?
- 3272.12 How do I describe the environmental protection measures I intend to take?
- 3272.13 How will BLM review my utilization plan and notify me of their decision?
- 3272.14 How do I get a permit to build or test my facility?

Subpart 3273—How to Apply for a Site License

- 3273.10 When do I need a site license for a utilization facility?
- 3273.11 Are there any situations where I do not need a site license?
- 3273.12 How will BLM review my site license application?
- 3273.13 Are any lands not available for geothermal site licenses?
- 3273.14 What area does a site license cover?
- 3273.15 What must I give BLM in my site license application?

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

Subpart 3200—Geothermal Resource Leasing

§ 3200.1 Definitions

Acquired lands means lands or mineral estates that the United States obtained by deed through purchase, gift, condemnation or other legal process.

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

Additional term means the period of years beyond the primary and any extended term of a producing lease granted when geothermal resources are produced or utilized in commercial quantities within the primary term or extended term. The additional term may not exceed 40 years beyond the end of the primary term, even if BLM grants later extensions.

Byproducts are minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam, and which no person would extract and produce by themselves because they are worth less than 75 percent of the value of the geothermal steam or because extraction and production would be too difficult.

Casual use means activities that ordinarily lead to no significant disturbance of Federal lands, resources, or improvements.

Commercial operation means delivering Federal geothermal resources, or electricity or other benefits derived from those resources, for sale. This term also includes delivering resources to the

utilization point, if you are utilizing Federal geothermal resources for your own benefit and not selling energy to another entity.

Commercial quantities means either:

(1) For production from a lease, a sufficient volume (in terms of flow and temperature) of the resource to provide a reasonable return after you meet all costs of production; or

(2) For production from a unit, a sufficient volume of the resource to provide a reasonable return after you meet all costs of drilling and production.

Commercial Use Permit means BLM authorization for commercially operating a utilization facility and/or utilizing Federal geothermal resources.

Cooperative agreement means an agreement to produce and utilize separately-owned interests in the geothermal resources together as a whole, where the individual interests cannot be independently operated.

Development contract means a BLM-approved agreement between one or more lessees and one or more entities which makes resource exploration more efficient and protects the public interest.

Exploration operations means any activity relating to the search for evidence of geothermal resources, where you are physically present on the land and your activities may cause damage to those lands. Exploration operations include, but are not limited to, geophysical operations, drilling temperature gradient wells, drilling holes used for explosive charges for seismic exploration, core drilling or any other drilling method, provided the well is not used for geothermal resource production. It also includes related construction of roads and trails, and cross-country transit by vehicles over public land. Exploration operations do not include the direct testing of geothermal resources or the production or utilization of geothermal resources.

Extended term means an initial, and any successive, 5-year period beyond the primary term of a lease during which BLM will grant the lessee the right to continue activities under the existing lease.

Facility Construction Permit means BLM permission to build and test a utilization facility.

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

Geothermal Drilling Permit means BLM permission to drill for and test Federal geothermal resources.

Geothermal Exploration Permit means BLM permission to conduct only geothermal exploration operations and associated surface disturbance activities.

Geothermal Resources Operational Order means a formal, numbered order, issued by BLM that implements or enforces the regulations in this part.

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

Interest means ownership in a lease of all or a portion of the record title or operating rights.

Known geothermal resource area (KGRA) means an area where BLM determines that persons knowledgeable in geothermal development would spend money to develop geothermal resources.

Lessee means a person holding record title interest in a geothermal lease issued by the BLM.

MMS means the Minerals Management Service of the Department of the Interior.

Notice to Lessees (NTL) means a written notice issued by BLM that implements the regulations in this part or geothermal resource operational orders, and provides more specific instructions on geothermal issues within a state, district or resource area. Notices to Lessees may be obtained by contacting the BLM state office which issued the NTL.

Operating rights (working interest) means any interest held in a lease with the right to explore for, develop, and produce leased substances.

Operating rights owner means a person who holds operating rights in a lease. A lessee is an operating rights owners if he/she did not transfer all of his/her operating rights. An operator may or may not own operating rights.

Operations Plan, or plan of operations, means a plan which fully describes the location of proposed drill pad, access roads and other facilities related to the drilling and testing of Federal geothermal resources, and includes measures for environmental and other resources protection and mitigation.

Operator means any person who has taken formal responsibility for the operations conducted on the leased lands.

Pay instead of produce in commercial quantities means payment in lieu of commercial quantities production, as used in section 6(g)(1)(A) of the Act.

Person means an individual, firm, corporation, association, partnership, trust, municipality, consortium or joint venture.

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

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

Public lands means the general public domain lands or minerals, and acquired lands or minerals, that the United States may lease for geothermal resources.

Record title means legal ownership of a geothermal lease established in BLM's records.

Relinquishment means the lessee's action to voluntarily end the lease in whole or in part.

Secretary means the Secretary of the Interior or the Secretary's delegate.

Site license means BLM authorization to site a utilization facility on leased Federal lands.

Stipulation means additional conditions BLM attaches to a lease or permit.

Sublease means the lessee's conveyance of its interests in a lease to an operating rights owner. A sublessee is responsible for complying with all terms, conditions and stipulations of the lease.

Subsequent well operations are those operations done to a well after it has been drilled. Examples of subsequent well operations include: cleaning the well out, surveying it, performing well tests, chemical stimulation, running a liner or another casing string, repairing existing casing, or converting the well from a producer to an injector or vice versa.

Sundry notice is your written request to perform work not covered by another type of permit, or to change operations in your previously approved permit.

Surface management agency means any Federal agency, other than BLM, which is responsible for managing the surface overlying Federally-owned minerals.

Temperature gradient well means a well authorized under a geothermal exploration permit drilled in order to obtain information on the change in temperature over the depth of the well.

Transfer means any conveyance of an interest in a lease by assignment, sublease or otherwise.

Unit agreement means an agreement to explore for, produce and utilize

separately owned interests in geothermal resources as a single consolidated unit. A unit agreement defines how costs and benefits will be allocated among the holders of interest in the unit area.

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

Unit operator means the person who has stated in writing to BLM that the interest owners of the committed leases have designated it as operator of the unit area.

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

Utilization Plan, or plan of utilization, means a plan which fully describes the utilization facility, including measures for environmental protection and mitigation.

Waste means:

(1) Physical waste, including refuse; and/or

(2) Improper use or unnecessary dissipation of geothermal resources through inefficient drilling, production, transmission, or utilization.

§ 3200.2 Information collection.

(a) The Office of Management and Budget approved the information collection contained in this part under 44 U.S.C. 3501 *et seq.*, and assigned clearance numbers 1004-0034, 1004-0074, 1004-0132 and 1004-0160. BLM will use this information to maintain an orderly program for leasing, development and production of Federal geothermal resources, to evaluate technical feasibility and environmental impacts of geothermal operations on Federal and Indian lands, and to determine whether exploration expenditures meet the requirements for diligence credit under 43 CFR 3210.14. The public must respond to the requests for information in order to obtain a benefit.

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

§ 3200.3 Changes in agency duties.

There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases that specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. Those references must now be read to mean either the Bureau of Land Management or the Minerals Management Service, as appropriate. In addition, many leases and agreements specifically refer to 30 CFR part 270 or a specific section of that part. Effective December 3, 1982, references in such leases and agreements to 30 CFR part 270 should be read as references to this part 3200, which is the successor regulation to 30 CFR part 270.

§ 3200.4 What requirements must I comply with when taking any actions or conducting any operations under this part?

When you are taking any actions or conducting any operations under this part, you must comply with:

- (a) The Act and the regulations of this part;
- (b) Geothermal resource operational orders;
- (c) Notices to lessees;
- (d) Lease terms and stipulations;
- (e) Approved plans and permits;
- (f) Conditions of approval;
- (g) Verbal orders from BLM which will be confirmed in writing;
- (h) Other instructions from BLM; and
- (i) Any other applicable laws and regulations.

§ 3200.5 What are my rights of appeal?

(a) If you are adversely affected by a BLM decision under this part, you may appeal that decision under parts 4 and 1840 of this title.

(b) All BLM decisions or approvals under this part are immediately effective and remain in effect while appeals are pending unless a stay is granted in accordance with 43 CFR 4.21(b).

Subpart 3201—Available Lands

§ 3201.10 What lands are available for geothermal leasing?

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

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

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

(b) If your activities under your lease or permit might adversely affect a significant thermal feature of a National Park System unit, BLM will include stipulations to protect this thermal feature in your lease or permit. This includes when your lease or permit is issued, extended, renewed or modified.

§ 3201.11 What lands are not available for geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuing the lease would cause unnecessary or undue degradation to public lands and resources;

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

(c) Lands within a National Recreation Area;

(d) Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

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

(f) Indian trust or restricted lands within or outside the boundaries of Indian reservations;

(g) The Island Park Geothermal Area; and

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

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

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

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

Subpart 3202—Lessee Qualifications

§ 3202.10 Who may hold a geothermal lease?

You may hold a geothermal lease if you are:

(a) A United States citizen who is at least 18 years old;

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

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

(d) A domestic governmental unit.

§ 3202.11 Must I prove I am qualified to hold a lease when filing an offer to lease?

You do not need to submit proof that you are qualified to hold a lease under 43 CFR 3202.10 at the same time you submit an offer to lease, but BLM may ask you for information about your qualifications at any time. If BLM requests additional information, you have 30 days from when you receive the request to submit the information.

§ 3202.12 Are other persons allowed to act on my behalf to file an offer to lease?

Another person may act on your behalf to file an offer to lease. The person acting for you must be qualified to hold a lease under 43 CFR 3202.10, and must do the following:

(a) Sign the document;

(b) State his or her title;

(c) Identify you as the person he or she is acting for; and

(d) Provide written proof of his or her qualifications and authority to take such action, if BLM requests it.

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

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

Subpart 3203—Obtaining a Lease

§ 3203.10 How can I obtain a geothermal lease?

(a) If the lands are located in a known geothermal resource area (KGRA), BLM leases those lands through a competitive sale. To obtain a lease, follow the procedures for submitting a bid set out in subpart 3205 of this part. BLM will issue a competitive lease to the person who submits the highest qualified bid.

(b) If the lands are located outside a KGRA, you may obtain a noncompetitive lease. Follow the procedures in subpart 3204 of this part.

BLM issues noncompetitive leases to the first qualified offeror. BLM may issue a lease for a fractional interest if it serves the public interest.

§ 3203.11 How is a KGRA determined?

BLM determines the boundaries of a KGRA based on:

(a) Geologic and technical evidence. BLM will designate a KGRA if this evidence would cause a person who understands geothermal resource development to spend money developing the area;

(b) Proximity to wells capable of production in commercial quantities. BLM will designate a KGRA if the lands are:

(1) Within 5 miles of a well which is capable of producing steam in commercial quantities, or

(2) In the same geologic structure as a well capable of producing steam in commercial quantities; and

(c) Existence of competitive interest. A competitive interest exists where two or more people apply to lease some or all of the same lands for geothermal resources. BLM will not designate a KGRA based on competitive interest alone; we will also review the other factors discussed in this section to decide whether a KGRA designation is warranted.

Subpart 3204—Noncompetitive Leasing

§ 3204.10 How do I file a lease offer?

Submit two (2) executed copies of Form 3200-24 to BLM. At least one form must have an original signature. We will accept only exact copies of the form on one two-sided page. You must accurately describe the lands covered by your offer on the form or BLM may reject of all or part of your offer. To obtain this form (and other BLM forms), contact the nearest BLM Office.

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

Describe the lands as follows:

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

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

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

(d) For unsurveyed lands in Louisiana and Alaska that have water boundaries,

discuss the description with BLM before submission; and

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

§ 3204.12 What fees must I pay with my lease offer?

Submit a non-refundable filing fee of \$75 for each lease offer, and an advance rent in the amount of \$1 per acre (or fraction of an acre). BLM will refund the advance rent if we reject the lease offer, or if you withdraw the lease offer before BLM accepts it. If the advance rental payment you send is more than 10 percent below the correct amount, BLM will reject the lease offer.

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

Yes, you may combine acquired and public domain lands on the same lease offer if you clearly identify both the acquired lands and the public domain lands.

§ 3204.14 What is the largest and smallest lease I can apply for?

Lease offers must cover all lands available for leasing in a section. The smallest lease you can apply for is 640 acres, or all lands available for leasing in the section, whichever is less. You may not apply for a lease which is larger than 2,560 acres, although BLM will make an exception to this requirement when your lease offer includes an irregular subdivision. Leases must not extend outside a 6 square mile area. If your offer does not meet these requirements, we will reject it.

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

BLM begins processing offers as soon as we receive them. If more than one person makes a lease offer for the same lands, BLM will give priority to the qualified offer which we received first. Once BLM approves a noncompetitive lease offer, we will reject any later offers received for the same land. However, if BLM receives additional offers for the same land while the original offer is still pending, BLM must determine if the overlapping offers warrant converting the land at issue to a KGRA:

(a) If BLM determines that the land should be considered a KGRA, then we reject all noncompetitive offers, and offerors must follow the competitive bidding procedures to lease the lands.

(b) If BLM determines that KGRA status is not warranted despite the multiple offers, then we will award the lease to the first qualified offeror.

§ 3204.16 How does BLM determine the first qualified offeror?

BLM determines the first qualified offeror based on when we received the offer and whether the offeror is qualified to hold a lease. We will issue a noncompetitive lease to the offeror who is first to file a lease offer that meets all the requirements.

§ 3204.17 May I withdraw my lease offer?

