

## **PART 3130—OIL AND GAS LEASING: NATIONAL PETROLEUM RESERVE, ALASKA**

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Note: The information collection requirements contained in part 3130 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0067. The information is being collected to allow the authorized officer to determine if the bidder is qualified to hold a lease. The information will be used in making that determination. The obligation to respond is required to obtain a benefit.

**Authority:** 42 U.S.C. 6508 and 43 U.S.C.1701 *et seq.*

**Source:** 46 FR 55497, Nov. 9, 1981, unless otherwise noted.

### **Subpart 3130—Oil and Gas Leasing, National Petroleum Reserve, Alaska: General**

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#### **§ 3130.0-1 Purpose.**

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These regulations establish the procedures under which the Secretary of the Interior will exercise the authority granted to administer a competitive leasing program for oil and gas within the National Petroleum Reserve—Alaska.

#### **§ 3130.0-2 Policy.**

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The oil and gas leasing program within the National Petroleum Reserve—Alaska shall be conducted in accordance with the purposes and policy directions provided by the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), and other executive, legislative, judicial and Department of the Interior guidance.

#### **§ 3130.0-3 Authority.**

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(a) The Department of the Interior Appropriations Act, Fiscal year 1981 (Pub. L. 96–514);

(b) The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504, *et seq.*); and

(c) The Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), except that sections 202 and 603 are not applicable.

#### **§ 3130.0-5 Definitions.**

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As used in this part, the term:

(a) *Act* means the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514).

(b) *Bureau* means the Bureau of Land Management.

(c) *Constructive operations* means the exploring, testing, surveying or otherwise investigating the potential of a lease for oil and gas or the actual drilling or preparation for drilling of wells therefor.

(d) *NPR-A* means the area formerly within Naval Petroleum Reserve Numbered 4 Alaska which was redesignated as the National Petroleum Reserve—Alaska by the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501).

(e) *Reworking operations* means all operations designed to secure, restore or improve production through some use of a hole previously drilled, including, but not limited to, mechanical or chemical treatment of any horizon, deepening to test deeper strata and plugging back to test higher strata.

(f) *Special Areas* means the Utokok River, the Teshekpuk Lake areas and other areas within NPR—A identified by the Secretary as having significant subsistence, recreational, fish and wildlife or historical or scenic value.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

#### **§ 3130.0-7 Cross references. [Reserved]**

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#### **§ 3130.1 Attorney General review.**

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(a) Prior to the issuance of any lease, contract or operating agreement under this subpart, the Secretary shall notify the Attorney General of the proposed issuance, the name of the successful bidder, the terms of the proposed lease, contract or operating agreement and any other information the Attorney General may require to conduct an antitrust review of the proposed action. Such other information shall include, but is not limited to, information to be provided the Secretary by the successful bidder or its owners.

(b) In advance of the publication of any notice of sale, the Attorney General shall notify the Secretary of his/her preliminary determination of the information each successful bidder shall be required to submit for antitrust review purposes. The Secretary shall require this information to be promptly submitted by successful bidders, and may provide prospective bidders the opportunity to submit such information in advance of or accompanying their bids. For subsequent notices of sale, the Attorney General's preliminary information requirements shall be as specified for the prior notice unless a change in the requirements is communicated to the Secretary in advance of publication of the new notice of sale. Where a bidder in a prior sale has previously submitted any of the currently required information, a reference to the date of submission and to the serial number of the record in which it is filed, together with a statement of any and all changes in the information since the date of the previous submission,

shall be sufficient.

(c) The Secretary shall not issue any lease, contract or operating agreement until:

(1) Thirty days after the Attorney General receives notice from the Secretary of the proposed lease contract or operating agreement, together with any other information required under this section; or

(2) The Attorney General notifies the Secretary that issuance of the proposed lease, contract or operating agreement does not create or maintain a situation inconsistent with the antitrust laws, whichever comes first. The Attorney General shall inform the successful bidder, and simultaneously the Secretary, if the information supplied is insufficient, and shall specify what information is required for the Attorney General to complete his/her review. The 30-day period shall stop running on the date of such notification and not resume running until the Attorney General receives the required information.

(d) The Secretary shall not issue the lease, contract for operating agreement to the successful bidder, if, during the 30-day period, the Attorney General notifies the Secretary that such issuance would create or maintain a situation inconsistent with the antitrust laws.

(e) If the Attorney General does not reply in writing to the notification provided under paragraph (a) of this section within the 30-day review period, the Secretary may issue the lease, contract or operating agreement without waiting for the advice of the Attorney General.

(f) Information submitted to the Secretary to comply with this section shall be treated by the Secretary and by the Attorney General as confidential and proprietary data if marked confidential by the submitting bidder or other person. Such information shall be submitted to the Secretary in sealed envelopes and shall be transmitted in that form to the Attorney General.

(g) The procedures outlined in paragraphs (a) through (f) of this section apply to the proposed assignment or transfer of any lease, contract or operating agreement.

### **§ 3130.2 Limitation on time to institute suit to contest a Secretary's decision.**

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Any action seeking judicial review of the adequacy of any programmatic or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in NPR-A shall be barred unless brought in the appropriate District Court within 60 days after notice of availability of such statement is published in the Federal Register.

### **§ 3130.3 Drainage.**

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Upon a determination by the authorized officer, that lands owned by the United States within NPR-A are being drained, the regulations under §3162.2 of this title, including the provisions relating to compensatory agreements or royalties, shall apply.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988; 66 FR 1892, Jan. 10, 2001]

### **§ 3130.4 Leasing: General.**

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#### **§ 3130.4-1 Tract size.**

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A tract selected for leasing shall consist of a compact area of not more than 60,000 acres.

#### **§ 3130.4-2 Lease term.**

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The primary term of an NPR-A lease is 10 years.

[67 FR 17885, Apr. 11, 2002]

#### **§ 3130.5 Bona fide purchasers.**

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The provisions of §3108.4 of this title shall apply to *bona fide* purchasers of leases within NPR-A.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

#### **§ 3130.6 Leasing maps and land descriptions.**

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##### **§ 3130.6-1 Leasing maps.**

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The Bureau shall prepare leasing maps showing the tracts to be offered for lease sale.

##### **§ 3130.6-2 Land descriptions.**

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(a) All tracts shall be composed of entire sections either surveyed or protracted, whichever is applicable, except that if the tracts are adjacent to upland navigable water areas, they may be adjusted on the basis of subdivisional parts of the sections.

(b) Leased lands shall be described according to section, township and range in accordance with the official survey or protraction diagrams.

#### **Subpart 3131—Leasing Program**

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##### **§ 3131.1 Receipt and consideration of nominations; public notice and participation.**

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During preparation of a proposed leasing schedule, the Secretary shall invite and consider suggestions and relevant information

for such program from the Governor of Alaska, local governments, Native corporations, industry, other Federal agencies, including the Attorney General and all interested parties, including the general public. This request for information shall be issued as a notice in the Federal Register.

### **§ 3131.2 Tentative tract selection.**

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(a) The State Director Alaska, Bureau of Land Management, shall issue calls for Nominations and Comments on tracts for leasing for oil and gas in specified areas. The call for Nominations and Comments shall be published in the Federal Register and may be published in other publications as desired by the State Director. Nominations and Comments on tracts shall be addressed to the State Director Alaska, Bureau of Land Management. The State Director shall also request comments on tracts which should receive special concern and analysis.

(b) The State Director, after completion of the required environmental analysis (see 40 CFR 1500–1508), shall select tracts to be offered for sale. In making the selection, the State Director shall consider available environmental information, multiple-use conflicts, resource potential, industry interest, information from appropriate Federal agencies and other available information. The State Director shall develop measures to mitigate adverse impacts, including lease stipulations and information to lessees. These mitigating measures shall be made public in the notice of sale.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

### **§ 3131.3 Special stipulations.**

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Special stipulations shall be developed to the extent the authorized officer deems necessary and appropriate for mitigating reasonably foreseeable and significant adverse impacts on the surface resources. Special Areas stipulations for exploration or production shall be developed in accordance with section 104 of the Naval Petroleum Reserves Production Act of 1976. Any special stipulations and conditions shall be set forth in the notice of sale and shall be attached to and made a part of the lease, if issued. Additional stipulations needed to protect surface resources and special areas may be imposed at the time the surface use plan and permit to drill are approved.

### **§ 3131.4 Lease sales.**

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#### **§ 3131.4-1 Notice of sale.**

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(a) The State Director Alaska, Bureau of Land Management, shall publish the notice of sale in the Federal Register, and may publish the notice in other publications if he/she deems it appropriate. The publication in the Federal Register shall be at least 30 days prior to the date of the sale. The notice shall state the place and time at which bids are to be filed, and the place, date and hour at which bids are to be opened.

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. Bidding systems used in sales shall be based on bidding systems included in section (205)(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1801 *et seq.*).

(c) A detailed statement of the sale, including a description of the areas to be offered for lease, the lease terms, conditions and special stipulations and how and where to submit bids shall be made available to the public immediately after publication of the

notice of sale.

## **Subpart 3132—Issuance of Leases**

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### **§ 3132.1 Who may hold a lease.**

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Leases issued pursuant to this subpart may be held only by:

- (a) Citizens and nationals of the United States;
- (b) Aliens lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);
- (c) Private, public or municipal corporations organized under the laws of the United States or of any State or of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa or any of its territories; or
- (d) Associations of such citizens, nationals, resident aliens or private, public or municipal corporations.

### **§ 3132.2 Submission of bids.**

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- (a) A separate sealed bid shall be submitted for each tract in the manner prescribed. A bid shall not be submitted for less than an entire tract.
- (b) Each bidder shall submit with the bid a certified or cashier's check, bank draft, U.S. currency or any other form of payment approved by the Secretary for one-fifth of the amount of the cash bonus, unless stated otherwise in the notice of sale.
- (c) Each bid shall be accompanied by statements of qualifications prepared in accordance with §3132.4 of this title.
- (d) Bidders are bound by the provisions of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

### **§ 3132.3 Payments.**

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- (a) Make payments of bonuses, including deferred bonuses, first year's rental, other payments due upon lease issuance, and fees, to BLM's Alaska State Office. Before we issue a lease, the highest bidder must pay the processing fee for competitive lease applications found in the fee schedule in §3000.12 of this chapter in addition to other remaining bonus and rental payments. All payments shall be made by certified or cashier's check, bank draft, U.S. currency or any other form of payment approved by the Secretary. Payments shall be made payable to the Department of the Interior, Bureau of Land Management, unless otherwise directed.
- (b) All other payments required by a lease or the regulations in this part shall be payable to the Department of the Interior, Minerals Management Service.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988; 70 FR 58875, Oct. 7, 2005]

#### **§ 3132.4 Qualifications.**

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Submission of a lease bid constitutes certification of compliance with the regulations of this part. Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein may be required to submit additional information to show compliance with the regulations of this part.

