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-CITE-

25 USC Sec. 396d

01/22/02

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 12 - LEASE, SALE, OR SURRENDER OF ALLOTTED OR UNALLOTTED

LANDS

-HEAD-

Sec. 396d. Rules and regulations governing operations; limitations
on oil or gas leases

-STATUTE-

All operations under any oil, gas, or other mineral lease issued pursuant to the terms of sections 396a to 396g of this title or any other Act affecting restricted Indian lands shall be subject to the rules and regulations promulgated by the Secretary of the Interior. In the discretion of the said Secretary, any lease for oil or gas issued under the provisions of sections 396a to 396g of this title shall be made subject to the terms of any reasonable cooperative unit or other plan approved or prescribed by said Secretary prior or subsequent to the issuance of any such lease which involves the development or production of oil or gas from land covered by such lease.

-SOURCE-

(May 11, 1938, ch. 198, Sec. 4, 52 Stat. 348.)

-MISC1-

REPEAL OF INCONSISTENT ACTS

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 396a, 396f, 459c, 1724,
2105 of this title.



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TITLE 25--INDIANS

CHAPTER 23--DEVELOPMENT OF TRIBAL MINERAL RESOURCES

Sec. 2103. Secretary's determination on Minerals Agreements

(a) Time; enforcement

The Secretary shall approve or disapprove any Minerals Agreement submitted to him for approval within (1) one hundred and eighty days after submission or (2) sixty days after compliance, if required, with section 4332(2)(C) of title 42 or any other requirement of Federal law, whichever is later. Any party to such an agreement may enforce the provisions of this subsection pursuant to section 1361 of title 28.

(b) Factors for consideration; extent of required study

In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe or of any individual Indian who may be party to such agreement and shall consider, among other things, the potential economic return to the tribe; the potential environmental, social, and cultural effects on the tribe; and provisions for resolving disputes that may arise between the parties to the agreement: Provided, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 4332(2)(C) of title 42.

(c) Prior notice of proposed finding; privileged information

Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(d) Delegation; final action; appeal; burden on Secretary

The authority to disapprove agreements under this section may only be delegated to the Assistant Secretary of the Interior for Indian Affairs. The decision of the Secretary or, where authority is delegated, of the Assistant Secretary of the Interior for Indian Affairs, to disapprove a Minerals Agreement shall be deemed a final agency action. The district courts of the United States shall have jurisdiction to review the Secretary's disapproval action and shall determine the matter de novo. The burden is on the Secretary to sustain his action.

(e) Nonliability of United States; continuing obligations

Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this chapter and any other applicable provision

of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such agreement: Provided, That the Secretary shall continue to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement: Provided further, That nothing in this chapter shall absolve the United States from any responsibility to Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreement between the United States and any Indian tribe.

(Pub. L. 97-382, Sec. 4, Dec. 22, 1982, 96 Stat. 1938.)

Section Referred to in Other Sections

This section is referred to in section 2107 of this title.

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-CITE-

30 USC Sec. 189

01/22/02

-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 3A - LEASES AND PROSPECTING PERMITS

SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 189. Rules and regulations; boundary lines; State rights
unaffected; taxation

-STATUTE-

The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this chapter, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this chapter. Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

-SOURCE-

(Feb. 25, 1920, ch. 85, Sec. 32, 41 Stat. 450.)

-TRANS-

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of

rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, Sec. 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

-MISC5-

OUTER CONTINENTAL SHELF; RULES AND REGULATIONS WITH RESPECT TO
LEASES

Rules and regulations with respect to mineral leases on submerged lands of outer Continental Shelf to be prescribed by Secretary of the Interior, see section 1334 of Title 43, Public Lands.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.



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-CITE-

30 USC Sec. 359

01/22/02

-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 7 - LEASE OF MINERAL DEPOSITS WITHIN ACQUIRED LANDS

-HEAD-

Sec. 359. Rules and regulations

-STATUTE-

The Secretary of the Interior is authorized to prescribe such rules and regulations as are necessary and appropriate to carry out the purposes of this chapter, which rules and regulations shall be the same as those prescribed under the mineral leasing laws to the extent that they are applicable.

-SOURCE-

(Aug. 7, 1947, ch. 513, Sec. 10, 61 Stat. 915.)

-REFTEXT-

REFERENCES IN TEXT

For definition of 'mineral leasing laws', see section 351 of this title.

-TRANS-

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to

Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, Sec. 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.



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TITLE 30--MINERAL LANDS AND MINING

CHAPTER 23--GEOTHERMAL STEAM AND ASSOCIATED GEOTHERMAL RESOURCES

Sec. 1001. Definitions

As used in this chapter, the term--

- (a) ``Secretary'' means the Secretary of the Interior;
- (b) ``geothermal lease'' means a lease issued under authority of this chapter;
- (c) ``geothermal steam and associated geothermal resources'' means (i) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (ii) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (iii) heat or other associated energy found in geothermal formations; and (iv) any byproduct derived from them;
- (d) ``byproduct'' means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;
- (e) ``known geothermal resources area'' means an area in which the geology, nearby discoveries, competitive interests, or other indicia would, in the opinion of the Secretary, engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal steam or associated geothermal resources are good enough to warrant expenditures of money for that purpose.
- (f) ``Significant \1\ thermal features within units of the National Park System'' shall include, but not be limited to, the following:

\1\ So in original. Probably should not be capitalized.

- (1) Thermal features within units of the National Park System listed in Section \1\ 1026(a)(1) of this title and designated as significant in the Federal Register notice of August 3, 1987 (Vol. 52, No. 148 Fed. Reg. 28790).
- (2) Crater Lake National Park.
- (3) Thermal features within Big Bend National Park and Lake Mead National Recreation Area proposed as significant in the Federal Register notice of February 13, 1987 (Vol. 52, No. 30 Fed. Reg. 4700).
- (4) Thermal features within units of the National Park System added to the significant thermal features list pursuant to section 1026(a)(2) of this title.

(Pub. L. 91-581, Sec. 2, Dec. 24, 1970, 84 Stat. 1566; Pub. L. 100-443, Sec. 2(a), Sept. 22, 1988, 102 Stat. 1766.)

Amendments

1988--Par. (f). Pub. L. 100-443 added par. (f).

Short Title of 1988 Amendment

Section 1 of Pub. L. 100-443 provided that: ``This Act [enacting sections 1026 and 1027 of this title, amending this section and sections 191, 226-3, 1005, 1017, and 1019 of this title, and enacting provisions set out as notes under sections 1005 and 1026 of this title] may be known as the `Geothermal Steam Act Amendments of 1988'.'

Short Title

Section 1 of Pub. L. 91-581 provided: ``That this Act [enacting this chapter and amending section 530 of this title] may be cited as the `Geothermal Steam Act of 1970'.'

Section Referred to in Other Sections

This section is referred to in sections 1005, 1026 of this title.

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TITLE 30--MINERAL LANDS AND MINING

CHAPTER 23--GEOTHERMAL STEAM AND ASSOCIATED GEOTHERMAL RESOURCES

Sec. 1002. Lands subject to geothermal leasing

Subject to the provisions of section 1014 of this title, the Secretary of the Interior may issue leases for the development and utilization of geothermal steam and associated geothermal resources (1) in lands administered by him, including public, withdrawn, and acquired lands, (2) in any national forest or other lands administered by the Department of Agriculture through the Forest Service, including public, withdrawn, and acquired lands, and (3) in lands which have been conveyed by the United States subject to a reservation to the United States of the geothermal steam and associated geothermal resources therein.

(Pub. L. 91-581, Sec. 3, Dec. 24, 1970, 84 Stat. 1566.)

Section Referred to in Other Sections

This section is referred to in section 1024 of this title.

[Go to 1st query term\(s\)](#)

-CITE-

30 USC Sec. 1713

01/22/02

-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 29 - OIL AND GAS ROYALTY MANAGEMENT

SUBCHAPTER I - FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

-HEAD-

Sec. 1713. Required recordkeeping

-STATUTE-

(a) Maintenance and availability of records, reports, and information for inspection and duplication

A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this chapter through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this chapter or determining compliance with rules or orders under this chapter. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this chapter, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Length of time maintenance required

Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated

unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

-SOURCE-

(Pub. L. 97-451, title I, Sec. 103, Jan. 12, 1983, 96 Stat. 2451.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.



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-CITE-

43 USC Sec. 1334

01/22/02

-EXPCITE-

TITLE 43 - PUBLIC LANDS

CHAPTER 29 - SUBMERGED LANDS

SUBCHAPTER III - OUTER CONTINENTAL SHELF LANDS

-HEAD-

Sec. 1334. Administration of leasing

-STATUTE-

- (a) Rules and regulations; amendment; cooperation with State agencies; subject matter and scope of regulations

The Secretary shall administer the provisions of this subchapter relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering

any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions -

(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

(2) with respect to cancellation of any lease or permit -

(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that -

(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period

of time; and

(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit force;

(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee;

(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before September 18, 1978, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to

seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

(3) for the assignment or relinquishment of a lease;

(4) for unitization, pooling, and drilling agreements;

(5) for the subsurface storage of oil and gas other than by the Federal Government;

(6) for drilling or easements necessary for exploration, development, and production;

(7) for the prompt and efficient exploration and development of a lease area; and

(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this subchapter significantly affect the air quality of any State.

(b) Compliance with regulations as condition for issuance, continuation, assignment, or other transfer of leases

The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this subchapter shall be conditioned upon compliance with regulations issued under this subchapter.

(c) Cancellation of nonproducing lease

Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this subchapter, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(d) Cancellation of producing lease

Whenever the owner of any producing lease fails to comply with

any of the provisions of this subchapter, of the lease, or of the regulations issued under this subchapter, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this subchapter.

(e) Pipeline rights-of-way; forfeiture of grant

Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 1347(b) of this title) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this subchapter.

(f) Competitive principles governing pipeline operation

(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after September 18, 1978. This subparagraph (FOOTNOTE 1) shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

(FOOTNOTE 1) So in original. Probably should be ''subparagraph''.

(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the

views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

(g) Rates of production

(1) The leasee (FOOTNOTE 2) shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

(FOOTNOTE 2) So in original. Probably should be ''lessee''.

(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

(h) Federal action affecting outer Continental Shelf; notification; recommended changes

The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor

of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

(i) Flaring of natural gas

After September 18, 1978, no holder of any oil and gas lease issued or maintained pursuant to this subchapter shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.

(j) Cooperative development of common hydrocarbon-bearing areas

(1) Findings

(A) (FOOTNOTE 3) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including -

(FOOTNOTE 3) So in original. No subpar. (B) has been enacted.

(i) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

(ii) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

(iii) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

(2) Prevention of harmful effects

The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common

hydrocarbon-bearing area underlying the Federal and State boundary.

-SOURCE-

(Aug. 7, 1953, ch. 345, Sec. 5, 67 Stat. 464; Pub. L. 95-372, title II, Sec. 204, Sept. 18, 1978, 92 Stat. 636; Pub. L. 101-380, title VI, Sec. 6004(a), Aug. 18, 1990, 104 Stat. 558.)

-REFTEXT-

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(8), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (Sec. 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

-MISC2-

AMENDMENTS

1990 - Subsec. (j). Pub. L. 101-380 added subsec. (j).

1978 - Subsec. (a). Pub. L. 95-372 expanded provisions formerly contained in subsec. (a)(1) so as to include the enforcement of safety and environmental laws and regulations, consultation with the Attorney General and the Federal Trade Commission, and regulations for the suspension or temporary prohibition of any operation or activity including production, the cancellation of leases or permits, the prompt and efficient exploration and development of a lease area, and compliance with the national ambient air quality standards to the extent that activities authorized significantly affect the air quality of any State.