You may withdraw your lease offer in whole or in part before we issue you a lease. If you withdraw only part of your offer, the lands remaining must meet the acreage requirements of 43 CFR 3204.14. If a partial withdrawal causes your lease offer to contain less than the minimum acreage required under 43 CFR 3204.14, we will reject the lease offer.

§ 3204.18 May I amend my lease offer?

You may amend your lease offer before we issue the lease, provided your amended lease offer meets all the lease offer requirements in this subpart. BLM will determine your priority based on the date we receive your amended lease offer, not the date of the original lease offer.

Subpart 3205—Competitive Leasing

§ 3205.10 How does BLM lease lands competitively?

(a) We lease some Federal lands through competitive sales using sealed bids. Those lands which we lease competitively include lands from terminated, expired, or relinquished leases, and lands within a KGRA (see 43 CFR 3203.11). BLM may also use a competitive lease sale if there is public interest.

(b) BLM lists these parcels, with any stipulations, in a sale notice. This sale notice will tell you where and when to submit your bids. We will post the sale notice in appropriate BLM offices, and may take other measures such as:

- (1) Publishing news releases;
- (2) Notifying interested parties of the lease sale;
- (3) Publishing the notice in newspapers; or
- (4) Posting the list on the Internet.

§ 3205.11 How do I get information about competitive lease terms and conditions?

See our notice posted in the BLM office conducting the sale, and otherwise publicized as described in 43 CFR 3205.10. This notice will include the terms and conditions of the lease(s), including the rental and royalty rates, and will also tell you where you may obtain a form on which to submit your bid.

§ 3205.12 How do I bid for a parcel?

(a) Submit your bid during the time period and to the BLM office specified in the sale notice;

(b) Submit your bid on Form 3000-2 (or exact copy on one two-sided page);

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

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

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

(f) Be aware that unlawful combination or intimidation of bidders is prohibited by 18 U.S.C. 1860.

§ 3205.13 What is the minimum acceptable bid?

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

§ 3205.14 How does BLM conduct the sale?

We will open, announce and record bids on the date, and at the place and time set out in the sale notice. We will not accept or reject any bid at that time. You do not need to attend the sale in order to bid.

§ 3205.15 To whom does BLM issue the lease?

We will issue the lease to the highest bidder who qualifies for a lease. All other bids are rejected. If we determine that the highest bid is too low, we will also reject that bid. BLM reserves the right to reject any and all bids.

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

(a) If BLM accepts your bid, we will send you a notice informing you of our decision within 30 days after the sale. We will also include 3 copies of the lease. When you receive the notice and lease forms, you have 15 days in which to send BLM:

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

(b) If you do not meet the requirements of this section after we have accepted your bid, BLM will then revoke acceptance of your bid and keep one-fifth of your bonus bid.

(c) If BLM rejects your bid, we will send you a notice informing you of our

decision. At that time, we will return the one-fifth of the bonus bid that you sent with your bid offer.

Subpart 3206—Lease Issuance

§ 3206.10 What must I do for BLM to issue my lease?

Before BLM issues you a lease, you must:

- (a) Accept all lease stipulations;
- (b) Sign a unit joinder or waiver, if applicable; and,
- (c) Not exceed the maximum limit on acreage holdings (see 43 CFR 3206.12).

§ 3206.11 What must BLM do before issuing my lease?

BLM must:

- (a) Determine that the land is available; and
- (b) Determine that your lease development will not significantly impact any significant thermal feature within any of the following units of the National Park System:
 - (1) Mount Rainier National Park;
 - (2) Crater Lake National Park;
 - (3) Yellowstone National Park;
 - (4) John D. Rockefeller, Jr. Memorial Parkway;
 - (5) Bering Land Bridge National Preserve;
 - (6) Gates of the Arctic National Park and Preserve;
 - (7) Katmai National Park;
 - (8) Aniakchak National Monument and Preserve;
 - (9) Wrangell-St. Elias National Park and Preserve;
 - (10) Lake Clark National Park and Preserve;
 - (11) Hot Springs National Park;
 - (12) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park);
 - (13) Lassen Volcanic National Park;
 - (14) Hawaii Volcanoes National Park;
 - (15) Haleakala National Park;
 - (16) Lake Mead National Recreation Area; and
 - (17) Any other significant thermal features within National Park System Units which the Secretary may add to the list of these features, in accordance with 30 U.S.C. 1026(a)(3).

§ 3206.12 What is the maximum acreage I may hold?

You may not directly or indirectly hold more than 51,200 acres in any one state. This includes any leases you acquire under sections 4(a)–4(f) of the Act. You also may not convert mineral leases, permits, applications for permits, or mining claims acquired under the Act into geothermal leases totaling more than 10,240 acres.

§ 3206.13 How does BLM compute acreage holdings?

BLM will compute acreage holdings as follows:

- (a) If you own an undivided lease interest, your acreage holdings will include the total lease acreage.
- (b) If you own stock in a corporation or a beneficial interest in an association which holds a geothermal lease, your acreage holdings will include your proportionate part of the corporation's or association's share of the total lease acreage. This paragraph applies only if you own more than 10 percent of the corporate stock or beneficial interest of the association.
- (c) If you own a lease interest, you will be charged with the proportionate share of the total lease acreage based on your share of the lease ownership. You will not be charged twice for the same acreage where you own both record title and operating rights for the lease. For example, if you own 50% record title interest in a 640 acre lease and 25% operating rights, you are charged with 320 acres.

§ 3206.14 How will BLM charge acreage holdings if the United States owns only a fractional interest in the geothermal resources?

Where the United States owns only a fractional interest in the geothermal resources of the lands, BLM will only charge you with the part owned by the United States as acreage holdings. For example, if you own 100 percent of record title in a 100 acre lease, and the United States owns 50 percent of the mineral estate, you are charged with 50 acres.

§ 3206.15 Is there any acreage which is not chargeable?

BLM does not count leased acreage included in any approved unit or cooperative agreement or development contract as part of your total acreage holdings.

§ 3206.16 What will BLM do if my holdings exceed the maximum acreage limits?

BLM will notify you in writing if your acreage holdings exceed the limit in 43 CFR 3206.12. You have 90 days from the date you receive the notice to reduce your holdings to within the limit. If you do not comply, BLM will cancel your leases, beginning with the lease most recently issued, until your holdings are within the limit.

§ 3206.17 What is the primary term of my lease?

Leases have a primary term of 10 years.

§ 3206.18 When will BLM issue my lease?

BLM issues your lease the day we sign it. Your lease goes into effect the first day of the next month after the issue date.

Subpart 3207—Additional Lease Term

§ 3207.10 When may I get an additional lease term beyond the primary term?

(a) If you produce or use geothermal resources in commercial quantities during the primary term, your lease will continue in additional term for as long as you produce or use geothermal resources in commercial quantities for up to forty years beyond the primary term. Section 3207.11 explains how to continue your lease beyond the additional term.

(b) If, before the primary or extended term ends, you have a well capable of producing geothermal resources in commercial quantities, BLM may continue your lease for up to forty years beyond the primary term. To continue your lease in an additional term, we must determine that you are diligently trying to begin production. We may ask you to describe in writing your efforts to begin production during the lease term, and the efforts you plan for future lease years. You should also describe negotiations for sales contracts, marketing arrangements, and electrical generating and transmission agreements, and any other information you believe shows diligent efforts.

§ 3207.11 May I renew my lease at the end of its additional term?

If BLM does not need the lands for another purpose at the end of the forty-year additional term, and if you are producing geothermal resources in commercial quantities, you will have a preferential right to renew the lease for an additional 40-year period under terms and conditions BLM determines. If your lease is located on lands administered by the Department of Agriculture, they must concur with the use of the surface and any terms and conditions before we may grant your renewal. If another Federal agency manages the surface, we will consult with them before granting your renewal.

Subpart 3208—Extending the Primary Lease Term

§ 3208.10 When may I extend my lease beyond the primary term?

(a) You have four opportunities to extend your lease beyond the primary term: by drilling, diligent efforts, production of byproducts, and unit commitment.

(1) For a drilling extension, we will extend your lease for five years if you:

(i) Are drilling when the primary term ends; and

(ii) Diligently drill to a reasonable target, based on the local geology and type of development you propose. BLM will determine if your target is adequate to extend the lease.

(2) For a diligent efforts extension, if you have not produced geothermal resources in commercial quantities before the primary or extended term ends, or before your lease is eliminated from a unit agreement, BLM may still approve up to two successive five-year extensions for your lease. You must have made a good faith effort to produce. To obtain a diligent efforts extension, follow the procedures at 43 CFR 3208.11(a)(2).

(3) For a byproducts extension, if your lease is in an additional term, and we determine that it can no longer produce commercial quantities, we may still extend your lease for five years. However, we will only do so if you are producing one or more valuable byproducts in commercial quantities. You should consult 43 CFR 3209.10 if you wish to convert your geothermal lease to a mineral lease for the byproduct.

(4) For a unit commitment extension, if your lease is committed to a unit agreement and its term would expire before the unit term would, BLM may extend your lease to match the term of the unit. We will do this if you have diligently pursued unit development while your lease is committed to the unit.

(b) During any extension period, if you use or produce geothermal resources in commercial quantities, or if you complete a well capable of producing geothermal resources in commercial quantities on the lease, BLM will place the lease into an additional term.

§ 3208.11 What must I do to have my lease extended?

(a) You must take the following steps:

(1) For a drilling extension, notify BLM prior to the end of the primary term of your drilling activities so we may determine that you are diligently drilling beyond the end of the primary term and have met your well completion requirements.

(2) For a diligent efforts extension:

(i) Send BLM a written extension request at least 60 days before the primary or first extended term ends, or 60 days before your lease is eliminated from a unit agreement;

(ii) Include a report showing that you have made a good faith effort to produce or use geothermal resources in commercial quantities given the current

economic conditions for marketing geothermal resources; and

(iii) Say whether you choose to pay instead of produce in commercial quantities under 43 CFR 3208.13 or to make significant expenditures under 43 CFR 3208.14 during the period of extension.

(3) For a byproducts extension, send us a request justifying an extension.

(4) For a unit commitment extension, send us a request at least 60 days before your lease ends which shows that you have diligently pursued unit development.

(b) Within 30 days after receiving your extension request, BLM will notify you whether we approve. BLM may request additional information from you.

§ 3208.12 What information must I give BLM to show that I have made bona fide efforts to produce or utilize geothermal resources in commercial quantities?

Send us a report which describes:

(a) Your efforts to identify and define the geothermal resource on your lease which you are making now or which you made during the primary term of the lease;

(b) The results of your efforts to identify and define the geothermal resource;

(c) Other actions taken to support your efforts, such as obtaining permits, conducting environmental studies, and meeting permit requirements;

(d) Your efforts during the primary term and ongoing efforts to negotiate marketing arrangements, sales contracts, drilling agreements, financing for electrical generation and transmission projects, or other related actions; and,

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

§ 3208.13 Will BLM extend my lease if I choose to pay instead of produce in commercial quantities?

If you choose to pay instead of produce in commercial quantities under 43 CFR 3208.11(a)(2) and BLM approves the extension, we will modify the lease to require you to make an annual payment. We will specify the amount, which will not be less than \$3.00 per acre or fraction of an acre of the lands under lease during an initial extension, or \$6.00 per acre or fraction of an acre for a subsequent extension. The actual payment per acre is fixed for the period of the extension. If you request it, we will tell you the rate before you submit your petition for extension. You must make these payments to MMS at the same time you pay the lease rent. BLM

may cancel your lease if you do not make these payments.

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

(a) If you choose to make significant expenditures under 43 CFR 3208.11(a)(2), and BLM approves the lease extension, we will modify your lease to require you to make annual expenditures of at least \$15.00 per acre or fraction of an acre for lands under lease during your first extension. You must make expenditures of \$18.00 per acre or fraction of an acre during any subsequent extension. If you spend more than the minimum required in a year, you may apply the excess toward the significant expenditures requirement in subsequent years of the same extension period.

(b) To give you credit for your significant expenditures, we must receive your report no later than 60 days after the end of the lease year in which you made the expenditures. Describe your operations by type, location, date(s) conducted, and amount spent on those operations. Include all geologic information obtained from your operations in your report.

(c) After we review your report, we will notify you in writing whether you have met the diligent expenditure requirement. We must approve the type of work done and the expenditures claimed in your report before we can credit them toward your diligent exploration requirements.

(d) We will cancel your lease if you fail to make the significant expenditures under a modified lease.

§ 3208.15 What actions may I take which will count as significant expenditures?

Significant expenditures only include:

(a) Actual drilling operations on the lease;

(b) Geochemical or geophysical surveys for exploratory or development wells;

(c) Road or generating facility construction on the lease;

(d) Architectural or engineering services procured for the design of generating facilities located on the lease; and

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

§ 3208.16 During the extension, may I switch my choice to either pay instead of produce in commercial quantities or make significant expenditures?

No, you may not make this change during an extension period. If you request a second extension, you may change your election for the second five year period when you submit your request.

§ 3208.17 If I begin production, do I get a credit for payments made instead of production in commercial quantities or significant expenditures?

No, if you begin production, you will not get a credit against royalties for either payments instead of production or significant expenditures made for that year.

Subpart 3209—Conversion of Lease Producing Byproducts

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

You may convert your geothermal lease to a mineral lease, effective the first day of the month following the date BLM determines you have met the terms of conversion, if:

- (a) Your lease is in an extended term;
- (b) The byproducts you are producing in commercial quantities are leasable under the Mineral Leasing Act (30 U.S.C. 181 *et seq.*), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358); and
- (c) The lease is primarily valuable for the production of just that mineral.