[47 FR 8546, Feb. 26, 1982]

#### **§ 3132.5 Award of leases.**

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(a) Sealed bids received in response to the notice of lease sale shall be opened at the place, date and hour specified in the notice of sale. The opening of bids is for the sole purpose of publicly announcing and recording the bids received. No bids shall be accepted or rejected at that time.

(b) The United States reserves the right to reject any and all bids received for any tract, regardless of the amount offered.

(c) In the event the highest bids are tie bids, the tying bidders shall be allowed to submit within 15 days of the public announcement of a tie bid additional sealed bids to break the tie. The additional bids shall include any additional amount necessary to bring the amount tendered with his/her bid to one-fifth of the additional bid. Additional bids to break tie bids shall be processed in accordance with paragraph (a) of this section.

(d) If the authorized officer fails to accept the highest bid for a lease within 90 days or a lesser period of time as specified in the notice of sale, the highest bid for that lease shall be considered rejected. This 90-day period or lesser period as specified in the notice of sale shall not include any period of time during which acceptance, rejection or other processing of bids and lease issuance by the Department of the Interior are enjoined or prohibited by court order.

(e) Written notice of the final decision on the bids shall be transmitted to those bidders whose deposits have been held in accordance with instructions set forth in the notice of sale. If a bid is accepted, 2 copies of the lease shall be transmitted with the notice of acceptance to the successful bidder. The bidder shall, not later than the 15th day after receipt of the lease, sign both copies of the lease and return them, together with the first year's rental and the balance of the bonus bid, unless deferred, and shall file a bond, if required to do so. Deposits shall be refunded on rejected bids.

(f) If the successful bidder fails to execute the lease within the prescribed time or otherwise to comply with the applicable regulations, the deposit shall be forfeited and disposed of as other receipts under the Act.

(g) If the awarded lease is executed by an attorney-in-fact acting on behalf of the bidder, the lease shall be accompanied by evidence that the bidder authorized the attorney-in-fact to execute the lease on his/her behalf. Reference may be made to the serial number of the record and the office of the Bureau of Land Management in which such evidence has already been filed.

(h) When the executed lease is returned to the authorized officer, he/she shall within 15 days of receipt of the material required by paragraph (e) of this section, execute the lease on behalf of the United States. A copy of the fully executed lease shall be transmitted to the lessee.

#### **§ 3132.5-1 Forms.**

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Leases shall be issued on forms approved by the Director.

### **§ 3132.5-2 Dating of leases.**

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All leases issued under the regulations in this part shall become effective as of the first day of the month following the date they are signed on behalf of the United States. When prior written request is made, a lease may become effective as of the first day of the month within which it is signed on behalf of the United States.

## **Subpart 3133—Rentals and Royalties**

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### **§ 3133.1 Rentals.**

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(a) An annual rental shall be due and payable at the rate prescribed in the notice of sale and the lease, but in no event shall such rental be less than \$3 per acre, or fraction thereof. Payment shall be made on or before the first day of each lease year prior to discovery of oil or gas on the lease.

(b) If there is no actual or allocated production on the portion of a lease that has been segregated from a producing lease, the owner of such segregated lease shall pay an annual rental for such segregated portion at the rate per acre specified in the original lease. This rental shall be payable each lease year following the year in which the segregation became effective and prior to discovery of oil or gas on such segregated portion.

(c) Annual rental paid in any year prior to discovery of oil or gas on the lease shall be in addition to, and shall not be credited against, any royalties due from production.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

### **§ 3133.2 Royalties.**

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Royalties on oil and gas shall be at the rate specified in the notice of sale as to the tracts, if appropriate, and in the lease, unless the Secretary, in order to promote increased production on the leased area through direct, secondary or tertiary recovery means, reduces or eliminates any royalty set out in the lease.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

#### **§ 3133.2-1 Minimum royalties.**

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For leases which provide for minimum royalty payments, each lessee shall pay the minimum royalty specified in the lease at the end of each lease year beginning with the first lease year following a discovery on the lease.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

**§ 3133.3 Under what circumstances will BLM waive, suspend, or reduce the rental, royalty, or minimum royalty on my NPR-A lease?**

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(a) BLM will waive, suspend, or reduce the rental, royalty, or minimum royalty of your lease if BLM finds that—

(1) It encourages the greatest ultimate recovery of oil or gas or it is in the interest of conservation; and

(2) You can't successfully operate the lease under its terms. This means that your cost to operate the lease exceeds income from the lease.

(b) If the subsurface estate is held by a regional corporation, BLM will consult with the regional corporation, in accordance with 43 CFR 2650.4–3, before approving an action under this section. *Regional corporation* is defined in 43 U.S.C. 1602.

[67 FR 17885, Apr. 11, 2002]

**§ 3133.4 How do I apply for a waiver, suspension or reduction of rental, royalty or minimum royalty for my NPR-A lease?**

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(a) Submit to BLM your application and in it describe the relief you are requesting and include—

(1) The lease serial number;

(2) The number, location and status of each well drilled;

(3) A statement that shows the aggregate amount of oil or gas subject to royalty for each month covering a period of at least six months immediately before the date you filed the application;

(4) The number of wells counted as producing each month and the average production per well per day;

(5) A detailed statement of expenses and costs of operating the entire lease;

(6) All facts that demonstrate that you can't successfully operate the wells under the terms of the lease;

(7) The amount of any overriding royalty and payments out of production or similar interests applicable to your lease; and

(8) Any other information BLM requires.

(b) Your application must be signed by—

(1) All record title holders of the lease; or

(2) By the operator on behalf of all record title holders.

[67 FR 17885, Apr. 11, 2002]

## **Subpart 3134—Bonding: General**

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### **§ 3134.1 Bonding.**

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(a) Prior to issuance of an oil and gas lease, the successful bidder shall furnish the authorized officer a surety or personal bond in accordance with the provisions of §3104.1 of this title in the sum of \$100,000 conditioned on compliance with all the lease terms, including rentals and royalties, conditions and any stipulations. The bond shall not be required if the bidder already maintains or furnishes a bond in the sum of \$300,000 conditioned on compliance with the terms, conditions and stipulations of all oil and gas leases held by the bidder within NPR-A, or maintains or furnishes a nationwide bond as set forth in §3104.3(b) of this title and furnishes a rider thereto sufficient to bring total coverage to \$300,000 to cover all oil and gas leases held within NPR-A.

(b) A bond in the sum of \$100,000 or \$300,000, or a nationwide bond as provided in §3104.3(b) of this title with a rider thereto sufficient to bring total coverage to \$300,000 to cover all oil and gas leases within NPR-A, may be provided by an operating rights owner (sublessee) or operator in lieu of a bond furnished by the lessee, and shall assume the responsibilities and obligations of the lessee for the entire leasehold in the same manner and to the extent as though he/she were the lessee.

(c) If as a result of a default, the surety on a bond makes payment to the United States of any indebtedness under a lease secured by the bond, the face amount of such bond and the surety's liability shall be reduced by the amount of such payment.

(d) A new bond in the amount previously held or a larger amount as determined by the authorized officer shall be posted within 6 months or such shorter period as the authorized officer may direct after a default. In lieu thereof, separate or substitute bonds for each lease covered by the prior bond may be filed. The authorized officer may cancel a lease(s) covered by a deficient bond(s), in accordance with §3136.3 of this title. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee when such lessee is not a party to the bond.

(e) Except as provided in this subpart, the bonds required for NPR-A leases are in addition to any other bonds the successful bidder may have filed or be required to file under §§3104.2, 3104.3(a) and 3154.1 and subparts 3206 and 3209 of this title.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988; 53 FR 22846, June 17, 1988]

#### **§ 3134.1-1 Form of bond.**

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All bonds furnished by a lessee, operating rights owner (sublessee), or operator shall be on a form approved by the Director.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

#### **§ 3134.1-2 Additional bonds.**

[↑ top](#)

(a) The authorized officer may require the bonded party to supply additional security in the form of a supplemental bond or bonds or to increase the coverage of an existing bond if, after operations or production have begun, such additional security is deemed

necessary to assure maximum protection of Special Areas.

(b) The holders of any oil and gas lease bond for a lease on the NPR-A shall be permitted to obtain a rider to include the coverage of oil and gas geophysical operations within the boundaries of NPR-A.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

## **Subpart 3135—Transfers, Extensions, Consolidations, and Suspensions**

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### **§ 3135.1 Transfers and extensions, general.**

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#### **§ 3135.1-1 Transfers.**

[↑ top](#)

(a) Subject to approval of the authorized officer, a lessee may transfer his/her lease(s), or any undivided interest therein, or any legal subdivision, to anyone qualified under §§3130.1 and 3132.4 of this title to hold a lease.

(b) Any approved transfer shall be deemed to be effective on the first day of the lease month following its filing in the proper BLM office, unless, at the request of the parties, an earlier date is specified in the approval.

(c) The transferor shall continue to be responsible for all obligations under the lease accruing prior to the approval of the transfer.

(d) The transferee shall be responsible for all obligations under the lease subsequent to the effective date of a transfer, and shall comply with all regulations issued under the Act.

(e) When a transfer of operating rights (sublease) is approved, the sublessee is responsible for all obligations under the rights transferred to the sublessee.

(f) Transfers are approved for administrative purposes only. Approval does not warrant or certify that either party to a transfer holds legal or equitable title to a lease.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17359, May 16, 1988; 53 FR 31867, Aug. 22, 1988]

#### **§ 3135.1-2 Requirements for filing of transfers.**

[↑ top](#)

(a)(1) All instruments of transfer of lease or of an interest therein, including operating rights, subleases and assignments of record-title shall be filed in triplicate for approval. Such instruments shall be filed within 90 days from the date of final execution. The instruments of transfer shall include a statement, over the transferee's own signature, with respect to citizenship and qualifications as required of a bidder under §3132.4 of this title and shall contain all of the terms and conditions agreed upon by the parties thereto. Carried working interests, overriding royalty interests or payments out of production or other interest may be created or transferred without approval.

(2) An application for approval of any instrument that the regulations require you to file must include the processing fee for assignments and transfers found in the fee schedule in §3000.12 of this chapter. Any document that the regulations in this part do

not require you to file, but that you submit for record purposes, must also include the processing fee for assignments and transfers found in the fee schedule in §3000.12 of this chapter for each lease affected. Such documents may be rejected by the authorized officer.

(b) An attorney-in-fact, on behalf of the holder of a lease, operating rights or sublease, shall furnish evidence of authority to execute the transfer or application for approval and the statement required by §3132.5(g) of this title.

