Title 43: Public Lands: Interior

PART 3280—GEOTHERMAL RESOURCES UNIT AGREEMENTS

Section Contents

Subpart 3282—Participating Area

Subpart 3283—Modifications to the Unit Agreement

Subpart 3284—Unit Operations

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

Source: 72 FR 24432, May 2, 2007, unless otherwise noted.

Subpart 3280—Geothermal Resources Unit Agreements—General

top

§ 3280.1 What is the purpose and scope of this part?

top

(a) The purpose of this part is to provide holders of Federal and non-Federal geothermal leases and owners of non-Federal mineral interests the opportunity to unite under a Federal geothermal unit agreement to explore for and develop geothermal resources in a manner that is necessary or advisable in the public interest.

(b) These regulations identify:

(1) The procedures a prospective unit operator must follow to receive BLM approval for unit area designation and a Federal geothermal unit agreement;

(2) The operational requirements a unit operator must meet once the unit agreement is approved; and

(3) The procedures BLM will follow in reviewing, approving, and administering a Federal geothermal unit agreement.

§ 3280.2 Definitions.

top

The following terms, as used in this part or in any agreement approved under the regulations in this part, have the following meanings unless otherwise defined in such agreement:

Minimum initial unit obligation means the requirement to complete at least one unit well within the timeframe specified in the unit agreement. If this requirement is not met, BLM deems the unit void as though it was never in effect.

Participating area means that part of the unit area that BLM deems to be productive from a horizon or deposit, and to which production would be allocated in the manner described in the unit agreement, assuming that all lands are committed to the unit agreement.

Plan of development means the document a unit operator submits to BLM defining how the unit operator will diligently pursue unit exploration and development to meet both initial and subsequent unit development and public interest obligations.

Public interest means operations within a geothermal unit resulting in:

(1) Diligent development;

(2) Efficient exploration, production and utilization of the resource;

(3) Conservation of natural resources; and

(4) Prevention of waste.

Reasonably proven to produce means a sufficient demonstration, based on scientific and technical information, that lands are contributing to unit production in commercial quantities or are providing reservoir pressure support for unit production.

Unit agreement means an agreement for the exploration, development, production, and utilization of separately owned interests in the geothermal resources made subject thereto as a single consolidated unit without regard to separate ownerships, which provides for the allocation of costs and benefits on a basis defined in the agreement or plan.

Unit area means the area described in a unit agreement as constituting the land logically subject to development under such agreement.

Unit contraction provision means a term of a unit agreement providing that the boundaries of the unit area will contract to the size of the participating area, by having those lands outside of the participating area removed. BLM will contract the unit area if additional unit wells are not drilled and completed within the timeframe specified in the unit agreement.

Unit operator means the person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land as specified in such agreement.

Unit well means a well that is:

(1) Designed to produce or utilize geothermal resources in commercial quantities;

(2) Drilled and completed to the bona fide geologic objective specified in the unit agreement, unless a commercial resource is found at a shallower depth; and

(3) Located on unitized land.

Unitized land means the part of a unit area committed to a unit agreement.

Unitized substances means deposits of geothermal resources recovered from unitized land by operation under and pursuant to a unit agreement.

Working interest means the interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in a unit agreement, the owner of such interest is vested with the right to explore for, develop, produce, and utilize such resources. The right delegated to the unit operator as such by the unit agreement is not to be regarded as a working interest.

§ 3280.3 What is BLM's general policy regarding the formation of unit agreements?

top

For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof, lessees 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 BLM determines and certifies this to be necessary or advisable in the public interest.

§ 3280.4 When may BLM require Federal lessees to unitize their leases or require a Federal lessee to commit a lease to a unit?

top

(a) BLM may initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

(b) BLM may require that Federal leases that become effective on or after August 8, 2005, contain a provision stating that BLM may require commitment of the lease to a unit agreement, and may prescribe the unit agreement to which such lease must commit to protect the rights of all parties in interest, including the United States.

§ 3280.5 May BLM require the modification of lease requirements in connection with the creation and operation of a unit agreement?

top

(a) BLM may, with the consent of the lessees 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, in connection with the creation and operation of any such unit agreement as BLM may consider necessary or advisable to secure the protection of the public interest.

(b) If leases to be included in a unit have unlike lease terms, such leases need not be modified to be in the same unit.

§ 3280.6 When may BLM require a unit operator to modify the rate of exploration, development, or production?

top

BLM may require a unit agreement applying to lands owned by the United States to contain a provision under which BLM or an entity designated in the unit agreement may alter or modify, from time-to-time, the rate of resource exploration or development, or production quantity or rate, under the unit agreement.

§ 3280.7 Can BLM require an owner or lessee of lands not under Federal administration to unitize their lands or leases?

top

BLM cannot require the commitment of lands or leases not under Federal administration or jurisdiction to a Federal unit.

Subpart 3281—Application, Review, and Approval of a Unit Agreement

top

§ 3281.1 What steps must I follow for BLM to approve my unit agreement?

top

Before a unit agreement becomes effective, BLM must designate the unit area and approve the unit agreement. Procedures for designating the unit area are set forth in §§3281.2 through 3281.6. Procedures for approving the unit agreement are set forth in §§3281.7 through 3281.17.

§ 3281.2 What documents must the unit operator submit to BLM before we may designate a unit area?

top

(a) The unit operator must submit the following documents before BLM may designate a proposed unit area:

(1) A report detailing the geologic information and interpretation that indicates, to the satisfaction of BLM, the proposed area is geologically appropriate for unitization;

(2) A map showing:

(i) The proposed unit area;

(ii) All leases (including Federal, state, or private) and tracts (unleased privately owned land or mineral rights);

(iii) The Federal lease number and lessee; and

(iv) An individual unit tract number;

(3) A list which includes the following information as to each Federal, state, and private lease, and tracts of unleased land, to be included in the unit:

(i) The lease number;

(ii) The legal land description of each lease and tract;

(iii) The acreage of each lease or tract;

(iv) The lessor and lessee of each lease;

(v) The mineral rights owner of any unleased tract; and

(vi) The total number of acres:

(A) In the unit area;

(B) Under Federal administration; and

(C) In private or other (such as state) ownership; and

(4) Any other information BLM may require.

(b) Before submitting any documents, ask BLM how many copies are required.

§ 3281.3 What geologic information may a unit operator use in proposing a unit area?

top

(a) A unit operator may use any reasonable geologic information necessary to justify its proposed unit area. The information must document that the proposed unit area is:

(1) Geologically contiguous; and

(2) Suitable for resource exploration, development and production under a unit agreement.

(b) BLM will decide which information and interpretations are acceptable. BLM's acceptance of the information and interpretations may vary depending on the types and level of geologic information available for the area.

§ 3281.4 What are the size and shape requirements for a unit area?

top

There are no specific size or shape requirements for a unit area, except that it must meet the requirements of §3281.3. The size of the unit area may affect the minimum initial unit obligation requirements (see §3281.15(b)).

§ 3281.5 What happens if BLM receives applications that include overlapping unit areas?

top

(a) If BLM receives unit area applications that include overlapping lands, we will request that each prospective unit operator resolve the issue with the other operator(s). If the prospective operators cannot reach a resolution, BLM may:

(1) Return all unit applications and request all applicants to revise their proposed unit areas;

(2) Designate any unit area proposal that is geologically appropriate for unitization and best meets public interest requirements; or

(3) Designate a different area for unitization when doing so is in the public interest.

(b) BLM will reject either an application or a portion of an application that includes lands already in an approved unit area.

§ 3281.6 What action will BLM take after reviewing a proposed unit area designation?

top

(a) BLM will approve the unit area designation in writing and notify the prospective unit operator once we determine that:

(1) We have received the information required at §3281.2;

(2) Information available to BLM documents that the area is geologically appropriate for unitization; and

(3) Unitization is appropriate to conserve the natural resources of a geothermal reservoir, field, or like area, or part thereof.

(b) BLM will notify a prospective unit operator in writing if we do not designate a proposed unit area.

§ 3281.7 What documents must a unit operator submit to BLM before we will approve a unit agreement?

top

After BLM approves a unit area designation, a unit operator must submit the following information in order for BLM to approve a unit agreement:

(a) Documentation of tract commitment (see §§3281.8 and 3281.9);

(b) The unit agreement (see §3281.15);

(c) The map required by §3281.2(a)(2), if any modifications have occurred since the unit area was designated;

(d) The list required by §3281.2(a)(3) indicating whether each lease or tract is committed to the unit agreement; and

(e) The plan of development.