§ 3209.11 May I convert my geothermal lease to a mining claim?

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

§ 3209.12 May BLM include additional terms and conditions to my converted lease?

If leases converted under either 43 CFR 3209.10 or 3209.11 affect lands withdrawn or acquired to aid some purpose of a Federal department or agency, including the Department of the Interior, BLM may include additional terms and conditions in your lease as prescribed by the appropriate agency.

§ 3209.13 How do I convert my geothermal lease to a mineral lease or a mining claim?

Just send us a request.

Subpart 3210—Additional Lease Information

§ 3210.10 When does lease segregation occur?

- (a) Lease segregation occurs when:
 - (1) A portion of a lease is committed to a unit agreement while other portions are not committed; or

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

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

§ 3210.11 Does a lease segregated from an agreement or plan receive any benefits from unitization of the committed portion of the original lease?

The new segregated lease stands alone and does not receive any of the benefits provided to the portion committed to the unit. We will not give you an extension for the eliminated portion of the lease based on status of the lands committed to the unit, including production in commercial quantities or the existence of a producible well.

§ 3210.12 May I consolidate leases?

BLM may approve your consolidation of two or more adjacent leases that have the same ownership and same lease terms, including expiration dates, if the combined leases do not exceed 2,560 acres in size. We may consolidate leases that have different stipulations if all other lease terms are the same.

§ 3210.13 What is the diligent exploration requirement?

(a) During your lease's primary period, you must perform diligent exploration activities to yield new geologic information about the lease or related lands, until either:

- (1) Your approved expenditures on your lease total at least \$40 per acre, or
- (2) BLM places your lease in an additional term.

(b) You must begin diligent exploration by the sixth year of the primary term and continue until there is a well capable of production in commercial quantities. Some examples of activities that would qualify as diligent exploration are geochemical surveys, heat flow measurement, core drilling or drilling of test wells.

§ 3210.14 How do I meet the diligent exploration requirement?

(a) During the first five years of the primary term, you only need to pay your rents. If you make efforts during these first five years that would qualify as diligent exploration expenditures, and we approve them as such during those five years, we will count them toward the requirements of future years.

(b) To qualify as diligent exploration expenditures in lease years six through ten, you must make expenditures equal to the minimum amounts listed in the following table. We will apply approved expenditures which exceed the minimum in any one year to subsequent years.

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

(c) To give you credit for your expenditures, we must receive your report no later than 60 days after the end of the lease year in which you made the expenditures. You must include the following information in your report:

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

§ 3210.15 Can I do something instead of performing diligent exploration?

If you choose not to conduct diligent exploration, or if your total expenditures do not fully meet the requirement for any lease year, you may still meet the diligent exploration requirement for that year by paying an additional rent of \$3 per acre or fraction of an acre. If you choose this option, you must send your payment to MMS before the end of the lease year.

§ 3210.16 What happens if I do not meet the diligent exploration requirement or pay the additional rent?

BLM will cancel your lease.

§ 3210.17 Can someone lease or locate other minerals on the same lands as my geothermal lease?

Yes. The United States reserves the ownership of and the right to extract helium, oil and hydrocarbon gas from all geothermal steam and associated geothermal resources. In addition, BLM allows mineral leasing or location on the same lands that are leased for geothermal resources, provided that operations under the mineral leasing or mining laws do not unreasonably interfere with or endanger your geothermal operations.

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

Yes, we may readjust the terms and conditions of your lease regarding

stipulations and surface disturbance requirements. We may do this 10 years after you begin production from your lease, and at not less than 10-year intervals thereafter. If another Federal agency manages the lands' surface, we will ask that agency to review the related terms and conditions and propose any readjustments. Once BLM and the surface managing agency reach agreement, we will apply the readjustments to your lease.

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

(a) We will give you a written proposal to adjust the terms and conditions of your lease. You will have 30 days after you receive the proposal to object in writing to the new terms or relinquish your lease. If you do not do this, these new terms will become part of your lease. If you do object in writing, we will issue a final decision on the new terms and conditions.

(b) BLM will set the date that your new terms and conditions become effective.

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

(a) We may readjust your lease rental and royalty rates at not less than 20-year intervals beginning 35 years after we determine that your lease is producing

in commercial quantities. We will not increase your rental and royalty rates by more than 50 percent of what you paid before BLM adjusted the rate. Also, we will not raise the royalty rate above 22.5 percent.

(b) BLM will notify you in writing of the proposed adjustments. You have 30 days after the date you receive the notice to object to the new rate. If we do not receive your written objection within 30 days, the new rate will become a part of your lease. If you do object in writing, we will issue a final decision on the new rental and royalty rate.

(c) We will set the date that your new terms and conditions become effective.

§ 3210.21 What if I appeal BLM's decision to adjust my lease terms?

If you appeal our decision to adjust your lease terms and conditions, rental or royalty rate, the decision is effective during the appeal. If you win your appeal and we must change our decision, you will receive a refund or credit for any overpaid rents or royalties.

§ 3210.22 Must I prevent drainage of geothermal resources from my lease?

Yes, you must prevent the drainage of geothermal resources from your lease by diligently drilling and producing wells which will protect the Federal

geothermal resource from loss caused by production from other properties.

§ 3210.23 What will BLM do if I do not protect my lease from drainage?

We will determine the amount of geothermal resources drained from your lease. MMS will bill you for a compensatory royalty based on our findings. This royalty will equal the amount you would have paid for producing those resources. All interest owners in a lease are jointly and severally liable for drainage protection and any compensatory royalties.

Subpart 3211—Fees, Rent, and Royalties

§ 3211.10 What are the filing fees, rent, and minimum royalties for leases?

(a) BLM calculates rents and minimum royalties based on the amount of acreage covered by your lease. First, round up any partial acreage to the next whole acre. For example, rent on a 2,456.39 acre lease is calculated based on 2,457 acres. Then multiply the total number of acres covered by your lease by the appropriate amount set out in the chart in paragraph (b) of this section to determine the amount you owe.

(b) Use the following table to determine the filing fees, rents and minimum royalties owed for your lease.

FILING FEES, RENT, AND ROYALTIES

Type	Competitive leases	Non-competitive leases
(1) Lease Filing Fee	N/A	\$75.00.
(2) Lease Rent	\$2.00 per acre	\$1.00 per acre.
(3) Lease Assignment Filing Fee	\$50.00	\$50.00.
(4) Steam, heat, or energy royalties	Between 10% and 15	Between 10% and 15%.
(5) Demineralized water royalties	5%	5%.
(6) Byproduct royalties	5%	5%.
(7) Minimum royalty	\$2.00 per acre	\$2.00 per acre.
(8) Additional rent/Instead of diligent exploration.	\$3.00 per acre in addition to regular lease rent.	\$3.00 per acre in addition to regular lease rent.
(9) Additional rent/Instead of commercial quantities production.	\$3.00/year, first 5 years	\$3.00/year, first 5 years
	\$6.00/year, second 5 yrs	\$6.00/year, second 5 years.

Note the exception stated in 43 CFR 3211.16(b).

§ 3211.11 When is my annual rental payment due?

MMS must receive your annual rental payment by the anniversary date of each lease year. There is no grace period for rental payments. If the rent for your lease is not paid on time, the lease will automatically terminate by operation of law, unless you meet the conditions of 43 CFR 3213.15. See the MMS regulations in 30 CFR part 218 which explain when MMS considers a payment as received. If less than a full year remains on a lease, you still must

pay a full year's rent by the anniversary date of the lease.

§ 3211.12 How and where do I pay my rent?

(a) Pay BLM the first year's advance rent according to the instructions at 43 CFR 3204.12 or 3205.16. You may use a personal or cashier's check or money order made payable to the Department of the Interior—Bureau of Land Management. You may also make payments by credit card or electronic funds transfer with our prior approval.

(b) For all subsequent years make your rental payments to MMS. See MMS regulations at 30 CFR part 218.

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

Yes, BLM will prorate rents and minimum royalties payable under leases for lands in which the United States owns only a fractional mineral interest. For example, if the United States owns 50% of a 640 acre lease, you pay rent based on 320 acres.

§ 3211.14 Will I always pay rent on my lease?

You are required to pay rent only until you achieve production in commercial quantities. At that time you begin paying royalties instead.

§ 3211.15 Must I pay rent if my lease is committed to an approved cooperative or unit plan?

(a) Before you begin production, if your lease is committed to an approved cooperative or unit plan, you must pay rent in accordance with 43 CFR 3211.10.

(b) Once you begin production, you do not have to pay rent if the lands included in an approved cooperative or unit plan are within the participating area. These lands are subject to royalties instead, under 43 CFR 3211.16. The only exception is for unitized lands outside the participating area, which remain subject to rent under 43 CFR 3211.10.

§ 3211.16 What is the royalty rate for production from or attributable to my lease?

The royalty rate for production from or attributable to your lease is prescribed in your lease form. The chart at 43 CFR 3211.10 shows the minimum royalty rates. We will determine the royalty rate to include in your lease form based on the following:

(a) The royalty rate for heat or energy derived from lease production may range from 10 to 15 percent of the heat or energy value;

(b) Except for minerals discussed in paragraph (c) of this section, the royalty rate for the value of byproducts may not exceed five percent:

(1) If derived from production under the lease; and

(2) If sold or utilized or reasonably susceptible to sale or utilization.

(c) The royalty rate for minerals listed in section 1 of the Mineral Leasing Act will be the same as the royalty rate for those minerals provided under BLM regulations in this Title.

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

§ 3211.17 When do I owe minimum royalty?

You owe minimum royalty when BLM determines you have a well capable of commercial production but you have not begun actual production. You also owe minimum royalty when the value of actual production is so low that royalty you would pay under the

scheduled rate is less than \$2.00 per acre. You should make your minimum royalty payment to MMS under the regulations in 30 CFR part 218.

Subpart 3212—Lease Suspensions and Royalty Rate Reductions**§ 3212.10 What is the difference between a suspension of operations and production and a suspension of operations?**

A suspension of operations and production is a temporary relief from production obligations which you may request from BLM because economic conditions make it unjustifiable for you to continue operating. A suspension of operations is when we order you, on our own initiative, to temporarily stop production in order to protect the resource.

§ 3212.11 How do I obtain a suspension of operations or operations and production on my lease?

(a) If you are the operator, you may request in writing that BLM suspend your operations and production for a producing lease. Your request must fully describe why you need the suspension. We will determine if your suspension is approved.

(b) We may act on our own and suspend your operations on any lease in the interest of conservation.

(c) A suspension under this section may include leases committed to an approved unit agreement. Even if leases committed to the unit are suspended, the unit operator must still meet unit obligations.

§ 3212.12 How long does a suspension of operations or operations and production last?

(a) BLM will state in your suspension notice how long your suspension of operations or operations and production is effective.

(b) During a suspension, you may ask BLM in writing to terminate your suspension. The suspension will terminate when you resume production or drilling operations. If we terminate the suspension, you must resume paying rents and minimum royalty. See 43 CFR 3212.14.

(c) If we get information showing that you must resume operations to protect the interests of the United States, we will terminate your suspension and order you to resume production.

§ 3212.13 How does a suspension affect my lease terms?

If BLM approves your suspension of operations and production,

(a) Your lease term is extended by the length of time the suspension is in effect.

(b) You do not have to drill, produce geothermal resources, or pay rents or royalties during the suspension. We will suspend your obligation to pay lease rents or royalties beginning with the first day of the month following the date the suspension is effective. For a suspension of operations, we will not suspend your lease rental or royalty obligations.

§ 3212.14 What happens when the suspension ends?

You must resume rental or minimum royalty payments beginning on the first day of the lease month after BLM terminates the suspension. You must pay the full rental or minimum royalty amount due on or before the next lease anniversary date. If you do not, we will refund your balance and cancel the lease.

§ 3212.15 May BLM reduce or suspend the royalty or rental rate of my lease?

Yes. If you apply for a waiver, suspension or reduction of your rent or royalty, BLM may grant your request if we determine that:

- (a) It promotes conservation;
- (b) Doing so will encourage the greatest ultimate recovery of resources;
- (c) It is necessary to promote development; or
- (d) You cannot successfully operate the lease under its current terms.

§ 3212.16 What information must I submit when I request that BLM suspend, reduce or waive my royalty or rental rate?

(a) Your request for suspension, reduction or waiver of the royalty or rental rate must include all information BLM needs to determine if the lease can be operated under its current terms. We may ask you for:

- (1) The type of reduction you seek;
- (2) The serial number of your lease;
- (3) The names of the lessee and operator;
- (4) The location and status of wells;
- (5) A summary of monthly production from your lease; and
- (6) A detailed statement of expenses and costs.

(b) If you are applying for a royalty reduction, suspension or waiver, you must also give us a list of names and amounts of royalties or payments out of production paid to each individual, and every effort you have made to reduce these payments. We will not approve a royalty reduction, suspension or waiver unless other royalty interest owners accept a similar reduction, suspension or waiver.

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration

§ 3213.10 Who may relinquish a lease?

The record title owner may relinquish a lease in full or in part. If there is more than one record title owner for a lease, all record title owners must sign the relinquishment.

§ 3213.11 What must I do to relinquish a lease?

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

§ 3213.12 May BLM accept a partial relinquishment if it will reduce my lease to less than 640 acres?

Your lease must remain at least 640 acres, or all of your leased lands in a section, whichever is less. Otherwise, we will not accept your partial relinquishment. We may only allow an exception if it will further development of the resource.

§ 3213.13 When does my relinquishment take effect?