(c) Where a transfer of record title creates separate leases, a bond shall be furnished covering the transferred lands in the amount prescribed in §3134.1 of this title. Where a transfer does not create separate leases, the transferee, if the transfer so provides and the surety consents, may become co-principal on the bond with the transferor.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17359, May 16, 1988; 70 FR 58875, Oct. 7, 2005]

### **§ 3135.1-3 Separate filing for transfers.**

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A separate instrument of transfer shall be filed for each lease on a form approved by the Director or an exact reproduction of the front and back of such form. Any earlier editions of the current form are deemed obsolete and are unacceptable for filing. When transfers to the same person, association or corporation, involving more than 1 lease are filed at the same time for approval, 1 request for approval and 1 showing as to the qualifications of the transferee shall be sufficient.

[53 FR 17359, May 16, 1988; 53 FR 31959, Aug. 22, 1988]

### **§ 3135.1-4 Effect of transfer of a tract.**

[↑ top](#)

(a) When a transfer is made of all the record title to a portion of the acreage in a lease, the transferred and retained portions are divided into separate and distinct leases. Transfers shall not be made for less than a compact tract of not less than 640 acres nor shall less than a compact tract of not less than 640 acres be retained.

(b) Each segregated lease shall continue in full force and effect for the primary term of the original lease and so long thereafter as oil or gas is produced in paying quantities from that segregated portion of the lease area or so long as drilling or well reworking operations, either actual or constructive, as approved by the Secretary, are conducted thereon.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17359, May 16, 1988]

### **§ 3135.1-5 Extension of lease.**

[↑ top](#)

(a) The term of a lease shall be extended beyond its primary term so long as oil or gas is produced from the lease in paying quantities or so long as drilling or reworking operations, actual or constructive, as approved by the Secretary, are conducted thereon.

(b) A lease may be maintained in force by directional wells drilled under the leased area from surface locations on adjacent or adjoining lands not covered by the lease. In such circumstances, drilling shall be considered to have commenced on the lease area when drilling is commenced on the adjacent or adjoining lands for the purpose of directional drilling under the leased area through any directional well surfaced on adjacent or adjoining lands. Production, drilling or reworking of any directional well shall be considered production or drilling or reworking operations on the lease area for all purposes of the lease.

### § 3135.1-6 Consolidation of leases.

[↑ top](#)

(a) Leases may be consolidated upon written request of the lessee filed with the State Director Alaska, Bureau of Land Management. The request shall identify each lease involved by serial number and shall explain the factors which justify the consolidation. Include with each request for a consolidation of leases the processing fee found in the fee schedule in §3000.12 of this chapter.

(b) All parties holding any undivided interest in any lease involved in the consolidation shall agree to enter into the same lease consolidation.

(c) Consolidation of leases not to exceed 60,000 acres may be approved by the State Director, Alaska if it is determined that the consolidation is justified.

(d) The effective date, the anniversary date and the primary term of the consolidated lease shall be those of the oldest original lease involved in the consolidation. The term of a consolidated lease shall be extended beyond the primary lease term only so long as oil or gas is produced in paying quantities or approved constructive or actual drilling or reworking operations are conducted thereon.

(e) Royalty, rental, special lease stipulations and other terms and conditions of each original lease except the effective date, anniversary date and the primary term shall continue to apply to that lease or any portion thereof regardless of the lease becoming a part of a consolidated lease.

[48 FR 413, Jan. 5, 1983, as amended at 70 FR 58875, Oct. 7, 2005]

### § 3135.2 Under what circumstances will BLM require a suspension of operations and production or approve my request for a suspension of operations and production for my lease?

[↑ top](#)

(a) BLM will require a suspension of operations and production or approve your request for a suspension of operations and production for your lease(s) if BLM determines that—

(1) It is in the interest of conservation of natural resources;

(2) It encourages the greatest ultimate recovery of oil and gas, such as by encouraging the planning and construction of a transportation system to a new area of discovery; or

(3) It mitigates reasonably foreseeable and significantly adverse effects on surface resources.

(b) BLM will suspend operations and production for your lease if it determines that, despite the exercise of due care and diligence, you can't comply with your lease requirements for reasons beyond your control.

(c) If BLM requires a suspension of operations and production or approves your request for a suspension of operations and production, the suspension—

(1) Stops the running of your lease term and prevents it from expiring for as long as the suspension is in effect;

(2) Relieves you of your obligation to pay rent, royalty, or minimum royalty during the suspension; and

(3) Prohibits you from operating on, producing from, or having any other beneficial use of your lease during the suspension.

However, you must continue to perform necessary maintenance and safety activities.

[67 FR 17886, Apr. 11, 2002]

### **§ 3135.3 How do I apply for a suspension of operations and production?**

[↑ top](#)

(a) You must submit to BLM an application stating the circumstances that are beyond your reasonable control that prevent you from operating or producing your lease(s).

(b) Your suspension application must be signed by—

(1) All record title holders of the lease; or

(2) The operator on behalf of the record title holders of the leases committed to an approved agreement.

(c) You must submit your application to BLM before your lease expires.

(d) Your application must be for your entire lease.

[67 FR 17886, Apr. 11, 2002]

### **§ 3135.4 When is a suspension of operations and production effective?**

[↑ top](#)

A suspension of operations and production is effective—

(a) The first day of the month in which you file the application for suspension or BLM requires the suspension; or

(b) Any other date BLM specifies in the decision document.

[67 FR 17886, Apr. 11, 2002]

### **§ 3135.5 When should I stop paying rental or royalty after BLM requires or approves a suspension of operations and production ?**

[↑ top](#)

You should stop paying rental or royalty on the first day of the month that the suspension is effective. However, if there is any production sold or removed during that month, you must pay royalty on that production.

[67 FR 17886, Apr. 11, 2002]

### **§ 3135.6 When will my suspension terminate?**

[↑ top](#)

(a) Your suspension terminates—

(1) On the first day of the month in which you begin to operate or produce on your lease with BLM approval; or

(2) The date BLM specifies in a written notice to you.

(b) You must notify BLM at least 24 hours before you begin operations or production under paragraph (a)(1) of this section.

[67 FR 17886, Apr. 11, 2002]

### **§ 3135.7 What effect does a suspension of operations and production have on the term of my lease?**

[↑ top](#)

(a) *Primary term.* If BLM grants a suspension of operations and production for your lease, the suspension stops the running of the primary term of your lease for the period of the suspension.

(b) *Extended term.* If your lease is in its extended term, a suspension holds your lease in its extended term for the period of the suspension as if it were in production.

[67 FR 17886, Apr. 11, 2002]

### **§ 3135.8 If BLM requires a suspension or grants my request for a suspension of operations and production for my lease, when must I next pay advance annual rental, royalty, or minimum royalty?**

[↑ top](#)

(a) You are not required to submit your next rental or minimum royalty payment until the date the suspension terminates. Therefore, if your suspension begins in month 3 of lease year A and ends in month 2 of lease year B, you must submit your rental payment for lease year B when your suspension ends. BLM will send a written notice to the lessee and operator stating that the suspension is terminated and the date your rental payment for lease year B is due to MMS. BLM's notice also will state when you must pay any minimum royalty due for lease year A. Your minimum royalty for lease year B will be due at the end of that year.

(b) If you remove or sell any production from the lease during the term of the suspension, you must pay royalty on that production.

[67 FR 17886, Apr. 11, 2002]

## **Subpart 3136—Relinquishments, Terminations and Cancellations of Leases**

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### **§ 3136.1 Relinquishment of leases or parts of leases.**

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A lease may be surrendered in whole or in part by the lessee by filing a written relinquishment, in triplicate, with the Alaska State Office of the Bureau. No filing fee is required. In the case of partial relinquishments, neither the relinquished lands nor the retained lands shall be less than a compact tract of not less than 640 acres. A relinquishment shall take effect on the date it is filed subject to the continued obligation of lessee and the surety to make all payments due, including any accrued rental, royalties and deferred bonuses and to abandon all wells, and condition or remove other facilities on the lands to be relinquished to the satisfaction of the

authorized officer.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17359, May 16, 1988]

### **§ 3136.2 Terminations.**

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Any lease on which there is no well capable of producing oil or gas in paying quantities shall terminate if the lessee fails to pay the annual rental in full on or before the anniversary date of such lease and such failure continues for more than 30 days after the notice of delinquent rental has been delivered by registered or certified mail to the lease owner's record post office address.

### **§ 3136.3 Cancellation of leases.**

[↑ top](#)

(a) Any nonproducing lease may be canceled by the authorized officer whenever the lessee fails to comply with any provisions of the Acts cited in §3130.0–3 of this title, of the regulations issued thereunder or of the lease, if such failure to comply continues for 30-days after a notice thereof has been delivered by registered or certified mail to the lease owner's record post office address.

(b) Producing leases or leases known to contain valuable deposits of oil or gas may be canceled only by court order.

### **Subpart 3137—Unitization Agreements—National Petroleum Reserve-Alaska**

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**Source:** 67 FR 17886, Apr. 11, 2002, unless otherwise noted.

### **§ 3137.5 What terms do I need to know to understand this subpart?**

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As used in this subpart—

*Actual drilling* means operations you conduct that are similar to those that a person seriously looking for oil or gas could be expected to conduct in that particular area, given the existing knowledge of geologic and other pertinent facts about the area to be drilled. The term includes the testing, completing, or equipping of the drill hole (casing, tubing, packers, pumps, etc.) so that it is capable of producing oil or gas. Actual drilling operations do not include preparatory or preliminary work such as grading roads and well sites, or moving equipment onto the lease.

*Actual production* means oil or gas flowing from the wellbore into treatment or sales facilities.

*Actual reworking operations* means reasonably continuous well-bore operations such as fracturing, acidizing, and tubing repair.

*Committed tract* means—

(1) A Federal lease where all record title holders and all operating rights owners have agreed to the terms and conditions of a unit agreement, committed their interest to the unit; or

(2) A State lease or private parcel of land where all oil and gas lessees and all operating rights owners or the owners of unleased

minerals have agreed to the terms and conditions of a unit agreement.

*Constructive drilling* means those activities that are necessary to prepare for actual drilling that occur after BLM approves an application to drill, but before you actually drill the well. These include, but are not limited to, activities such as road and well pad construction, and drilling rig and equipment set-up.

*Constructive reworking operations* means activities that are necessary to prepare for well-bore operations. These may include rig and equipment set-up and pit construction.

*Continuing development obligations* means a program of development or operations you conduct that, after you complete initial obligations defined in a unit agreement—

- (1) Meets or exceeds the rate of non-unit operations in the vicinity of the unit; and
- (2) Represents an investment proportionate to the size of the area covered by the unit agreement.

*Drainage* means the migration of hydrocarbons, inert gases (other than helium), or associated resources caused by production from other wells.

*NPR-A lease* means any oil and gas lease within the boundaries of the NPR-A, issued and administered by the United States under the Naval Petroleum Reserves Production Act of 1976, as amended (42 U.S.C. 6501–6508), that authorizes exploration for and removal of oil and gas.

*Operating rights* (working interest) means any interest you hold that allows you to explore for, develop, and produce oil and gas.