§ 3281.8 Must a unit operator provide working interests within the designated unit area the opportunity to join the unit?

top

After BLM designates a unit area, the unit operator must invite all owners of mineral rights (leased or unleased) and lease interests (record title and operating rights) in the designated unit area to join the unit. The unit operator must provide the lease interests and mineral rights owners 30 days to respond. If an interest or owner does not respond, the unit operator must provide BLM with written evidence that all the interests or owners were invited to join the unit. BLM will not approve a unit agreement proposal if this evidence is not submitted.

§ 3281.9 How does a unit operator provide documentation to BLM of lease and tract commitment status?

top

(a) The unit operator must provide documentation to BLM of the commitment status of each lease and tract in the designated unit area. The documentation must include a joinder or other comparable document signed by the lessee or mineral rights owner, or evidence that an opportunity to join was offered and no response was received (see §3281.8).

(b) A majority interest of owners of any single Federal lease has authority to commit the lease to a unit agreement.

§ 3281.10 How will BLM determine that I have sufficient control of the proposed unit area?

top

(a) BLM will determine whether:

(1) A unit operator has sufficient control of the proposed unit area by reviewing the number and location of leases and tracts committed and their geologic potential for development in relation to the entire proposed unit area; and

(2) The committed tracts provide the unit operator with sufficient control of the unit area to conduct resource exploration and development in the public interest.

(b) If BLM determines that the unit operator does not have sufficient control of the unit area, we will not approve the unit agreement.

§ 3281.11 What are the unit operator qualifications?

top

(a) Before BLM will approve a unit agreement, the unit operator must:

(1) Meet the same qualifications as a lessee (see §3202.10 of this chapter); and

(2) Demonstrate sufficient control of the unit area (see §3281.10).

(b) A unit operator is not required to have an interest in any lease committed to the unit agreement.

§ 3281.12 Who designates the unit operator?

top

The owners of geothermal rights and lease interests committed to the unit agreement will nominate a unit operator. Before designating the unit operator, BLM must also determine whether the prospective unit operator meets the requirements of §3281.11.

§ 3281.13 Is there a format or model a unit operator must use when proposing a unit agreement?

top

When proposing a unit agreement, submit to BLM:

(a) The model unit agreement (see §3286.1);

(b) The model unit agreement with variances noted; or

(c) Any unit agreement format that contains all the terms and conditions BLM requires (see §§3281.14 and 3281.15).

§ 3281.14 What minimum requirements and terms must be incorporated into the unit agreement?

top

(a) The unit agreement must, at a minimum:

(1) State who the unit operator is, and that the unit operator and participating lessees accept the unit terms and obligations set forth in the agreement and applicable BLM regulations;

(2) State the size and general location of the unit area;

(3) Include procedures for revising the unit area or participating area(s);

(4) Include procedures for amending the unit agreement;

(5) State the effective date and term of the unit, as provided in paragraph (b) of this section;

(6) Incorporate the minimum initial unit obligations, as specified in §3281.15;

(7) State that BLM may require a modification of the rate of resource exploration or development, or the production quantity or rate, within the unit area;

(8) State that the agreement is subject to periodic BLM review;

(9) State that BLM will deem the unit agreement as void as if it were never in effect if the minimum initial unit obligations are not met;

(10) Include a plan of development; and

(11) Include a unit contraction provision.

(b) The unit agreement must provide that it terminates 5 years after its effective date unless:

(1) BLM extends such date of expiration;

(2) Unitized substances are produced or utilized in commercial quantities in which event the agreement continues for so long as unitized substances are produced or utilized in commercial quantities; or

(3) BLM terminates the agreement under subpart 3285 of this part before the end of the 5 year period.

(c) The agreement may include any other provisions or terms that BLM and the unit operator agree are necessary for proper resource exploration and development, and management of the unit area.

§ 3281.15 What is the minimum initial unit obligation a unit agreement must contain?

top

(a) The unit agreement must:

(1) Require the unit operator to drill, within the timeframe specified in the unit agreement, at least one unit well on a tract committed to the unit agreement;

(2) Specify the location and the minimum depth and/or geologic structure to which the initial unit well will be drilled; and

(3) Require the unit operator, upon completing a unit well, to provide to BLM in a timely manner the information required at §3264.10 of this chapter.

(b) Depending on the size of the proposed unit area, BLM may require the minimum initial unit agreement obligation to include the drilling of more than one unit well.

(c) If necessary to aid in the evaluation of drilling locations, BLM and the unit operator may agree to include types of exploration operations as part of the initial unit obligation. An example of such work is drilling temperature gradient wells.

(d) BLM will not consider any work done prior to unit approval for the purpose of meeting initial unit obligations.

§ 3281.16 When must a Plan of Development be submitted to BLM?

top

(a) The prospective unit operator must submit an initial Plan of Development at the time the unit area is proposed for designation.

(b) Subsequent Plans of Development that were not already provided must be submitted to address future unit activities to be conducted throughout the term of the unit agreement. For example, if the Plan only addressed activities until a unit well is completed, the subsequent Plan must address activities including the drilling of additional unit wells until a producible well is completed. Once a producible well is completed, the Plan or subsequent Plan must address those activities related to utilizing the resource.

(c) There is no requirement to submit a Plan of Development once unitized resources begin commercial operation.

§ 3281.17 What information must be provided in the Plan of Development?

top

(a) The Plan of Development must state the types of and timeframes for activities the unit operator will conduct in diligent pursuit of unit exploration and development. The Plan may address those activities that will be conducted until the minimum initial unit obligation is met, or it may address all activities that will occur through the term of the unit agreement.

(b) The Plan of Development may specify that the activities will be conducted in phases during the term of the unit agreement. For example, the number, location, and depth of temperature gradient wells, and the timeframe for the completion of these wells, may be the first phase. A second phase may include drilling of observation or slim-hole wells to a greater depth than that specified in the first phase. Completion of the unit well may be the third phase. In all cases, the Plan of Development must include the completion of at least one unit well.

§ 3281.18 What action will BLM take in reviewing the Plan of Development?

top

BLM will review the Plan of Development to ensure that the types of activities and the timeframes for their completion meet public interest requirements. If BLM determines that the Plan of Development does not meet these requirements, BLM will negotiate with the prospective unit operator to revise the proposed activities. BLM will not designate a unit area until the Plan of Development meets applicable requirements.

§ 3281.19 What action will BLM take on a proposed unit agreement?

top

BLM will:

(a) Review the proposed unit agreement to ensure that the public interest is protected and that the agreement conforms to applicable laws and regulations;

(b) Coordinate the review of a proposed unit agreement with appropriate state agencies, and other Federal surface management agencies, if applicable;

(c) Approve the unit agreement and provide the unit operator with signed copies of the agreement, if we determine:

(1) That the unit operator has submitted all required information;

(2) That the unit agreement and the unit operator satisfy all required terms and conditions, including the requirements specified at §§3281.14 and 3281.15, and conform with all applicable laws and regulations; and

(3) That the unit agreement is necessary or advisable to meet the public interest;

(d) Notify the unit operator in writing if we reject the unit agreement proposal; and

(e) Reject any unit application that includes lands already committed to an approved unit agreement.

§ 3281.20 When is a unit agreement effective?

top

The effective date of the unit agreement approval is the first day of the month following the date BLM approves and signs it. The unit operator may request that the effective date be the first day of the month in which the agreement is signed by BLM, or a more appropriate date agreed to by BLM.

Subpart 3282—Participating Area

top

§ 3282.1 What is a participating area?

top

(a) A participating area is the combined portion of the unitized area which BLM determines:

(1) Is reasonably proven to produce geothermal resources; or

(2) Supports production in commercial quantities, such as pressure support from injection wells.

(b) The size and configuration of all participating areas and revisions are not effective until BLM approves them.

§ 3282.2 When must the unit operator have a participating area approved?

top

You must have an established BLM-approved participating area to allocate production and royalties before beginning commercial operations under a unit agreement to allocate production within the unit.