Subsec. (b). Pub. L. 95-372 redesignated as subsec. (b) provisions formerly contained in subsec. (a)(2) conditioning the issuance and continuation of leases or of assignments or other transfers of leases upon compliance with regulations, and struck

out provisions that had set a penalty of a fine of not more than \$2,000 or imprisonment for not more than six months or both for the knowing and willful violation of rules or regulations promulgated by the Secretary. See section 1350 of this title.

Subsec. (c). Pub. L. 95-372 redesignated as subsec. (c) provisions formerly contained in subsec. (b)(1) covering the cancellation of nonproducing leases for failure of the owner to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter.

Subsec. (d). Pub. L. 95-372 redesignated as subsec. (d) provisions formerly contained in subsec. (b)(2) covering the cancellation and forfeiture of producing leases for failure of the owner to comply with any of the provisions of this subchapter, the lease, or regulations promulgated under this subchapter.

Subsec. (e). Pub. L. 95-372 redesignated as subsec. (e) provisions formerly contained in subsec. (c) relating to pipeline rights-of-way and inserted provisions relating to regulations prescribed by the Secretary of Transportation and assurances of maximum environmental protection through the use of the best available and safest technologies including the safest practices for pipeline burial, and substituted references to the Federal Energy Regulatory Commission and the Secretary of Energy for existing references to the Federal Power Commission and the Interstate Commerce Commission.

Subsecs. (f) to (i). Pub. L. 95-372 added subsecs. (f) to (i).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

-TRANS-

TRANSFER OF FUNCTIONS

Functions vested in, or delegated to, Secretary of Energy and Department of Energy under or with respect to subsec. (g)(2) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97-257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, Sec. 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

-MISC5-

WEST DELTA FIELD

Section 6004(b) of Pub. L. 101-380 provided that: "Section 5(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(j)), as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana."

KEY LARGO CORAL REEF PRESERVE

Secretary of the Interior to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in the area designated Key Largo Coral Reef Preserve, see Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, set out

as a note under section 461 of Title 16, Conservation.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1335, 1337, 1340, 1351 of this title; title 42 section 7627.



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ENERGY POLICY ACT OF 2005

[[Page 119 STAT. 594]]

Public Law 109-58
109th Congress

An Act

To ensure jobs for our future with secure, affordable, and reliable energy. <<NOTE: Aug. 8, 2005 - [H.R. 6]>>

Be it enacted by the Senate and House of Representatives of the United States of America in <<NOTE: Energy Policy Act of 2005. 42 USC 15801 note.>> Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Energy Policy Act of 2005''.

(b) Table of Contents.--The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--ENERGY EFFICIENCY

Subtitle A--Federal Programs

- Sec. 101. Energy and water saving measures in congressional buildings.
- Sec. 102. Energy management requirements.
- Sec. 103. Energy use measurement and accountability.
- Sec. 104. Procurement of energy efficient products.
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- Sec. 107. Advanced Building Efficiency Testbed.
- Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
- Sec. 109. Federal building performance standards.
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Subtitle B--Energy Assistance and State Programs

- Sec. 121. Low-income home energy assistance program.
- Sec. 122. Weatherization assistance.
- Sec. 123. State energy programs.
- Sec. 124. Energy efficient appliance rebate programs.
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- Sec. 127. State Technologies Advancement Collaborative.
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Subtitle C--Energy Efficient Products

- Sec. 131. Energy Star program.
- Sec. 132. HVAC maintenance consumer education program.
- Sec. 133. Public energy education program.
- Sec. 134. Energy efficiency public information initiative.
- Sec. 135. Energy conservation standards for additional products.
- Sec. 136. Energy conservation standards for commercial equipment.
- Sec. 137. Energy labeling.
- Sec. 138. Intermittent escalator study.
- Sec. 139. Energy efficient electric and natural gas utilities study.
- Sec. 140. Energy efficiency pilot program.
- Sec. 141. Report on failure to comply with deadlines for new or revised energy conservation standards.

Subtitle D--Public Housing

- Sec. 151. Public housing capital fund.

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- Sec. 152. Energy-efficient appliances.
- Sec. 153. Energy efficiency standards.
- Sec. 154. Energy strategy for HUD.

TITLE II--RENEWABLE ENERGY

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- Sec. 201. Assessment of renewable energy resources.
- Sec. 202. Renewable energy production incentive.
- Sec. 203. Federal purchase requirement.
- Sec. 204. Use of photovoltaic energy in public buildings.
- Sec. 205. Biobased products.
- Sec. 206. Renewable energy security.
- Sec. 207. Installation of photovoltaic system.
- Sec. 208. Sugar cane ethanol program.
- Sec. 209. Rural and remote community electrification grants.
- Sec. 210. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes.
- Sec. 211. Sense of Congress regarding generation capacity of electricity from renewable energy resources on public lands.

Subtitle B--Geothermal Energy

- Sec. 221. Short title.
- Sec. 222. Competitive lease sale requirements.
- Sec. 223. Direct use.
- Sec. 224. Royalties and near-term production incentives.
- Sec. 225. Coordination of geothermal leasing and permitting on Federal lands.
- Sec. 226. Assessment of geothermal energy potential.
- Sec. 227. Cooperative or unit plans.
- Sec. 228. Royalty on byproducts.
- Sec. 229. Authorities of Secretary to readjust terms, conditions, rentals, and royalties.
- Sec. 230. Crediting of rental toward royalty.
- Sec. 231. Lease duration and work commitment requirements.
- Sec. 232. Advanced royalties required for cessation of production.

- Sec. 233. Annual rental.
- Sec. 234. Deposit and use of geothermal lease revenues for 5 fiscal years.
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- Sec. 236. Technical amendments.
- Sec. 237. Intermountain West Geothermal Consortium.

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- Sec. 241. Alternative conditions and fishways.
- Sec. 242. Hydroelectric production incentives.
- Sec. 243. Hydroelectric efficiency improvement.
- Sec. 244. Alaska State jurisdiction over small hydroelectric projects.
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- Sec. 251. Insular areas energy security.
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TITLE III--OIL AND GAS

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- Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
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Subtitle D--Naval Petroleum Reserve

- Sec. 331. Transfer of administrative jurisdiction and environmental remediation, Naval Petroleum Reserve Numbered 2, Kern County, California.
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- Sec. 361. Federal onshore oil and gas leasing and permitting practices.
- Sec. 362. Management of Federal oil and gas leasing programs.
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- Sec. 369. Oil shale, tar sands, and other strategic unconventional fuels.
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- Sec. 374. Livingston Parish mineral rights transfer.

Subtitle G--Miscellaneous

- Sec. 381. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
- Sec. 382. Appeals relating to offshore mineral development.
- Sec. 383. Royalty payments under leases under the Outer Continental Shelf Lands Act.
- Sec. 384. Coastal impact assistance program.
- Sec. 385. Study of availability of skilled workers.
- Sec. 386. Great Lakes oil and gas drilling ban.
- Sec. 387. Federal coalbed methane regulation.
- Sec. 388. Alternate energy-related uses on the Outer Continental Shelf.
- Sec. 389. Oil Spill Recovery Institute.
- Sec. 390. NEPA review.

Subtitle H--Refinery Revitalization

- Sec. 391. Findings and definitions.
- Sec. 392. Federal-State regulatory coordination and assistance.

TITLE IV--COAL

Subtitle A--Clean Coal Power Initiative

- Sec. 401. Authorization of appropriations.

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- Sec. 402. Project criteria.
- Sec. 403. Report.
- Sec. 404. Clean coal centers of excellence.

Subtitle B--Clean Power Projects

- Sec. 411. Integrated coal/renewable energy system.
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- Sec. 413. Western integrated coal gasification demonstration project.
- Sec. 414. Coal gasification.
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- Sec. 416. Electron scrubbing demonstration.
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Subtitle C--Coal and Related Programs

- Sec. 421. Amendment of the Energy Policy Act of 1992.

Subtitle D--Federal Coal Leases

- Sec. 431. Short title.
- Sec. 432. Repeal of the 160-acre limitation for coal leases.
- Sec. 433. Approval of logical mining units.
- Sec. 434. Payment of advance royalties under coal leases.
- Sec. 435. Elimination of deadline for submission of coal lease operation and reclamation plan.
- Sec. 436. Amendment relating to financial assurances with respect to bonus bids.
- Sec. 437. Inventory requirement.
- Sec. 438. Application of amendments.

TITLE V--INDIAN ENERGY

- Sec. 501. Short title.
- Sec. 502. Office of Indian Energy Policy and Programs.
- Sec. 503. Indian energy.
- Sec. 504. Consultation with Indian tribes.
- Sec. 505. Four Corners transmission line project and electrification.
- Sec. 506. Energy efficiency in federally assisted housing.

TITLE VI--NUCLEAR MATTERS

Subtitle A--Price-Anderson Act Amendments

- Sec. 601. Short title.
- Sec. 602. Extension of indemnification authority.

submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

- (1) An identification of the size, type, and use of biomass by persons that receive grants under this section.
- (2) The distance between the land from which the biomass was removed and the facility that used the biomass.
- (3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 211. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

Subtitle B--Geo-hermal <<NOTE: John Rishel Geothermal Steam Act Amendments of 2005.>> Energy

SEC. 221. <<NOTE: 30 USC 1001 note.>> SHORT TITLE.

This subtitle may be cited as the ``John Rishel Geothermal Steam Act Amendments of 2005''.

SEC. 222. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

``SEC. 4. LEASING PROCEDURES.

``(a) Nominations.--The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

``(b) Competitive Lease Sale Required.--

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

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

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

``(c) Noncompetitive Leasing.--The Secretary shall make available for a period of 2 years for noncompetitive leasing any

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tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

``(d) Pending Lease Applications.--

``(1) In general.--It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

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

``(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

``(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

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

SEC. 223. DIRECT USE.

(a) Fees for Direct Use.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended--

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting ``(a) In General.--'' after ``Sec. 5.''; and

(4) by adding at the end the following:

``(b) Direct Use.--

``(1) In general.--

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

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

``(B) does not sell.

``(2) Schedule of fees.--The schedule of fees--

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

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

``(C) shall encourage development of the resource.

``(3) State, tribal, or local governments.--If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge

only a nominal fee for use of the resource.

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``(4) Final regulation.--In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek--

- ``(A) to provide lessees with a simplified administrative system;
- ``(B) to facilitate development of direct use of geothermal resources; and
- ``(C) to contribute to sustainable economic development opportunities in the area.''

(b) Leasing for Direct Use.--Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as amended by section 222) is further amended by adding at the end the following:

``(f) Leasing for Direct Use of Geothermal Resources.--

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

- ``(1) <<NOTE: Notice. Deadline.>> publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;
- ``(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and
- ``(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

``(g) Area Subject to Lease for Direct Use.--

- ``(1) In general.--Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.
- ``(2) Limitations.--The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.''

(c) Application of New Lease Terms.--The <<NOTE: 30 USC 1004 note.>> schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing, and have been paid, on or after July 16, 2003. This subsection shall not require the refund of royalties paid to a State under section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) prior to the date of enactment of this Act.

SEC. 224. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) Royalty.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended--

(1) in subsection (a) by striking paragraph (1) and inserting the following:

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

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

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

(2) by adding at the end the following:

``(c) Final Regulation Establishing Royalty Rates.--In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek--

``(1) to provide lessees a simplified administrative system;

``(2) to encourage new development; and

``(3) to achieve the same level of royalty revenues over a 10-year period as the regulation in effect on the date of enactment of this subsection.

``(d) Credits for In-Kind Payments of Electricity.--The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), except as otherwise provided by this section, or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if--

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

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

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

(b) Disposal of Moneys From Sales, Bonuses, Royalties, and Rents.--Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

``SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

``(a) In General.--Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act--

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

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

``(b) Use of Payments.--Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

(c) Near-Term Production <<NOTE: 30 USC 1004 note.>> Incentive for Existing Leases.--

(1) In general.--Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment

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of this Act that does not convert to new royalty terms under subsection (e)--

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-year application.--Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) Definition of Qualified Expansion Geothermal Energy.--In this section, the term ``qualified expansion geothermal energy'' means geothermal energy produced from a generation facility for which--

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend in changes in production during that period).