*Participating area* means those committed tracts or portions of those committed tracts within the unit area that contain a well meeting the productivity criteria specified in the unit agreement.

*Primary target* means the principal geologic formation that you intend to develop and produce.

*Producible interval* means any pool, deposit, zone, or portion thereof capable of producing oil or gas.

*Record title* means legal ownership of an oil and gas lease recorded in BLM's records.

*Tract* means land that may be included in an NPR-A oil and gas unit agreement and that may or may not be in a Federal lease.

*Unit agreement* means a BLM-approved agreement to cooperate in exploring, developing, operating and sharing in production of all or part of an oil or gas pool, field or like area, including at least one NPR-A lease, without regard to lease boundaries and ownership.

*Unit area* means all tracts committed to a BLM-approved unit. Tracts not committed to the unit, even though they may be within the external unit boundary, are not part of the unit area.

*Unit operations* are all activities associated with exploration, development drilling, and production operations the unit operator(s) conducts on committed tracts.

## **General**

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### **§ 3137.10 What benefits do I receive for entering into a unit agreement?**

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- (a) Each individual tract committed to the unit agreement meets its full performance obligation if one or more tracts in the unit meets the development or production requirements;
- (b) Production from a well that meets the productivity criteria (see §3137.82 of this subpart) under the unit agreement extends the term of all NPR-A leases committed to the unit agreement as provided in §3137.111 of this subpart;
- (c) You may drill within the unit without regard to certain lease restrictions, such as lease boundaries within the unit and spacing offsets; and
- (d) You may consolidate operations and permitting and reporting requirements.

## Application

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### **§ 3137.15 If the Federal lands constitute less than 10 percent of the lands in the proposed unit area, is the unit agreement subject to Federal regulations or approval?**

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If the Federal lands constitute less than 10 percent of the lands in the proposed unit area—

- (a) You may use a unit agreement approved by the State and/or a native corporation;
- (b) BLM will authorize commitment of the Federal lands to the unit if it determines that the unit agreement protects the public interest; or
- (c) As unit operator you may ask BLM to approve and administer the unit. If BLM agrees to approve and administer the unit, you must follow, and BLM will administer, the regulations in this subpart and 43 CFR part 3160.

### **§ 3137.20 Is there a standard unit agreement form?**

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There is no standard unit agreement form. BLM will accept any unit agreement format if it protects the public interest and includes the mandatory terms required in §3137.21 of this subpart.

### **§ 3137.21 What must I include in an NPR-A unit agreement?**

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- (a) Your NPR-A unit agreement must include—
  - (1) A description of the unit area and any geologic and engineering factors upon which you are basing the area;
  - (2) Initial and continuing development obligations (see §§3137.40 and 3137.41 of this subpart);
  - (3) The proposed participating area size and proposed well locations (see §3137.80(b) of this subpart);

(4) A provision that acknowledges BLM's authority to set or modify the quantity, rate, and location of development and production; and

(5) Any optional terms which are authorized in §3137.50 of this subpart you choose to include in the unit agreement.

(b) You must include in the unit agreement any additional terms and conditions that result from consultation with BLM. After your initial application, BLM may request additional supporting documentation.

### **§ 3137.22 What are the size and shape requirements for a unit area?**

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(a) The unit area must—

(1) Consist of tracts, each of which must be contiguous to at least one other tract in the unit, that are located so that you can perform operations and production in an efficient and logical manner; and

(2) Include at least one NPR-A lease.

(b) BLM may limit the size and shape of the unit considering the type, amount and rate of the proposed development and production and the location of the oil or gas.

### **§ 3137.23 What must I include in my NPR-A unitization application?**

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Your unitization application to BLM must include—

(a) The proposed unit agreement;

(b) A map showing the proposed unit area;

(c) A list of committed tracts including, for each tract, the—

(1) Legal land description and acreage;

(2) Names of persons holding record title interest;

(3) Names of persons owning operating rights; and

(4) Name of the unit operator.

(d) You must certify—

(1) That you invited all owners of oil and gas rights (leased or unleased) and lease interests (record title and operating rights) within the external boundary of the unit area described in the application to join the unit;

(2) That there are sufficient tracts committed to the unit agreement to reasonably operate and develop the unit area;

(3) The commitment status of all tracts within the area proposed for unitization; and

(4) That you accept unit obligations under §3137.60 of this subpart.

(e) Evidence of acceptable bonding;

(f) A discussion of reasonably foreseeable and significantly adverse effects on the surface resources of NPR-A and how unit operations may reduce impacts compared to individual lease operations; and

(g) Other documentation BLM may request. BLM may require additional copies of maps, plats, and other similar exhibits.

#### **§ 3137.24 Why would BLM reject a unit agreement application?**

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BLM will reject a unit agreement application—

(a) That does not address all mandatory terms, including those required under §3137.21(b) of this subpart;

(b) If the unit operator—

(1) Has an unsatisfactory record of complying with applicable laws, regulations, the terms of any lease or permit, or the requirements of any notice or order; or

(2) Is not qualified to operate within NPR-A under applicable laws and regulations;

(c) That does not conserve natural resources;

(d) That is not in the public interest;

(e) That does not comply with any special conditions in effect for any part of the NPR-A that the unit or any lease subject to the unit would affect; or

(f) That does not comply with the requirements of this subpart.

#### **§ 3137.25 How will the parties to the unit know if BLM approves the unit agreement?**

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BLM will notify the unit operator in writing when it approves or disapproves the proposed unit agreement. The unit operator must notify, in writing, all parties to the unit agreement within 30 calendar days after receiving BLM's notice of approval or disapproval.

#### **§ 3137.26 When is a unit agreement effective?**

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The unit agreement is effective on the date BLM approves it.

#### **§ 3137.27 What effect do subsequent contracts or obligations have on the unit agreement?**

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No subsequent contract or obligation—

- (a) Modifies the terms or conditions of the unit agreement; or
- (b) Relieves the unit operator of any right or obligation under the unit agreement.

### **§ 3137.28 What oil and gas resources of committed tracts does the unit agreement include?**

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A unit agreement includes all oil and gas resources of committed tracts unless BLM approves unit agreement terms to the contrary pursuant to §3137.50 of this subpart.

### **Development**

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### **§ 3137.40 What initial development obligations must I define in a unit agreement?**

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Your unit agreement must define—

- (a) The number of wells you anticipate will be necessary to assess the reservoir adequately;
- (b) A primary target for each well;
- (c) A schedule for starting and completing drilling operations for each well; and
- (d) The time between starting operations on a well to the start of operations on the next well.

### **§ 3137.41 What continuing development obligations must I define in a unit agreement?**

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A unit agreement must obligate the operator to a program of exploration and development (see §3137.71) that, after completion of the initial obligations—

- (a) Meets or exceeds the rate of non-unit operations in the vicinity of the unit; and
- (b) Represents an investment proportionate to the size of the area covered by the unit agreement.

### **Optional Terms**

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### **§ 3137.50 What optional terms may I include in a unit agreement?**

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BLM may approve the following optional terms for a unit agreement if they promote additional development or enhanced production potential—

- (a) Limiting the unit agreement to certain formations and their intervals;
- (b) Multiple unit operators (see §3137.51 of this subpart);
- (c) Allowing modification of the unit agreement terms if less than 100 percent of the parties to the unit agreement (see §3137.52 of this subpart) agree to the modification; or
- (d) Other terms that BLM determines will promote the greatest economic recovery of oil and gas consistent with applicable law.

### **§ 3137.51 Under what conditions does BLM permit multiple unit operators?**

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BLM permits multiple unit operators only if the unit agreement defines—

- (a) The conditions under which additional unit operators are acceptable;
- (b) The responsibilities of the different operators, including obtaining BLM approvals, reporting, paying Federal royalties and conducting operations;
- (c) Which unit operators are obligated to ensure bond coverage for each NPR-A lease in the unit;
- (d) The consequences if one or more unit operators defaults. For example, if an operator defaults, the unit agreement would list which unit operators would conduct that operator's operations and ensure bonding of those operations; and
- (e) Which unit operator is responsible for unit obligations not specifically assigned in the unit agreement.

### **§ 3137.52 How may I modify the unit agreement?**

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(a) You may modify a unit agreement if—

- (1) All current parties to the unit agreement agree to the modification; or
- (2) You meet the requirements of the modification provision in the unit agreement. The modification provision must identify which parties, and what percentage of those parties, must consent to each type of modification.

(b) You must submit to BLM an application for modification. The application must include the following—

- (1) The operator must certify that the necessary parties have agreed to the modification; and
- (2) If the unit agreement modification alters the current allocation schedule, you must submit to BLM both a—
  - (i) Description of the new allocation methodology; and
  - (ii) New allocation schedule.

(c) A modification is not effective unless BLM approves it. After BLM approves the modification, it is effective retroactively to the date you filed a complete application for modification. However, BLM may approve a different effective date if you request it and provide acceptable justification.

(d) BLM will reject modifications that do not comply with BLM regulations or applicable law.

## **Unit Agreement Operating Requirements**

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### **§ 3137.60 As the unit operator, what are my obligations?**

[↑ top](#)

As the unit operator—

(a) You must comply with the terms and conditions of the unit agreement, Federal laws and regulations, lease terms and stipulations, and BLM notices and orders;

(b) You must provide to BLM evidence of acceptable bonding. Acceptable bonding means a bond in an amount which is no less than the sum of the individual Federal bonding requirements for each of the NPR-A leases committed to the unit. You may also meet this requirement if you add the unit operator as a principal to lease bonds to reach the required amount; and

(c) The bond must be payable to the Secretary of the Interior.

### **§ 3137.61 How do I change unit operators?**

[↑ top](#)

(a) To change unit operators, the new unit operator must submit to BLM—

(1) Statements that—

(i) It accepts unit obligations; and

(ii) The percentage of required interest owners consented to a change of unit operator; and

(2) Evidence of acceptable bonding (see §3137.60(b) of this subpart).

(b) The effective date of the change in unit operator is the date BLM approves the new unit operator.

### **§ 3137.62 What are my liabilities as a former unit operator?**

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You are responsible for all duties and obligations of the unit agreement that accrued while you were unit operator up to the date BLM approves a new unit operator.

### **§ 3137.63 What are my liabilities after BLM approves me as the new unit operator?**

[↑ top](#)

(a) After BLM approves the change in unit operator, you, as the new unit operator, assume full liability, jointly and severally with the record title and operating rights owners, except as otherwise provided in paragraph (c) of this section and to the extent permitted by law, for—

(1) Compliance with the terms and conditions of the unit agreement, Federal laws and regulations, lease terms and stipulations, and BLM notices and orders;

(2) Plugging unplugged wells and reclaiming unreclaimed facilities that were installed or used before the effective date of the change in unit operator (this liability is joint and several with the former unit operator); and

(3) Those liabilities accruing during the time you are unit operator.