If BLM determines you have submitted a complete relinquishment request which meets the requirements of 43 CFR 3213.11 and 3213.12, your relinquishment is effective the day we receive it. However, you and your surety must still:

- (a) Pay all rents and royalties due before relinquishment;
- (b) Plug and abandon all wells on the relinquished land;
- (c) Restore the surface and other resources; and,
- (d) Comply with the requirements of 43 CFR 3200.4.

§ 3213.14 How can my lease automatically terminate?

If you do not pay the rent on or before the anniversary date, your lease automatically terminates by operation of law.

§ 3213.15 Will my lease automatically terminate if my rental payment is on time but for the wrong amount?

(a) If MMS receives your rental payment on time, but it is deficient by a nominal amount, your lease will not automatically terminate. A nominal amount is not more than \$100 or five percent of the total payment due, whichever is less. MMS will notify you if your payment is deficient, and will set a date by which a further payment must

be made. If you do not send this further payment in the time allowed, we will terminate your lease as of the anniversary date of the lease.

(b) If your rental payment is deficient by more than a nominal amount, your lease will automatically terminate on the anniversary date of the lease.

§ 3213.16 Will BLM notify me if my lease terminates?

Yes, we will send you a notice of the termination by certified mail, return receipt requested.

§ 3213.17 May BLM reinstate my lease?

Yes, if your lease was terminated for failure to pay your rents on time. You have 30 days from when you receive the termination notice to petition us for reinstatement.

§ 3213.18 Who may petition to reinstate a lease?

All record title owners must sign the petition, though any one record owner can submit it.

§ 3213.19 What must I do to have my lease reinstated?

Send BLM a petition requesting reinstatement. Your petition must include the serial number for each lease and an explanation of why the delay in payment was justifiable, rather than due to a lack of diligence. In addition to your petition, you must also include any past rent owed and any rent which has accrued from the termination date.

§ 3213.20 Are there reasons why BLM would not reinstate my lease?

We will not reinstate your lease if:

- (a) You do not prove that your failure to pay rent on time was justifiable or was not due to your lack of diligence;
- (b) We issued a valid lease for any of the lands before you filed your petition for reinstatement; or
- (c) The land is no longer available for leasing.

§ 3213.21 When will my lease expire?

Your lease expires at the end of its primary term or extended term if you do not either begin production before the primary term ends or extend your lease under subpart 3208. BLM will not notify you when your lease expires at the end of the primary term.

§ 3213.22 Will BLM notify me when my lease's extended term expires?

No, if you have extended your lease term, we will not notify you when your lease expires at the end of that extended term.

§ 3213.23 May BLM cancel my lease?

(a) Yes, we may cancel your lease, after giving you 30 days notice, if we

determine that you violated the requirements of 43 CFR 3200.4. We will also cancel your lease if it was issued in error.

(b) See the following Subparts for information related to Inspection and Enforcement procedures:

- (1) Subpart 3254—Exploration operations;
- (2) Subpart 3266—Drilling operations; and
- (3) Subpart 3277—Utilization operations.

§ 3213.24 When is a cancellation effective?

(a) If BLM cancels your lease because it was issued in error, the cancellation is effective when you receive it.

(b) If BLM cancels your lease because you violated the requirements of 43 CFR 3200.4, the cancellation takes effect 30 days from the date you receive notice of the violation.

§ 3213.25 What can I do if BLM notifies me that my lease is being canceled due to violations of the laws, regulations or lease terms?

(a) You can prevent us from canceling your lease following this notice if:

- (1) You correct the violation within 30 days; or
- (2) You show us that you cannot correct the violation during the 30-day period but that you are making a good faith attempt to timely correct the violation.

(b) You may request a hearing on the record about the violation or proposed lease cancellation. You have 30 days from the date you receive the violation notice to request a hearing. See 43 CFR parts 4 and 1840. We will suspend canceling your lease while your appeal is pending. If a hearing occurs and the administrative law judge decides you committed a violation, you will have 30 days from receiving the decision to correct the violation under paragraph (a) of this section.

Subpart 3214—Personal and Surety Bonds

§ 3214.10 Who must post a geothermal bond?

The lessee or operator must post a bond with BLM before exploration, drilling or utilization operations begin. Before we approve a lease transfer or recognize a new designated operator, the lessee or operator must file a new bond or a rider to the existing bond, unless all previous operations on the land have already been reclaimed.

§ 3214.11 Who must my bond cover?

Your bond must cover all record title owners, operating rights owners, operators and any person who conducts operations on your lease.

§ 3214.12 What activities must my bond cover?

Your bond must cover:

- (a) Any activities related to exploration, drilling, utilization or associated operations on a Federal lease;
- (b) Reclamation of the surface and other resources;
- (c) Royalty payments; and,
- (d) Compliance with the requirements of 43 CFR 3200.4.

§ 3214.13 What is the minimum dollar amount required for a bond?

The minimum bond amount differs depending on the type of activity you are proposing and whether your bond will cover individual, statewide or nationwide activities. The minimum dollar amounts and bonding options for each type of activity are found in the following regulations:

- (a) Exploration operations—see 43 CFR 3251.15;
- (b) Drilling operations—see 43 CFR 3261.18; and,
- (c) Utilization operations—see 43 CFR 3271.12 and 43 CFR 3273.19.

§ 3214.14 May BLM increase the bond amount above the minimum?

(a) We may increase the bond amount beyond the minimums referenced in 43 CFR 3214.13 when:

- (1) We determine the operator has a history of noncompliance;
- (2) We previously had to make a claim against a surety because any one person who is covered by the new bond failed to timely plug and abandon a well and reclaim the surface;
- (3) MMS has notified BLM that a person covered by the bond owes uncollected royalties; or
- (4) Our inspection of the property determines that the bond amount is too low to cover the estimated reclamation cost.

(b) We may increase bond amounts to any level, but we will not set that amount higher than the total estimated costs of plugging wells, removing structures, and reclaiming the surface, plus any uncollected royalties due MMS or monies owed to BLM due to previous violations.

§ 3214.15 What kind of financial guarantee will BLM accept to back my bond?

We will not accept cash to back a bond. We will only accept:

- (a) Corporate surety bonds, provided that the surety company is approved by the Department of Treasury (see Department of the Treasury Circular No. 570 which is published in the **Federal Register** every year on or about July 1); and
- (b) Personal bonds, which are secured by a cashier's check, certified check,

certificate of deposit, negotiable securities such as Treasury notes, or an irrevocable letter of credit (see 43 CFR 3214.21 and 3214.22).

§ 3214.16 Is there a special bond form I must use?

Use a BLM-approved bond form (Form 3000-4, or Form 3000-4a, June 1988 or later editions) for either a corporate surety bond or a personal bond.

§ 3214.17 Where must I submit my bond?

File personal or corporate surety bonds and statewide bonds in the BLM State Office which oversees your lease or operations. You may file nationwide bonds in any BLM State Office. File bond riders in the BLM State Office where your underlying bond is located. For personal or corporate surety bonds, file one originally signed copy of the bond.

§ 3214.18 Who will BLM hold liable under the bond and what are they liable for?

We will hold all interest owners in a lease jointly and severally liable for compliance with the requirements of 43 CFR 3200.4 for obligations that accrue while they hold their interest. Among other things, all interest owners are jointly and severally liable for:

- (a) Plugging and abandoning wells;
- (b) Reclaiming the surface;
- (c) Paying compensatory royalties assessed for drainage; and
- (d) Paying rent.

§ 3214.19 What are my bonding requirements when a lease interest is transferred to me?

(a) Except as otherwise provided in this section, if the lands transferred to you contain a well or any other surface disturbance which the original lessee did not reclaim, you must post a bond under this subpart.

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

(c) You do not need to post an additional bond if:

- (1) You previously furnished a statewide or nationwide bond; or
- (2) The operator provided the original bond, and the operator does not change.

§ 3214.20 How do I modify or extend the terms and conditions of my bond?

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

§ 3214.21 What must I do if I want to use a certificate of deposit to back my bond?

Your certificate of deposit must:

(a) Be issued by a Federally-insured financial institution authorized to do business in the United States;

(b) Include on its face the statement, "[t]he Secretary of the Interior or his delegatee must approve redemption of this certificate by any party;" and

(c) Be payable to the Department of the Interior, Bureau of Land Management.

§ 3214.22 What must I do if I want to use a letter of credit to back my bond?

Your letter of credit must:

(a) Be issued by a Federally-insured financial institution authorized to do business in the United States;

(b) Be payable to the Department of the Interior, Bureau of Land Management;

(c) Be irrevocable during its term and have an initial expiration date of no sooner than one year after the date we receive it;

(d) Be automatically renewable for a period of at least one year, unless the issuing financial institution gives us written notice, at least 90 days before the letter of credit expires, that it will no longer renew the letter of credit; and

(e) Include a clause that authorizes the Secretary of the Interior to demand immediate payment, in part or in full, if you do not meet your obligations under the requirements of 43 CFR 3200.4 or provide substitute security for a letter of credit which the issuer has stated it will not renew before the letter of credit expires.

Subpart 3215—Bond Collection After Default**§ 3215.10 When may BLM collect against my bond?**

Unless you comply with the requirements listed at 43 CFR 3200.4, we may collect money from the bond to correct your noncompliance. This amount can be as large as the face amount of the bond. Some examples of when we will collect against your bond are when you do not:

- (a) Properly plug and abandon a well;
- (b) Reclaim the lease area;
- (c) Pay outstanding royalties; or
- (d) Pay assessed royalties to compensate for drainage.

§ 3215.11 Must I replace my bond after BLM collects against it?

Yes. If we collect against your bond, before you conduct any further operations you must either:

- (a) Post a new bond equal to the value of the original bond; or
- (b) Restore your existing bond to the original amount.

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

If we collect against your bond and you do not restore it to the original amount, we may shut-in any well(s) or utilization facilities and begin canceling all of your leases covered by that bond.

§ 3215.13 Will BLM cancel or terminate my bond?

No, we do not cancel or terminate bonds. However, we may:

(a) Terminate the period of liability of a surety or other bond provider at any time. The bond provider must give you and BLM 30 days notice when they terminate your bond. Once your bond is terminated, do not conduct any operations until you provide a new bond which meets our requirements. We will also release an old bond once you file a new bond with a rider covering existing liabilities and we accept it; or

(b) Release your bond after a reasonable period of time, if we determine that you have paid all royalties, rents, penalties, and assessments, satisfied all permit or lease obligations and reclaimed the site according to your operations plan.

§ 3215.14 When BLM releases my bond, does that end my responsibilities?

No, when we release your bond, we relinquish the security but we continue to hold the lessee or operator responsible for noncompliance. Specifically, we do not waive any legal claim we may have against any person under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*), or other laws and regulations.

Subpart 3216—Transfers

§ 3216.10 What types of lease interests may I transfer?

You may transfer record title or operating rights, but you need our approval before your transfer is effective. See 43 CFR 3216.21.

§ 3216.11 Where must I file a transfer request?

File your transfer in the BLM State Office that handles your lease.

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

Once we approve your transfer, the transferee becomes responsible for performing all lease obligations accrued after the date of the transfer, and for plugging and abandoning wells which exist and are not plugged at the time of the transfer.

§ 3216.13 What are my responsibilities after I transfer my interest?

You will still be responsible for rents, royalties, compensatory royalties and other obligations accrued before your transfer became effective. You must also plug and abandon any wells drilled or existing on the lease while you held your interest.

§ 3216.14 What filing fees and forms does a transfer require?

With each transfer request you must send us the correct form and pay the transfer fee. When you calculate your fee, make sure it covers the full amount. For example, if you are transferring record title for three leases, submit \$150 with the application. Use the following chart to determine forms and fees:

Type of form	Required?	Form No.	Number of copies	Filing transfer fee (per lease)
(a) Record Title	Yes	3000-3	2 executed copies	\$50.00
(b) Operating Rights	Yes	3000-3(a)	2 executed copies	\$50.00
(c) Estate Transfers	No	N/A	1 List of Leases	None
(d) Corporate Mergers	No	N/A	1 List of Leases	None
(e) Name Changes	No	N/A	1 List of Leases	None

§ 3216.15 When must I file my transfer request?

(a) File a transfer request to transfer record title or operating rights within 90 days after you sign an agreement with the transferee. If we receive your request more than 90 days after signing, we may require you to re-certify that you still intend to complete the transfer.

(b) There is no specific time deadline for filing estate transfers, corporate mergers, and name changes. Just file them within a reasonable time.

§ 3216.16 Must I file separate transfer requests for each lease?

File two copies of separate requests for each lease for which you are transferring record title or operating rights. The only exception is, if you are transferring more than one lease to the same transferee, just file two copies of one transfer application.

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

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

(b) If you have not posted a bond, file estate transfer, corporate merger and name change documents in each State Office having jurisdiction over the lease(s).

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

(a) If you are transferring an interest in your entire lease, you do not need to give BLM a legal description of the land.

(b) If you are transferring an interest in a portion of your lease, describe the lands the same way they are described in the lease.

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

Only when your transfer includes an irregular subdivision or all your lease in

a section. We may make an exception to the minimum acreage requirements if needed to conserve the resource.

§ 3216.20 When does a transfer segregate a lease?

If you transfer 100 percent of the record title interest in a portion of your lease, BLM will segregate the transferred portion from the original lease and give it a new serial number with the same terms and conditions as those in the original lease.

§ 3216.21 When is my transfer effective?

Your transfer is effective the first day of the month after we approve it.

§ 3216.22 Does BLM grant all transfer requests?

No, we will not approve a transfer if:

- (a) The lease account is not in good standing;
- (b) The transferee does not qualify to hold a lease under this part; or
- (c) An adequate bond has not been provided.