(e) Royalty Under Existing Leases.--

(1) In general.--Any lessee under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to provide--

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223), that royalties be based on the schedule of fees established under that section; and

(B) in the case of any other lease, that royalties be computed on a percentage of the gross proceeds from the sale of electricity, at a royalty rate that is expected to yield total royalty payments equivalent to payments that would have been received for comparable production under the royalty rate in effect for the lease before the date of enactment of this subsection.

(2) Timing.--A <<NOTE: Deadlines.>> request for a modification under paragraph (1) shall be submitted to the Secretary of the Interior by the date that is not later than--

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary of the Interior under

section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) Application of modification.--If the lessee requests modification of a lease under paragraph (1)--

(A) <<NOTE: Deadline.>> the Secretary of the Interior shall, within 180 days after the receipt of the request for modification, modify the lease to comply with--

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(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the royalty for the lease established under paragraph (1)(B); and

(B) the modification shall apply to any use of geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) Consultation.--The Secretary of the Interior shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

SEC. 225. <<NOTE: 42 USC 15871.>> COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) In General.--Not <<NOTE: Deadline. Memorandum.>> later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and Permit Applications.--The memorandum of understanding shall--

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) <<NOTE: Effective date.>> establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

(c) Data Retrieval System.--The memorandum of understanding shall

establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 226. <<NOTE: Deadline. 42 USC 15872.>> ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall--

- (1) update the Assessment of Geothermal Resources made during 1978; and
- (2) submit to Congress the updated assessment.

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SEC. 227. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

``SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

``(a) Adoption of Units by Lessees.--

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

``(2) Majority interest of single leases.--A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

``(3) Initiative of secretary.--The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

``(4) Modification of lease requirements by secretary.--

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

``(B) Unlike terms or rates.--Leases with unlike lease terms or royalty rates shall not be required to be

modified to be in the same unit.

- ``(b) Requirement of Plans Under New Leases.--The Secretary may--
- ``(1) provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under a unit agreement; and
 - ``(2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

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

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``(d) Exclusion From Determination of Holding or Control.--Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under section 7.

``(e) Pooling of Certain Land.--If separate tracts of land cannot be independently developed and operated to use geothermal resources pursuant to any section of this Act--

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

- ``(2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

``(f) Unit Agreement Review.--

- ``(1) In general.--Not <<NOTE: Deadlines.>> later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall--

- ``(A) review each unit agreement; and

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

- ``(2) Basis for elimination.--The elimination shall--

- ``(A) be based on scientific evidence; and

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

- ``(3) Extension.--Any land eliminated under this subsection shall be eligible for an extension under section 6(g) if the land meets the requirements for the extension.

``(g) Drilling or Development Contracts.--

- ``(1) In general.--The Secretary may, on such conditions as

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

((2) Holdings or control.--Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

((h) Coordination With State Governments.--The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.').

SEC. 228. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

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

SEC. 229. AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended in the <<NOTE: 30 USC 1007.>> second sentence by striking ``period, and in no event'' and all that follows through the end of the sentence and inserting ``period''.

SEC. 230. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223 and 224) is further amended--

- (1) in subsection (a)(2) by inserting ``and'' after the semicolon at the end;
- (2) in subsection (a)(3) by striking ``; and'' and inserting a period;
- (3) by striking paragraph (4) of subsection (a); and
- (4) by adding at the end the following:

((e) Crediting of Rental Toward Royalty.--Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.').

SEC. 231. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended--

- (1) by striking so much as precedes subsection (c), and

striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

``SEC. 6. <<NOTE: Regulations.>> LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

``(a) In General.--

``(1) Primary term.--A geothermal lease shall be for a primary term of 10 years.

``(2) Initial extension.--The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the 10th year of the lease--

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

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

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

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``(b) Requirement to Satisfy Annual Minimum Work Requirement.--

``(1) In general.--The lessee for a geothermal lease shall, for each year after the 10th year of the lease, satisfy minimum work requirements prescribed by the Secretary that apply to the lease for that year.

``(2) Prescription of minimum work requirements.--The Secretary shall issue regulations prescribing minimum work requirements for geothermal leases, that--

``(A) establish a geothermal potential; and

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

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

``(d) Transition Rules for Leases Issued Prior to Enactment of Energy Policy Act of 2005.--The Secretary shall by regulation establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years--

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

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

``(e) Geothermal Lease Overlying Mining Claim.--

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

``(2) Termination of exemption.--An exemption under this paragraph expires upon the termination of the mining operations.

``(f) Termination of Application of Requirements.--Minimum work requirements prescribed under this section shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.''.

SEC. 232. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, and 230) is further amended by adding at the end the following:

``(f) Advanced Royalties Required for Cessation of Production.--

``(1) In general.--Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than

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an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

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

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

``(A) the Secretary;

``(B) the Secretary of the Air Force;

``(C) the Secretary of the Army;

``(D) the Secretary of the Navy;

``(E) a State or a political subdivision of a State;

or

``(F) a force majeure.''.

SEC. 233. ANNUAL RENTAL.

(a) Annual Rental Rate.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (3) and inserting the following:

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

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

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

``(ii) in the case of a lease awarded in a

competitive lease sale, \$2 per acre or fraction thereof for the 1st year and \$3 per acre or fraction thereof for each of the 2nd through 10th years; and
 `` (B) for each year after the 10th year of the lease, \$5 per acre or fraction thereof;''.

(b) Termination of Lease for Failure to Pay Rental.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, 230, and 232) is further amended by adding at the end the following:

``(g) Termination of Lease for Failure to Pay Rental.--

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

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

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

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SEC. 234. <<NOTE: 42 USC 15873.>> DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS.

(a) Deposit of Geothermal Resources Leases.--Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) Use of Deposits.--Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 and this Act.

(c) Transfer of Funds.--For the purposes of coordination and processing of geothermal leases and geothermal use authorizations on Federal land the Secretary of the Interior may authorize the expenditure or transfer of such funds as are necessary to the Forest Service.

SEC. 235. ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended--

(1) by striking ``sec. 7.'', and by inserting immediately before and above the first paragraph the following:

``SEC. 7. ACREAGE LIMITATIONS.'';

(2) in the first paragraph--

(A) by striking ``two thousand five hundred and sixty acres'' and inserting ``5,120 acres''; and

- (B) by striking ``twenty thousand four hundred and eighty acres'' and inserting ``51,200 acres''; and
 (3) by striking the second paragraph.

SEC. 236. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) <<NOTE: 30 USC 1001, 1002, 1005, 1020, 1022, 1024-1026.>> By striking ``geothermal steam and associated geothermal resources'' each place it appears and inserting ``geothermal resources''.

(2) Section 2 (30 U.S.C. 1001) is amended by adding at the end the following:

``(g) `direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and''.

(3) Section 21 (30 U.S.C. 1020) is amended by striking ``(a) Within one hundred'' and all that follows through ``(b) Geothermal'' and inserting ``Geothermal''.

(4) The first section (30 U.S.C. 1001 note) is amended by striking ``That this'' and inserting the following:

``SEC. 1. SHORT TITLE.

``This''.

(5) Section 2 (30 U.S.C. 1001) is amended by striking ``sec. 2. As'' and inserting the following:

``SEC. 2. DEFINITIONS.

``As''.

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(6) Section 3 (30 U.S.C. 1002) is amended by striking ``sec. 3. Subject'' and inserting the following:

``SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.

``Subject''.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking ``sec. 5.'', and by inserting immediately before and above subsection (a) the following:

``SEC. 5. RENTS AND ROYALTIES.''

(8) Section 8 (30 U.S.C. 1007) is amended by striking ``sec. 8. (a) The'' and inserting the following:

``SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

``(a) The''.

(9) Section 9 (30 U.S.C. 1008) is amended by striking ``sec. 9. If'' and inserting the following:

``SEC. 9. BYPRODUCTS.

``If''.

(10) Section 10 (30 U.S.C. 1009) is amended by striking
``sec. 10. The'' and inserting the following:

``SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

``The''.

(11) Section 11 (30 U.S.C. 1010) is amended by striking
``sec. 11. The'' and inserting the following:

``SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

``The''.

(12) Section 12 (30 U.S.C. 1011) is amended by striking
``sec. 12. Leases'' and inserting the following:

``SEC. 12. TERMINATION OF LEASES.

``Leases''.

(13) Section 13 (30 U.S.C. 1012) is amended by striking
``sec. 13. The'' and inserting the following:

``SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

``The''.

(14) Section 14 (30 U.S.C. 1013) is amended by striking
``sec. 14. Subject'' and inserting the following:

``SEC. 14. SURFACE LAND USE.

``Subject''.

(15) Section 15 (30 U.S.C. 1014) is amended by striking
``sec. 15. (a) Geothermal'' and inserting the following:

``SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

``(a) Geothermal''.

(16) Section 16 (30 U.S.C. 1015) is amended by striking
``sec. 16. Leases'' and inserting the following:

``SEC. 16. REQUIREMENT FOR LESSEES.

``Leases''.

(17) Section 17 (30 U.S.C. 1016) is amended by striking
``sec. 17. Administration'' and inserting the following:

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``SEC. 17. ADMINISTRATION.

``Administration''.

(18) Section 19 (30 U.S.C. 1018) is amended by striking
``sec. 19. Upon'' and inserting the following:

``SEC. 19. DATA FROM FEDERAL AGENCIES.

``Upon''.

(19) Section 21 (30 U.S.C. 1020) is further amended by
striking ``sec. 21.'', and by inserting immediately before and
above the remainder of that section the following:

``SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.''.

(20) Section 22 (30 U.S.C. 1021) is amended by striking ``sec. 22. Nothing'' and inserting the following:

``SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

``Nothing''.

(21) Section 23 (30 U.S.C. 1022) is amended by striking ``sec. 23. (a) All'' and inserting the following:

``SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

``(a) All''.

(22) Section 24 (30 U.S.C. 1023) is amended by striking ``sec. 24. The'' and inserting the following:

``SEC. 24. RULES AND REGULATIONS.

``The''.

(23) Section 25 (30 U.S.C. 1024) is amended by striking ``sec. 25. As'' and inserting the following:

``SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

``As''.

(24) Section 26 <<NOTE: 30 USC 530.>> is amended by striking ``sec. 26. The'' and inserting the following:

``SEC. 26. AMENDMENT.

``The''.

(25) Section 27 (30 U.S.C. 1025) is amended by striking ``sec. 27. The'' and inserting the following:

``SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

``The''.

(26) Section 28 (30 U.S.C. 1026) is amended by striking ``sec. 28. (a)(1) The'' and inserting the following:

``SEC. 28. SIGNIFICANT THERMAL FEATURES.

``(a)(1) The''.

(27) Section 29 (30 U.S.C. 1027) is amended by striking ``sec. 29. The'' and inserting the following:

``SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

``The''.

SEC. 237. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) Participation Authorized.--The Secretary, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy

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issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

(b) Members.--The <<NOTE: Establishment.>> consortium referred to in subsection (a) shall--

(1) be known as the ``Intermountain West Geothermal Consortium'';

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) Financial Assistance.--The Secretary, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

Subtitle C--Hydroelectric

SEC. 241. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Federal Reservations.--Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after ``adequate protection and utilization of such reservation.'' at the end of the first proviso the following: ``The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding.

Within <<NOTE: Deadline. Regulations. Procedures.>> 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.''.

(b) Fishways.--Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after ``and such fishways as may be prescribed by the Secretary of Commerce.'' the <<NOTE: Deadline.>> following: ``The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a

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single trial-type hearing to be conducted by the relevant resource

byproducts or other byproducts of the equipment.