(b) Your liability includes, but is not limited to—

(1) Rental and royalty payments;

(2) Protecting the unit from loss due to drainage as provided in §3137.64 of this subpart;

(3) Well plugging and abandonment;

(4) Surface reclamation;

(5) All environmental remediation or restoration required by law, regulations, lease terms, or conditions of approval; and

(6) Other requirements related to unit operations.

(c) Your liability for royalty and other payments on the unit is limited by section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1712(a)).

### **§ 3137.64 As a unit operator, what must I do to prevent or compensate for drainage?**

[↑ top](#)

You must prevent uncompensated drainage of oil and gas from unit land by wells on land not subject to the unit agreement. Permissible means of satisfying the obligation include—

(a) Drilling a protective well if it is economically feasible. For this subpart, *economically feasible* means producing a sufficient quantity of oil or gas from a protective well in the unit for a reasonable profit above the cost of drilling, completing and operating the protective well;

(b) Paying compensatory royalty;

(c) Forming other agreements, or modifying existing agreements, that allow the tracts committed to the unit agreement to share in production after the effective date of the new or modified agreement; or

(d) BLM may require additional measures to prevent uncompensated drainage.

### **Development Requirements**

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### **§ 3137.70 What must I do to meet initial development obligations?**

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(a) To meet initial development obligations by the time specified in your unit agreement you must—

- (1) Drill the required test well(s) to the primary target;
- (2) Drill at least one well that meets the productivity criteria (see §3137.82 of this subpart); or
- (3) Establish, to BLM's satisfaction, that further drilling to meet the productivity criteria is unwarranted or impracticable.

(b) You must certify to BLM that you met initial development obligations no later than 60 calendar days after meeting the obligations. BLM may require you to supply documentation that supports your certification.

### **§ 3137.71 What must I do to meet continuing development obligations?**

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(a) Once you meet initial development obligations, you must perform additional development. Work you did before meeting initial development obligations is not continuing development. Continuing development includes the following operations—

- (1) Drilling, testing, or completing additional wells to the primary target or other unit formations;
- (2) Drilling or completing additional wells that establish production of oil and gas;
- (3) Recompleting wells or other operations that establish new unit production; or
- (4) Drilling existing wells to a deeper target.

(b) No later than 90 calendar days after meeting initial development obligations, submit to BLM a plan that describes how you will meet continuing development obligations. You must submit to BLM updated continuing obligation plans as soon as you determine that, for whatever reason, the plan needs amending.

(1) If you have drilled a well that meets the productivity criteria, your plan must describe the activities to fully develop the oil and gas field.

(2) If you fulfilled your initial development obligations, but did not establish a well that meets the productivity criteria, your plan must describe the further actual or constructive drilling operations you will conduct.

### **§ 3137.72 What if reasons beyond my control prevent me from meeting the initial or a continuing development obligation by the time the unit agreement specifies?**

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(a) If reasons beyond your control prevent you from meeting the initial or a continuing development obligation by the time specified in the unit agreement, you may apply to BLM for an extension of time for meeting those obligations. You must submit the request for an extension of time before the date the obligation is due to be met. In the application-

- (1) State the obligation for which you are requesting an extension;

(2) List the reasons beyond your control that prevent you from performing the obligation; and

(3) State when you expect the reasons beyond your control to terminate.

(b) BLM will grant an extension of time to meet initial or continuing development obligations if we determine that-

(1) The extension encourages the greatest ultimate recovery of oil or gas or it is in the interest of conservation; and

(2) The reasons beyond your control prevent you from performing the initial or a continuing development obligation.

(c) The extension of time for performing the initial or a continuing development obligation will continue for so long as the conditions giving rise to the extension continue to exist.

### **§ 3137.73 What will BLM do after I submit a plan to meet continuing development obligations?**

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Within 30 calendar days after receiving your proposed plan, BLM will notify you in writing that we—

(a) Approved your plan;

(b) Rejected your plan and explain why. This will include an explanation of how you should correct the plan to come into compliance; or

(c) Have not acted on the plan, explaining the reasons and when you can expect a final response.

### **§ 3137.74 What must I do after BLM approves my continuing development obligations plan?**

[↑ top](#)

No later than 90 calendar days after BLM's approval of your plan submitted under 3137.71(b), you must certify to BLM that you started operations to fulfill your continuing development obligations. BLM may require you to—

(a) Supply documentation to support your certification; and

(b) Submit periodic reports that demonstrate continuing development.

### **§ 3137.75 May I perform additional development outside established participating areas to fulfill continuing development obligations?**

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You may perform additional development either within or outside a participating area, depending on the terms of the unit agreement.

### **§ 3137.76 What happens if I do not meet a continuing development obligation?**

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(a) After you establish a participating area, if you do not meet a continuing development obligation and BLM has not granted you

an extension of time to meet the obligation, the unit contracts. This means that—

(1) All areas within the unit that do not have participating areas established are eliminated from the unit. Any eliminated areas are subject to their original lease terms; and

(2) Only established participating areas, whether they are actually producing or not, remain in the unit.

(b) Units contract effective the first day of the month after the date on which the unit agreement required the continuing development obligations to begin.

(c) If you do not meet a continuing development obligation before you establish a participating area, the unit terminates (see §3137.132 of this subpart).

## **Participating Areas**

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### **§ 3137.80 What are participating areas and how do they relate to the unit agreement?**

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(a) Participating areas are those committed tracts or portions of those committed tracts within the unit area that contain a well meeting the productivity criteria specified in the unit agreement.

(b) You must include the proposed participating area size in the unit agreement for planning purposes and to aid in the mitigation of reasonably foreseeable and significantly adverse effects on NPR-A surface resources. The unit agreement must define the proposed participating areas. Your proposed participating area may be limited to separate producible intervals or areas.

(c) At the time you meet the productivity criteria discussed in §3137.82 of this subpart, you must delineate those participating areas.

### **§ 3137.81 What is the function of a participating area?**

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(a) The function of a participating area is to allocate production to each committed tract within a participating area. For royalty purposes, BLM allocates to each committed tract within the participating area in the same proportion as that tract's surface acreage in the participating area to the total acreage in the participating area.

(b) For exploratory and primary recovery operations, BLM will consider gas cycling and pressure maintenance wells when establishing participating area boundaries.

(c) For secondary and tertiary recovery operations, BLM will consider all wells that contribute to production when establishing participating area boundaries.

### **§ 3137.82 What are productivity criteria?**

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(a) Productivity criteria are characteristics of a unit well that warrant including a defined area surrounding the well in a participating area. The unit agreement must define these criteria for each separate producible interval. You must be able to determine whether

you meet the criteria when the well is drilled and you complete well testing, after a reasonable period of time to analyze new data.

(b) To meet the productivity criteria, the well must indicate future production potential sufficient to pay for the costs of drilling, completing, and operating the well on a unit basis.

(c) BLM will consider wells that contribute to unit production (e.g., pressure maintenance, gas cycling) when setting the participating area boundaries as provided in §3137.81(b) and (c) of this subpart.

### **§ 3137.83 What establishes a participating area?**

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The first well you drill meeting the productivity criteria after the unit agreement is formed establishes an initial participating area. When you establish an initial participating area, lands that contain previously existing wells in the unit meeting the productivity criteria (see §3137.82 of this subpart), will—

(a) Be added to that initial participating area as a revision, if the well is completed in the same producible interval; or

(b) Become a separate participating area, if the well is completed in a different producible interval (see also §3137.88 of this subpart for wells that do not meet the productivity criteria).

### **§ 3137.84 What must I submit to BLM to establish a new participating area, or modify an existing participating area?**

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To establish a new participating area or modify an existing participating area, you must submit to BLM a—

(a) Statement that—

(1) The well meets the productivity criteria (see §3137.82 of this subpart), necessary to establish a new participating area. You must submit information supporting your statement; or

(2) Explains the reasons for modifying an existing participating area. You must submit information supporting your explanation;

(b) Map showing the new or revised participating area and acreage; and

(c) Schedule that establishes the production allocation for each NPR-A lease or tract, and each record title holder and operating rights owner in the participating area. You must submit a separate allocation schedule for each participating area.

### **§ 3137.85 What is the effective date of a participating area?**

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(a) The effective date of an initial participating area is the first day of the month in which you complete a well meeting the productivity criteria, but no earlier than the effective date of the unit.

(b) The effective date of a modified participating area is the earlier of the first day of the month in which you—

(1) Complete a new well meeting the productivity criteria; or

(2) Should have known you needed to revise the allocation schedule.

### **§ 3137.86 What happens to a participating area when I obtain new information demonstrating that the participating area should be larger or smaller than previously determined?**

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(a) If you obtain new information demonstrating that the participating area should be larger than BLM previously determined, within 60 calendar days of obtaining the information, you must—

(1) File a statement, map and revised production allocation schedule under §3137.84 of this subpart requesting addition to the participating area of all committed tracts or portions of committed tracts in the unit area that meet the productivity criteria;

(2) If the proposed expanded participating area is outside the existing unit boundaries, invite all owners of oil and gas rights (leased or unleased) and lease interests (record title and operating rights) in such additional land to join the unit. If the owners of oil and gas rights in any tract of such land join the unit, you must submit to BLM—

(i) An application to enlarge the unit to include the expanded area;

(ii) A map showing the expanded area of the unit and the information with respect to each additional committed tract you proposed to add to the unit specified in §3137.23(c) of this subpart; and

(iii) A revised allocation schedule; and

(3) If any additional committed tract or tracts are added to the unit under paragraph (a)(2) of this section, you must file a statement, map and revised production allocation schedule under §3137.84 of this subpart requesting addition to the participating area of all such committed tracts or portions of such committed tracts in the unit area meeting the productivity criteria.

(b) If you obtain information demonstrating that the participating area should be smaller than previously determined, within 60 calendar days of obtaining the information, you must file a statement, map and revised production allocation schedule under §3137.84 of this subpart requesting removal from the participating area of all land that does not meet the productivity criteria.

### **§ 3137.87 What must I do if there are unleased Federal tracts in a participating area?**

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If there are unleased Federal tracts in a participating area, you must—

(a) Include the unleased Federal tracts in the participating area, even though BLM will not share in unit costs;

(b) Allocate production for royalty purposes as if the unleased Federal tracts were leased and committed to the unit agreement under §3137.100 of this subpart;

(c) Admit Federal tracts leased after the effective date of the unit agreement into the unit agreement on the date the lease is effective; and

(d) Submit to BLM revised maps, a list of committed leases, and allocation schedules that reflect the commitment of the newly leased Federal tracts to the unit.

### **§ 3137.88 What happens when a well outside a participating area does not meet the productivity criteria?**

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If a well outside any of the established participating area(s) does not meet the productivity criteria, all operations on that well are non-unit operations and we will not revise the participating area. You must notify BLM within 60 calendar days after you determine a well does not meet the productivity criteria. You must conduct non-unit operations under the terms of the underlying lease or other federally-approved cooperative oil and gas agreements.