Subpart 3217—Cooperative Conservation Provisions

§ 3217.10 What are unit agreements and cooperative plans?

Lessees enter into a unit agreement or a cooperative plan to conserve the resources of any geothermal field or area. By operating together, lessees can work more efficiently and promote better development. BLM will only approve unit agreements which we determine are in the public interest. Unit agreement application procedures are provided in 43 CFR part 3280.

§ 3217.11 What are communitization agreements?

Communitization agreements (also called drilling agreements) help operators who cannot independently develop separate tracts due to problems with well spacing or well development programs. Lessees may ask BLM to approve a communitization agreement or, in some cases, we may require the lessees to enter into such an agreement.

§ 3217.12 What does BLM need to approve my communitization agreement?

Give us the following information:

- (a) The location of the separate tracts comprising the drilling or spacing unit;
- (b) How you will prorate production or royalties to each separate tract based on total acres involved;
- (c) The name of each tract operator; and
- (d) Provisions for protecting the interests of all parties, including the United States.

§ 3217.13 When does my communitization agreement go into effect?

When BLM signs it. Before we approve the agreement, all parties must sign the agreement, and we must determine that the tracts cannot be independently developed.

§ 3217.14 When will BLM approve my operating, drilling or development contract?

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

- (a) One or more geothermal lessees enter into the contract with one or more persons or partnerships;
- (b) Lessees need the contract for large scale operations and financing of the discovery, development, production, transmission, transportation or utilization of geothermal resources; and
- (c) We determine that the contract is needed to conserve the resource, or it will serve the public interest.

§ 3217.15 What does BLM need to approve my operating, drilling or development contract?

Send us:

- (a) The contract and a statement of why you need it;
- (b) A statement of all interests held by the contracting parties in that geothermal area or field;
- (c) The type of operations and schedule set by the contract;
- (d) A statement that the contract will not violate Federal antitrust laws by concentrating control over the production or sale of geothermal resources;
- (e) Any other information we may require to make a decision about the contract or to attach conditions of approval.

Subpart 3250—Exploration Operations—General

§ 3250.10 When do the exploration operations regulations apply?

- (a) The exploration operations regulations, contained in 43 CFR subparts 3250 through 3256, apply to geothermal exploration operations:
 - (1) On BLM-administered public lands, whether or not they are leased for geothermal resources; and
 - (2) On lands whose surface is managed by another Federal agency, where BLM has leased the subsurface geothermal resources and the lease operator will conduct exploration. In this case, we will consult with the surface managing agency regarding surface use and reclamation requirements before we approve the exploration permit.
- (b) These regulations do not apply to:
 - (1) Unleased land administered by another Federal agency;
 - (2) Unleased geothermal resources whose surface land is managed by another Federal agency;
 - (3) Privately owned land; or
 - (4) Casual use activities.

§ 3250.11 What types of operations may I propose when I send BLM my exploration permit application?

- (a) You may propose any activity fitting the definition of "exploration operations" in 43 CFR 3200.1. Submit Form 3200-9, Notice of Intent to Conduct Geothermal Resource Exploration Operations, together with the information required under 43 CFR 3251.12, and BLM will review your proposal.
- (b) The exploration operations regulations do not address drilling wells intended for production or injection, which are covered in subpart 3260 of this part, or geothermal resources utilization, which is covered in subpart 3270 of this part.

§ 3250.12 What general standards apply to my exploration operations?

Your exploration operations must:

- (a) Meet all operational and environmental standards;
- (b) Protect public health, safety and property;
- (c) Prevent unnecessary impacts to surface and subsurface resources; and
- (d) Be conducted in a manner consistent with the principles of multiple use; and
- (e) Comply with the requirements of 43 CFR 3200.4.

§ 3250.13 What orders or instructions may BLM issue me?

- (a) Geothermal resource operational orders, for detailed requirements that apply nationwide;
- (b) Notices to lessees, for detailed requirements on a statewide or regional basis;
- (c) Other orders and instructions specific to a field or area;
- (d) Permit conditions of approval; and
- (e) Verbal orders which will be confirmed in writing.

Subpart 3251—Exploration Operations: Getting a Permit

§ 3251.10 Do I need a permit before I start my exploration operations?

Yes, do not start any exploration operations before we have approved your exploration permit.

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

You may request a permit to explore any BLM-managed public lands open to geothermal leasing, even if we already leased the lands to another person. Your exploration will not give you exclusive rights. If you wish to conduct operations on your lease, you may do so after we have approved your exploration permit. If the lands are already leased, your operations may not unreasonably interfere with or endanger those other operations or other authorized uses, or cause unnecessary or undue degradation of the lands.

§ 3251.12 What does BLM need to approve my exploration permit?

To conduct exploration operations on BLM-managed lands, your application must:

- (a) Include a complete and signed exploration permit which describes the lands you wish to explore;
- (b) For operations other than temperature gradient wells, describe your exploration plans and procedures, including the approximate starting and ending dates for each phase of operations;
- (c) For temperature gradient wells, describe your drilling and completion procedures, and include, for each well

or for several wells you propose to drill in an area of geologic and environmental similarity:

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

(d) Show evidence of bond coverage (See 43 CFR 3251.15);

(e) Estimate how much surface disturbance your exploration may cause;

(f) Describe the proposed measures you will take to protect the environment and other resources;

(g) Describe methods to reclaim the surface; and

(h) Include all other information we may require.

§ 3251.13 What action will BLM take on my permit?

(a) When we receive your exploration permit, we will make sure it is complete and signed, and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If the proposed operations are located on lands described under 43 CFR 3250.10(a)(2), we will consult with the federal surface management agency before we approve your permit.

(c) We will check your exploration permit for technical adequacy and we may require additional procedures.

(d) We will notify you if we need more information to process your permit. We will suspend the review of your permit until we receive the information.

(e) After our review, we will notify you whether we approved or denied your permit, as well as any conditions we require for conducting operations.

§ 3251.14 Once I have a permit, how can I change my exploration operations?

Send BLM a complete and signed sundry notice, form 3260-3, which fully describes the requested changes. Do not proceed with the change until you receive written approval from BLM.

§ 3251.15 Do I need a bond for conducting exploration operations?

Yes, do not start any exploration operations on BLM-managed lands until we approve your bond. You may meet the requirement for an exploration bond in two ways.

(a) If you have an existing nationwide or statewide oil and gas exploration bond, provide a rider to include geothermal resources exploration operations, in an amount we have specified.

(b) If you must file a new bond, the minimum amounts are:

- (1) \$5,000 for a single operation;
- (2) \$25,000 for all of your operations within a state;
- (3) \$50,000 for all of your operations nationwide.

(c) See 43 CFR subparts 3214 and 3215 for additional details on bonding procedures.

§ 3251.16 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

- (a) Plugged and abandoned all wells;
- (b) Reclaimed the land; and
- (c) Complied with the requirements of 43 CFR 3200.4.

Subpart 3252—Conducting Exploration Operations

§ 3252.10 What operational standards apply to my exploration operations?

You must:

- (a) Keep exploration operations under control at all times;
- (b) Conduct training during your operation which ensures your personnel are capable of performing emergency procedures quickly and effectively;
- (c) Use properly maintained equipment; and
- (d) Use operational practices which allow for quick and effective emergency response.

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

(a) You must conduct your exploration operations to:

- (1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;
- (2) Protect the quality of cultural, scenic and recreational resources;
- (3) Accommodate other land uses, as we deem necessary; and
- (4) Protect people and wildlife from unacceptable noise levels.

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

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

(d) We may require you to submit a contingency plan describing procedures to protect public health, safety, property and the environment.

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

You may drill a temperature gradient well to any depth we approve in your exploration permit or sundry notice. In all cases, you may not flow test the well or perform injection tests of the well unless you follow the procedures for geothermal drilling operations in 43 CFR subparts 3260 through 3267. BLM may modify your permitted depth at any time before or during drilling, if we determine the bottom hole temperature or other information indicates that drilling to the original permitted depth could directly encounter the geothermal resource or create risks to public health, safety, property, the environment or other resources.

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

You may collect information from your temperature gradient well for as long as we approve.

§ 3252.14 How must I complete a temperature gradient well?

Complete temperature gradient wells in a way that allows for proper abandonment and prevents interzonal migration of fluids. Cap all tubing when not in use.

§ 3252.15 When must I abandon a temperature gradient well?

When you no longer need it, or when we require you to.

§ 3252.16 How must I abandon a temperature gradient well?

(a) Before abandoning your well, submit a complete and signed sundry notice describing how you plan to abandon wells and reclaim the surface. Do not begin abandoning wells or reclaiming the surface until we approve your sundry notice.

(b) You must plug and abandon your well to permanently prevent interzonal migration of fluids and migration of fluids to the surface. You must reclaim your well location to our satisfaction.

Subpart 3253—Reports: Exploration Operations**§ 3253.10 Must I share the data I collect through exploration operations with BLM?**

(a) For exploration operations on your geothermal lease, you must submit all data you obtain as a result of the operations with a signed notice of completion of exploration operations form under 43 CFR 3253.11, unless we approve a later submission.

(b) For exploration operations on unleased lands or on leased lands where you are not the lessee or unit operator, you do not need to submit data. However, if you want your exploration operations to count toward your diligent exploration expenditure requirement (43 CFR 3210.13), or if you are making significant expenditures to extend your lease (43 CFR 3208.14), you must send BLM the resulting data under the rules of those sections.

§ 3253.11 Must I notify BLM when I have completed my exploration operations?

Yes. Send us a complete and signed notice of completion of exploration operations form, describing the exploration operations, well history, completion and abandonment procedures, or site reclamation measures. You must send this within 30 days after you:

- (a) Complete any geophysical exploration operations;
- (b) Complete the drilling of temperature gradient well(s) approved under your exploration permit;
- (c) Plug and abandon a temperature gradient well; or
- (d) Plug shot holes and reclaim all exploration sites.

Subpart 3254—Inspection, Enforcement, and Noncompliance for Exploration Operations**§ 3254.10 May BLM inspect my exploration operations?**

Yes, we may inspect your exploration operations to ensure compliance with the requirements of 43 CFR 3200.4.

§ 3254.11 What will BLM do if my exploration operations do not meet all requirements?

(a) We will issue you a written incident of noncompliance and direct you to correct the problem within a set time. If the noncompliance continues or is serious in nature, we will take one or more of the following actions:

- (1) Correct the problem at your expense;
 - (2) Direct you to modify or shut down your operations;
 - (3) Collect all or part of your bond.
- (b) We may also require you to take actions to prevent unnecessary impacts

to the lands. If so, we will notify you of the nature and extent of any required measures and the time you have to complete them.

(c) Noncompliance may result in BLM canceling your lease, if applicable. See 43 CFR 3213.23 through 3213.25.

Subpart 3255—Confidential, Proprietary Information**§ 3255.10 Will BLM disclose information I submit under these regulations?**

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom Of Information Act (FOIA) request.

§ 3255.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3255.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3256—Exploration Operations Relief and Appeals**§ 3256.10 May I request a variance from any BLM requirements?**

(a) Yes, you may request a variance for your exploration operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

- (1) Why you cannot comply; and
- (2) Why you need the variance to control your well, conserve natural resources, protect public health and safety, property, or the environment.

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

§ 3256.11 How may I appeal a BLM decision regarding my exploration operations?

You may appeal a BLM decision regarding your exploration operations in accordance with 43 CFR 3200.5.

Subpart 3260—Geothermal Drilling Operations—General**§ 3260.10 What types of geothermal operations are covered by these regulations?**

(a) The regulations in 43 CFR subparts 3260 through 3267 establish permitting and operating procedures for drilling wells and conducting related activities for the purpose of performing flow tests, producing geothermal fluids, or injecting fluids into a geothermal reservoir. These subparts also address redrilling, deepening, plugging back, and other subsequent well operations.

(b) The operations regulations in subparts 3260 through 3267 do not address conducting exploration operations, which are covered in subpart 3250 of this part, or geothermal resources utilization, which is covered in subpart 3270 of this part.

§ 3260.11 What general standards apply to my drilling operations?

Your drilling operations must:

- (a) Meet all environmental and operational standards;
- (b) Prevent unnecessary impacts to surface and subsurface resources;
- (c) Conserve geothermal resources and minimize waste;
- (d) Protect public health, safety and property; and,
- (e) Comply with the requirements of 43 CFR 3200.4.

§ 3260.12 What other orders or instructions may BLM issue me?

We may issue:

- (a) Geothermal resource operational orders, for detailed requirements that apply nationwide;
- (b) Notices to lessees, for detailed requirements on a statewide or regional basis;
- (c) Other orders and instructions specific to a field or area;
- (d) Permit conditions of approval; and
- (e) Verbal orders which will be confirmed in writing.

Subpart 3261—Drilling Operations: Getting a Permit**§ 3261.10 How do I get approval to begin well pad construction?**

(a) If you do not have an approved geothermal drilling permit, form 3260-2, apply using a complete and signed sundry notice, form 3260-3, to build well pads and access roads. Send us a

complete operations plan (see 43 CFR 3261.12) and an acceptable bond with your sundry notice. You may start well pad construction once we approve your sundry notice.

(b) If you already have an approved drilling permit and you have provided an acceptable bond, you do not need any further permission from BLM to start well pad construction unless you intend to change something from the approved permit. Send us a complete and signed sundry notice so we may review your proposed change. Do not proceed with the change until we approve your sundry notice.

§ 3261.11 How do I get approval for drilling operations and well pad construction?

