

Public Law 100-443
100th Congress

An Act

Sept. 22, 1988
[S. 1889]

To amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Geothermal
Steam Act
Amendments of
1988.
Energy.
National parks,
monuments, etc.
30 USC 1001
note.

SECTION 1. SHORT TITLE.

This Act may be known as the "Geothermal Steam Act Amendments of 1988".

SEC. 2. DEFINITIONS.

(a) Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001) is amended by adding the following at the end of the section:

"(f) 'Significant thermal features within units of the National Park System' shall include, but not be limited to, the following:

"(1) Thermal features within units of the National Park System listed in Section 28(a)(1) and designated as significant in the Federal Register notice of August 3, 1987 (Vol. 52, No. 148 Fed. Reg. 28790).

"(2) Crater Lake National Park.

"(3) Thermal features within Big Bend National Park and Lake Mead National Recreation Area proposed as significant in the Federal Register notice of February 13, 1987 (Vol. 52, No. 30 Fed. Reg. 4700).

"(4) Thermal features within units of the National Park System added to the significant thermal features list pursuant to section 28(a)(2) of this Act.

(b) Section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) is amended to read as follows:

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

SEC. 3. LEASE EXTENSIONS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by adding the following new subsections:

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

“(A) the payment in lieu of commercial quantities production requirement of subsection (i).

“(B) The significant expenditure requirement of subsection (j).

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

“(3) If, at the end of either 50-year term referred to in paragraph (2), geothermal steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second term in accordance with such terms and conditions as the Secretary deems appropriate. For purposes of this paragraph only, the term ‘produced or utilized in commercial quantities’ means a bona fide sale or the use of geothermal steam by the lessee to generate electricity in marketable quantities.

“(h) To meet the bona fide effort requirement referred to in subsection (g)(1) the lessee must submit a report to the Secretary demonstrating bona fide efforts (as determined by the Secretary) to produce or utilize geothermal steam in commercial quantities for such lease, given the then current economic conditions.

Reports.

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

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

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

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

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

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

“(A) The date of termination of the lease.

“(B) The date of relinquishment of the lease.

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

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

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

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

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

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

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

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

“(3) Expenditures shall be equal to the following:

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

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

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

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

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

SEC. 4. REVIEW OF COOPERATIVE OR UNIT PLAN OF DEVELOPMENT.

Section 18 of the Geothermal Steam Act of 1970 as amended (30 U.S.C. 1017) is amended by inserting the following new paragraph after the first full paragraph of that section:

“No more than five years after approval of any cooperative or unit plan of development or operation, and at least every five years thereafter, the Secretary shall review each such plan and, after notice and opportunity for comment, eliminate from inclusion in such plan any lease or part of a lease not regarded as reasonably necessary to cooperative or unit operations under the plan. In the case of a cooperative or unit plan approved before the enactment of the Geothermal Steam Act Amendments of 1988, the Secretary shall complete such review and elimination within 5 years after the enactment of such Act. Such elimination shall be based on scientific evidence, and shall occur only when it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any lease or part of a lease so eliminated shall be eligible for an extension under subsection (c) or (g) of section 6 if it separately meets the requirements for such an extension.”.

Conservation.

SEC. 5. CONFORMING AMENDMENTS.

(a) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

“SEC. 20. All moneys received from the sales, bonuses, royalties and rentals under the provisions of this Act, including the payments referred to in section 6(i), shall be disposed of in the same manner as such moneys received pursuant to section 35 of the Mineral Leasing Act or pursuant to section 6 of the Mineral Leasing Act for Acquired Lands, as the case may be.”.

(b) Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by striking “notwithstanding the provisions of section 20 thereof,”.

(c) Section 43 of the Mineral Leasing Act (30 U.S.C. 226-3) is amended as follows:

(1) In subsection (a) strike out “oil and gas”, and after “this Act” insert “or under the Geothermal Steam Act of 1970”.

(2) In subsection (b) after "oil and gas" insert ", coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources".

Coal.
Petroleum and
petroleum
products.

(d) The Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) is amended by adding the following new section:

30 USC 1027.

"SEC. 29. The Secretary shall not issue any lease under this Act on those lands subject to the prohibition provided under section 43 of the Mineral Leasing Act."

SEC. 6. SIGNIFICANT THERMAL FEATURES.

The Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025) is amended by adding the following new section 28:

Records.
30 USC 1026.

"SEC. 28. (a)(1) The Secretary shall maintain a list of significant thermal features, as defined in section 2(f), within units of the National Park System, including but not limited to the following units:

"(A) Mount Rainier National Park.

"(B) Crater Lake National Park.

"(C) Yellowstone National Park.

"(D) John D. Rockefeller, Jr. Memorial Parkway.

"(E) Bering Land Bridge National Preserve.

"(F) Gates of the Arctic National Park and Preserve.

"(G) Katmai National Park.

"(H) Aniakchak National Monument and Preserve.

"(I) Wrangell-St. Elias National Park and Preserve.

"(J) Lake Clark National Park and Preserve.

"(K) Hot Springs National Park.

"(L) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park).

"(M) Lassen Volcanic National Park.

"(N) Hawaii Volcanoes National Park.

"(O) Haleakala National Park.

"(P) Lake Mead National Recreation Area.

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

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

"(A) Size, extent and uniqueness.

"(B) Scientific and geologic significance.

"(C) The extent to which such features remain in a natural, undisturbed condition.

"(D) Significance of thermal features to the authorized purposes for which the National Park System unit was established.

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

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

Public
information.

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

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

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

“(d) With respect to all leases or drilling permits issued, extended, renewed or modified under this Act, the Secretary shall include stipulations in such leases and permits necessary to protect significant thermal features within units of the National Park System where the Secretary determines that, based on scientific evidence, the exploration, development or utilization of the land subject to the lease or drilling permit is reasonably likely to adversely affect any such significant thermal feature. Stipulations shall include, but not be limited to—

Reports.

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

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

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

“(4) requiring the lessee to suspend activity on the lease if the Secretary determines that ongoing exploration, development or utilization activities are having a significant adverse effect on a significant thermal feature within a unit of the National Park System until such time as the significant adverse effect is eliminated. The stipulation shall provide for the termination of the lease by the Secretary if the significant adverse effect cannot be eliminated within a reasonable period of time.

Forests and
forest products.
Public lands.

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

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

SEC. 7. CRATER LAKE NATIONAL PARK REPORT.

On March 1, 1989, or 6 months after the date of enactment of this section (whichever is later), the Secretary shall submit to Congress a report on the presence or absence of significant thermal features within Crater Lake National Park.

SEC. 8. CORWIN SPRINGS KGRA STUDY.30 USC 1026
note.

(a) The United States Geological Survey, in consultation with the National Park Service, shall conduct a study on the impact of present and potential geothermal development in the vicinity of Yellowstone National Park on the thermal features within the park. The area to be studied shall be the lands within the Corwin Springs Known Geothermal Resource Area as designated in the July 22, 1975, Federal Register (Fed. Reg. Vol. 40, No. 141). The study shall be transmitted to Congress no later than December 1, 1990.

(b) Any production from existing geothermal wells or any development of new geothermal wells or other facilities related to geothermal production is prohibited in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in subsection (a) of this section.

(c) The Secretary may not issue, extend, renew or modify any geothermal lease or drilling permit pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in section 8(a) of this Act. This section shall not be construed as requiring such leasing activities subsequent to the 180 days after study submittal.

(d) If the Secretary determines that geothermal drilling and related activities within the area studied pursuant to subsection (a) of this section may adversely affect the thermal features of Yellowstone National Park, the Secretary shall include in the study required under subsection (a) of this section recommendations regarding the acquisition of the geothermal rights necessary to protect such thermal resources and features.

Environmental
protection.**SEC. 9. CONSISTENCY PROVISION.**30 USC 1005
note.

To the extent that any provision in this Act is inconsistent with the provisions of section 115(2) of title I of section 101(h) of Public Law 99-591 (100 Stat. 3341-264 through 100 Stat. 3341-266), this Act shall be deemed to supersede the provisions of such section.

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 1889 (H.R. 2794):

HOUSE REPORTS: No. 100-664 accompanying H.R. 2794 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-283 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Feb. 16, considered and passed Senate.

June 13, H.R. 2794 considered and passed House; proceedings vacated and S. 1889, amended, passed in lieu.

Aug. 9, Senate concurred in House amendments with an amendment.

Sept. 9, House concurred in Senate amendment.