§ 3282.3 When must the unit operator submit an application for BLM approval of a proposed initial participating area?

top

The unit operator must submit an application for BLM approval of a proposed participating area no later than:

(a) 60 days after receiving BLM's determination identified in §3281.15(a)(3) that a unit well will produce or utilize in commercial quantities; or

(b) 30 days before the initiation of commercial operations, whichever occurs earlier.

§ 3282.4 What general information must the unit operator submit with a proposed participating area application?

top

The unit operator must submit the following information with a participating area application:

(a) Technical information supporting its application (see §3282.5);

(b) The information required in §3281.2(a)(2) and (3) for the lands in the proposed participating area; and

(c) Any other information BLM may require.

§ 3282.5 What technical information must the unit operator submit with a proposed participating area application?

top

At a minimum, the unit operator must submit the following technical information with a proposed participating area application:

(a) Documentation that the participating area includes:

(1) The production and injection wells necessary for unit operations;

(2) Unit wells that are capable of being produced or utilized in commercial quantities; and

(3) The area each well drains or supplies pressure communication.

(b) Data, including logs, from production and injection well testing, if not previously submitted under §3264.10 of this chapter;

(c) Interpretations of well performance, and reservoir geology and structure, that document that the lands are reasonably proven to produce; and

(d) Any other information BLM may require.

§ 3282.6 When must the unit operator propose to revise a participating area boundary?

top

(a) The unit operator must submit a written application to BLM to revise a participating area boundary no later than 60 days after receipt of the BLM determination described herein, when either:

(1) A well is completed that BLM has determined will produce or utilize in commercial quantities, and such well:

(i) Is located outside of an existing participating area; or

(ii) Drains an area outside the existing participating area; or

(2) An injection well located outside of an existing participating area is put into use that BLM has determined provides reservoir pressure support to production.

(b) The unit operator may submit a written application for a revision of a participating area when new or additional technical information or revised interpretations of any information provides a basis for revising the boundary.

(c) The unit operator may submit a written request to BLM to delay a participation area revision decision when drilling multiple wells in the unit is actively pursued or the drilling is providing additional technical information. A delay will not affect the effective date of any participation area revision (see §3282.7). The request must include:

(1) The well locations;

(2) Anticipated spud and completion dates of each well;

(3) The timing of well testing and analyses of technical information; and

(4) The anticipated date BLM will receive the participation area revision for review.

(d) BLM will provide the unit operator with a written decision on the application to revise a participating area or the request to delay a participating area revision decision by BLM.

§ 3282.7 What is the effective date of an initial participating area or revision of an existing participating area?

top

(a) BLM will establish the appropriate effective date of an initial participating area or any revision to a participating area. The effective date may be, but is not limited to, the first day of the month in which:

(1) A well is completed that causes the participating area to be formed or revised;

(2) Commercial operations start; or

(3) New or additional technical information becomes known that provides a basis for revising the boundary (such as when production from, or injection to, an area outside the participating area first became known).

(b) The unit operator may request BLM to approve a specific effective date for the participating area or revision, but the date may not be earlier than the effective date of the unit.

§ 3282.8 What are the reasons BLM would not approve a revision of the participating area boundary?

top

BLM will not approve a revision of the participating area boundary:

(a) If the unit operator does not submit the required information;

(b) If BLM determines that the new or additional technical information does not support a boundary revision; or

(c) If it reduces the size of a participating area because of depletion of the resource.

§ 3282.9 How is production allocated within a participating area?

top

Allocation of production to each committed lease or tract within a participating area is in the same proportion as that lease's or tract's surface acreage within the participating area.

§ 3282.10 When will unleased Federal lands in a participating area receive a production allocation?

top

Unleased Federal lands within a participating area are treated as follows:

(a) For royalty purposes only, you must allocate production to unleased Federal lands in the participating area as if the acreage were committed to the participating area.

(b) The unit operator is primarily liable for paying and must pay royalty to the United States for such allocated production based on a rate not less than the highest royalty rate for any Federal lease in the participating area. In the event the unit operator does not pay any royalties owed under this paragraph, each lessee of lands committed to the participating area is responsible for paying such royalties in the same proportion as that lessee's percentage of surface acreage within the participating area, excluding the unleased acreage.

§ 3282.11 May a participating area continue if there is intermittent unit production?

top

A participating area may continue if there is intermittent unit production only if BLM determines that intermittent production is in the public interest. For example, a direct use facility may only require production to occur during winter months.

§ 3282.12 When does a participating area terminate?

top

A participating area terminates when either:

(a) The unit operator permanently stops operations in or affecting the participating area; or

(b) Sixty (60) days after BLM notifies the unit operator in writing that we have determined that operations in the participating area are not being conducted in accordance with the unit agreement, the participating area approval, or the public interest. If before the expiration of the 60 days, the unit operator demonstrates to BLM's satisfaction that the basis for BLM's determination is erroneous or has been rectified, BLM will not terminate the participating area.

Subpart 3283—Modifications to the Unit Agreement

top

§ 3283.1 When may the unit operator modify the unit agreement?

top

(a) The unit operator may propose to modify a unit agreement by submitting an application to BLM that:

(1) Identifies the proposed change and the reason for the change; and

(2) Certifies that all necessary unit interests have agreed to the change.

(b) BLM will send the unit operator written notification of BLM's decision regarding the application. Proposed modifications to a unit agreement will not become effective until BLM approves them. BLM's approval may be made effective retroactively to the date the application was complete. BLM may approve a different effective date, including a date the unit operator requests and for which the unit operator provides acceptable justification.

§ 3283.2 When may the unit operator revise the unit contraction provision of a unit agreement?

top

(a) The unit operator may submit to BLM a request to revise the unit contraction provision of a unit agreement, if the unit operator has either:

(1) Commenced commercial operations of unitized resources; or

(2) Completed a unit well that produces or utilizes geothermal resources in commercial quantities.

(b) The request may propose an extension of the unit contraction date and/or a partial contraction of the unit area, and must include the following information:

(1) The period for which the revision is requested; and

(2) Whether an extension of the unit contraction date and/or a partial contraction of the unit area is requested.

(c) The request should address the following factors when applicable:

(1) Economic constraints that limit the opportunity to drill and utilize the resource from additional wells;

(2) Reservoir monitoring or injection wells that BLM determines are necessary for unit operations are not located in the participating area;

(3) An inability to drill additional wells is due to circumstances beyond the unit operator's control, and a unit well that has produced or utilized in commercial quantities already is located in the unit;

(4) The types and intensity of unit operations already conducted in the unit area;

(5) The availability of viable electrical or resource sales contracts;

(6) The opportunity to utilize the resource economically; or

(7) Any other information that supports revision of the unit contraction provision.

(d) BLM will consider the factors discussed along with any other information submitted, and will approve the request if we determine that the revision is in the public interest. The approval may be subject to conditions such as requiring an annual renewal, or setting the timing and conditions for when phased contractions or termination of the revision may occur.

§ 3283.3 How will the unit operator know the status of a unit contraction revision request?

top

BLM will notify the unit operator in writing of our decision. If we approve the request, we:

(a) Will specify the term of the contraction extension and/or which lands will remain in the unit agreement;

(b) May require the unit operator to update the informational requirements of subpart 3282; and

(c) May terminate the participating area contraction revision if we find termination is necessary in the public interest.

§ 3283.4 When may the unit operator add lands to or remove lands from a unit agreement?

top

(a) The unit operator may request BLM to designate the addition or removal of lands to or from a unit agreement.

(b) In order for BLM to complete a review of the unit area revision request, the unit operator must submit to BLM the information required in §§3281.2, 3281.3, and 3281.7.

(c) BLM will:

(1) Review the request;

(2) Determine whether the information provided is sufficient and whether the new or additional geologic information or interpretation provides an acceptable basis for the unit boundary change; and

(3) Notify the unit operator in writing of our decision.

(d) If BLM approves the revision, the unit operator must notify all owners of lease interests or mineral rights of the unit area revision.

§ 3283.5 When will BLM periodically review unit agreements?

top

BLM will periodically review all unit agreements to determine compliance with §3283.6 in accordance with the following schedule:

(a) Not later than 5 years after the approval of each unit agreement; and

(b) At least every 5 years following the initial unit review.