(a) Send us:
 (1) A completed and signed drilling permit application;
 (2) A complete operations plan (43 CFR 3261.12);
 (3) A complete drilling program (43 CFR 3261.13); and
 (4) An acceptable bond (43 CFR 3261.18).

(b) Do not start any drilling operations until we have approved the permit.

§ 3261.12 What is an operations plan?

An operations plan describes how you will drill for and test the geothermal resources covered by your lease. Your plan must tell BLM enough about your proposal to allow us to assess the environmental impacts of your operations. This information should generally include:

- (a) Well pad layout and design;
- (b) A description of existing and planned access roads;
- (c) A description of any ancillary facilities;
- (d) The source of drill pad and road building material;
- (e) The water source;
- (f) A statement describing surface ownership;
- (g) Plans for surface reclamation;
- (h) A description of procedures to protect the environment and other resources; and
- (i) Any other information we may require.

§ 3261.13 What is a drilling program?

A drilling program describes all the operational aspects of your proposal to drill, complete and test a well. Send us:

- (a) A detailed description of the equipment, materials, and procedures you will use;
- (b) The proposed/anticipated depth of the well;
- (c) If you plan to directionally drill your well, also send us:
 - (1) The proposed bottom hole location and distances from the nearest section or tract lines;

- (2) The kick-off point;
- (3) The direction of deviation;
- (4) The angle of build-up and maximum angle; and
- (5) Plan and cross section maps indicating the surface and bottom hole locations;
- (d) The casing and cementing program;
- (e) The circulation media (mud, air, foam, etc.);
- (f) A description of the logs that you will run;
- (g) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;
- (h) The expected depth and thickness of fresh water zones;
- (i) Anticipated lost circulation zones;
- (j) Anticipated reservoir temperature and pressure;
- (k) Anticipated temperature gradient in the area;
- (l) A plat certified by a licensed surveyor showing the surveyed surface location and distances from the nearest section or tract lines;
- (m) Procedures and durations of well testing; and
- (n) Any other information we may require.

§ 3261.14 When must I give BLM my operations plan?

Send us a complete operations plan before you begin any surface disturbance on a lease. You do not need to submit an operations plan for subsequent well operations or altering existing production equipment, unless these activities will cause more surface disturbance or we notify you that you must submit an operations plan. Do not start any activities which will result in surface disturbance until we approve your permit or sundry notice.

§ 3261.15 Must I give BLM my drilling permit application, drilling program and operations plan at the same time?

No, you may submit your complete and signed drilling permit application and complete drilling program and operations plan either together or separately.

- (a) If you submit them together and we approve your drilling permit, the approved drilling permit will authorize both the pad construction and the drilling and testing of the well.
- (b) If you submit the operations plan separately from the drilling permit and program, you must:
 - (1) Submit the operations plan before the drilling permit application and drilling program to allow BLM time to comply with NEPA; and
 - (2) Submit a complete and signed sundry notice for well pad and access

road construction. Do not begin construction until we approve your sundry notice.

§ 3261.16 Can my operations plan, drilling permit and drilling program apply to more than one well?

Your operations plan and drilling program can sometimes be combined to cover several wells, but your drilling permit cannot. To combine your operations plan, give us adequate information for all well sites, and we will combine your plan to cover those well sites that are in areas of similar geology and environment. Your drilling program may also apply to more than one well, provided you will drill the wells in the same manner, and you expect to encounter similar geologic and reservoir conditions. You must submit a separate geothermal drilling permit application for each well.

§ 3261.17 How do I amend my operations plan or drilling permit?

If BLM has not yet approved your operations plan or drilling permit, send us your amended plan and complete and signed permit application. To amend an approved operations plan or drilling permit, submit a complete and signed sundry notice describing your proposed change. Do not start any amended operations until we have approved your drilling permit or sundry notice.

§ 3261.18 Do I need a bond before I build a well pad or drill a well?

Yes, before starting any operation, you must:

- (a) Send us either a surety or personal bond in the following amount:
 - (1) \$10,000 for a single lease;
 - (2) \$50,000 for all of your operations within a state; or
 - (3) \$150,000 for all of your operations nationwide.
- (b) Get our approval of your surety or personal bond; and
- (c) To cover any drilling operations on all leases committed a unit, either submit a bond for that unit in an amount we specify, or provide a rider to a statewide or nationwide bond which specifically covers the unit in an amount we specify.
- (d) See subparts 3214 and 3215 for additional details on bonding procedures.

§ 3261.19 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

- (a) Plugged and abandoned all wells;
- (b) Reclaimed the surface and other resources; and

(c) Met all the requirements of 43 CFR 3200.4.

§ 3261.20 How will BLM review my application documents and notify me of their decision?

(a) When we receive your operations plan, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them before we approve your drilling permit.

(c) We will review your drilling permit and drilling program or your sundry notice for well pad construction, to make sure they conform with your operations plan and any mitigation measures we developed while reviewing your plan.

(d) We will check your drilling permit and drilling program for technical adequacy and we may require additional procedures.

(e) We will check your drilling permit for compliance with the requirements of 43 CFR 3200.4.

(f) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

(g) After our review, we will notify you whether your permit has been approved or denied, as well as any conditions we require for conducting operations.

§ 3261.21 How do I get approval to change an approved drilling operation?

(a) Send us a sundry notice, form 3260-3, describing the proposed changes. Do not proceed with the changes until we have approved them in writing, except as provided in paragraph (c) of this section. If your operations such as redrilling, deepening, drilling a new directional leg, or plugging back a well would significantly change your approved permit, BLM may require you to send us a new drilling permit (see 43 CFR 3261.13). A significant change would be, for example, redrilling the well to a completely different target, especially a target in an unknown area.

(b) If your changed drilling operation would cause additional surface disturbance, we may also require you to submit an amended operations plan.

(c) If immediate action is required to properly continue drilling operations, or to protect public health, safety, property or the environment, you only need BLM's verbal approval to change an approved drilling operation. However, you must submit a written sundry notice within 48 hours after we verbally approve your change.

§ 3261.22 How do I get approval for subsequent well operations?

Send us a sundry notice describing your proposed operation. For some routine work, such as cleanouts, surveys, or general maintenance (see 43 CFR 3264.11(b)), we may waive the sundry notice requirement. Contact your local BLM office to ask about waivers. Unless you receive a waiver, you must submit a sundry notice. Do not start your operations until we grant a waiver or approve the sundry notice.

Subpart 3262—Conducting Drilling Operations

§ 3262.10 What operational requirements must I meet when drilling a well?

(a) When drilling a well, you must:

(1) Keep the well under control at all times;

(2) Conduct training during your operation which ensures your personnel are capable of performing emergency procedures quickly and effectively;

(3) Use properly maintained equipment; and

(4) Use operational practices which allow for quick and effective emergency response.

(b) You must use sound engineering principles and take into account all pertinent data when:

(1) Selecting drilling fluid types and weights;

(2) Designing a system to control fluid temperatures;

(3) Designing blowout prevention equipment; and

(4) Designing a casing and cementing program.

(c) Your operation must always comply with the requirements of 43 CFR 3200.4.

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

(a) You must conduct your operations to:

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

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

(3) Accommodate, as necessary, other land uses;

(4) Minimize noise; and

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

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

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

(d) When you no longer need a pit or sump, you must abandon it and restore the site as we direct you to.

(e) We may require you to give us a contingency plan showing how you will protect public health and safety, property, and the environment.

§ 3262.12 Must I post a sign at every well?

Yes. Before you begin drilling a well, you must post a sign in a conspicuous place and keep it there throughout operations until the well site is reclaimed. Put the following information on the sign:

(a) The lessee or operator's name;

(b) Lease serial number;

(c) Well number; and

(d) Well location described by section, township, range, and quarter-quarter-section.

§ 3262.13 May BLM require me to follow a well spacing program?

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

(a) Hydrologic, geologic, and reservoir characteristics of the field minimizing well interference;

(b) Topography;

(c) Interference with multiple use of land; and

(d) Environmental protection, including ground water.

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

(a) Yes, we may require you to take samples or to test or survey the well to determine:

(1) The well's mechanical integrity;

(2) The identity and characteristics of formations, fluids or gases;

(3) Presence of geothermal resources, water, or reservoir energy;

(4) Quality and quantity of geothermal resources;

(5) Well bore angle and direction of deviation;

(6) Formation, casing, or tubing pressures;

(7) Temperatures;

(8) Rate of heat or fluid flow; and

(9) Any other necessary well information.

(b) See 3264.11 for information reporting requirements.

Subpart 3263—Well Abandonment

§ 3263.10 May I abandon a well without BLM's approval?

No, you must have an approved sundry notice which documents your plugging and abandonment program before you start abandoning any well. You must also notify the local BLM

office before you begin abandonment, so we may witness the work. Contact your local BLM office before starting to abandon your well to find out what notification we need.

§ 3263.11 What must I give BLM to approve my sundry notice for abandoning a well?

Send us a sundry notice with:

(a) All the information required in the well completion report (see 43 CFR 3264.10), unless we already have that information;

(b) A detailed description of the proposed work, including:

(1) Type, depth, length, and interval of plugs;

(2) Methods you will use to verify the plugs (tagging, pressure testing, etc.);

(3) Weight and viscosity of mud that you will use in the uncemented portions;

(4) Perforating or removing casing; and

(5) Restoring the surface; and

(c) Any other information that we may require.

§ 3263.12 How will BLM review my sundry notice to abandon my well and notify me of their decision?

(a) When we receive your sundry notice, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4. We will notify you if we need more information or require additional procedures. If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information. If we approve your sundry notice, we will send you an approved copy once our review is complete. Do not start abandonment of the well until we approve your sundry notice.

(b) We may verbally approve plugging procedures for a well which requires immediate action. If we do, you must submit the information required in 43 CFR 3263.11 within 48 hours after we give verbal approval.

§ 3263.13 What must I do to restore the site?

You must remove all equipment and materials and restore the site to BLM's satisfaction.

§ 3263.14 May BLM require me to abandon a well?

Yes, if we determine your well is no longer needed for geothermal resource production, injection, or monitoring, or if we determine that the well is not mechanically sound. In either case, if you disagree you may explain to us why the well should not be abandoned. We will consider your reasons before we issue any final order.

§ 3263.15 May I abandon a producible well?

Only if you receive BLM's approval. To abandon a producing well, send us the information listed in 43 CFR 3263.11. We may also require you to explain why you want to abandon the well. We may deny your request if we determine the well is needed to protect a Federal lease from drainage, or to protect the environment or other resources of the United States.

Subpart 3264—Reports—Drilling Operations

§ 3264.10 What must I give BLM after I complete a well?

You must submit a geothermal well completion report, form 3260-4, within 30 days after you complete a well. Your report must include the following:

(a) A complete, chronological well history;

(b) A copy of all logs;

(c) Copies of all directional surveys; and

(d) Copies of all mechanical, flow, reservoir, and other test data.

§ 3264.11 What must I give BLM after I finish subsequent well operations?

(a) Send us a subsequent well operations report within 30 days after completing operations. At a minimum, this report must include:

(1) A complete, chronological history of the work done;

(2) A copy of all logs;

(3) Copies of all directional surveys;

(4) All samples, tests or surveys we require you to make (see § 3262.14);

(5) Copies of all mechanical, flow, reservoir, and other test data; and

(b) A statement of whether you achieved your goals. For example, if the well was acidized to increase production, state whether the production rate increased when you put the well back on line.

(c) We may waive this reporting requirement for work we determine is routine such as cleanouts, surveys, or general maintenance. To request a waiver, contact BLM. If you do not have a waiver, you must submit the report.

§ 3264.12 What must I give BLM after I abandon a well?

Send us a well abandonment report within 30 days after you abandon a well. If you plan to restore the site at a later date, you may submit a separate report within 30 days after completing site restoration. The well abandonment report must contain:

(a) A complete chronology of all work done;

(b) A description of each plug, including:

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

§ 3264.13 What drilling and operational records must I maintain for each well?

You must keep the following information for each well and make it available for BLM to inspect it:

(a) A complete and accurate drilling log, in chronological order;

(b) All logs;

(c) Water or steam analyses;

(d) Hydrologic or heat flow tests;

(e) Directional surveys;

(f) A complete log of all subsequent well operations such as cementing, perforating, acidizing, and well cleanouts; and

(g) Any other information regarding the well that could affect its status.

§ 3264.14 Must I notify BLM of accidents occurring on my lease?

Yes, you must verbally inform us of all accidents that affect operations or create environmental hazards within 24 hours of the accident. When you contact us, we may require you to submit a report fully describing the incident.

Subpart 3265—Inspection, Enforcement, and Noncompliance for Drilling Operations

§ 3265.10 What part of my drilling operations may BLM inspect?

(a) We may inspect all of your drilling operations regardless of surface ownership. We will inspect your operations for compliance with the requirements of 43 CFR 3200.4.

(b) We may also inspect all of your maps, well logs, surveys, records, books, and accounts related to your drilling operation. You must keep this information available for our inspection.

§ 3265.11 What records must I keep available for inspection?

You must keep a complete record of all aspects of your activities related to your drilling operation available for our inspection. Store these records in a place which makes them conveniently available to us. Examples of records which we will inspect include:

(a) Well logs;

(b) Directional surveys;

(c) Casing type and setting;

(d) Formations penetrated;

(e) Well test results;

(f) Characteristics of the geothermal resource;

- (g) Emergency procedure training; and
- (h) Operational problems.

§ 3265.12 What will BLM do if my operations do not comply with all requirements?