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``(c) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary to carry out section 3102(a)(2)--

- ``(1) \$300,000,000 for fiscal year 2007;
- ``(2) \$100,000,000 for fiscal year 2008;
- ``(3) \$40,000,000 for fiscal year 2009;
- ``(4) \$30,000,000 for fiscal year 2010; and
- ``(5) \$30,000,000 for fiscal year 2011.

``(d) Applicability.--No technology, or level of emission reduction under subsection (a)(2) shall be treated as adequately demonstrated for purpose of Section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under section 3102(a)(2).''.

(b) Table of Contents Amendment.--The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end the following:

``TITLE XXXI--CLEAN AIR COAL PROGRAM

- ``Sec. 3101. Purposes.
- ``Sec. 3102. Authorization of program.
- ``Sec. 3103. Generation projects.
- ``Sec. 3104. Air quality enhancement program.''

Subtitle D--Federal <<NOTE: Coal Leasing Amendments Act of 2005.>> Coal Leases

SEC. 431. <<NOTE: 42 USC 15801.>> SHORT TITLE.

This subtitle may be cited as the ``Coal Leasing Amendments Act of 2005''.

SEC. 432. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended--

- (1) in the first sentence, by striking ``Any person'' and inserting the following: ``(a)(1) Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person'';
- (2) in the second sentence, by striking ``The Secretary'' and inserting the following:

- ``(b) The Secretary'';
- (3) in the third sentence, by striking ``The minimum'' and inserting the following:

- ``(c) The minimum'';
- (4) in subsection (a) (as designated by paragraph (1))--
 - (A) by striking ``upon'' and all that follows and inserting the following: ``secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease.''; and

(B) by adding at the end the following:

“(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications--

“(A) would be in the interest of the United States;

“(B) would not displace a competitive interest in the lands; and

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“(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

“(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)--

“(A) exceed 960 acres; or

“(B) add acreage larger than that in the original lease.”.

SEC. 433. APPROVAL OF LOGICAL MINING UNITS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended--

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period--

“(i) will ensure the maximum economic recovery of a coal deposit; or

“(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.”.

SEC. 434. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended--

(1) in the first sentence, by striking “Each lease” and inserting the following: “(1) Each lease”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“(2) The Secretary”;

(3) in the third sentence, by striking “Such advance royalties” and inserting the following:

“(3) Advance royalties described in paragraph (2)”;

(4) in the seventh sentence, by striking “The Secretary” and inserting the following:

“(6) The Secretary”;

(5) in the last sentence, by striking “Nothing” and inserting the following:

“(7) Nothing”;

(6) by striking the fourth, fifth, and sixth sentences; and

(7) by inserting after paragraph (3) (as designated by paragraph (3)) the following:

“(4) Advance royalties described in paragraph (2) shall be computed--

``(A) based on--
 ``(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or
 ``(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and
 ``(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

``(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

``(6) The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the

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extent that the advance royalties have not been used to reduce production royalties for a prior year.''

SEC. 435. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ``and not later than three years after a lease is issued,''

SEC. 436. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

``(4) (A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

``(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment with respect to any coal lease issued before the date of the enactment of the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

``(5) <<NOTE: Deadline. Notices.>> Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due--

``(A) the lease shall automatically terminate; and
 ``(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.''

SEC. 437. <<NOTE: 42 USC 15991.>> INVENTORY REQUIREMENT.

(a) Review of Assessments.--

(1) In general.--The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary, shall review coal assessments and other available data to identify--

(A) Federal lands with coal resources that are available for development;

(B) the extent and nature of any restrictions on the development of coal resources on Federal lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) Definitions.--For purposes of this subsection--

(A) the term ``compliant coal'' means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term ``supercompliant coal'' means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) Completion and Updating of the Inventory.--The Secretary--

[[Page 119 STAT. 763]]

(1) <<NOTE: Deadline.>> shall complete the inventory under subsection (a) by not later than 2 years after the date of enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) Report.--The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available--

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 438. <<NOTE: 30 USC 201 note.>> APPLICATION OF AMENDMENTS.

The amendments made by this subtitle apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

TITLE V--INDIAN <<NOTE: Indian Tribal Energy Development and Self-Determination Act of 2005.>> ENERGY

SEC. 501. <<NOTE: 42 USC 15801 note.>> SHORT TITLE.

This title may be cited as the ``Indian Tribal Energy Development and Self-Determination Act of 2005''.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) In General.--Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

``office of indian energy policy and programs

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ENERGY POLICY ACT OF 2005

[[Page 119 STAT. 594]]

Public Law 109-58
109th Congress

An Act

To ensure jobs for our future with secure, affordable, and reliable energy. <<NOTE: Aug. 8, 2005 - [H.R. 6]>>

Be it enacted by the Senate and House of Representatives of the United States of America in <<NOTE: Energy Policy Act of 2005. 42 USC 15801 note.>> Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Energy Policy Act of 2005''.

(b) Table of Contents.--The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--ENERGY EFFICIENCY

Subtitle A--Federal Programs

- Sec. 101. Energy and water saving measures in congressional buildings.
- Sec. 102. Energy management requirements.
- Sec. 103. Energy use measurement and accountability.
- Sec. 104. Procurement of energy efficient products.
- Sec. 105. Energy savings performance contracts.
- Sec. 106. Voluntary commitments to reduce industrial energy intensity.
- Sec. 107. Advanced Building Efficiency Testbed.
- Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
- Sec. 109. Federal building performance standards.
- Sec. 110. Daylight savings.
- Sec. 111. Enhancing energy efficiency in management of Federal lands.

Subtitle B--Energy Assistance and State Programs

- Sec. 121. Low-income home energy assistance program.
- Sec. 122. Weatherization assistance.
- Sec. 123. State energy programs.
- Sec. 124. Energy efficient appliance rebate programs.
- Sec. 125. Energy efficient public buildings.
- Sec. 126. Low income community energy efficiency pilot program.
- Sec. 127. State Technologies Advancement Collaborative.
- Sec. 128. State building energy efficiency codes incentives.

Subtitle C--Energy Efficient Products

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TITLE VI--NUCLEAR MATTERS

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submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

- (1) An identification of the size, type, and use of biomass by persons that receive grants under this section.
- (2) The distance between the land from which the biomass was removed and the facility that used the biomass.
- (3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 211. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

Subtitle B--Geo-hermal <<NOTE: John Rishel Geothermal Steam Act Amendments of 2005.>> Energy

SEC. 221. <<NOTE: 30 USC 1001 note.>> SHORT TITLE.

This subtitle may be cited as the ``John Rishel Geothermal Steam Act Amendments of 2005''.

SEC. 222. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

``SEC. 4. LEASING PROCEDURES.

``(a) Nominations.--The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

``(b) Competitive Lease Sale Required.--

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

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

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

``(c) Noncompetitive Leasing.--The Secretary shall make available for a period of 2 years for noncompetitive leasing any

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tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

``(d) Pending Lease Applications.--

``(1) In general.--It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

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

``(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

``(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

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

SEC. 223. DIRECT USE.

(a) Fees for Direct Use.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended--

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting ``(a) In General.--'' after ``Sec. 5.''; and

(4) by adding at the end the following:

``(b) Direct Use.--

``(1) In general.--

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

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

``(B) does not sell.

``(2) Schedule of fees.--The schedule of fees--

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

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

``(C) shall encourage development of the resource.

``(3) State, tribal, or local governments.--If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge

only a nominal fee for use of the resource.

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``(4) Final regulation.--In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek--

- ``(A) to provide lessees with a simplified administrative system;
- ``(B) to facilitate development of direct use of geothermal resources; and
- ``(C) to contribute to sustainable economic development opportunities in the area.''

(b) Leasing for Direct Use.--Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as amended by section 222) is further amended by adding at the end the following:

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

- ``(1) <<NOTE: Notice. Deadline.>> publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;
- ``(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and
- ``(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

``(g) Area Subject to Lease for Direct Use.--

- ``(1) In general.--Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.
- ``(2) Limitations.--The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.''

(c) Application of New Lease Terms.--The <<NOTE: 30 USC 1004 note.>> schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing, and have been paid, on or after July 16, 2003. This subsection shall not require the refund of royalties paid to a State under section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) prior to the date of enactment of this Act.

SEC. 224. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) Royalty.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended--

(1) in subsection (a) by striking paragraph (1) and inserting the following:

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

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

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

(2) by adding at the end the following:

``(c) Final Regulation Establishing Royalty Rates.--In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek--

``(1) to provide lessees a simplified administrative system;

``(2) to encourage new development; and

``(3) to achieve the same level of royalty revenues over a 10-year period as the regulation in effect on the date of enactment of this subsection.

``(d) Credits for In-Kind Payments of Electricity.--The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), except as otherwise provided by this section, or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if--

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

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

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

(b) Disposal of Moneys From Sales, Bonuses, Royalties, and Rents.--Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

``SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

``(a) In General.--Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act--

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

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

``(b) Use of Payments.--Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

(c) Near-Term Production <<NOTE: 30 USC 1004 note.>> Incentive for Existing Leases.--

(1) In general.--Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment

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of this Act that does not convert to new royalty terms under subsection (e)--

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-year application.--Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) Definition of Qualified Expansion Geothermal Energy.--In this section, the term ``qualified expansion geothermal energy'' means geothermal energy produced from a generation facility for which--

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend in changes in production during that period).

(e) Royalty Under Existing Leases.--

(1) In general.--Any lessee under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to provide--

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223), that royalties be based on the schedule of fees established under that section; and

(B) in the case of any other lease, that royalties be computed on a percentage of the gross proceeds from the sale of electricity, at a royalty rate that is expected to yield total royalty payments equivalent to payments that would have been received for comparable production under the royalty rate in effect for the lease before the date of enactment of this subsection.

(2) Timing.--A <<NOTE: Deadlines.>> request for a modification under paragraph (1) shall be submitted to the Secretary of the Interior by the date that is not later than--

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary of the Interior under

section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) Application of modification.--If the lessee requests modification of a lease under paragraph (1)--

(A) <<NOTE: Deadline.>> the Secretary of the Interior shall, within 180 days after the receipt of the request for modification, modify the lease to comply with--

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(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the royalty for the lease established under paragraph (1)(B); and

(B) the modification shall apply to any use of geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) Consultation.--The Secretary of the Interior shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

SEC. 225. <<NOTE: 42 USC 15871.>> COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) In General.--Not <<NOTE: Deadline. Memorandum.>> later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and Permit Applications.--The memorandum of understanding shall--

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) <<NOTE: Effective date.>> establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

(c) Data Retrieval System.--The memorandum of understanding shall

establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 226. <<NOTE: Deadline. 42 USC 15872.>> ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall--

- (1) update the Assessment of Geothermal Resources made during 1978; and
- (2) submit to Congress the updated assessment.

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SEC. 227. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

``SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

``(a) Adoption of Units by Lessees.--

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

``(2) Majority interest of single leases.--A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

``(3) Initiative of secretary.--The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

``(4) Modification of lease requirements by secretary.--

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

``(B) Unlike terms or rates.--Leases with unlike lease terms or royalty rates shall not be required to be

modified to be in the same unit.

- ``(b) Requirement of Plans Under New Leases.--The Secretary may--
- ``(1) provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under a unit agreement; and
 - ``(2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

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

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``(d) Exclusion From Determination of Holding or Control.--Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under section 7.

``(e) Pooling of Certain Land.--If separate tracts of land cannot be independently developed and operated to use geothermal resources pursuant to any section of this Act--

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

- ``(2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

``(f) Unit Agreement Review.--

- ``(1) In general.--Not <<NOTE: Deadlines.>> later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall--

- ``(A) review each unit agreement; and

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

- ``(2) Basis for elimination.--The elimination shall--

- ``(A) be based on scientific evidence; and

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

- ``(3) Extension.--Any land eliminated under this subsection shall be eligible for an extension under section 6(g) if the land meets the requirements for the extension.