### **§ 3137.89 How does production allocation occur from wells that do not meet the productivity criteria?**

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(a) If a well that does not meet the productivity criteria was drilled before the unit was formed, the production is allocated on a lease or other federally-approved oil and gas agreement basis. You must pay and report the royalties from any such well either as specified in the underlying lease or other federally-approved oil and gas agreements.

(b) If you drilled a well after the unit was formed and the well is completed within an existing participating area, the production becomes a part of that participating area production even if it does not meet the productivity criteria. BLM may require the participating area to be revised under §3137.84 of this subpart.

(c) If a well not meeting the productivity criteria is outside a participating area, the production is allocated as provided in paragraph (a) of this section.

### **§ 3137.90 Who must operate wells that do not meet the productivity criteria?**

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(a) If a well not meeting the productivity criteria was drilled before the unit was formed and is not included in the participating area, the operator of the well at the time the unit was formed may continue as operator.

(b) As unit operator, you must continue to operate wells drilled after unit formation not meeting the productivity criteria unless BLM approves a change in the designation of operator for those wells.

### **§ 3137.91 When will BLM allow a well previously determined to be a non-unit well to be used in establishing or modifying a PA?**

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If you, as the unit operator, complete sufficient work so that a well BLM previously determined to be a non-unit well now meets the productivity criteria, you must demonstrate this to BLM within 60 calendar days after you determine that the well meets the productivity criteria. You must then modify an existing participating area or establish a new participating area (see §3137.84 of this subpart).

### **§ 3137.92 When does a participating area terminate?**

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(a) After contraction under §3137.76 of this subpart, a participating area terminates 60 calendar days after BLM notifies you that there is insufficient production to meet the operating costs of that production, unless you show that within 60 calendar days after BLM's notification—

(1) Your operations to restore or establish new production are in progress; and

(2) You are diligently pursuing oil or gas production.

(b) If you demonstrate to BLM that reasons beyond your control prevent you, despite reasonable diligence, from meeting the requirements in paragraphs (a)(1) and (a)(2) of this section within 60 calendar days after BLM notifies you that there is insufficient production to meet the operating costs of that production, BLM will extend the period of time to start those operations.

## Production Allocation

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### **§ 3137.100 How must I allocate production to the United States when a participating area includes unleased Federal lands?**

[↑ top](#)

(a) When a participating area includes unleased Federal lands, you must allocate production as if the unleased Federal lands were leased and committed to the unit agreement (see §§3137.80 and 3137.81 of this subpart). The obligation to pay royalty for production attributable to unleased Federal lands accrues from the later of the date the—

(1) Committed leases in the participating area that includes unleased Federal lands receive a production allocation; or

(2) Previously leased tracts within the participating area become unleased.

(b) The royalty rate applicable to production allocated to unleased Federal lands is the greater of 12 1/2 percent or the highest royalty rate for any lease committed to the unit.

(c) The value of the production must be determined under the Minerals Management Service's oil and gas product value regulations at 30 CFR part 206.

## Obligations and Extensions

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### **§ 3137.110 Do the terms and conditions of a unit agreement modify Federal lease stipulations?**

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A unit agreement does not modify Federal lease stipulations.

### **§ 3137.111 When will BLM extend the primary term of all leases committed to a unit agreement?**

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(a) If the unit operator requests it, BLM will extend the primary term of all NPR-A leases committed to a unit agreement if, from anywhere in the unit area, there is—

(1) Actual production from a well that meets the productivity criteria;

(2) Actual or constructive drilling operations; or

(3) Actual or constructive reworking operations.

(b) BLM will extend all NPR-A leases committed to the unit, as provided in the following table, for the following types of operations from any lease committed to the unit—

Type of operations	Length of extension	Additional extension
(1) Actual production.....	As long as there is production from a well in the unit that meets the productivity criteria.	Does not apply.
(2) Actual or constructive drilling operations.  drilling  during	Up to three years for an initial extension.	Up to three more years if you demonstrate reasonable diligence and reasonable monetary expenditures in carrying out the approved or reworking operations  the initial extension.
(3) Actual or constructive reworking operations.  drilling  during	Up to three years for an initial extension.	Up to three more years if you demonstrate reasonable diligence and reasonable monetary expenditures in carrying out the approved or reworking operations  the initial extension.

§ 3137.112 What happens if I am prevented from performing actual or constructive drilling or

**reworking operations?**

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(a) If you demonstrate to BLM that reasons beyond your control prevent you, despite reasonable diligence, from starting actual or constructive drilling, reworking, or completing operations, BLM will extend all committed NPR-A leases as if you were performing constructive or actual drilling or reworking operations. You are limited to two extensions under this section.

(b) You must resume actual or constructive drilling or reworking operations when conditions permit. If you do not resume operations—

(1) BLM will cancel the extension; and

(2) The unit terminates (*see* §3137.131 of this subpart).

#### **Change in Ownership**

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**§ 3137.120 As a transferee of an interest in a unitized NPR-A lease, am I subject to the terms and conditions of the unit agreement?**

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As a transferee of an interest in an NPR-A lease that is included in a unit agreement, you are subject to the terms and conditions of the unit agreement.

#### **Unit Termination**

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**§ 3137.130 Under what circumstances will BLM approve a voluntary termination of the unit?**

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BLM will approve the voluntary termination of the unit at any time—

(a) Before the unit operator discovers production sufficient to establish a participating area; and

(b) The unit operator submits to BLM certification that at least 75 percent of the operating rights owners in the unit agreement, on a surface acreage basis, agree to the termination.

**§ 3137.131 What happens if the unit terminated before the unit operator met the initial development**

obligations?

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If the unit terminated before the unit operator met the initial development obligations, BLM's approval of the unit agreement is revoked. You, as lessee, forfeit all further benefits, including extensions and suspensions, granted any NPR-A lease as a result of having been committed to the unit. Any lease that BLM extended as a result of being committed to the unit would expire unless it qualified for an extension under §3135.1–5 of this part.

**§ 3137.132 What if I do not meet a continuing development obligation before I establish any participating area in the unit?**

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If you do not meet a continuing development obligation before you establish any participating area, the unit terminates automatically. Termination is effective the day after you did not meet a continuing development obligation.

**§ 3137.133 After participating areas are established, when does the unit terminate?**

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After participating areas are established, the unit terminates when the last participating area of the unit terminates (see §3137.92 of this subpart).

**§ 3137.134 What happens to committed leases if the unit terminates?**

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(a) If the unit terminates, all committed NPR-A leases return to individual lease status and are subject to their original provisions.

(b) An NPR-A lease that has completed its primary term on or before the date the unit terminates expires unless it qualifies for extension under §3135.1–5 of this part.

**§ 3137.135 What are the unit operator's obligations after unit termination?**

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Within three months after unit termination, the unit operator must submit to BLM for approval a plan and schedule for mitigating the impacts resulting from unit operations. The plan must describe in detail planned plugging and abandonment and surface restoration operations. The unit operator must then comply with the BLM-approved plan and schedule.

**Appeals**

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**§ 3137.150 How do I appeal a decision that BLM issues under this subpart?**

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(a) You may file for a State Director Review (SDR) of a decision BLM issues under this subpart. Part 3160, subpart 3165 of this title contains regulations on SDR; or

(b) If you are adversely affected by a BLM decision under this subpart you may directly appeal the decision under parts 4 and 1840 of this title.

**Subpart 3138—Subsurface Storage Agreements in the National Petroleum Reserve-Alaska (NPR-A)**

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**Source:** 67 FR 17893, Apr. 11, 2002, unless otherwise noted.

**§ 3138.10 When will BLM enter into a subsurface storage agreement in NPR-A covering federally-owned lands?**

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BLM will enter into a subsurface storage agreement in NPR-A covering federally-owned lands to allow you to use either leased or unleased federally-owned lands for the subsurface storage of oil and gas, whether or not the oil or gas you intend to store is produced from federally-owned lands, if you demonstrate that storage is necessary to—

- (a) Avoid waste; or
- (b) Promote conservation of natural resources.

**§ 3138.11 How do I apply for a subsurface storage agreement?**

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(a) You must submit an application to BLM for a subsurface storage agreement that includes—

- (1) The reason for forming a subsurface storage agreement;
- (2) A description of the area you plan to include in the subsurface storage agreement;
- (3) A description of the formation you plan to use for storage;
- (4) The proposed storage fees or rentals. The fees or rentals must be based on the value of

the subsurface storage, injection, and withdrawal volumes, and rental income or other income generated by the operator for letting or subletting the storage facilities;

(5) The payment of royalty for native oil or gas (oil or gas that exists in the formation before injection and that is produced when the stored oil or gas is withdrawn);

(6) A description of how often and under what circumstances you and BLM intend to renegotiate fees and payments;

(7) The proposed effective date and term of the subsurface storage agreement;

(8) Certification that all owners of mineral rights (leased or unleased) and lease interests have consented to the gas storage agreement in writing;

(9) An ownership schedule showing lease or land status;

(10) A schedule showing the participation factor for all parties to the subsurface storage agreement; and

(11) Supporting data (geologic maps showing the storage formation, reservoir data, etc.) demonstrating the capability of the reservoir for storage.

(b) BLM will negotiate the terms of a subsurface storage agreement with you, including bonding, and reservoir management.

(c) BLM may request documentation in addition to that which you provide under paragraph (a) of this section.

#### § 3138.12 What must I pay for storage?

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You must pay any combination of storage fees, rentals, or royalties to which you and BLM agree. The royalty you pay on production of native oil and gas from leased lands will be the royalty required by the underlying lease(s).

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## PART 3120—COMPETITIVE LEASES

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**Authority:** 16 U.S.C. 3101 *et seq.*; 30 U.S.C. 181 *et seq.* and 351–359; 40 U.S.C. 471 *et seq.*; 43 U.S.C. 1701 *et seq.*; and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

**Source:** 53 FR 22843, June 17, 1988, unless otherwise noted.

## **Subpart 3120—Competitive Leases**

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### **§ 3120.1 General.**

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#### **§ 3120.1-1 Lands available for competitive leasing.**

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All lands available for leasing shall be offered for competitive bidding under this subpart, including but not limited to:

- (a) Lands in oil and gas leases that have terminated, expired, been cancelled or relinquished.
- (b) Lands for which authority to lease has been delegated from the General Services Administration.

(c) If, in proceeding to cancel a lease, interest in a lease, option to acquire a lease or an interest therein, acquired in violation of any of the provisions of the act, an underlying lease, interest or option in the lease is cancelled or forfeited to the United States and there are valid interests therein that are not subject to cancellation, forfeiture, or compulsory disposition, such underlying lease, interest, or option shall be sold to the highest responsible qualified bidder by competitive bidding under this subpart, subject to all outstanding valid interests therein and valid options pertaining thereto. If less than the whole interest in the lease, interest, or option is cancelled or forfeited, such partial interest shall likewise be sold by competitive bidding. If no satisfactory bid is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold in accordance with section 27 of the Act by such other methods as the authorized officer deems appropriate, but on terms no less favorable to the United States than those of the best competitive bid received. Interest in outstanding leases(s) so sold shall be subject to the terms and conditions of the existing lease(s).