(a) We will issue you a written Incident of Noncompliance, directing you to take required corrective action within a specific time period. If the noncompliance continues or is of a serious nature, we will take one or more of the following actions:

- (1) Enter your lease, and correct any deficiencies at your expense;
- (2) Collect all or part of your bond;
- (3) Direct modification or shutdown of your operations; and
- (4) Take action against a lessee who is ultimately responsible for noncompliance.

(b) Noncompliance may result in BLM canceling your lease. See 43 CFR 3213.23 through 3213.25.

Subpart 3266—Confidential, Proprietary Information

§ 3266.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom Of Information Act (FOIA) request. BLM will not treat surface location, surface elevation, or well status information as confidential.

§ 3266.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3266.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3267—Geothermal Drilling Operations Relief and Appeals

§ 3267.10 May I request a variance from any BLM requirements which apply to my drilling operations?

(a) Yes, you may request a variance regarding your approved drilling operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

- (1) Why you cannot comply; and
- (2) Why you need the variance to control your well, conserve natural resources, protect public health and safety, property, or the environment.

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

§ 3267.11 How may I appeal a BLM decision regarding my drilling operations?

You may appeal our decisions regarding your drilling operations in accordance with 43 CFR 3200.5.

Subpart 3270—Utilization of Geothermal Resources—General

§ 3270.10 What types of geothermal operations are governed by the utilization regulations?

(a) The regulations in 43 CFR subparts 3270 through 3279 cover the permitting and operating procedures for the utilization of geothermal resources. This includes:

- (1) Electrical generation facilities;
- (2) Direct use facilities;
- (3) Related utilization facility operations;
- (4) Actual and allocated well field production and injection; and
- (5) Related well field operations.

(b) The utilization regulations in subparts 3270 through 3279 do not address conducting exploration operations, which are covered in subpart 3250 of this part, or drilling wells intended for production or injection, which are covered in subpart 3260 of this part.

§ 3270.11 What general standards apply to my utilization operations?

Your utilization operations must:

- (a) Meet all operational and environmental standards;
- (b) Prevent unnecessary impacts to surface and subsurface resources;
- (c) Result in the maximum ultimate recovery;
- (d) Result in the beneficial use of geothermal resources with minimum waste;
- (e) Protect public health, safety and property; and,
- (f) Comply with the requirements of 43 CFR 3200.4.

§ 3270.12 What other orders or instructions may BLM issue me?

- (a) Geothermal resource operational orders, for detailed requirements that apply nationwide;
- (b) Notices to lessees, for detailed requirements on a statewide or regional basis;
- (c) Other orders and instructions specific to a field or area;
- (d) Permit conditions of approval; and
- (e) Verbal orders which will be confirmed in writing.

Subpart 3271—Utilization Operations: Getting a Permit

§ 3271.10 What do I need to start preparing a site and building and testing a utilization facility on Federal land leased for geothermal resources?

If you want to use Federal land to produce geothermal power, you have to get a site license and construction permit before you even start preparing the site. Send BLM a plan that shows what you want to do and write up a proposed site license agreement that you think is fair and reasonable. We will review it and decide whether or not to give you a permit and license to proceed with work on the site. Until and unless we do, don't even think about it.

§ 3271.11 Who may apply for a permit to build a utilization facility?

The lessee, the facility operator, or the unit operator may apply to build a utilization facility.

§ 3271.12 What do I need to start preliminary site investigations which may disturb the surface?

- (a) You must:
 - (1) Fully describe your proposed operations in a sundry notice; and,
 - (2) File a bond meeting the requirements of either 43 CFR 3251.15 or 3273.19. See Subparts 3214 and 3215 for additional details on bonding procedures.

(b) Do not begin the site investigation or surface disturbing activity until BLM approves your sundry notice and bond.

§ 3271.13 What do I need to start building and testing a utilization facility which is not located on Federal lands leased for geothermal resources, but the pipelines and facilities connecting the well field are?

(a) Before constructing pipelines and well field facilities on Federal lands leased for geothermal resources, the lessee, unit operator or facility operator must submit your utilization plan and facility construction permit addressing any pipelines or facilities. Do not start construction of your pipelines or facilities until BLM approves your utilization plan and facility construction permit.

(b) Before testing a utilization facility which is not located on Federal lands leased for geothermal resources with Federal geothermal resources, send us a sundry notice which describes the testing schedule and the amount of Federal resources you expect to be delivered to the facility during the testing. Do not start delivering Federal geothermal resources to the facility until we approve your sundry notice.

(c) You do not need a BLM permit to construct a facility located on either:

- (1) Private land; or
- (2) Lands where the surface is privately owned and BLM has leased the underlying Federal geothermal resources, when the facility will utilize Federal geothermal resources.

§ 3271.14 How do I get a permit to begin commercial operations?

Before using Federal geothermal resources, the lessee, operator, or facility operator must send us a complete commercial use permit (43 CFR 3274.11). This also applies when you use Federal resources allocated through any form of agreement. Do not start any commercial use operations until BLM approves your commercial use permit.

Subpart 3272—What is in a Utilization Plan and Facility Construction Permit?

§ 3272.10 What must I give BLM in my utilization plan?

Describe the proposed facilities as set out in 43 CFR 3272.11, and the anticipated environmental impacts and how you propose to mitigate those impacts, as set out at 3272.12.

§ 3272.11 How should I describe the proposed utilization facility?

Your description must include:

(a) A generalized description of all proposed structures and facilities, including their size, location, and function;

(b) A generalized description of proposed facility operations, including estimated total production and injection rates; estimated well flow rates, pressures, and temperatures; facility net and gross electrical generation; and, if applicable, interconnection with other utilization facilities. If it is a direct use facility, send us the information we need to determine the amount of resource utilized;

(c) A contour map of the entire utilization site, showing production and injection well pads, pipeline routes, facility locations, drainage structures, and existing and planned access and lateral roads;

(d) A description of site preparation and associated surface disturbance,

including the source for site or road building materials, amounts of cut and fill, drainage structures, analysis of all site evaluation studies prepared for the site(s), and a description of any additional tests, studies, or surveys which are planned to assess the geologic suitability of the site(s);

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

(f) The methods for meeting air quality standards during facility construction and operation, especially standards concerning noncondensable gases;

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

(h) A construction schedule;

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

(j) A description of architectural landscaping or other measures to minimize visual impacts; and (k) Any additional information or data which we may require.

§ 3272.12 How do I describe the environmental protection measures I intend to take?

(a) Describe, at a minimum, your proposed measures to:

- (1) Prevent or control fires;
- (2) Prevent soil erosion;
- (3) Protect surface or ground water;
- (4) Protect fish and wildlife;
- (5) Protect cultural, visual, and other natural resources;
- (6) Minimize air and noise pollution; and
- (7) Minimize hazards to public health and safety during normal operations.

(b) If we require, you must also describe how you will monitor your facility operations to ensure they comply with the requirements of 43 CFR 3200.4, and noise, air, and water quality standards at all times. We will consult with another involved surface management agency regarding monitoring requirements. You must also include provisions for monitoring other environmental parameters we may require.

(c) Based on what level of impacts your operations may cause, we may require you to collect data concerning existing air and water quality, noise, seismicity, subsidence, ecological systems, or other environmental information for up to one year before you begin operating. We must approve your data collection methodologies, and will consult with any other surface managing agency involved.

(d) You must also describe how you will abandon utilization facilities and restore the site, to comply with the requirements of 43 CFR 3200.4.

(e) Finally, submit any additional information or data which we may require.

§ 3272.13 How will BLM review my utilization plan and notify me of their decision?

(a) When BLM receives your utilization plan, we will make sure it is complete and review it for compliance with 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them as part of the plan review.

(c) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

§ 3272.14 How do I get a permit to construct or test my facility?

(a) Before constructing or testing a utilization facility, you must submit to BLM a:

- (1) Utilization plan;
- (2) Complete and signed facility construction permit; and,
- (3) Complete and signed site licence. (See subpart 3273.)

(b) Do not start constructing or testing your utilization facility until we have approved both your facility construction permit and your site licence.

(c) After our review, we will notify you whether we have approved or denied your permit, as well as any conditions we require for conducting operations.

Subpart 3273—How to Apply for a Site License

§ 3273.10 When do I need a site license for a utilization facility?

You must obtain a site license approved by BLM unless your facility will be located on lands leased described under 43 CFR 3273.11. Do not start building or testing your utilization facility on lands leased by BLM for geothermal resources until we have approved both your facility construction permit (See 3272.14) and your site license. The facility operator must apply for the license.

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

Yes, you do not need one if your facility will be located:

(a) On private lands or on split estate land where the United States does not own the surface; or

(b) On Federal lands not leased for geothermal resources. In these cases, the

Federal surface management agency will issue you the permit you need.

§ 3273.12 How will BLM review my site license application?

(a) When we receive your site license application, we will make sure it is complete. If we need more information for our review, we will contact you for that information and stop our review until we receive the information.

(b) If your site license is located on leased lands managed by the Department of Agriculture, we will consult with the agency and obtain concurrence before we approve your application. The agency may require additional license terms and conditions.

(c) If the land is subject to section 24 of the Federal Power Act, we will issue the site license with the terms and conditions requested by the Federal Energy Regulatory Commission.

(d) If another Federal agency manages the surface, we will consult with them to determine if they recommend additional license terms and conditions.

(e) After our review, we will notify you whether we approved or denied your license, as well as any additional conditions we require.

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

Yes. BLM will not issue site licenses for lands that are not leased or not available for geothermal leasing. See 43 CFR 3201.11.

§ 3273.14 What area does a site license cover?

The site license covers a reasonably compact tract of Federal land, limited to as much of the surface as is necessary to adequately utilize geothermal resources. That means the site license area will only include the utilization facility itself and other necessary structures, such as substations and processing, repair, or storage facilities areas.

§ 3273.15 What must I give BLM in my site license application?

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

(b) The affected acreage;

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

(d) A site license bond (See 43 CFR 3273.19);

(e) The first year's rent, if applicable (see 43 CFR 3273.18); and (f) Documentation that the lessee or unit operator accepts the siting of the facility, if the facility operator is neither the lessee nor unit operator.

§ 3273.16 What is the annual rent for a site license?

We will specify the amount in your license, if you are required to pay rent. (See 43 CFR 3273.18.) Your rent will be at least \$100 per acre or fraction thereof for an electrical generation facility, and at least \$10 per acre or fraction thereof for a direct use facility. Send the first year's rent to BLM, and all subsequent rental payments to MMS under 30 CFR part 218.

§ 3273.17 May BLM reassess the annual rent for my site license?

Yes, we may reassess the rent for lands covered by the license beginning with the tenth year and every ten years after that.

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

No, if you are a lessee siting a utilization facility on your own lease, or a unit operator siting a utilization facility on leases committed to the unit, you do not need to pay rent. Only a facility operator who is not also a lessee or unit operator must pay rent.

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

(a) For an electrical generation facility, the facility operator must submit a surety or personal bond for at least \$100,000, and which meets the requirements of subpart 3214. BLM may increase the required bond amount. See subparts 3214 and 3215 for additional details on bonding procedures.

(b) For a direct use facility, the facility operator must furnish BLM with a surety or personal bond that meets the requirements of subpart 3214 in an amount BLM will specify.

(c) The bond's terms must cover compliance with the requirements of 43 CFR 3200.4.

(d) Until you provide a bond and BLM approves it, do not start construction, testing, or anything else that would disturb the surface.

§ 3273.20 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Reclaimed the land; including removing the utilization facility and all associated equipment; and

(b) Met all the requirements of 43 CFR 3200.4.

§ 3273.21 What are my obligations under the site license?

As the facility operator, you:

(a) Must comply with the requirements of 43 CFR 3200.4;

(b) Are liable for all damages to the lands, property or resources of the

United States caused by yourself, your employees, contractors or the contractors' employees;

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

(d) Must remove all structures and restore any disturbed surface, when no longer needed for facility construction or operation. This applies to the utilization facility if you cannot operate the facility and you are not diligent in your efforts to return the facility to operation.

§ 3273.22 How long will my site license remain in effect?

(a) The primary term is 30 years, with a preferential right to renew the license under terms and conditions set by BLM.

(b) If your lease on which the site license is located ends, you may apply for a facility permit under section 501 of FLPMA, 43 U.S.C. 1761, if your facility is on BLM-managed lands. Otherwise, you must get permission to continue using the surface for your facility from the surface management agency.

§ 3273.23 May I renew my site license?

(a) You have a preferential right to renew your site license under terms and conditions we determine.

(b) If your site license is located on leased lands managed by the Department of Agriculture, we will consult with the Federal surface management agency and obtain concurrence prior to renewing your license. The agency may require additional license terms and conditions. If another federal agency manages the surface, we will consult with them before granting your renewal.

§ 3273.24 May BLM terminate my site license?

Yes, by written order. To prevent termination, you will have 30 days after you receive the order to correct the violation, unless we determine the violation cannot be corrected within 30 days and you are diligently attempting to correct it. We may terminate your site license if you:

(a) Do not comply with the requirements of 43 CFR 3270.11; or

(b) Do not comply with the requirements of 43 CFR 3200.4.

§ 3273.25 May I relinquish my site license?

Yes. Send us a written notice for review and approval. We will not approve the relinquishment until you comply with 43 CFR 3273.21.

§ 3273.26 May I assign or transfer my site license?

Yes, you may transfer your site license in whole or in part. Send us your complete and signed transfer application and a \$50 filing fee. Your application must include a written statement that the transferee will comply with all license terms and conditions, and that the lessee accepts the transfer. The transferee must submit a bond meeting the requirements of 43 CFR 3273.19. The transfer is not effective until we approve the bond and site license transfer.