§ 3283.6 What is the purpose of BLM's periodic review?

top

(a) BLM must review all unit agreements to determine whether any leases, or portions of leases, committed to any unit are no longer reasonably necessary for unit operations, and eliminate from inclusion in the unit agreement any such lands it determines not reasonably necessary for unit operations.

(b) The elimination will be based on scientific evidence, and occur only for the purpose of conserving and properly managing the geothermal resources.

(c) BLM will not eliminate any lands from a unit until BLM provides the unit operator, the lessee, and any other person with a legal interest in such lands, with reasonable notice and an opportunity to comment.

(d) Any lands eliminated from a unit under this section are eligible for a lease extension under subpart 3207 of part 3200 of this chapter if the lands meet the requirements for the extension.

§ 3283.7 When may unit operators be changed?

top

Unit operators may be changed only with BLM's written approval.

§ 3283.8 What must be filed with BLM to change the unit operator?

top

To change the unit operator, the new operator must:

(a) Meet the qualification requirements of §3281.11;

(b) Submit to BLM evidence of acceptable bonding under §3214.13 of this chapter; and

(c) File with BLM written acceptance of the unit terms and obligations.

3283.9 When is a change of unit operator effective?

top

The change is effective when BLM approves the new unit operator in writing.

§ 3283.10 If there is a change in the unit operator, when does the previous operator's liability end?

top

(a) The previous unit operator remains responsible for all duties and obligations of the unit agreement until BLM approves a new unit operator. The change of the unit operator does not release the previous unit operator from any liability for any obligations that accrued before the effective date of the change (see §3215.14 of this chapter).

(b) The new unit operator is responsible for all unit duties and obligations after BLM approves the change.

§ 3283.11 Do the terms and conditions of a unit agreement modify Federal lease stipulations?

top

Nothing in a unit agreement modifies stipulations included in any Federal lease.

§ 3283.12 Are transferees and successors in interest of Federal geothermal leases bound by the terms and conditions of the unit agreement?

top

The terms and conditions of the unit agreement are binding on transferees and successors in interest to Federal geothermal leases committed to a unit agreement.

Subpart 3284—Unit Operations

top

§ 3284.1 What general standards apply to operations within a unit?

top

All unit operations must comply with:

(a) The terms and conditions of the unit agreement; and

(b) The standards and orders listed in the following chart:

Type of operation	Regulations on Operational Standards (43 CFR)	Regulations on Orders or Instructions (43 CFR)
Exploration	§3250.12	§3250.13
Drilling	§3260.11	§3260.12
Production or Utilization	§3270.11	§3270.12

§ 3284.2 What are the principal operational responsibilities of the unit operator?

top

The unit operator is responsible for:

(a) Diligently drilling for and developing in the public interest the geothermal resource occurring in the unit area. Only the unit operator is authorized to conduct:

(1) Any phase of drilling authorized under subpart 3260 of this chapter, unless another person is specifically authorized by BLM to conduct drilling (see §3284.3);

(2) Resource development activities such as production and injection; and

(3) Delivery of the resource for commercial operation. An entity other than the unit operator, such as a facility operator, may purchase or utilize the resource produced from the unit.

(b) Providing written notification to BLM within 30 days after any changes to the commitment status of any lease or tract in the unit area (see §§3281.9 and 3284.12); and

(c) Insuring that the Federal Government receives all royalties, direct use fees, and rents for activities within the participating area.

§ 3284.3 What happens if the minimum initial unit obligations are not met?

top

(a) If the unit operator does not drill a well designed to produce or utilize geothermal resources in commercial quantities within the timeframe specified in the unit agreement, or the unit operator relinquishes the unit agreement before meeting the minimum initial unit obligations:

(1) BLM will deem the unit agreement void as though it was never in effect;

(2) BLM will deem any lease extension based upon the existence of the unit as void retroactive to the date the unit was effective; and

(3) Any lease segregations based on the unit become invalid.

(b) BLM will send the unit operator a written decision confirming that the unit agreement is void.

§ 3284.4 How are unit agreement terms affected after completion of the initial unit well?

top

(a) Upon completion of a unit well that BLM determines will produce or utilize geothermal resources in commercial quantities, the unit operator must submit a proposed participating area application under §3282.3, and no additional drilling to meet unit obligations is required. If no additional drilling in the unit occurs, the unit area will contract to the participating area as specified in the unit agreement.

(b) If a unit operator drills a well designed to produce or utilize geothermal resources in commercial quantities, but the well will not produce commercially or is not producible, the unit operator must continue drilling additional wells within the timeframes specified in the unit agreement until a unit well is completed that BLM determines will produce or utilize geothermal resources in commercial quantities. BLM may terminate a unit if additional wells are not drilled within the timeframes specified in the unit agreement.

(c) The unit agreement will expire if no well that BLM determines will produce or utilize geothermal resources in commercial quantities is completed within the timeframes specified in the unit agreement.

(d) BLM will send the unit operator a written decision confirming that the unit agreement has been terminated or has expired.

§ 3284.5 How do unit operations affect lease extensions?

top

(a) Once the minimum initial unit obligation is met, lease extensions approved under §3207.17 of this chapter based upon unit commitment will remain in effect until the unit is relinquished, expires, terminates, or the lease on which the initial unit obligation was met is eliminated from the unit.

(b) As long as there are commercial operations within the unit or there exists a unit well that BLM has determined is producing or utilizing geothermal resources in commercial quantities, lease extensions for any leases or portions of leases within the participating area will remain in effect as long as operations meet the requirements of §3207.15 of this chapter.

§ 3284.6 May BLM authorize a working interest owner to drill a well on lands committed to the unit?

top

(a) BLM may authorize a working interest owner to drill a well on the interest owner's lease only if it is located outside of an established participating area. However, BLM will only do so upon determining that:

(1) The unit operator is not diligently pursuing unit development; and

(2) Drilling the well is in the public interest.

(b) If BLM determines that a working interest has completed a well that will produce or utilize geothermal resources in commercial quantities, the unit operator must:

(1) Apply to revise the participating area to include the well; and

(2) Operate the well.

§ 3284.7 May BLM authorize operations on uncommitted Federal leases located within a unit?

top

BLM may authorize a lessee/operator to conduct operations on an uncommitted Federal lease located within a unit if the lessee/operator demonstrates to our satisfaction that operations on the lease are:

(a) In the public interest; and

(b) Will not unnecessarily affect unit operations.

§ 3284.8 May a unit have multiple operators?

top

A unit may have only one operator.

§ 3284.9 May BLM set or modify production or injection rates?

top

BLM may set or modify the quantity, rate, or location of production or injection occurring under a unit agreement to ensure protection of Federal resources.

§ 3284.10 What must a unit operator do to prevent or compensate for drainage?

top

The unit operator must take all necessary measures to prevent or compensate for drainage of geothermal resources from unitized land by wells on land not subject to the unit agreement (see §§3210.16 and 3210.17 of this chapter).

§ 3284.11 Must the unit operator develop and operate on every lease or tract in the unit to comply with the obligations in the underlying leases or agreements?

top

The unit operator is not required to develop and operate on every lease or tract in the unit agreement to comply with the obligations in the underlying leases or agreement. The development and operation on any lands subject to a unit agreement is considered full performance of all obligations for development and operation for every separately owned lease or tract in the unit, regardless of whether there is development of any particular tract of the unit area.

§ 3284.12 When must the unit operator notify BLM of any changes of lease and tract commitment status?

top

The unit operator must provide updated documentation of commitment status (see §§3281.8 through 3281.10) of all leases and tracts to BLM whenever a change in commitment, such as the expiration of a private lease, occurs. The unit operator must submit the documentation to BLM within 30 days after the change occurs. The unit operator must also notify all lessees and mineral interest owners of these changes.

Subpart 3285—Unit Termination

top

§ 3285.1 When may BLM terminate a unit agreement?

top

BLM may terminate a unit agreement if the unit operator does not comply with any term or condition of the unit agreement.

§ 3285.2 When may BLM approve a voluntary termination of a unit agreement?

top

BLM may approve the voluntary termination of a unit agreement at any time:

(a) After receiving a signed certification agreeing to the termination from a sufficient number of the working interest owners specified in the unit agreement who together represent a majority interest in the unit agreement; and

(b)(1) After the completion of the initial unit obligation well but before the establishment of a participating area; or

(2) After a participating area is established, upon receipt of information providing adequate assurance that:

(i) Diligent development and production of known commercial geothermal resources will occur; and

(ii) The public interest is protected.