(d) Lands which are otherwise unavailable for leasing but which are subject to drainage (protective leasing).

(e) Lands included in any expression of interest or noncompetitive offer, except offers properly filed within the 2-year period provided under §3110.1(b) of this title, submitted to the authorized officer.

(f) Lands selected by the authorized officer.

### **§ 3120.1-2 Requirements.**

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(a) Each proper BLM State office shall hold sales at least quarterly if lands are available for competitive leasing.

(b) Lease sales shall be conducted by a competitive oral bidding process.

(c) The national minimum acceptable bid shall be \$2 per acre or fraction thereof payable on the gross acreage, and shall not be prorated for any lands in which the United States owns a fractional interest.

### **§ 3120.1-3 Protests and appeals.**

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No action pursuant to the regulations in this subpart shall be suspended under §4.21(a) of this title due to an appeal from a decision by the authorized officer to hold a lease sale. The authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale.

Only the Assistant Secretary for Land and Minerals Management may suspend a lease sale for good and just cause after reviewing the reason(s) for an appeal.

### **§ 3120.2 Lease terms.**

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#### **§ 3120.2-1 Duration of lease.**

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Competitive leases shall be issued for a primary term of 10 years.

[58 FR 40754, July 30, 1993]

### **§ 3120.2-2 Dating of leases.**

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All competitive leases shall be considered issued when signed by the authorized officer. Competitive leases, except future interest leases issued under §3120.7 of this title, shall be effective as of the first day of the month following the date the leases are signed on behalf of the United States. A lease may be made effective on the first day of the month within which it is issued if a written request is made prior to the date of signature of the authorized officer. Leases for future interest shall be effective as of the date the mineral interests vest in the United States.

### **§ 3120.2-3 Lease size.**

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Lands shall be offered in leasing units of not more than 2,560 acres outside Alaska, or 5,760 acres within Alaska, which shall be as nearly compact in form as possible.

### **§ 3120.3 Nomination process.**

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The Director may elect to implement the provisions contained in §§3120.3–1 through 3120.3–7 of this title after review of any comments received during a period of not less than 30 days following publication in the Federal Register of notice that implementation of those sections is being considered.

#### **§ 3120.3-1 General.**

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The Director may elect to accept nominations requiring submission of the national minimum acceptable bid, as set forth in this section, as part of the competitive process required by the act, or elect to accept informal expressions of interest. A List of Lands Available for Competitive Nominations may be posted in accordance with §3120.4 of this title, and nominations in response to this list shall be made in accordance with instructions contained therein and on a form approved by the Director. Those parcels receiving nominations shall be included in a Notice of Competitive Lease Sale, unless the parcel is withdrawn by the Bureau.

#### **§ 3120.3-2 Filing of a nomination for competitive leasing.**

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Nominations filed in response to a List of Lands Available for Competitive Nominations and on a form approved by the Director shall:

(a) Include the nominator's name and personal or business address. The name of only one citizen, association or partnership, corporation or municipality shall appear as the nominator. All communications relating to leasing shall be sent to that name and address, which shall constitute the nominator's name and address of record:

(b) Be completed, signed in ink and filed in accordance with the instructions printed on the form and the regulations in this subpart. Execution of the nomination form shall constitute a legally binding offer to lease by the nominator, including all terms and conditions;

(c) Be filed within the filing period and in the BLM office specified in the List of Lands Available for Competitive Nominations. A nomination shall be unacceptable and shall be returned with all moneys refunded if it has not been completed and timely filed in accordance with the instructions on the form or with the other requirements in this subpart; and

(d) Be accompanied by a remittance sufficient to cover the national minimum acceptable bid, the first year's rental per acre or fraction thereof, and the administrative fee as set forth in §3120.5–2(b) of this title for each parcel nominated on the form.

[53 FR 22843, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

### **§ 3120.3-3 Minimum bid and rental remittance.**

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Nominations filed in response to a List of Lands Available for Competitive Nominations shall be accompanied by a single remittance. Failure to submit either a separate remittance with each form or an amount sufficient to cover all the parcels nominated on each form shall cause the entire filing to be deemed unacceptable with all moneys refunded.

### **§ 3120.3-4 Withdrawal of a nomination.**

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A nomination shall not be withdrawn, except by the Bureau for cause, in which case all moneys shall be refunded.

### **§ 3120.3-5 Parcels receiving nominations.**

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Parcels which receive nominations shall be included in a Notice of Competitive Lease Sale. The Notice shall indicate which parcels received multiple nominations in response to a List of Lands Available for Competitive Nominations, or parcels which have been withdrawn by the Bureau.

### **§ 3120.3-6 Parcels not receiving nominations.**

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Lands included in the List of Lands Available for Competitive Nominations which are not included in the Notice of Competitive Lease Sale because they were not nominated, unless they were withdrawn by the Bureau, shall be available for a 2-year period, for noncompetitive leasing as specified in the List.

### **§ 3120.3-7 Refund.**

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The minimum bid, first year's rental and administrative fee shall be refunded to all nominators who are unsuccessful at the oral auction.

### **§ 3120.4 Notice of competitive lease sale.**

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### **§ 3120.4-1 General.**

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(a) The lands available for competitive lease sale under this subpart shall be described in a Notice of Competitive Lease Sale.

(b) The time, date, and place of the competitive lease sale shall be stated in the Notice.

(c) The notice shall include an identification of, and a copy of, stipulations applicable to each parcel.

### **§ 3120.4-2 Posting of notice.**

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At least 45 days prior to conducting a competitive auction, lands to be offered for competitive lease sale, as included in a List of Lands Available for Competitive Nominations or in a Notice of Competitive Lease Sale, shall be posted in the proper BLM office having jurisdiction over the lands as specified in §1821.2–1(d) of this title, and shall be made available for posting to surface managing agencies having jurisdiction over any of the included lands.

### **§ 3120.5 Competitive sale.**

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#### **§ 3120.5-1 Oral auction.**

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(a) Parcels shall be offered by oral bidding. The existence of a nomination accompanied by the national minimum acceptable bid shall be announced at the auction for the parcel.

(b) A winning bid shall be the highest oral bid by a qualified bidder, equal to or exceeding the national minimum acceptable bid. The decision of the auctioneer shall be final.

(c) Two or more nominations on the same parcel when the bids are equal to the national minimum acceptable bid, with no higher oral bid being made, shall be returned with all moneys refunded. If the Bureau reoffers the parcel, it shall be reoffered only competitively under this subpart with any noncompetitive offer filed under §3110.1(a) of this title retaining priority, provided no bid is received at an oral auction.

#### **§ 3120.5-2 Payments required.**

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(a) Payments shall be made in accordance with §3103.1–1 of this title.

(b) Each winning bidder shall submit, by the close of official business hours, or such other time as may be specified by the authorized officer, on the day of the sale for the parcel:

(1) The minimum bonus bid of \$2 per acre or fraction thereof;

(2) The total amount of the first year's rental; and

(3) The processing fee for competitive lease applications found in the fee schedule in §3000.12 of this chapter for each parcel.

(c) The winning bidder shall submit the balance of the bonus bid to the proper BLM office within 10 working days after the last day of the oral auction.

[53 FR 22843, June 17, 1988, as amended at 70 FR 58875, Oct. 7, 2005]

### **§ 3120.5-3 Award of lease.**

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(a) A bid shall not be withdrawn and shall constitute a legally binding commitment to execute the lease bid form and accept a lease, including the obligation to pay the bonus bid, first year's rental, and administrative fee. Execution by the high bidder of a competitive lease bid form approved by the Director constitutes certification of compliance with subpart 3102 of this title, shall constitute a binding lease offer, including all terms and conditions applicable thereto, and shall be required when payment is made in accordance with §3120.5-2(b) of this title. Failure to comply with §3120.5-2(c) of this title shall result in rejection of the bid and forfeiture of the monies submitted under §3120.5-2(b) of this title.

(b) A lease shall be awarded to the highest responsible qualified bidder. A copy of the lease shall be provided to the lessee after signature by the authorized officer.

(c) If a bid is rejected, the lands shall be reoffered competitively under this subpart with any noncompetitive offer filed under §3110.1(a) of this title retaining priority, provided no bid is received in an oral auction.

(d) Issuance of the lease shall be consistent with §3110.7 (a) and (b) of this title.

### **§ 3120.6 Parcels not bid on at auction.**

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Lands offered at the oral auction that receive no bids shall be available for filing for noncompetitive lease for a 2-year period beginning the first business day following the auction at a time specified in the Notice of Competitive Lease Sale.

### **§ 3120.7 Future interest.**

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#### **§ 3120.7-1 Nomination to make lands available for competitive lease.**

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A nomination for a future interest lease shall be filed in accordance with this subpart.

#### **§ 3120.7-2 Future interest terms and conditions.**

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(a) No rental or royalty shall be due to the United States prior to the vesting of the oil and gas rights in the United States. However, the future interest lessee shall agree that if, he/she is or becomes the holder of any present interest operating rights in the lands:

(1) The future interest lessee transfers all or a part of the lessee's present oil and gas interests, such lessee shall file in the proper BLM office an assignment or transfer, in accordance with subpart 3106 of this title, of the future interest lease of the same type and proportion as the transfer of the present interest, and

(2) The future interest lessee's present lease interests are relinquished, cancelled, terminated, or expired, the future interest lease rights with the United States also shall cease and terminate to the same extent.

(b) Upon vesting of the oil and gas rights in the United States, the future interest lease rental and royalty shall be as for any competitive lease issued under this subpart, as provided in subpart 3103 of this title, and the acreage shall be chargeable in accordance with §3101.2 of this title.

### **§ 3120.7-3 Compensatory royalty agreements.**

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The terms and conditions of compensatory royalty agreements involving acquired lands in which the United States owns a future or fractional interest shall be established on an individual case basis. Such agreements shall be required when leasing is not possible in situations where the interest of the United States in the oil and gas deposit includes both a present and a future fractional interest in the same tract containing a producing well.

[53 FR 22843, June 17, 1988]

## **Title 43: Public Lands: Interior**

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**Authority:** 30 U.S.C. 1001–1028; and 43 U.S.C. 1701 *et seq.*

**Source:** 63 FR 52364, Sept. 30, 1998, unless otherwise noted.

## Subpart 3200—Geothermal Resource Leasing

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### § 3200.1 Definitions.

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**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.**

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(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.**

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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?**

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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?**

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- (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**

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### **§ 3201.10 What lands are available for geothermal leasing?**

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- (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?

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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

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### § 3202.10 Who may hold a geothermal lease?