Subpart 3274—Applying for and Obtaining a Commercial Use Permit**§ 3274.10 Do I need a commercial use permit to start commercial operations?**

You need your commercial use permit approved by BLM before you begin commercial operations from a Federal lease, a Federal unit, or your utilization facility.

§ 3274.11 What must I give BLM to approve my commercial use permit application?

Submit a complete and signed commercial permit form with the following information:

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

(b) A schematic diagram of the utilization site or individual well showing the location of each production and royalty meter. If the sales point is located off the utilization site, give us a generalized schematic diagram of the electrical transmission or pipeline system, including meter locations;

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

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

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

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

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

(h) The planned safety provisions for emergency shutdown to protect public health, safety, property and the environment. This should include a

schedule for the testing and maintenance of safety devices;

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

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

§ 3274.12 How will BLM review my commercial use permit application?

(a) When we receive your complete and signed commercial use permit, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them before we approve your commercial use permit.

(c) We will review your commercial use permit to make sure it conforms with your utilization plan and any mitigation measures we developed while reviewing your plan.

(d) We will check your commercial use permit for technical adequacy and will ensure that your meters meet the accuracy standards. See 43 CFR 3275.14 and 3275.15.

(e) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

(f) After our review, we will notify you whether your permit has been approved or denied, as well as any conditions we require for conducting operations.

§ 3274.13 May I get a permit even if I cannot currently demonstrate I can operate within required standards?

Yes, but we may limit your operations to a set period of time, during which we will give you a chance to show you can operate within environmental and operational standards, based on actual facility and well data you collect. Send us a sundry notice to get BLM approval for extending your permit. If during this set time period you still cannot demonstrate your ability to operate within the required standards, we will terminate your authorization. You must then stop all operations and restore the surface to the standards we set in the termination notice.

Subpart 3275—Conducting Utilization Operations**§ 3275.10 How do I change my operations if I have an approved facility construction or commercial use permit?**

Send us a complete and signed sundry notice describing your proposed change. Until we approve your sundry notice, you must continue to comply with the original permit terms.

§ 3275.11 What are a facility operator's obligations?

(a) Your obligations are to:

(1) Keep the facility in proper operating condition at all times;

(2) Conduct training during your operation which ensure your personnel are capable of performing emergency procedures quickly and effectively;

(3) Use properly maintained equipment; and

(4) Use operational practices which allow for quick and effective emergency response.

(b) Base the design of the utilization facility siting and operation on sound engineering principles and other pertinent geologic and engineering data; and,

(c) Prevent waste of, or damage to, geothermal and other energy and minerals resources.

(d) Comply with the requirements of 43 CFR 3200.4.

§ 3275.12 What environmental and safety requirements apply to facility operations?

(a) You must perform all utilization facility operations to:

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

(2) Prevent unnecessary or undue degradation of the lands;

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

(4) Accommodate other land uses as much as possible;

(5) Protect people and wildlife from unacceptable levels of noise;

(6) Prevent injury; and

(7) Prevent damage to property.

(b) You must monitor facility operations to identify and address local environmental resources and concerns associated with your facility or lease operations.

(c) You must remove or, with BLM approval, properly store all equipment and materials not in use.

(d) You must properly abandon and reclaim any disturbed surface to standards approved or prescribed by us, when the land is no longer needed for facility construction or operation.

(e) When we require, you must submit a contingency plan describing procedures to protect public health and safety, property, and the environment.

(f) You must comply with the requirements of 43 CFR 3200.4.

§ 3275.13 Does the facility operator have to measure the geothermal resources?

Yes, the facility operator must:

(a) Measure all production, injection and utilization in accordance with methods and standards we approve (see 43 CFR 3275.15); and

(b) Maintain and test all metering equipment. If your equipment is defective or out of tolerance, you must promptly recalibrate, repair, or replace it. Determine the amount of production and/or utilization in accordance with the methods and procedures we approve (See 43 CFR 3275.17).

§ 3275.14 What aspects of my geothermal operations must I measure?

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

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

- (1) Steam and/or hot water flow into the facility;
- (2) Temperature of the water and/or steam into the facility;
- (3) Pressure of the water and/or steam into the facility;
- (4) Gross electricity generated;
- (5) Net electricity at the facility tailgate;
- (6) Electricity delivered to the sales point; and
- (7) Temperature of the steam and/or hot water exiting the facility.

(c) For direct use facilities, you must measure:

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

§ 3275.15 How accurately must I measure my production and utilization?

It depends on whether you use the meter in calculating Federal production or royalty, and what quantity of resource you are measuring.

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

- (1) If the meter measures electricity, it must have an accuracy of $\pm 0.25\%$ or better of reading;
- (2) If the meter measures steam flowing more than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ± 2 percent or better of reading;
- (3) If the meter measures steam flowing less than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ± 4 percent or better of reading;
- (4) If the meter measures water flowing more than 500,000 lbs/hr on a monthly basis, it must have an accuracy of ± 2 percent or better of reading;
- (5) If the meter measures water flowing 500,000 lbs/hr or less on a monthly basis, it must have an accuracy of ± 4 percent or better of reading;
- (6) If the meter measures heat content, it must have an accuracy of ± 4 percent or better; or

(7) If the meter measures two phase flow at any rate, we will determine meter accuracy requirements. You must obtain our prior written approval before installing and using meters for two phase flow.

(b) Any meters that you do not use to calculate Federal royalty are considered production meters, which must maintain an accuracy of ± 5 percent or better of reading.

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

§ 3275.16 What standards apply to installing and maintaining my meters?

(a) You must install and maintain all meters we require according to the manufacturer's recommendations and specifications or paragraphs (b) through (e) of this section, whichever is more restrictive.

(b) If you use an orifice plate to calculate Federal royalty, the orifice plate installation must comply with "API Manual of Petroleum Standards, Chapter 14, Section 3, part 2, Third Edition, February, 1991."

(c) For meters used to calculate Federal royalty, you must calibrate the meter against a known standard as follows:

- (1) You must calibrate meters measuring electricity annually;
- (2) You must calibrate meters measuring steam or hot water flow with a turbine, vortex, ultrasonics, or other linear devices, every six months, or as recommended by the manufacturer, whichever is more frequent; and
- (3) You must calibrate meters measuring steam or hot water flow with an orifice plate, venturi, pitot tube, or other differential device, every month and you must inspect and repair the primary device (orifice plate, venturi, pitot tube) annually.

(d) You must use calibration equipment that is more accurate than the equipment you are calibrating.

(e) BLM may modify any of these requirements as necessary to protect the resources of the United States.

§ 3275.17 What must I do if I find an error in a meter?

(a) If you find an error in a meter used to calculate Federal royalty, you must correct the error immediately and notify BLM by the next working day of its discovery.

(b) If the meter is not used to calculate Federal royalty, you must correct the error and notify us within three days of its discovery.

(c) If correcting the error will cause a change in the sales quantity of more than 2% for the month(s) in which the

error occurred, you must adjust the sales quantity for that month(s) and submit an amended facility report to us within three working days.

§ 3275.18 May BLM require me to test for byproducts associated with geothermal resource production?

Yes, you must conduct any tests we require, including tests for byproducts.

§ 3275.19 May I commingle production?

To request approval to commingle production, send us a complete and signed sundry notice. We will review your request to commingle production from wells on your lease with production from your other leases or from leases where you do not have an interest. Do not commingle production until we have approved your sundry notice.

§ 3275.20 What will BLM do if I waste geothermal resources?

We will determine the amount of any resources you have lost through waste. If you did not take all reasonable precautions to prevent waste, we will require you to pay compensation based on the value of the lost production. If you do not adequately correct the situation, we will follow the noncompliance procedures identified at 43 CFR 3277.12.

§ 3275.21 May BLM order me to drill and produce wells on my lease?

Yes, when necessary to protect Federal interests, prevent drainage and to ensure that lease development and production occur in accordance with sound operating practices.

Subpart 3276—Reports: Utilization Operations

§ 3276.10 What are my reporting requirements for facility and lease operations involving Federal geothermal resources?

(a) When you begin commercial production and operation, you must notify us in writing within five business days.

(b) Submit complete and signed monthly reports to BLM as follows:

(1) If you are a lessee or unit operator supplying Federal geothermal resources to a utilization facility on Federal land leased for geothermal resources, submit a monthly report of well operations for all wells on your lease or unit.

(2) If you are the operator of a utilization facility on Federal land leased for geothermal resources, submit a monthly report of facility operations.

(3) If you are both a lessee or unit operator and the operator of a utilization facility on Federal land leased for geothermal resources, you may combine

the requirements of paragraphs (b)(1) and (b)(2) of this section into one report.

(4) If you are a lessee or unit operator supplying Federal geothermal resources to a utilization facility not located on Federal land leased for geothermal resources, and the sales point for the resource utilized is at the facility tailgate, submit all the requirements of paragraphs (b)(1) and (b)(2) of this section. You may combine these into one report.

(c) Unless BLM grants a variance, your reports are due by the end of the month following the month that the report covers. For example, the report covering the month of July is due by August 31.

§ 3276.11 What information must I include for each well in the monthly report of well operations?

(a) Any drilling operations or changes made to a well;

(b) Total production or injection in thousands of pounds (klbs);

(c) Production or injection temperature in degrees Fahrenheit (deg.F);

(d) Production or injection pressure in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);

(e) The number of days the well was producing or injecting;

(f) The well status at the end of the month;

(g) The amount of steam or hot water lost to venting or leakage, if the amount is greater than 0.5 percent of total lease production. We may modify this standard by a written order describing the change;

(h) The lease number or unit name where the well is located;

(i) The month and year the report applies to;

(j) Your name, title, signature, and a phone number where BLM may contact you; and

(k) Any other information that we may require.

§ 3276.12 What information must I give BLM in the monthly report for facility operations?

(a) For all electrical generation facilities, include in your monthly report of facility operations:

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

(2) The temperature of the steam or hot water in deg.F;

(3) The pressure of the steam or hot water in psi. You must also specify whether this is psig or psia;

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

(5) Net generation at the tailgate of the facility in kWh;

(6) Temperature in deg.F and volume of the steam or hot water exiting the facility;

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

(8) A brief description of any outages; and

(9) Any other information we may require.

(b) For electrical generation facilities where Federal royalty is based on the sale of electricity to a utility, you must include the following additional information in your monthly report of facility operations:

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

(2) Amount of electricity lost to transmission;

(3) A report from the utility purchasing the electricity which documents the total number of kWhs delivered to the sales point during the month, or monthly reporting period if it is not a calendar month, and the number of kWhs delivered during diurnal and seasonal pricing periods; and

(4) Any other information we may require.

§ 3276.13 What extra information must I give BLM in the monthly report for flash and dry steam facilities?

In addition to the regular monthly report information, send us:

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

(b) Condenser pressure in psia;

(c) Condenser temperature in deg.F;

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

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

(f) Any other information we may require.

§ 3276.14 What information must I give BLM in the monthly report for direct use facilities?

(a) A daily breakdown of flow, average temperature in, and average temperature out, in deg.F;

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

(c) Monthly average temperature in, in deg.F;

(d) Monthly average temperature out, in deg.F;

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

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

(g) Any other information we may require.

§ 3276.15 Must I notify BLM of accidents occurring at my utilization facility?

Yes, you must verbally inform us of all accidents that affect operations or create environmental hazards within 24 hours after the accident. When you contact us, we may require you to submit a report fully describing the incident.

Subpart 3277—Inspections, Enforcement, and Noncompliance

§ 3277.10 Will BLM inspect my operations?

(a) Yes, we may inspect all operations to ensure compliance with the requirements of 43 CFR 3200.4. You must give us access to inspect all facilities utilizing Federal geothermal resources during normal operating hours.

§ 3277.11 What records must I keep available for inspection?

The operator or facility operator must keep all records and information pertaining to the operation of your utilization facility, royalty and production meters, and safety training available for BLM inspection for a period of six years from the time the records or information is created. This includes records and information from meters located off your lease or unit, when BLM needs them to determine resource production to a utilization facility or the allocation of resource production to your lease or unit. Store these records in a place which make them conveniently available.

§ 3277.12 What will BLM do if I do not comply with all BLM requirements?

(a) We will issue you a written Incident of Noncompliance, directing you to take required corrective action within a specific time period. If the noncompliance continues or is serious in nature, BLM will take one or more of the following actions:

- (1) Enter the lease, and correct any deficiencies at your expense;
- (2) Collect all or part of your bond;
- (3) Order modification or shutdown of your operations; and
- (4) Take action against a lessee who is ultimately responsible for noncompliance.

(b) Noncompliance may result in BLM canceling your lease. See 43 CFR 3213.23 through 3213.25.

Subpart 3278—Confidential, Proprietary Information**§ 3278.10 Will BLM disclose information I submit under these regulations?**

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom of Information Act (FOIA) request. Examples of information we will not treat information as confidential include:

- (a) Facility location;
- (b) Facility generation capacity; or
- (c) To whom you are selling electricity or produced resources.

§ 3278.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3278.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3279—Utilization Relief and Appeals**§ 3279.10 May I request a variance from any BLM requirements?**

(a) Yes, you may request a variance regarding your approved utilization

operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

- (1) Why you cannot comply; and
 - (2) Why you need the variance to operate your facility, conserve natural resources, protect public health and safety, property, or the environment.
- (b) We may approve your request verbally or in writing. If we give you a verbal approval, we will follow up with written confirmation.

§ 3279.11 How may I appeal a BLM decision regarding my utilization operations?

You may appeal our decision regarding your utilization operations in accordance with 43 CFR 3200.5.

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