Subpart 3286—Model Unit Agreement

top

§ 3286.1 Model Unit Agreement.

top

A unit agreement may use the following language:

Unit Agreement for the Development and Operation of the ___ Unit Area, County of ___, State of ___.

Table of Contents

Article XIX—Appearances

Article XX—No Waiver of Certain Rights

Article XXI—Unavoidable Delay

Article XXII—Postponement of Obligations

Article XXIII—Nondiscrimination

Article XXIV—Counterparts

Article XXV—Subsequent Joinder

Article XXVI—Covenants Run With the Land

Article XXVII—Notices

Article XXVIII—Loss of Title

Article XXIX—Taxes

Article XXX—Relation of Parties

Article XXXI—Special Federal Lease Stipulations and/or Conditions

This Agreement entered into as of the ___ day of ___, 20 ___, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the “parties hereto”. Whereas the parties hereto are the owners of working, royalty, or other geothermal resources interests in land subject to this Agreement; and

Whereas the Geothermal Steam Act of 1970 (84 Stat. 1566), as amended, hereinafter referred to as the “Act” authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for the purpose of more properly conserving the natural resources of any geothermal resources reservoir, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

Whereas the parties hereto hold sufficient interest in the ___ Unit Area covering the land herein described to effectively control operations therein; and

Whereas, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operations of the area subject to this Agreement under the terms, conditions, and limitations herein set forth;

Now, therefore, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined Unit Area, and agree severally among themselves as follows:

Article I—Enabling Act and Regulations

1.1 The Act and all valid pertinent U.S. Department of the Interior regulations, including operating and unit plan regulations, heretofore or hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands.

1.2 As to non-Federal lands, the Bureau of Land Management ("BLM") geothermal resources operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

Article II—Definitions

2.1 The following terms shall have the meanings here indicated:

(a) *Geothermal Lease.* A lease issued under the act of December 24, 1970 (84 Stat. 1566), as amended, pursuant to the leasing regulations contained in 43 CFR Group 3200 and, unless the context indicates otherwise, "lease" shall mean a geothermal lease.

(b) *Unit Area.* The area described in Article III of this Agreement.

(c) *Unit Operator.* The person, association, partnership, corporation, or other business entity designated under this Agreement to conduct operations on Unitized Land as specified herein.

(d) *Participating Area.* That area of the Unit deemed to be productive as described in Article 12.1 herein and areas committed to the Unit by the Authorized Officer needed for support of operations of the Unit Area. The production allocated for lands used for support of operations shall be approved by the Authorized Officer pursuant to Articles 12.1 and 13.1 herein.

(e) *Working Interest.* The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in this Agreement, the owner of such interest is vested with the right to explore for, develop, produce and utilize such resources. The right delegated to the Unit Operator as such by this Agreement is not to be regarded as a Working Interest.

(f) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise powers vested in that officer.

(g) *Director.* The Director of the Bureau of Land Management or any person duly authorized to exercise powers vested in that officer.

(h) *Authorized Officer.* Any person authorized by law or by lawful delegation of authority in the Bureau of Land Management to perform the duties described.

Article III—Unit Area and Exhibits

3.1 The area specified on the map attached hereto marked "Exhibit A" is hereby designated and recognized as constituting the Unit Area, containing ___ acres, more or less. The above-described Unit Area shall be expanded, when practicable, to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this Agreement.

3.2 Exhibit A attached hereto and made a part hereof is a map showing the boundary of the Unit Area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator.

3.3 Exhibit B attached hereto and made a part thereof is a schedule showing to the extent known to the Unit Operator the acreage, percentage, and kind of ownership of geothermal resources interests in all lands in the Unit Area.

3.4 Exhibits A and B shall be revised by the Unit Operator whenever changes in the Unit Area render such revision necessary, or when requested by the authorized officer, and not less than five copies of the revised Exhibits shall be filed with the authorized officer.

Article IV—Contraction and Expansion of Unit Area

4.1 Unless otherwise specified herein, the expansion and/or contraction of the Unit Area contemplated in Article 3.1 hereof shall be effected in the following manner:

(a) The Unit Operator, either on demand of the authorized officer or on its own motion and after prior concurrence by the authorized officer, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the Unit Area, the reasons therefore, and the proposed effective date thereof, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the authorized officer, and copies thereof mailed to the last known address of each Working Interest Owner, Lessee, and Lessor whose interests are affected, advising that 30 days will be allowed to submit any objections to the Unit Operator.

(c) Upon expiration of the 30-day period provided in the preceding item 4.1(b), Unit Operator shall file with the authorized officer evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto that have been filed with the Unit Operator, together with an application in sufficient number, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the authorized officer, become effective as of the date prescribed in the notice thereof.

4.2 Unitized Leases, insofar as they cover any lands excluded from the Unit Area under any of the provisions of this Article IV, may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions contained in the Act, and the lease or leases and amendments thereto, except that operations and/or production under this Unit Agreement shall not serve to maintain or continue the excluded portion of any lease.

4.3 All legal subdivisions of unitized lands (i.e., 40 acres by Governmental survey or its nearest lot or tract equivalent in instances of irregular surveys), no part of which is entitled to be within a Participating Area on the 5th anniversary of the effective date of the initial Participating Area established under this Agreement, shall be eliminated automatically from this Agreement effective as of said 5th anniversary. Such lands shall no longer be a part of the Unit Area and shall no longer be subject to this Agreement, unless diligent drilling operations are in progress on an exploratory well on said 5th anniversary, in which event such lands shall not be eliminated from the Unit Area for as long as exploratory drilling operations are continued diligently with not more than six (6) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.4 An exploratory well, for the purposes of this Article IV, is defined as any well, regardless of surface location, projected for completion:

(a) In a zone or deposit below any zone or deposit for which a Participating Area has been established and is in effect; or

(b) At a subsurface location under Unitized Lands not entitled to be within a Participating Area.

4.5 In the event an exploratory well is completed during the six (6) months immediately preceding the 5th anniversary of the initial Participating Area established under this Agreement, lands not entitled to be within a Participating Area shall not be eliminated from this Agreement on said 5th anniversary, provided the drilling of another exploratory well is commenced under an approved Plan of Development within six (6) months after the completion of said well. In such event, the land not entitled to be in participation shall not be eliminated from the Unit Area so long as exploratory drilling operations are continued diligently with not more than six (6) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.6 With prior approval of the authorized officer, a specified period of time in excess of six (6) months may be allowed to elapse between the completion of one well and the commencement of the next well without the automatic elimination of nonparticipating acreage.

4.7 Unitized lands proved productive by drilling operations that serve to delay automatic elimination of lands under this Article IV shall be incorporated into a Participating Area (or Areas) in the same manner as such lands would have been incorporated in such areas had such lands been proven productive during the year preceding said 5th anniversary.

4.8 In the event nonparticipating lands are retained under this Agreement after the 5th anniversary of the initial Participating Area as a result of exploratory drilling operations, all legal subdivisions of unitized land (i.e., 40 acres by Government survey or its nearest lot or tract equivalent in instances of irregular Surveys), no part of which is entitled to be within a Participating Area, shall be eliminated automatically as of the 183rd day, or such later date as may be established by the authorized officer, following the completion of the last well recognized as delaying such automatic elimination beyond the 5th anniversary of the initial Participating Area established under this Agreement.

Article V—Unitized Land and Unitized Substances

5.1 All land committed to this Agreement shall constitute land referred to herein as “Unitized Land.” All geothermal resources in and produced from any and all formations of the Unitized Land are unitized under the terms of this agreement and herein are called “Unitized Substances.”

Article VI—Unit Operator

6.1 ___ is hereby designated as Unit Operator, and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, production, distribution, and utilization of Unitized Substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in Unitized Substances, and the term “Working Interest Owner,” when used herein, shall include or refer to Unit Operator as the owner of a Working Interest when such an interest is owned by it.

Article VII—Resignation or Removal of Unit Operator

7.1 The Unit Operator shall have the right to resign. Such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator or terminate Unit

Operators rights, as such, for a period of six (6) months after notice of its intention to resign has been served by Unit Operator on all Working Interest Owners and the authorized officer, nor until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment, whichever is required by the authorized officer, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

7.2 The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of Working Interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the authorized officer.