``(g) Drilling or Development Contracts.--

- ``(1) In general.--The Secretary may, on such conditions as

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

((2) Holdings or control.--Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

((h) Coordination With State Governments.--The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.').

SEC. 228. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

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

SEC. 229. AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended in the <<NOTE: 30 USC 1007.>> second sentence by striking ``period, and in no event'' and all that follows through the end of the sentence and inserting ``period''.

SEC. 230. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223 and 224) is further amended--

- (1) in subsection (a)(2) by inserting ``and'' after the semicolon at the end;
- (2) in subsection (a)(3) by striking ``; and'' and inserting a period;
- (3) by striking paragraph (4) of subsection (a); and
- (4) by adding at the end the following:

((e) Crediting of Rental Toward Royalty.--Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.').

SEC. 231. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended--

- (1) by striking so much as precedes subsection (c), and

striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

``SEC. 6. <<NOTE: Regulations.>> LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

``(a) In General.--

``(1) Primary term.--A geothermal lease shall be for a primary term of 10 years.

``(2) Initial extension.--The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the 10th year of the lease--

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

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

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

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``(b) Requirement to Satisfy Annual Minimum Work Requirement.--

``(1) In general.--The lessee for a geothermal lease shall, for each year after the 10th year of the lease, satisfy minimum work requirements prescribed by the Secretary that apply to the lease for that year.

``(2) Prescription of minimum work requirements.--The Secretary shall issue regulations prescribing minimum work requirements for geothermal leases, that--

``(A) establish a geothermal potential; and

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

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

``(d) Transition Rules for Leases Issued Prior to Enactment of Energy Policy Act of 2005.--The Secretary shall by regulation establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years--

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

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

``(e) Geothermal Lease Overlying Mining Claim.--

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

``(2) Termination of exemption.--An exemption under this paragraph expires upon the termination of the mining operations.

``(f) Termination of Application of Requirements.--Minimum work requirements prescribed under this section shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.''.

SEC. 232. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, and 230) is further amended by adding at the end the following:

``(f) Advanced Royalties Required for Cessation of Production.--

``(1) In general.--Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than

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an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

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

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

``(A) the Secretary;

``(B) the Secretary of the Air Force;

``(C) the Secretary of the Army;

``(D) the Secretary of the Navy;

``(E) a State or a political subdivision of a State;

or

``(F) a force majeure.''.

SEC. 233. ANNUAL RENTAL.

(a) Annual Rental Rate.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (3) and inserting the following:

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

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

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

``(ii) in the case of a lease awarded in a

competitive lease sale, \$2 per acre or fraction thereof for the 1st year and \$3 per acre or fraction thereof for each of the 2nd through 10th years; and
 `` (B) for each year after the 10th year of the lease, \$5 per acre or fraction thereof;''.

(b) Termination of Lease for Failure to Pay Rental.--Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, 230, and 232) is further amended by adding at the end the following:

``(g) Termination of Lease for Failure to Pay Rental.--

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

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

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

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SEC. 234. <<NOTE: 42 USC 15873.>> DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS.

(a) Deposit of Geothermal Resources Leases.--Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) Use of Deposits.--Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 and this Act.

(c) Transfer of Funds.--For the purposes of coordination and processing of geothermal leases and geothermal use authorizations on Federal land the Secretary of the Interior may authorize the expenditure or transfer of such funds as are necessary to the Forest Service.

SEC. 235. ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended--

(1) by striking ``sec. 7.'', and by inserting immediately before and above the first paragraph the following:

``SEC. 7. ACREAGE LIMITATIONS.'';

(2) in the first paragraph--

(A) by striking ``two thousand five hundred and sixty acres'' and inserting ``5,120 acres''; and

- (B) by striking ``twenty thousand four hundred and eighty acres'' and inserting ``51,200 acres''; and
 (3) by striking the second paragraph.

SEC. 236. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) <<NOTE: 30 USC 1001, 1002, 1005, 1020, 1022, 1024-1026.>> By striking ``geothermal steam and associated geothermal resources'' each place it appears and inserting ``geothermal resources''.

(2) Section 2 (30 U.S.C. 1001) is amended by adding at the end the following:

``(g) `direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and''.

(3) Section 21 (30 U.S.C. 1020) is amended by striking ``(a) Within one hundred'' and all that follows through ``(b) Geothermal'' and inserting ``Geothermal''.

(4) The first section (30 U.S.C. 1001 note) is amended by striking ``That this'' and inserting the following:

``SEC. 1. SHORT TITLE.

``This''.

(5) Section 2 (30 U.S.C. 1001) is amended by striking ``sec. 2. As'' and inserting the following:

``SEC. 2. DEFINITIONS.

``As''.

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(6) Section 3 (30 U.S.C. 1002) is amended by striking ``sec. 3. Subject'' and inserting the following:

``SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.

``Subject''.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking ``sec. 5.'', and by inserting immediately before and above subsection (a) the following:

``SEC. 5. RENTS AND ROYALTIES.''

(8) Section 8 (30 U.S.C. 1007) is amended by striking ``sec. 8. (a) The'' and inserting the following:

``SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

``(a) The''.

(9) Section 9 (30 U.S.C. 1008) is amended by striking ``sec. 9. If'' and inserting the following:

``SEC. 9. BYPRODUCTS.

``If''.

(10) Section 10 (30 U.S.C. 1009) is amended by striking
``sec. 10. The'' and inserting the following:

``SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

``The''.

(11) Section 11 (30 U.S.C. 1010) is amended by striking
``sec. 11. The'' and inserting the following:

``SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

``The''.

(12) Section 12 (30 U.S.C. 1011) is amended by striking
``sec. 12. Leases'' and inserting the following:

``SEC. 12. TERMINATION OF LEASES.

``Leases''.

(13) Section 13 (30 U.S.C. 1012) is amended by striking
``sec. 13. The'' and inserting the following:

``SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

``The''.

(14) Section 14 (30 U.S.C. 1013) is amended by striking
``sec. 14. Subject'' and inserting the following:

``SEC. 14. SURFACE LAND USE.

``Subject''.

(15) Section 15 (30 U.S.C. 1014) is amended by striking
``sec. 15. (a) Geothermal'' and inserting the following:

``SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

``(a) Geothermal''.

(16) Section 16 (30 U.S.C. 1015) is amended by striking
``sec. 16. Leases'' and inserting the following:

``SEC. 16. REQUIREMENT FOR LESSEES.

``Leases''.

(17) Section 17 (30 U.S.C. 1016) is amended by striking
``sec. 17. Administration'' and inserting the following:

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``SEC. 17. ADMINISTRATION.

``Administration''.

(18) Section 19 (30 U.S.C. 1018) is amended by striking
``sec. 19. Upon'' and inserting the following:

``SEC. 19. DATA FROM FEDERAL AGENCIES.

``Upon''.

(19) Section 21 (30 U.S.C. 1020) is further amended by
striking ``sec. 21.'', and by inserting immediately before and
above the remainder of that section the following:

``SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.''.

(20) Section 22 (30 U.S.C. 1021) is amended by striking ``sec. 22. Nothing'' and inserting the following:

``SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

``Nothing''.

(21) Section 23 (30 U.S.C. 1022) is amended by striking ``sec. 23. (a) All'' and inserting the following:

``SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

``(a) All''.

(22) Section 24 (30 U.S.C. 1023) is amended by striking ``sec. 24. The'' and inserting the following:

``SEC. 24. RULES AND REGULATIONS.

``The''.

(23) Section 25 (30 U.S.C. 1024) is amended by striking ``sec. 25. As'' and inserting the following:

``SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

``As''.

(24) Section 26 <<NOTE: 30 USC 530.>> is amended by striking ``sec. 26. The'' and inserting the following:

``SEC. 26. AMENDMENT.

``The''.

(25) Section 27 (30 U.S.C. 1025) is amended by striking ``sec. 27. The'' and inserting the following:

``SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

``The''.

(26) Section 28 (30 U.S.C. 1026) is amended by striking ``sec. 28. (a)(1) The'' and inserting the following:

``SEC. 28. SIGNIFICANT THERMAL FEATURES.

``(a)(1) The''.

(27) Section 29 (30 U.S.C. 1027) is amended by striking ``sec. 29. The'' and inserting the following:

``SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

``The''.

SEC. 237. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) Participation Authorized.--The Secretary, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy

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issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

(b) Members.--The <<NOTE: Establishment.>> consortium referred to in subsection (a) shall--

(1) be known as the ``Intermountain West Geothermal Consortium'';

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) Financial Assistance.--The Secretary, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

Subtitle C--Hydroelectric

SEC. 241. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) Federal Reservations.--Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after ``adequate protection and utilization of such reservation.'' at the end of the first proviso the following: ``The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding.

Within <<NOTE: Deadline. Regulations. Procedures.>> 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.''.

(b) Fishways.--Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after ``and such fishways as may be prescribed by the Secretary of Commerce.'' the <<NOTE: Deadline.>> following: ``The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a

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single trial-type hearing to be conducted by the relevant resource

byproducts or other byproducts of the equipment.

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``(c) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary to carry out section 3102(a)(2)--

- ``(1) \$300,000,000 for fiscal year 2007;
- ``(2) \$100,000,000 for fiscal year 2008;
- ``(3) \$40,000,000 for fiscal year 2009;
- ``(4) \$30,000,000 for fiscal year 2010; and
- ``(5) \$30,000,000 for fiscal year 2011.

``(d) Applicability.--No technology, or level of emission reduction under subsection (a)(2) shall be treated as adequately demonstrated for purpose of Section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under section 3102(a)(2).''.

(b) Table of Contents Amendment.--The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end the following:

``TITLE XXXI--CLEAN AIR COAL PROGRAM

- ``Sec. 3101. Purposes.
- ``Sec. 3102. Authorization of program.
- ``Sec. 3103. Generation projects.
- ``Sec. 3104. Air quality enhancement program.''.

Subtitle D--Federal <<NOTE: Coal Leasing Amendments Act of 2005.>> Coal Leases

SEC. 431. <<NOTE: 42 USC 15801.>> SHORT TITLE.

This subtitle may be cited as the ``Coal Leasing Amendments Act of 2005''.

SEC. 432. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended--

(1) in the first sentence, by striking ``Any person'' and inserting the following: ``(a)(1) Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person'';

(2) in the second sentence, by striking ``The Secretary'' and inserting the following:

``(b) The Secretary'';

(3) in the third sentence, by striking ``The minimum'' and inserting the following:

``(c) The minimum'';

(4) in subsection (a) (as designated by paragraph (1))--

(A) by striking ``upon'' and all that follows and inserting the following: ``secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease.''; and

(B) by adding at the end the following:

“(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications--

“(A) would be in the interest of the United States;

“(B) would not displace a competitive interest in the lands; and

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“(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

“(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)--

“(A) exceed 960 acres; or

“(B) add acreage larger than that in the original lease.”.

SEC. 433. APPROVAL OF LOGICAL MINING UNITS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended--

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period--

“(i) will ensure the maximum economic recovery of a coal deposit; or

“(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.”.

SEC. 434. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended--

(1) in the first sentence, by striking “Each lease” and inserting the following: “(1) Each lease”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“(2) The Secretary”;

(3) in the third sentence, by striking “Such advance royalties” and inserting the following:

“(3) Advance royalties described in paragraph (2)”;

(4) in the seventh sentence, by striking “The Secretary” and inserting the following:

“(6) The Secretary”;

(5) in the last sentence, by striking “Nothing” and inserting the following:

“(7) Nothing”;

(6) by striking the fourth, fifth, and sixth sentences; and

(7) by inserting after paragraph (3) (as designated by paragraph (3)) the following:

“(4) Advance royalties described in paragraph (2) shall be computed--

``(A) based on--
 ``(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or
 ``(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and
 ``(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

``(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

``(6) The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the

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extent that the advance royalties have not been used to reduce production royalties for a prior year.''