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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?**

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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?**

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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?**

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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**

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### **§ 3203.10 How can I obtain a geothermal lease?**

[↑ top](#)

(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?**

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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**

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#### **§ 3204.10 How do I file a lease offer?**

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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 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?**

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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?**

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Submit the processing fee for noncompetitive lease applications found in the fee schedule in §3000.12 of this chapter 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.

[63 FR 52364, Sept. 30, 1998, as amended at 58875, Oct. 7, 2005]

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

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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?**

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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?**

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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?**

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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?**

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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?**

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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**

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### **§ 3205.10 How does BLM lease lands competitively?**

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(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?**

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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?**

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- (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?**

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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?**

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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?**

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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?**

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(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;
- (4) The processing fee for competitive lease applications found in the fee schedule in §3000.12 of this chapter; and

(5) 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.

[63 FR 52364, Sept. 30, 1998, as amended at 58875, Oct. 7, 2005]

## **Subpart 3206—Lease Issuance**

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

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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?**

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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?**

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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?**

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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?

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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?

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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?

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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?

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Leases have a primary term of 10 years.

### § 3206.18 When will BLM issue my lease?

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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

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

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(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?**

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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**

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

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(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?**

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(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?**

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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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

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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?**

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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?**

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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**

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

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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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

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Just send us a request.

## Subpart 3210—Additional Lease Information

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### § 3210.10 When does lease segregation occur?

[↑ top](#)

(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?

[↑ top](#)

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?

[↑ top](#)

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. You must include the processing fee for lease consolidations found in the fee schedule in §3000.12 of this chapter with your request to consolidate leases.

[63 FR 52364, Sept. 30, 1998, as amended at 58875, Oct. 7, 2005]

### § 3210.13 What is the diligent exploration requirement?

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(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?**

[↑ top](#)

(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.

-----  
-

Expenditure	Lease year	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?**

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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?**

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BLM will cancel your lease.

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

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

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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**

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

[↑ top](#)

(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 fees, rents, and minimum royalties owed for your lease:

Fees, Rent, and Royalties

Type	Competitive leases	Noncompetitive leases
(1) Lease Application Processing fee.	As found in the fee schedule in § 3000.12 of this chapter.	As found in the fee schedule in § 3000.12 of this chapter. (includes future interest leases)
(2) Lease Rent.....	\$2.00 per acre.	\$1.00 per acre.
(3) Transfer of Record Title or Operating Rights.	As found in the fee schedule in § 3000.12 of this chapter.	As found in the fee schedule in § 3000.12 of this chapter.
(4) Transfer of Interest to Heir or Devisee, Name Change, or Notification Corporate Merger.	As found in the fee schedule in § 3000.12 of this chapter.	As found in the fee schedule in § 3000.12 of this chapter.
(5) Steam, heat, or energy royalties.	Between 10% and 15%.	Between 10% and 15%.
(6) Demineralized water royalties.	5%.....	5%.
(7) Byproduct royalties.....	5%.....	5%.
(8) Minimum royalty.....	\$2.00 per acre.	\$2.00 per acre.
(9) 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. \$6.00/year, second 5 yrs.	\$3.00/year, first 5 years. \$6.00/year, second 5 years.

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

[63 FR 52364, Sept. 30, 1998, as amended at 58875, Oct. 7, 2005]

**§ 3211.11 When is my annual rental payment due?**

[↑ top](#)

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?**

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(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?**

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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?**

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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?**

[↑ top](#)

(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?**

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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?**

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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**

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**§ 3212.10 What is the difference between a suspension of operations and production and a suspension of operations?**

[↑ top](#)

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?**

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(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?**

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(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?**

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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?**

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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?**

[↑ top](#)

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?**

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- (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**

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##### **§ 3213.10 Who may relinquish a lease?**

[↑ top](#)

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?**

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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?**

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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?**

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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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

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

**§ 3213.17 May BLM reinstate my lease?**

[↑ top](#)

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?**

[↑ top](#)

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?**

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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. Lack of diligence on your part is not a justification for delaying payment. In addition to your petition, you must also include any past rent owed, any rent that has accrued from the termination date, and the processing fee for lease reinstatement found in the fee schedule in §3000.12 of this chapter.

[70 FR 58876, Oct. 7, 2005]

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

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

(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**

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##### **§ 3214.10 Who must post a geothermal bond?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

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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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

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##### **§ 3215.10 When may BLM collect against my bond?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

[↑ top](#)

**§ 3216.10 What types of lease interests may I transfer?**

[↑ top](#)

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?**

[↑ top](#)

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

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

[↑ top](#)

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?**

[↑ top](#)

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 fees and forms does a transfer require?**

[↑ top](#)

With each transfer request send us the correct form, if required, and pay the transfer processing fee found in the fee schedule in §3000.12 of this chapter. When you calculate your fee, make sure it covers the full amount. For example, if you are transferring record title for three leases, submit 3 times the listed fee with the application. Use the following chart to determine forms and fees:

Transfer fee (per Type of form Number of copies	Specific form required	Form No.
(a) Record title..... executed copies.... As found in the fee	Yes.....	3000-3 2

schedule in §  
3000.12 of this  
chapter.

(b) Operating rights..... Yes..... 3000-3(a) 2  
executed copies.... As found in the fee

schedule in §

3000.12 of this

chapter.

(c) Estate transfers..... No..... N/A 1  
List of Leases..... As found in the fee

schedule in §

3000.12 of this

chapter.

(d) Corporate mergers..... No..... N/A 1  
List of Leases..... As found in the fee

schedule in §

3000.12 of this

chapter.

(e) Name changes..... No..... N/A 1  
List of Leases..... As found in the fee

schedule in §

3000.12 of this

chapter.

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[70 FR 58876, Oct. 7, 2005]

**§ 3216.15 When must I file my transfer request?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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

**§ 3216.22 Does BLM grant all transfer requests?**

[↑ top](#)

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**

[↑ top](#)

**§ 3217.10 What are unit agreements and cooperative plans?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

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##### **§ 3250.10 When do the exploration operations regulations apply?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

- (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**

[↑ top](#)

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

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

- (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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

[↑ top](#)

**§ 3252.10 What operational standards apply to my exploration operations?**

[↑ top](#)

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?**

[↑ top](#)

- (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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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

**§ 3252.16 How must I abandon a temperature gradient well?**

[↑ top](#)

(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**

[↑ top](#)

**§ 3253.10 Must I share the data I collect through exploration operations with BLM?**

[↑ top](#)

(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?**

[↑ top](#)

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**

[↑ top](#)

**§ 3254.10 May BLM inspect my exploration operations?**

[↑ top](#)

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?**

[↑ top](#)

(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**

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##### **§ 3255.10 Will BLM disclose information I submit under these regulations?**

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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?**

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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?**

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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.

**§ 3255.13 How will BLM treat Indian information submitted under the Indian Mineral Development Act?**

[↑ top](#)

Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(a) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(b) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(1) The terms, conditions, or financial return to the Indian parties;

(2) The extent, nature, value, or disposition of the Indian mineral resources; or

(3) The production, products, or proceeds thereof.

11. Section 3255.14 is added to read as follows:

[63 FR 52953, Oct. 1, 1998]

**§ 3255.14 How will BLM administer information concerning other Indian minerals?**

[↑ top](#)

For information concerning Indian minerals not covered by §3255.13, BLM will withhold such records as may be withheld under an exemption to the Freedom of Information Act (FOIA) (5 U.S.C. 552) when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation.

12. Section 3255.15 is added to read as follows:

[63 FR 52953, Oct. 1, 1998]

**§ 3255.15 When will BLM consult with Indian mineral owners when information concerning their minerals is the subject of a FOIA request?**

[↑ top](#)

BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of §2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

- (a) Information obtained from a person outside the United States Government; when
- (b) Following consultation with a submitter under §2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but
- (c) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

[63 FR 52953, Oct. 1, 1998]

#### **Subpart 3256—Exploration Operations Relief and Appeals**

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##### **§ 3256.10 May I request a variance from any BLM requirements?**

[↑ top](#)

(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?**

[↑ top](#)

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

#### **Subpart 3260—Geothermal Drilling Operations—General**

[↑ top](#)

**§ 3260.10 What types of geothermal operations are covered by these regulations?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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**

[↑ top](#)

#### **§ 3261.10 How do I get approval to begin well pad construction?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

Yes, before starting any operation, you must:

- (a) Send us either a surety or personal bond in the following minimum 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.

[63 FR 52364, Sept. 30, 1998; 66 FR 27040, May 16, 2001]

**§ 3261.19 When will BLM release my bond?**

[↑ top](#)

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?**

[↑ top](#)

- (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?**

[↑ top](#)

(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 re-drilling, 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, re-drilling 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?**

[↑ top](#)

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**

[↑ top](#)

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

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

- (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**

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

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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?**

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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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

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

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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?**

[↑ top](#)

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

(b) 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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

[↑ top](#)

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

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

(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**

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

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

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

[↑ top](#)

(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?**

[↑ top](#)

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

**Subpart 3270—Utilization of Geothermal Resources—General**

[↑ top](#)

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

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

- (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**

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##### **§ 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?**

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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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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

[↑ top](#)

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?**

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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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

(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 license.

(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**

[↑ top](#)

#### **§ 3273.10 When do I need a site license for a utilization facility?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

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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?**

[↑ top](#)

(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?**

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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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

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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?**

[↑ top](#)

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?**

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(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

[↑ top](#)

##### **§ 3274.10 Do I need a commercial use permit to start commercial operations?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

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**

[↑ top](#)

##### **§ 3275.10 How do I change my operations if I have an approved facility construction or commercial use permit?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

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?**

[↑ top](#)

(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?**

[↑ top](#)

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  $\pm 2$  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  $\pm 4$  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  $\pm 2$  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  $\pm 4$  percent or better of reading;

(6) If the meter measures heat content, it must have an accuracy of  $\pm 4$  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  $\pm 5$  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?**

[↑ top](#)

(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?**

[↑ top](#)

(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?**

[↑ top](#)

Yes, you must conduct any tests we require, including tests for byproducts.

**§ 3275.19 May I commingle production?**

[↑ top](#)

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?**

[↑ top](#)

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?**

[↑ top](#)

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**

[↑ top](#)

**§ 3276.10 What are my reporting requirements for facility and lease operations involving Federal geothermal resources?**

[↑ top](#)

(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?**

[↑ top](#)

- (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?**

[↑ top](#)

- (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?**

[↑ top](#)

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?**

[↑ top](#)

- (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?**

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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**

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**§ 3277.10 Will BLM inspect my operations?**

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- (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?**

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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?**

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(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**

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**§ 3278.10 Will BLM disclose information I submit under these regulations?**

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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?**

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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?**

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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**

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**§ 3279.10 May I request a variance from any BLM requirements?**

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(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?**

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You may appeal our decision regarding your utilization operations in accordance with 43

CFR 3200.5.

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