7.3 The resignation or removal of Unit Operator under this Agreement shall not terminate its right, title, or interest as the owner of a Working Interest or other interest in Unitized Substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, material, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or, if no such new unit operator is elected, to the common agent appointed to represent the Working Interest Owners in any action taken hereunder, to be used for the purpose of conducting operations hereunder.

7.4 In all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the Working Interest Owners shall be jointly responsible for performance of the duties and obligations of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

7.5 The resignation or removal of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation or removal.

Article VIII—Successor Unit Operator

8.1 If, prior to the establishment of a Participating Area hereunder, the Unit Operator shall resign as Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the more than one-half of the owners of the Working Interests in Unitized Substances, based on their respective shares, on an acreage basis, in the Unitized Land.

8.2 If, after the establishment of a Participating Area hereunder, the Unit Operator shall resign as Unit Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by a vote of more than one-half of the owners of the Working Interests in Unitized Substances, based on their respective shares, on a participating acreage basis; provided that, if a majority but less than 60 percent of the Working Interest in the Participating Lands is owned by a party to this agreement, a concurring vote of one or more additional Working Interest Owners owning 10 percent or more of the Working Interest in the participating land shall be required to select a new Unit Operator.

8.3 The selection of a successor Unit Operator shall not become effective until:

(a) The Unit Operator so selected shall accept in writing the duties, obligations, and responsibilities of the Unit Operator; and

(b) The selection shall have been approved by the authorized officer.

8.4 If no successor Unit Operator is selected and qualified as herein provided, the authorized officer at his or her election may declare this Agreement terminated.

Article IX—Accounting Provisions and Unit Operating Agreement

9.1 Costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of Working Interests; all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of Working Interests, whether one or more, separately or collectively.

9.2 Any agreement or agreements entered into between the Working Interest Owners and the Unit Operator as provided in this Article, whether one or more, are herein referred to as the “Unit Operating Agreement.”

9.3 The Unit Operating Agreement shall provide the manner in which the Working Interest Owners shall be entitled to receive their respective share of the benefits accruing hereto in conformity with their underlying operating agreements, leases, or other contracts, and such other rights and obligations, as between Unit Operator and the Working Interest Owners.

9.4 Neither the Unit Operating Agreement nor any amendment thereto shall be deemed either to modify any of the terms and conditions of this Agreement or to relieve the Unit Operator of any right or obligation established under this Agreement.

9.5 In case of any inconsistency or conflict between this Agreement and the Unit Operating Agreement, this Agreement shall govern.

9.6 Three true copies of any Unit Operating Agreement executed pursuant to this Article IX shall be filed with the authorized officer prior to approval of this Agreement.

Article X—Rights and Obligations of Unit Operator

10.1 The right, privilege, and duty of exercising any and all rights of the parties hereto that are necessary or convenient for exploring, producing, distributing, or utilizing Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator as provided in this Agreement in accordance with a Plan of Development approved by the authorized officer.

10.2 Upon request by Unit Operator, acceptable evidence of title to geothermal resources interests in the Unitized Land shall be deposited with the Unit Operator and together with this Agreement shall constitute and define the rights, privileges, and obligations of Unit Operator.

10.3 Nothing in this Agreement shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that the Unit Operator, in its capacity as Unit Operator, shall exercise the rights of possession and use vested in the parties hereto only for the purposes specified in this Agreement.

10.4 The Unit Operator shall take such measures as the authorized officer deems appropriate and adequate to prevent drainage of Unitized Substances from Unitized Land by wells on land not subject to this Agreement.

10.5 The authorized officer is hereby vested with authority to alter or modify, from time to time, in the authorized officer's discretion, the rate of prospecting and development and the quantity and rate of production under this Agreement.

Article XI—Plan of Development

11.1 Concurrently with the submission of this Agreement to BLM for approval, the Unit Operator shall submit to BLM an acceptable initial Plan of Development. Said plan shall be as complete and adequate as the authorized officer may determine to be necessary for timely exploration and/or development, and to insure proper protection of the environment and conservation of the natural resources of the Unit Area.

11.2 Prior to the expiration of the initial Plan of Development, or any subsequent Plan of Development, Unit Operator shall submit for approval of the authorized officer an acceptable subsequent Plan of Development for the Unit Area which, when approved by the authorized officer, shall constitute the exploratory and/or development drilling and operating obligations of Unit Operator under this Agreement for the period specified therein.

11.3 Any Plan of Development submitted hereunder shall:

(a) Specify the number and locations of any exploration operations to be conducted or wells to be drilled, and the proposed order and time for such operations or drilling; and

(b) To the extent practicable, specify the operating practices regarded as necessary and advisable for proper conservation of natural resources and protection of the environment in compliance with section 1.1 of this Agreement.

11.4 The Plan of Development submitted concurrently with this Agreement for approval shall prescribe that the Unit Operator shall begin to drill a unit well identified in the Plan of Development approved by the authorized officer, unless on such effective date a well is being drilled conformably with the terms hereof, and thereafter continue such drilling diligently until the ___ formation has been tested or until at a lesser depth unitized substances shall be discovered that can be produced in commercial quantities (i.e., quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the authorized officer that further drilling of said well would be unwarranted or impracticable; provided, however, that the Unit Operator shall not in any event be required to drill said well to a depth in excess of ___ feet.

11.5 The initial Plan of Development and/or subsequent Plan of Development submitted under this Article shall provide that the Unit Operator shall initiate a continuous drilling program providing for drilling of no less than one well at a time, and allowing no more than six (6) months time to elapse between completion and testing of one well and the beginning of the next well, until a well capable of producing or utilizing Unitized Substances in commercial quantities is completed to the satisfaction of the authorized officer, or until it is reasonably proven that the Unitized Land is incapable of producing Unitized Substances in commercial quantities in the formations drilled under this Agreement.

11.6 The authorized officer may modify the exploration operation or drilling requirements of the initial or subsequent Plans of Development by granting reasonable extensions of time when, in his or her opinion, such action is warranted and in the public interest.

11.7 Until a well capable of producing or utilizing Unitized Substances in commercial quantities is completed, the failure of Unit Operator in a timely manner to conduct any exploration operations or drill any of the wells provided for in Plans of Development required under this Article XI or to submit a timely and acceptable subsequent Plan of Development, shall, after notice of default or notice of prospective default to Unit Operator by the authorized officer, and after failure of Unit Operator to remedy any actual default within a reasonable time (as determined by the authorized

officer), result in automatic termination of this Agreement effective as of the date of the default, as determined by the authorized officer.

11.8 Separate Plans of Development may be submitted for separate productive zones, subject to the approval of the authorized officer. Also subject to the approval of the authorized officer, Plans of Development shall be modified or supplemented when necessary to meet changes in conditions or to protect the interest of all parties to this Agreement.

Article XII—Participating Areas

12.1 Prior to the commencement of production of Unitized Substances, the Unit Operator shall submit for approval by the authorized officer a schedule (or schedules) of all land then regarded as reasonably proven to be productive from a pool or deposit discovered or developed; all lands in said schedule (or schedules), on approval of the authorized officer, will constitute a Participating Area (or Areas), effective as of the date production commences or the effective date of this Unit Agreement, whichever is later. Said schedule (or schedules) shall also set forth the percentage of Unitized Substances to be allocated, as herein provided, to each tract in the Participating Area (or Areas), and shall govern the allocation of production, commencing with the effective date of the Participating Area.

12.2 A separate Participating Area shall be established for each separate pool or deposit of Unitized Substances or for any group thereof that is produced as a single pool or deposit, and any two or more Participating Areas so established may be combined into one, on approval of the authorized officer. The effective date of any Participating Area established after the commencement of actual production of Unitized Substances shall be the first of the month in which is obtained the knowledge or information on which the establishment of said Participating Area is based, unless a more appropriate effective date is proposed by the Unit Operator and approved by the authorized officer.