SEC. 435. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ``and not later than three years after a lease is issued,''

SEC. 436. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

``(4) (A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

``(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment with respect to any coal lease issued before the date of the enactment of the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

``(5) <<NOTE: Deadline. Notices.>> Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due--

``(A) the lease shall automatically terminate; and
 ``(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.''

SEC. 437. <<NOTE: 42 USC 15991.>> INVENTORY REQUIREMENT.

(a) Review of Assessments.--

(1) In general.--The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary, shall review coal assessments and other available data to identify--

(A) Federal lands with coal resources that are available for development;

(B) the extent and nature of any restrictions on the development of coal resources on Federal lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) Definitions.--For purposes of this subsection--

(A) the term ``compliant coal'' means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term ``supercompliant coal'' means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) Completion and Updating of the Inventory.--The Secretary--

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(1) <<NOTE: Deadline.>> shall complete the inventory under subsection (a) by not later than 2 years after the date of enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) Report.--The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available--

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 438. <<NOTE: 30 USC 201 note.>> APPLICATION OF AMENDMENTS.

The amendments made by this subtitle apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

TITLE V--INDIAN <<NOTE: Indian Tribal Energy Development and Self-Determination Act of 2005.>> ENERGY

SEC. 501. <<NOTE: 42 USC 15801 note.>> SHORT TITLE.

This title may be cited as the ``Indian Tribal Energy Development and Self-Determination Act of 2005''.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) In General.--Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

``office of indian energy policy and programs



Mineral Leasing Act of 1920 as Amended



MINERAL LANDS LEASING ACT OF FEBRUARY 25, 1920
(Mineral Leasing Act of 1920)

And Subsequent Amendments
Including the Federal Onshore Oil and Gas
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ACT OF FEBRUARY 25, 1920

An Act To promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Act known as the Appalachian Forest Act, approved March 1, 1911 (Thirty-sixth Statutes, page 961), and those in national parks, and in lands withdrawn or reserved for military or naval uses or purposes, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this Act to citizens of the United States, or to any association of such persons, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, and in the case of coal, oil, oil shale, or gas, to municipalities: *Provided,* That the United States reserves the right to extract helium from all gas produced from lands permitted, leased, or otherwise granted under the provisions of this Act, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided further,* That in the extraction of helium from gas produced from such lands, it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof: *And provided further,* That citizens of another country, the laws, customs, or regulations of which, deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act.

COAL.

Sec. 2. That the Secretary of the Interior is authorized to, and upon the petition of any qualified applicant shall, divide any of the coal lands or the deposits of coal, classified and unclassified, owned by the United States, outside of the Territory of Alaska, into leasing tracts of forty acres each, or multiples thereof, and in such form as, in the opinion of the Secretary of the Interior, will permit the most economical mining of the coal in such tracts, but in no case exceeding two thousand five hundred and sixty acres in any one leasing tract, and thereafter the Secretary of the Interior shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands or deposits of coal for leasing, and shall award leases thereon by competitive bidding or by such other methods as he may by general regulations adopt, to any qualified applicant: *Provided,* That the Secretary is hereby authorized, in awarding leases for coal lands heretofore improved and occupied or claimed in good faith, to consider and recognize equitable rights of such occupants or claimants: *Provided further,* That where prospecting or exploratory work is necessary to determine the existence or workability of coal deposits in any

FEDERALLY OWNED MINERAL
LANDS

Sec. 1: See footnotes 1-4
for amendments.

COAL

COAL LEASES: LEASING
TRACTS. ACREAGE. COMPETITIVE
BIDDING.

Sec. 2: See footnotes 5-12
for amendments.

unclaimed, undeveloped area, the Secretary of the Interior may issue, to applicants qualified under this Act, prospecting permits for a term of two years, for not exceeding two thousand five hundred and sixty acres; and if within said period of two years thereafter, the permittee shows to the Secretary that the land contains coal in commercial quantities, the permittee shall be entitled to a lease under this Act for all or part of the land in his permit: *And provided further*, That no lease of coal under this Act shall be approved or issued until after notice of the proposed lease, or offering for lease, has been given for thirty days in a newspaper of general circulation in the county in which the lands or deposits are situated: *And provided further*, That no company or corporation operating a common carrier railroad shall be given or hold a permit or lease under the provisions of this Act for any coal deposits except for its own use for railroad purposes; and such limitations of use shall be expressed in all permits and leases issued to such companies or corporations, and no such company or corporation shall receive or hold more than one permit or lease for each two hundred miles of its railroad line within the State in which said property is situated, exclusive of spurs or switches and exclusive of branch lines built to connect the leased coal with the railroad, and also exclusive of parts of the railroad operated mainly by power produced otherwise than by steam: *And provided further*, That nothing herein shall preclude such a railroad of less than two hundred miles in length from securing and holding one permit or lease hereunder.

Sec. 3. That any person, association, or corporation holding a lease of coal lands or coal deposits under this Act may, with the approval of the Secretary of the Interior, upon a finding by him that it will be for the advantage of the lessee and the United States, secure modifications of his or its original lease by including additional coal lands or coal deposits contiguous to those embraced in such lease, but in no event shall the total area embraced in such modified lease exceed in the aggregate two thousand five hundred and sixty acres.

Sec. 4. That upon satisfactory showing by any lessee to the Secretary of the Interior that all of the workable deposits of coal within a tract covered by his or its lease will be exhausted, worked out, or removed within three years thereafter, the Secretary of the Interior may, within his discretion, lease to such lessee an additional tract of land or coal deposits, which, including the coal area remaining in the existing lease, shall not exceed two thousand five hundred and sixty acres, through the same procedure and under the same conditions as in case of an original lease.

Sec. 5. That if, in the judgment of the Secretary of the Interior, the public interest will be subserved thereby, lessees holding under lease areas not exceeding the maximum permitted under this Act may consolidate their leases through the surrender of the original leases and the inclusion of such areas in a new lease of not to exceed two thousand five hundred and sixty acres of contiguous lands.

Sec. 6. That where coal or phosphate lands aggregating two thousand five hundred and sixty acres and subject to lease hereunder do

MODIFY ORIGINAL COAL LEASE
Sec. 3: See footnotes
13-18 for amendments.

ADDITIONAL LEASING
Sec. 4: See footnote 19
for amendment.

CONSOLIDATING LEASES

NONCONTIGUOUS TRACTS

not exist as contiguous areas, the Secretary of the Interior is authorized, if, in his opinion the interests of the public and of the lessee will be thereby subserved, to embrace in a single lease noncontiguous tracts which can be operated as a single mine or unit.

Sec. 7. That for the privilege of mining or extracting the coal in the lands covered by the lease the lessee shall pay to the United States such royalties as may be specified in the lease, which shall be fixed in advance of offering the same, and which shall not be less than 5 cents per ton of two thousand pounds, due and payable at the end of each third month succeeding that of the extraction of the coal from the mine, and an annual rental, payable at the date of such lease and annually thereafter, on the lands or coal deposits covered by such lease, at such rate as may be fixed by the Secretary of the Interior prior to offering the same, which shall not be less than 25 cents per acre for the first year thereafter, not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively, and not less than \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year. Leases shall be for indeterminate periods upon condition of diligent development and continued operation of the mine or mines, except when such operation shall be interrupted by strikes, the elements, or casualties not attributable to the lessee, and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such readjustment of terms and conditions may be made as the Secretary of the Interior may determine, unless otherwise provided by law at the time of the expiration of such periods: *Provided*, That the Secretary of the Interior may, if in his judgment the public interest will be subserved thereby, in lieu of the provision herein contained requiring continuous operation of the mine or mines, provide in the lease for the payment of an annual advance royalty upon a minimum number of tons of coal, which in no case shall aggregate less than the amount of rentals herein provided for: *Provided further*, That the Secretary of the Interior may permit suspension of operation under such lease for not to exceed six months at any one time when market conditions are such that the lease can not be operated except at a loss.

Sec. 8. That in order to provide for the supply of strictly local domestic needs for fuel, the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue limited licenses or permits to individuals or associations of individuals to prospect for, mine, and take for their use but not for sale, coal from the public lands without payment of royalty for the coal mined or the land occupied, on such conditions not inconsistent with this Act as in his opinion will safeguard the public interests: *Provided*, That this privilege shall not extend to any corporations: *Provided further*, That in the case of municipal corporations the Secretary of the Interior may issue such limited license or permit, for not to exceed three hundred and twenty acres for a municipality of less than one hundred thousand population, and not to exceed one thousand two hundred and eighty acres for a municipality of not less than one hundred thousand and not more than one hundred and fifty thousand population; and not to exceed two thousand five hundred and sixty acres for a

ROYALTIES

Sec. 7: See footnote 20 for amendment.

OWN USE PROVISIONS

Sec. 8: See footnotes 21-22 for amendments.

municipality of one hundred and fifty thousand population or more, the land to be selected within the State wherein the municipal applicant may be located, upon condition that such municipal corporations will mine the coal therein under proper conditions and dispose of the same without profit to residents of such municipality for household use: *And provided further*, That the acquisition or holding of a lease under the preceding sections of this Act shall be no bar to the holding of such tract or operation of such mine under said limited license.

PHOSPHATES.

SEC. 9. That the Secretary of the Interior is hereby authorized to lease to any applicant qualified under this Act any lands belonging to the United States containing deposits of phosphates, under such restrictions and upon such terms as are herein specified, through advertisement, competitive bidding, or such other methods as the Secretary of the Interior may by general regulation adopt.

SEC. 10. That each lease shall be for not to exceed two thousand five hundred and sixty acres of land to be described by the legal subdivisions of the public land surveys, if surveyed; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease, in accordance with rules and regulations prescribed by the Secretary of the Interior and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such survey; deposits made to cover expense of surveys shall be deemed appropriated for that purpose; and any excess deposits shall be repaid to the person, association, or corporation making such deposits or their legal representatives: *Provided*, That the land embraced in any one lease shall be in compact form, the length of which shall not exceed two and one half times its width.

SEC. 11. That for the privilege of mining or extracting the phosphates or phosphate rock covered by the lease the lessee shall pay to the United States such royalties as may be specified in the lease, which shall be fixed by the Secretary of the Interior in advance of offering the same, which shall be not less than 2 per centum of the gross value of the output of phosphates or phosphate rock at the mine, due and payable at the end of each third month succeeding that of the sale or other disposition of the phosphates or phosphate rock, and an annual rental payable at the date of such lease and annually thereafter on the area covered by such lease at such rate as may be fixed by the Secretary of the Interior prior to offering the lease, which shall be not less than 25 cents per acre for the first year thereafter, 50 cents per acre for the second, third, fourth, and fifth years, respectively, and \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year. Leases shall be for indeterminate periods upon condition of a minimum annual production, except when operation shall be interrupted by strikes, the elements, or casualties not attributable to the lessee, and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such readjustment of

PHOSPHATES

LAND LEASING

Sec. 9: See footnotes 23-24 for amendments.

SIZE OF LEASE

Sec. 10: See footnote 25 for amendment.

ROYALTIES

Sec. 11: See footnote 26 for amendment.

terms and conditions shall be made as the Secretary of the Interior shall determine unless otherwise provided by law at the time of the expiration of such periods: *Provided*, That the Secretary of the Interior may permit suspension of operation under such lease for not exceeding twelve months at any one time when market conditions are such that the lease can not be operated except at a loss.

SEC. 12. That any qualified applicant to whom the Secretary of the Interior may grant a lease to develop and extract phosphates, or phosphate rock, under the provisions of this Act shall have the right to use so much of the surface of unappropriated and unentered lands, not exceeding forty acres, as may be determined by the Secretary of the Interior to be necessary for the proper prospecting for or development, extraction, treatment, and removal of such mineral deposits.

SURFACE USE

Sec. 12: See footnotes 27-28 for amendments.

OIL AND GAS.

