

by him, including public, withdrawn, and acquired lands, (2) in any national forest or other lands administered by the Department of Agriculture through the Forest Service, including public, withdrawn, and acquired lands, and (3) in lands which have been conveyed by the United States subject to a reservation to the United States of the geothermal resources therein.

(Pub. L. 91-581, §3, Dec. 24, 1970, 84 Stat. 1566; Pub. L. 109-58, title II, §236(1), (6), Aug. 8, 2005, 119 Stat. 671, 672.)

#### Editorial Notes

##### AMENDMENTS

2005—Pub. L. 109-58 inserted section catchline and substituted “geothermal resources” for “geothermal steam and associated geothermal resources” in two places in text.

#### § 1002a. Repealed. Pub. L. 97-214, §7(16), July 12, 1982, 96 Stat. 174

Section, Pub. L. 95-356, title VIII, §803(a), (b), Sept. 8, 1978, 92 Stat. 585; Pub. L. 96-125, title VIII, §802(2), Nov. 26, 1979, 93 Stat. 948; Pub. L. 97-99, title IX, §908, Dec. 23, 1981, 95 Stat. 1385, related to development of geothermal energy sources on military lands, contracts for provision and operation of production facilities and energy purchases, and terms, conditions and prerequisites of such contracts. See sections 2917 and 2922a of Title 10, Armed Forces.

Pub. L. 95-356, title VIII, §803(c), Sept. 8, 1978, 92 Stat. 585, which provided that this section take effect Oct. 1, 1978, was repealed by Pub. L. 97-214, §7(16), July 12, 1982, 96 Stat. 174.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

#### § 1003. Leasing procedures

##### (a) Nominations

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

##### (b) Competitive lease sale required

###### (1) In general

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

###### (2) Competitive lease sales

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

###### (3) Lands subject to mining claims

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

leasing under this section to the mining claim holder.

##### (4) Land subject to oil and gas lease

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

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

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

##### (c) Noncompetitive leasing

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

##### (d) Pending lease applications

###### (1) In general

It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on August 8, 2005.<sup>1</sup> All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

###### (2) Administration

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

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

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

##### (e) Leases sold as a block

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

##### (f) Leasing for direct use of geothermal resources

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

<sup>1</sup> See Codification note below.

ulations issued by the Secretary, if the Secretary—

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

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

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

**(g) Area subject to lease for direct use**

**(1) In general**

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

**(2) Limitations**

The quantity of acreage covered by the lease shall not exceed the limitations established under section 1006 of this title.

(Pub. L. 91–581, §4, Dec. 24, 1970, 84 Stat. 1566; Pub. L. 109–58, title II, §§222, 223(b), Aug. 8, 2005, 119 Stat. 660, 662; Pub. L. 116–260, div. Z, title III, §3105, Dec. 27, 2020, 134 Stat. 2516.)

**Editorial Notes**

REFERENCES IN TEXT

The Mineral Leasing Act, referred to in subsec. (b)(4), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, which is classified generally to chapter 3A (§181 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

The Mineral Leasing Act for Acquired Lands, referred to in subsec. (b)(4), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, which is classified generally to chapter 7 (§351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables.

CODIFICATION

August 8, 2005, referred to in subsec. (d)(1), was in the original “the date of enactment of this subsection” which was translated as meaning the date of enactment of Pub. L. 109–58, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2020—Subsec. (b)(4). Pub. L. 116–260 added par. (4).

2005—Pub. L. 109–58, §222, inserted section catchline and amended text generally. Prior to amendment, text related to competitive bidding requirements, conversion of prior leases to geothermal leases, conflicting land interests, conversion of prior applications, acreage limitation, regulations, and time for payment.

Subsecs. (f), (g). Pub. L. 109–58, §223(b), added subsecs. (f) and (g).

**§ 1004. Rents and royalties**

**(a) In general**

Geothermal leases shall provide for—

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

(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such re-

sources during the first 10 years of production under the lease; and

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

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

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

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

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

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

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

**(b) Direct use**

**(1) In general**

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

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

(B) does not sell.

**(2) Schedule of fees**

The schedule of fees—

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

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

(C) shall encourage development of the resource.

**(3) State, tribal, or local governments**

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

**(4) Final regulation**

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

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

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

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

**(c) Final regulation establishing royalty rates**

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

<sup>1</sup> So in original. The semicolon probably should be a period.