12.3 Any Participating Area (or Areas) established under 12.1 or 12.2 above shall, subject to the approval of the authorized officer, be revised from time to time to:

(a) Include additional land then regarded as reasonably proved to be productive from the pool or deposit for which the Participating Area was established;

(b) Include lands necessary to unit operations;

(c) Exclude land then regarded as reasonably proved not to be productive from the pool or deposit for which the Participating Area was established; or

(d) Exclude land not necessary to unit operations; and

(e) Revise the schedule (or schedules) of allocation percentages accordingly.

12.4 Subject to the limitation cited in 12.1 hereof, the effective date of any revision of a Participating Area established under Articles 12.1 or 12.2 shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated; provided, however, that a more appropriate effective date may be used if justified by the Unit Operator and approved by the authorized officer.

12.5 No land shall be excluded from a Participating Area on account of depletion of the Unitized Substances, except that any Participating Area established under the provisions of this Article XII

shall terminate automatically whenever all operations are abandoned in the pool or deposit for which the Participating Area was established.

12.6 Nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of a Participating Area.

Article XIII—Allocation of Unitized Substances

13.1 All Unitized Substances produced from a Participating Area established under this Agreement shall be deemed to be produced equally, on an acreage basis, from the several tracts of Unitized Land within the Participating Area established for such production.

13.2 For the purpose of determining any benefits accruing under this Agreement, each Tract of Unitized Land shall have allocated to it such percentage of said production as the number of acres in the Tract included in the Participating Area bears to the total number of acres of Unitized Land in said Participating Area.

13.3 Allocation of production hereunder for purposes other than settlement of the royalty obligations of the respective Working Interest Owners shall be on the basis prescribed in the Unit Operating Agreement, whether in conformity with the basis of allocation set forth above or otherwise.

13.4 The Unitized Substances produced from a Participating Area shall be allocated as provided herein, regardless of whether any wells are drilled on any particular part or tract of said Participating Area.

Article XIV—Relinquishment of Leases

14.1 Pursuant to the provisions of the Federal leases and 43 CFR subpart 3213, a lessee of record shall, subject to the provisions of the Unit Operating Agreement, have the right to relinquish any of its interests in leases committed hereto, in whole or in part; provided, that no relinquishment shall be made of interests in land within a Participating Area without the prior approval of the authorized officer.

14.2 A Working Interest Owner may exercise the right to surrender, when such right is vested in it by any non-Federal lease, sublease, or operating agreement, provided that each party who will or might acquire the Working Interest in such lease by such surrender or by forfeiture is bound by the terms of this Agreement, and further provided that no relinquishment shall be made of such land within a Participating Area without the prior written consent of the non-Federal Lessor.

14.3 If, as the result of relinquishment, surrender, or forfeiture, the Working Interests become vested in the fee owner or lessor of the Unitized Substances, such owner may:

(a) Accept those Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement, or

(b) Lease the portion of such land as is included in a Participating Area established hereunder, subject to this Agreement and the Unit Operating Agreement, and provide for the independent operation of any part of such land that is not then included within a Participating Area established hereunder.

14.4 If the fee owner or lessor of the Unitized Substances does not, (1) accept the Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement, or (2)

lease such lands as provided in 14.3 above within six (6) months after the relinquished, surrendered, or forfeited Working Interest becomes vested in said fee owner or lessor, the Working Interest benefits and obligations accruing to such land under this Agreement and the Unit Operating Agreement shall be shared by the owners of the remaining unitized Working Interests in accordance with their respective Working Interest ownerships, and such owners of Working Interests shall compensate the fee owner or lessor of Unitized Substances in such lands by paying sums equal to the rentals, minimum royalties, and royalties applicable to such lands under the lease or leases in effect when the Working Interests were relinquished, surrendered, or forfeited.

14.5 Subject to the provisions of 14.4 above, an appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of any surrendered or forfeited Working Interest subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within thirty (30) days.

14.6 In the event no Unit Operating Agreement is in existence and a mutually acceptable agreement cannot be consummated between the proper parties, the authorized officer may prescribe such reasonable and equitable conditions of agreement as he deems warranted under the circumstances.

14.7 The exercise of any right vested in a Working Interest Owner to reassign such Working Interest to the party from whom it was obtained shall be subject to the same conditions as set forth in this Article XIV in regard to the exercise of a right to surrender.

Article XV—Rentals

15.1 ny unitized lease on non-Federal land containing provisions that would terminate such lease unless (1) drilling operations are commenced upon the land covered thereby within the time therein specified or (2) rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provisions of this Agreement, be deemed to accrue as to the portion of the lease not included within a Participating Area and become payable during the term thereof as extended by this Agreement, and until the required drillings are commenced upon the land covered thereby.

15.2 Nothing herein operates to relieve the lessees of any land from their respective lease obligations for the payment of any rental or royalty due under their leases.

15.3 Rental and royalty due on the leases committed to the Unit shall be paid by Working Interest Owners responsible under existing contracts, laws, and regulations, or by the Unit Operator.

Article XVI—Operations on Nonparticipating Land

16.1 Any party hereto owning or controlling the Working Interest in any Unitized Land having a regular well location may, with the approval of the authorized officer and at such party's sole risk, costs, and expense, drill a well to test any formation of deposit for which a Participating Area has not been established or to test any formation or deposit for which a Participating Area has been established if such location is not within said Participating Area, unless within 30 days of receipt of notice from said party of his intention to drill the well, the Unit Operator elects and commences to drill such a well in like manner as other wells are drilled by the Unit Operator under this Agreement.

16.2 If any well drilled by a Working Interest Owner other than the Unit Operator proves that the land upon which said well is situated may properly be included in a Participating Area, such Participating Area shall be established or enlarged as provided in this Agreement, and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this Agreement and the Unit Operating Agreement.

Article XVII—Leases and Contracts Conformed and Extended

17.1 The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development, or utilization of geothermal resources on lands committed to this Agreement, are hereby expressly modified and amended only to the extent necessary to make the same conform to the provisions hereof. Otherwise said leases, subleases, and contracts shall remain in full force and effect.

17.2 The parties hereto consent that the Secretary shall, by his or her approval hereof, modify and amend the Federal leases committed hereto to the extent necessary to conform said leases to the provisions of this Agreement.

17.3 The development and/or operation of lands subject to this Agreement under the terms hereof shall be deemed full performance of any obligations for development and operation with respect to each and every separately owned tract subject to this Agreement, regardless of whether there is any development of any particular tract of the Unit Area.

17.4 Drilling and/or producing operations performed hereunder upon any tract of Unitized Lands will be deemed to be performed upon and for the benefit of each and every tract of Unitized Land.

17.5 Suspension of operations and/or production on all Unitized Lands pursuant to direction or consent of the Secretary or his duly authorized representative shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of Unitized Land. A suspension of operations and/or production limited to specified lands shall be applicable only to such lands.

17.6 Subject to the provisions of Article XV hereof and 17.10 of this Article, each lease, sublease, or contract relating to the exploration, drilling, development, or utilization of geothermal resources of lands other than those of the United States committed to this Agreement, is hereby extended beyond any such term provided therein so that it shall be continued for and during the term of this Agreement.

17.7 Subject to the lease renewal and the readjustment provision of the Act, any Federal lease committed hereto may, as to the Unitized Lands, be continued for the term so provided in such lease, or as extended by law or regulation. If it is appropriate for BLM to extend the term of a lease to match the term of the unit, the Unit Operator shall take the actions required for such extension under 43 CFR 3207.17, This subsection shall not operate to extend any lease or portion thereof as to lands excluded from the Unit Area by the contraction thereof.

17.8 Each sublease or contract relating to the operations and development of Unitized Substances from lands of the United States committed to this Agreement shall be continued in force and effect for and during the term of the underlying lease.

17.9 Any Federal lease heretofore or hereafter committed to any such unit plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed, as of the effective date of unitization.

17.10 In the absence of any specific lease provision to the contrary, any lease, other than a Federal lease, having only a portion of its land committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions, commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

17.11 Upon termination of this Agreement, the leases covered hereby may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions of the Act, the lease or leases, and amendments thereto.

Article XVIII—Effective Date and Term

18.1 This Agreement shall become effective upon approval by the Secretary or his duly authorized representative, and shall terminate five (5) years from said effective date unless:

(a) Such date of expiration is extended by the authorized officer;

(b) Unitized Substances are produced or utilized in commercial quantities in which event this Agreement shall continue for so long as Unitized Substances are produced or utilized in commercial quantities; or

(c) This Agreement is terminated prior to the end of said five (5) year period as heretofore provided.