SEC. 13. That the Secretary of the Interior is hereby authorized, under such necessary and proper rules and regulations as he may prescribe, to grant to any applicant qualified under this Act a prospecting permit, which shall give the exclusive right, for a period not exceeding two years, to prospect for oil or gas upon not to exceed two thousand five hundred and sixty acres of land wherein such deposits belong to the United States and are not within any known geological structure of a producing oil or gas field upon condition that the permittee shall begin drilling operations within six months from the date of the permit, and shall, within one year from and after the date of permit, drill one or more wells for oil or gas to a depth of not less than five hundred feet each, unless valuable deposits of oil or gas shall be sooner discovered, and shall, within two years from date of the permit, drill for oil or gas to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered. The Secretary of the Interior may, if he shall find that the permittee has been unable with the exercise of diligence to test the land in the time granted by the permit, extend any such permit for such time, not exceeding two years, and upon such conditions as he shall prescribe. Whether the lands sought in any such application and permit are surveyed or unsurveyed the applicant shall, prior to filing his application for permit, locate such lands in a reasonably compact form and according to the legal subdivisions of the public land surveys if the land be surveyed; and in an approximately square or rectangular tract if the land be an unsurveyed tract, the length of which shall not exceed two and one-half times its width, and if he shall cause to be erected upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and shall post a notice in writing on or near said monument, stating that an application for permit will be made within thirty days after date of posting said notice, the name of the applicant, the date of the notice, and such a general description of the land to be covered by such permit by reference to courses and distances from such monument and such other natural objects and permanent monuments as will reasonably identify the land,

OIL AND GAS

GRANTING LEASES

Sec. 13: See footnotes 29-30 for amendments.

LOCATING LEASE

stating the amount thereof in acres, he shall during the period of thirty days following such marking and posting, be entitled to a preference right over others to a permit for the land so identified. The applicant shall, within ninety days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby: *Provided*, That in the Territory of Alaska prospecting permits not more than five in number may be granted to any qualified applicant for periods not exceeding four years, actual drilling operations shall begin within two years from date of permit, and oil and gas wells shall be drilled to a depth of not less than five hundred feet, unless valuable deposits of oil or gas shall be sooner discovered, within three years from date of the permit and to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered, within four years from date of permit: *Provided further*, That in said Territory the applicant shall have a preference right over others to a permit for land identified by temporary monuments and notice posted on or near the same for six months following such marking and posting, and upon receiving a permit he shall mark the corners of the tract described in the permit upon the ground with substantial monuments within one year after receiving such permit.

SEC. 14. That upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: *Provided*, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior and the lands leased shall be conforming to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, with the right of renewal as prescribed in section 17 hereof. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production, and under such other conditions as are fixed for oil or gas leases in this Act, the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided*, That the Secretary shall have the right to reject any or all bids.

RECEIVING LEASE FOR
PERMITTED LAND
Sec. 14: See footnote
31 for amendment.

See footnote 99 for
amendment.

ROYALTY

Sec. 15. That until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the gross value of all oil or gas

secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

Sec. 16. That all permits and leases of lands containing oil or gas, made or issued under the provisions of this Act, shall be subject to the condition that no wells shall be drilled within two hundred feet of any of the outer boundaries of the lands so permitted or leased, unless the adjoining lands have been patented or the title thereto otherwise vested in private owners, and to the further condition that the permittee or lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the permit or lease, to be enforced through appropriate proceedings in courts of competent jurisdiction.

Sec. 17. That all unappropriated deposits of oil or gas situated within the known geologic structure of a producing oil or gas field and the unentered lands containing the same, not subject to preferential lease, may be leased by the Secretary of the Interior to the highest responsible bidder by competitive bidding under general regulations to qualified applicants in areas not exceeding six hundred and forty acres and in tracts which shall not exceed in length two and one-half times their width, such leases to be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall not be less than 12½ per centum in amount or value of the production, and the payment in advance of a rental of not less than \$1 per acre per annum thereafter during the continuance of the lease, the rental paid for any one year to be credited against the royalties as they accrue for that year. Leases shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods. Whenever the average daily production of any oil well shall not exceed ten barrels per day, the Secretary of the Interior is authorized to reduce the royalty on future production when in his judgment the wells can not be successfully operated upon the royalty fixed in the lease. The provisions of this paragraph shall apply to all oil and gas leases made under this Act.

Sec. 18. That upon relinquishment to the United States, filed in the General Land Office within six months after the approval of this Act, of all right, title, and interest claimed and possessed prior to July 3, 1910, and continuously since by the claimant or his predecessor in interest under the preexisting placer mining law to any oil or gas bearing land upon which there has been drilled one or more oil or gas wells to discovery embraced in the Executive order of withdrawal issued September 27, 1909, and not within any naval petroleum reserve, and upon payment as royalty to the United States

PERMITTEE FEES

WELL DRILLING NEAR LAND
BOUNDARIES
Sec. 16: See footnote 32
for amendment.

KGS. COMPETITIVE BIDDING.
ROYALTY
Sec. 17: See footnotes
33-42 for amendments.

PRIOR TO JULY 3, 1910

of an amount equal to the value at the time of production of one-eighth of all the oil or gas already produced except oil or gas used for production purposes on the claim, or unavoidably lost, from such land, the claimant, or his successor, if in possession of such land, undisputed by any other claimant prior to July 1, 1919, shall be entitled to a lease thereon from the United States for a period of twenty years, at a royalty of not less than 12½ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: *Provided*, That not more than one-half of the area, but in no case to exceed three thousand two hundred acres, within the geologic oil or gas structure of a producing oil or gas field shall be leased to any one claimant under the provision of this section when the area of such geologic oil structure exceeds six hundred and forty acres. Any claimant or his successor, subject to this limitation, shall, however, have the right to select and receive the lease as in this section provided for that portion of his claim or claims equal to, but not in excess of, said one-half of the area of such geologic oil structure, but not more than three thousand two hundred acres.

All such leases shall be made and the amount of royalty to be paid for oil and gas produced, except oil or gas used for production purposes on the claim, or unavoidably lost, after the execution of such lease shall be fixed by the Secretary of the Interior under appropriate rules and regulations: *Provided, however*, That as to all like claims situate within any naval petroleum reserve the producing wells thereon only shall be leased, together with an area of land sufficient for the operation thereof, upon the terms and payment of royalties for past and future production as herein provided for in the leasing of claims. No wells shall be drilled in the land subject to this provision within six hundred and sixty feet of any such leased well without the consent of the lessee: *Provided, however*, That the President may, in his discretion, lease the remainder or any part of any such claim upon which such wells have been drilled, and in the event of such leasing said claimant or his successor shall have a preference right to such lease: *And provided further*, That he may permit the drilling of additional wells by the claimant or his successor within the limited area of six hundred and sixty feet theretofore provided for upon such terms and conditions as he may prescribe.

ROYALTY

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

Upon the delivery and acceptance of the lease, as in this section provided, all suits brought by the Government affecting such lands may be settled and adjusted in accordance herewith and all moneys impounded in such suits or under the Act entitled "An Act to amend an Act entitled 'An Act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest,' approved March 2, 1911," approved August 25, 1914 (Thirty-eighth Statutes at Large, page 708), shall be paid over

to the parties entitled thereto. In case of conflicting claimants for leases under this section, the Secretary of the Interior is authorized to grant leases to one or more of them as shall be deemed just. All leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear, subject, however, to the same limitation as to area and acreage as is provided for claimant in this section: *Provided*, That no claimant acquiring any interest in such lands since September 1, 1919, from a claimant on or since said date claiming or holding more than the maximum allowed claimant under this section shall secure a lease thereon or any interest therein, but the inhibition of this proviso shall not apply to an exchange of any interest in such lands made prior to the 1st day of January, 1920, which did not increase or reduce the area or acreage held or claimed in excess of said maximum by either party to the exchange: *Provided further*, That no lease or leases under this section shall be granted, nor shall any interest therein, inure to any person, association, or corporation for a greater aggregate area or acreage than the maximum in this section provided for.

SEC. 18a. That whenever the validity of any gas or petroleum placer claim under preexisting law to land embraced in the Executive order of withdrawal issued September 27, 1909, has been or may hereafter be drawn in question on behalf of the United States in any departmental or judicial proceedings, the President is hereby authorized at any time within twelve months after the approval of this Act to direct the compromise and settlement of any such controversy upon such terms and conditions as may be agreed upon, to be carried out by an exchange or division of land or division of the proceeds of operation.

SEC. 19. That any person who on October 1, 1919, was a bona fide occupant or claimant of oil or gas lands under a claim initiated while such lands were not withdrawn from oil or gas location and entry, and who had previously performed all acts under then existing laws necessary to valid locations thereof except to make discovery, and upon which discovery had not been made prior to the passage of this Act, and who has performed work or expended on or for the benefit of such locations an amount equal in the aggregate of \$250 for each location if application therefor shall be made within six months from the passage of this Act shall be entitled to prospecting permits thereon upon the same terms and conditions, and limitations as to acreage, as other permits provided for in this Act, or where any such person has heretofore made such discovery, he shall be entitled to a lease thereon under such terms as the Secretary of the Interior may prescribe unless otherwise provided for in section 18 hereof: *Provided*, That where such prospecting permit is granted upon land within any known geologic structure of a producing oil or gas field, the royalty to be fixed in any lease thereafter granted thereon or any portion thereof shall be not less than 12½ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: *Provided, however*, That the provisions of this section shall not apply to lands reserved for the use of the Navy:

VALIDITY OF OIL AND GAS
PLACER CLAIM

BONA FIDE OCCUPANT OR
CLAIMANT

Provided, however, That no claimant for a permit or lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

All permits or leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear.

Sec. 20. In the case of lands bona fide entered as agricultural, and not withdrawn or classified as mineral at the time of entry, but not including lands claimed under any railroad grant, the entryman or patentee, or assigns, where assignment was made prior to January 1, 1918, if the entry has been patented with the mineral right reserved, shall be entitled to a preference right to a permit and to a lease, as herein provided, in case of discovery; and within an area not greater than a township such entryman and patentee, or assigns holding restricted patents may combine their holdings, not to exceed two thousand five hundred and sixty acres for the purpose of making joint application. Leases executed under this section and embracing only lands so entered shall provide for the payment of a royalty of not less than 12½ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 14 hereof.

PREFERENCE RIGHT

OIL SHALE.

Sec. 21. That the Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this Act any deposits of oil shale belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this Act, as he may prescribe; that no lease hereunder shall exceed five thousand one hundred and twenty acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior. Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development. For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of 50 cents per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior: *Provided,* That for the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease: *Provided,* That any person having a valid claim to such minerals under existing laws on January 1.

OIL SHALE

OIL SHALE LEASE

Sec. 21: See footnotes
43-45 for amendments.

1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation: *Provided, however,* That no claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section: *Provided further,* That not more than one lease shall be granted under this section to any one person, association, or corporation.

ALASKA OIL PROVISIO.

Sec. 22. That any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to the passage of this Act expended not less than \$250 in improvements on or for each location shall be entitled, upon relinquishment or surrender to the United States within one year from the date of this Act, or within six months after final denial or withdrawal of application for patent, to a prospecting permit or permits, lease or leases, under this Act covering such lands, not exceeding five permits or leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: *Provided,* That leases in Alaska under this Act whether as a result of prospecting permits or otherwise shall be upon such rental and royalties as shall be fixed by the Secretary of the Interior and specified in the lease, and be subject to readjustment at the end of each twenty-year period of the lease: *Provided further,* That for the purpose of encouraging the production of petroleum products in Alaska the Secretary may, in his discretion, waive the payment of any rental or royalty not exceeding the first five years of any lease.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

SODIUM.

Sec. 23. That the Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium dissolved in and soluble in water, and accumulated by concentration, in lands belonging to the United States for a period of not exceeding two years: *Provided,* That the area to be included in such a permit shall be not exceeding two thousand five hundred and sixty acres of land in reasonably compact form: *Provided further,* That the provisions of this section shall not apply to lands in San Bernardino County, California.

ALASKA OIL PROVISIO

BONA FIDE OCCUPANT OR CLAIMANT

Sec. 22: See footnote 46 for amendment.

SODIUM

PROSPECTING PERMITS

Sec. 23: See footnote 47 for amendment.

Sec. 24. That upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in section 23 hereof has been discovered by the permittee within the area covered by his permit and that such land is chiefly valuable therefor the permittee shall be entitled to a lease for one-half of the land embraced in the prospecting permit, at a royalty of not less than one-eighth of the amount or value of the production, to be taken and described by legal subdivisions of the public-land surveys, or if the land be not surveyed by survey executed at the cost of the permittee in accordance with the rules and regulations to be prescribed by the Secretary of the Interior. The permittee shall also have the preference right to lease the remainder of the lands embraced within the limits of his permit at a royalty of not less than one-eighth of the amount or value of the production to be fixed by the Secretary of the Interior. Lands known to contain such valuable deposits as are enumerated in section 23 hereof and not covered by permits or leases, except such lands as are situated in said county of San Bernardino, shall be held subject to lease, and may be leased by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres; all leases to be conditioned upon the payment by the lessee of such royalty of not less than one-eighth of the amount or value of the production as may be fixed in the lease, and the payment in advance of a rental of 50 cents per acre for the first calendar year or fraction thereof and \$1 per acre per annum thereafter during the continuance of the lease, the rental paid for any one year to be credited on the royalty for that year. Leases may be for indeterminate periods, subject to readjustment at the end of each twenty-year period, upon such conditions not inconsistent herewith as may be incorporated in each lease or prescribed in general regulation theretofore issued by the Secretary of the Interior, including covenants relative to mining methods, waste, period of preliminary development, and minimum production, and a lessee under this section may be lessee of the remaining lands in his permit.

Sec. 25. That in addition to areas of such mineral land which may be included in any such prospecting permits or leases, the Secretary of the Interior, in his discretion, may grant to a permittee or lessee of lands containing sodium deposits, and subject to the payment of an annual rental of not less than 25 cents per acre, the exclusive right to use, during the life of the permit or lease, a tract of unoccupied nonmineral public land, not exceeding forty acres in area, for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease.

QUALIFY FOR LEASE

Sec. 24: See footnote 48 for amendments.

EXCLUSIVE RIGHT OF USE

GENERAL PROVISIONS APPLICABLE TO COAL, PHOSPHATE, SODIUM,
OIL, OIL SHALE, AND GAS LEASES.

GENERAL PROVISIONS

Sec. 26. That the Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

DUE DILIGENCE

Sec. 27. That no person, association, or corporation, except as herein provided, shall take or hold more than one coal, phosphate, or sodium lease during the life of such lease in any one State; no person, association, or corporation shall take or hold, at one time, more than three oil or gas leases granted hereunder in any one State, and not more than one lease within the geologic structure of the same producing oil or gas field; no corporation shall hold any interest as a stockholder of another corporation in more than such number of leases; and no person or corporation shall take or hold any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, which, together with the area embraced in any direct holding of a lease under this Act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, for any kind of mineral leased hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee under this Act. Any interests held in violation of this Act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property, or some part thereof, is located, except that any ownership or interest forbidden in this Act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition: *Provided*, That nothing herein contained shall be construed to limit sections 18, 18a, 19, and 22 or to prevent any number of lessees under the provisions of this Act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under this Act, or the transportation of coal: *Provided further*, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same: *And provided further*, That if any of the lands or deposits leased under the provisions of this Act shall be subleased, trusted, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form part of, or are in anywise controlled by any combination in the form of an unlawful trust, with consent of lessee, or

NUMBER OF LEASES HELD
Sec. 27: See footnotes
49-62 for amendments.

form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control, in excess of the amounts of lands provided in this Act, the lease thereof shall be forfeited by appropriate court proceedings.

Sec. 28. That rights of way through the public lands, including the forest reserves, of the United States are hereby granted for pipeline purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of this Act, to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express condition that such pipe lines shall be constructed, operated, and maintained as common carriers: *Provided*, That the Government shall in express terms reserve and shall provide in every lease of oil lands hereunder that the lessee, assignee, or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing gas or oil under the provisions of this Act: *Provided further*, That no right of way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section or the regulations prescribed by the Secretary of the Interior shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is located in an appropriate proceeding.

Sec. 29. That any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights of way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes: *Provided*, That said Secretary, in his discretion, in making any lease under this Act, may reserve to the United States the right to lease, sell, or otherwise dispose of the surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: *Provided further*, That if such reservation is made it shall be so determined before the offering of

PIPELINE
RIGHTS-OF-WAY

Sec. 28: See footnotes
63-65 for amendments.

EASEMENTS AND
RIGHTS-OF-WAY

such lease: *And provided further*, That the said Secretary, during the life of the lease, is authorized¹ to issue such permits for easements herein provided to be reserved.

SEC. 30. That no lease issued under the authority of this Act shall be assigned or sublet, except with the consent of the Secretary of the Interior. The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease, and upon acceptance thereof be thereby relieved of all future obligations under said lease, and may with like consent surrender any legal subdivision of the area included within the lease. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of

sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare: *Provided*, That none of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

SEC. 31. That any lease issued under the provisions of this Act may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this Act, of the lease, or of the general regulations promulgated under this Act and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

SEC. 32. That the Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this Act, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this Act: *Provided*, That nothing in this Act shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

ASSIGNED OR SUBLET LEASES
Sec. 30: See footnotes
66-70 for amendments.

FORFEITURE OR CANCELLATION
OF LEASES
Sec. 31: See footnotes
71-77 for amendments.

FIX AND DETERMINE
BOUNDARY LINES

Sec. 33. That all statements, representations, or reports required by the Secretary of the Interior under this Act shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

FORMS AND OATH

Sec. 34. That the provisions of this Act shall also apply to all deposits of coal, phosphate, sodium, oil, oil shale, or gas in the lands of the United States, which lands may have been or may be disposed of under laws reserving to the United States such deposits, with the right to prospect for, mine, and remove the same, subject to such conditions as are or may hereafter be provided by such laws reserving such deposits.

RESERVATION OF MINERALS

Sec. 35. That 10 per centum of all money received from sales, bonuses, royalties, and rentals under the provisions of this Act, excepting those from Alaska, shall be paid into the Treasury of the United States and credited to miscellaneous receipts; for past production 70 per centum, and for future production 52½ per centum of the amounts derived from such bonuses, royalties, and rentals shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress, known as the Reclamation Act, approved June 17, 1902, and for past production 20 per centum, and for future production 37½ per centum of the amounts derived from such bonuses, royalties, and rentals shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act from lands within the naval petroleum reserves shall be deposited in the Treasury as "Miscellaneous receipts."

DISPOSITION OF RECEIPTS
Sec. 35: See footnotes
79-89 for amendments.

Sec. 36. That all royalty accruing to the United States under any oil or gas lease or permit under this Act on demand of the Secretary of the Interior shall be paid in oil or gas.

ROYALTY PAID IN KIND
ON DEMAND

Upon granting any oil or gas lease under this Act, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: *Provided, however*, That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior

Sec. 36: See footnote 90
for amendment.

may sell the current product at private sale, at not less than the market price: *And provided further*, That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

Sec. 37. That the deposits of coal, phosphate, sodium, oil, bit shale, and gas, herein referred to, in lands valuable for such minerals, including lands and deposits described in the joint resolution entitled "Joint resolution authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming," approved August 1, 1912 (Thirty-seventh Statutes at Large, page 1346), shall be subject to disposition only in the form and manner provided in this Act, except as to valid claims existent at date of the passage of this Act and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery.

Sec. 38. That, until otherwise provided, the Secretary of the Interior shall be authorized to prescribe fees and commissions to be paid registers and receivers of United States land offices on account of business transacted under the provisions of this Act.

Approved, February 25, 1920.

DISPOSITION OF MINERAL
DEPOSITS SUBJECT TO
THIS ACT

Sec. 37: See footnote 91
for amendment.

FEEES FOR TRANSACTIONS
UNDER ACT

Sec. 38: See footnote 92
for amendment.

NOTE:

Sec. 39: Added by the Act of 2/9/33
at p. 28 this text.

Sec. 39: See footnotes
93-98 for amendments.

Sec. 40: Added by the Act of 6/16/34
at p. 29 this text.

Sec. 41: Added by the Act of 12/22/87
at p. 136 this text.

Sec. 42: Added by the Act of 9/2/60
at p. 76 this text.

Sec. 43: Added by the Act of 12/22/87
at p. 139 this text.

Sec. 44: Added by the Act of 12/22/87
at p. 139 this text.

An Act To amend section 27 of the general leasing Act approved February 25, 1920 (Forty-first Statutes at Large, page 437).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the general leasing Act approved February 25, 1920 (Forty-first Statutes at Large, page 437), is hereby amended to read as follows:

That no person, association, or corporation, except as herein provided, shall take or hold coal, phosphate, or sodium leases or permits during the life of such leases or permits in any one State exceeding in aggregate acreage 2,560 acres for each of said minerals; no person, association, or corporation shall take or hold at one time oil or gas leases or permits exceeding in the aggregate 7,680 acres granted hereunder in any one State, and not more than 2,560 acres within the geologic structure of the same producing oil or gas field; and no person, association, or corporation shall take or hold at one time any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof, which, together with the area embraced in any direct holding of a lease or leases, permit or permits, under this Act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof for any kind of mineral leases hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee or permittee under this Act. Any interests held in violation of this Act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property, or some part thereof, is located, except that any ownership or interest forbidden in this Act which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition: *Provided*, That nothing herein contained shall be construed to limit sections 18, 18a, 19, and 22 or to prevent any number of lessees under the provisions of this Act from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under this Act, or the transportation of coal or to increase the acreage which may be acquired or held under section 17 of this Act: *Provided further*, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same. *And provided further*, That if any of the lands or deposits leased under the provisions of this Act shall be subleased, trustee, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner

Sec. 27

ACREAGE HELD

FORFEITURE OF INTEREST

NOTE: Regarding all Mineral Leasing Act sections noted on this page: SEE footnotes listed under the section number to locate subsequent amendments to each section.

whatsoever, so that they form a part of, or are in anywise controlled by any combination in the form of an unlawful trust, with consent of lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise to which such leasee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control, in excess of the amounts of lands provided in this Act, the lease thereof shall be forfeited by appropriate court proceedings.
Approved, April 30, 1926.

ACT OF FEBRUARY 7, 1927

ACT OF FEBRUARY 7, 1927

Excerpts

An Act To promote the mining of potash on the public domain.

SEC. 4. That prospecting permits or leases may be issued under the provisions of this Act for deposits of potassium in public lands, also containing deposits of coal or other minerals, on condition that such other deposits be reserved to the United States for disposal under appropriate laws: *Provided*, That if the interests of the Government and of the lessee will be subserved thereby, potassium leases may include covenants providing for the development by the lessee of chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium, magnesium, aluminum, or calcium, associated with the potassium deposits leased, on terms and conditions not inconsistent with the sodium provisions of the Act of February 25, 1920 (Forty-first Statutes at Large, page 437): *Provided further*, That where valuable deposits of mineral now subject to disposition under the general mining laws are found in fissure veins on any of the lands subject to permit or lease under this Act, the valuable minerals so found shall continue subject to disposition under the said general mining laws notwithstanding the presence of potash therein.

SEC. 5. That the general provisions of sections 1 and 26 to 38, inclusive, of the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," are made applicable to permits and leases under this Act, the first and thirty-seventh sections thereof being amended to include deposits of potassium.

SODIUM PROVISIONS

SECS. 1 and 26-38 MADE
APPLICABLE TO THIS ACT.

NOTE: Other sections are not included.