18.2 This Agreement may be terminated at any time by the owners of a majority of the Working Interests on an acreage basis, with the approval of the authorized officer. Notice of any such approval shall be given by the Unit Operator to all parties hereto.

Article XIX—Appearances

19.1 Unit Operator shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests affected hereby before the Department of the Interior, and to appeal from decisions, orders or rulings issued under the regulations of said Department, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior or any other legally constituted authority: Provided, however, that any interested parties shall also have the right, at their own expense, to be heard in any such proceeding.

Article XX—No Waiver of Certain Rights

20.1 Nothing contained in this Agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense pertaining to the validity or invalidity of any law of the State wherein lands subject to this Agreement are located, or of the United States, or regulations issued thereunder, in any way affecting such party, or as a waiver by any such party of any right beyond his or its authority to waive.

Article XXI—Unavoidable Delay

21.1 The obligations imposed by this Agreement requiring Unit Operator to commence or continue drilling or to produce or utilize Unitized Substances from any of the land covered by this Agreement, shall be suspended while, but only so long as, Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by

strikes, Acts of God, Federal or other applicable law, Federal or other authorized governmental agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials in open market, or other matters beyond the reasonable control of Unit Operator, whether similar to matters herein enumerated or not.

21.2 No unit obligation that is suspended under this section shall become due less than thirty (30) days after it has been determined that the suspension is no longer applicable.

21.3 Determination of creditable “Unavoidable Delay” time shall be made by the Unit Operator, subject to approval by the authorized officer.

Article XXII—Postponement of Obligations

22.1 Notwithstanding any other provisions of this Agreement, the Authorized officer, on his own initiative or upon appropriate justification by Unit Operator, may postpone any obligation established by and under this Agreement to commence or continue drilling or to operate on or produce Unitized Substances from lands covered by this Agreement when, in his judgment, circumstances warrant such action.

Article XXIII—Nondiscrimination

23.1 In connection with the performance of work under this Agreement, the Operator agrees to comply with all of the provisions of section 202(1) to (7) inclusive, of Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), which are hereby incorporated by reference in this Agreement.

Article XXIV—Counterparts

24.1 This Agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instruments in writing specifically referring hereto, and shall be binding upon all parties who have executed such a counterpart, ratification, or consent hereto, with the same force and effect as if all such parties had signed the same document.

Article XXV—Subsequent Joinder

25.1 If the owner of any substantial interest in geothermal resources under a tract within the Unit Area fails or refuses to subscribe or consent to this Agreement, the owner of the Working Interest in that tract may withdraw said tract from this Agreement by written notice delivered to the authorized officer and the Unit Operator prior to the approval of this Agreement by the authorized officer.

25.2 Any geothermal resources interests in lands within the Unit Area not committed hereto prior to approval of this Agreement may thereafter be committed by the owner or owners thereof subscribing or consenting to this Agreement, and, if the interest is a Working Interest, by the owner of such interest also subscribing to the Unit Operating Agreement.

25.3 After operations are commenced hereunder, the right of subsequent joinder, as provided in this Article XXV, by a Working Interest Owner is subject to such requirements or approvals, if any, pertaining to such joinder, as may be provided for in the Unit Operating Agreement. Joinder to the Unit Agreement by a Working Interest Owner at any time must be accompanied by appropriate joinder to the Unit Operating Agreement, if more than one committed Working Interest Owner is involved, in order for the interest to be regarded as committed to this Unit Agreement.

25.4 After final approval hereof, joinder by a nonworking interest owner must be consented to in writing by the Working Interest Owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this Agreement unless the corresponding Working Interest is committed hereto.

25.5 Except as may otherwise herein be provided, subsequent joinders to this Agreement shall be effective as of the first day of the month following the filing with the authorized officer of duly executed counterparts of all or any papers necessary to establish effective commitment of any tract to this Agreement, unless objection to such joinder is duly made within sixty (60) days by the authorized officer.

Article XXVI—Covenants Run With the Land

26.1 The covenants herein shall be construed to be covenants running with the land with respect to the interest of the parties hereto and their successors in interest until this Agreement terminates, and any grant, transfer, or conveyance, of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest.

26.2 No assignment or transfer of any Working Interest or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

Article XXVII—Notices

27.1 All notices, demands, or statements required hereunder to be given or rendered to the parties hereto shall be deemed fully given if given in writing and personally delivered to the party or sent by postpaid registered or certified mail, addressed to such party or parties at their respective addresses set forth in connection with the signatures hereto, or to the ratification or consent hereof, or to such other address as any such party may have furnished in writing to the party sending the notice, demand, or statement.

Article XXVIII—Loss of Title

28.1 In the event title to any tract of Unitized Land shall fail and the true owner cannot be induced to join in this Agreement, such tract shall be automatically regarded as not committed hereto, and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title.

28.2 In the event of a dispute as to title to any royalty, Working Interest, or other interests subject hereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled: Provided, That, as to Federal land or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the authorized officer to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

Article XXIX—Taxes

29.1 The Working Interest Owners shall render and pay for their accounts and the accounts of the owners of nonworking interests all valid taxes on or measured by the Unitized Substances in and under, or that may be produced, gathered, and sold or utilized from, the land subject to this Agreement after the effective date hereof.

29.2 The Working Interest Owners on each tract may charge a proper proportion of the taxes paid under 29.1 hereof to the owners of nonworking interests in said tract, and may reduce the allocated share of each royalty owner for taxes so paid. No taxes shall be charged to the United States or the State of ___ or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

Article XXX—Relation of Parties

30.1 It is expressly agreed that the relation of the parties hereto is that of independent contractors, and nothing in this Agreement contained, expressed, or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

Article XXXI—Special Federal Lease Stipulations and/or Conditions

31.1 Nothing in this Agreement shall modify special lease stipulations and/or conditions applicable to lands of the United States. No modification of the conditions necessary to protect the lands or functions of lands under the jurisdiction of any Federal agency is authorized except with prior consent in writing whereby the authorizing official specifies the modification permitted.

In witness whereof , the parties hereto have caused this Agreement to be executed and have set opposite their respective names the date of execution.

Unit operator (as unit operator and as working interest owner):

By:

Name:

Title:

Date:

Subpart 3287—Relief and Appeals

top

§ 3287.1 May the unit operator request a suspension of unit obligations or development requirements?

top

The unit operator may provide a written request to BLM to suspend any or all obligations under the unit agreement. BLM will specify the term of the suspension and any requirements the unit operator must meet for the suspension to remain in effect.

§ 3287.2 When may BLM grant a suspension of unit obligations?

top

(a) BLM may grant a suspension of unit obligations when, despite the exercise of due care and diligence, the unit operator is prevented from complying with such obligations, in whole or in part, by:

(1) Acts of God;

(2) Federal, state, or municipal laws;

(3) Labor strikes;

(4) Unavoidable accidents;

(5) Uncontrollable delays in transportation;

(6) The inability to obtain necessary materials or equipment in the open market; or

(7) Other circumstances that BLM determines are beyond the reasonable control of the unit operator, such as agency timeframes required to complete environmental documents.

(b) BLM may deny the request for suspension of unit obligations when the suspension would involve a lengthy or indefinite period. For example, BLM might not approve a suspension of initial drilling obligations due to a unit operator's inability to obtain an electrical sales contract, or when poor economics affect the electrical generation market, limiting the opportunity to obtain a viable sales contract. BLM may grant a suspension of subsequent drilling obligations when it is in the public interest.

§ 3287.3 How does a suspension of unit obligations affect the terms of the unit agreement?

top

(a) BLM may suspend any terms of the unit agreement during the period a suspension is effective. During the period of the suspension, the involved unit terms are tolled. The suspension may not relieve the unit operator of its responsibility to meet other requirements of the unit agreement. For example, the unit operator may continue to be required to diligently develop or produce the resource during a suspension of drilling obligations.

(b) The unit operator must ensure all interests in the agreement are notified of any suspension granted and the terms of the suspension.

§ 3287.4 May a decision made by BLM under this part be appealed?

top

A unit operator or any other adversely affected person may appeal a BLM decision regarding unit administration or operations in accordance with §3200.5 of this chapter.

Browse Previous | Browse Next
