

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

(b) *Cooperative agreement.* An agreement or plan of development and operations for the production and utilization of geothermal resources made subject thereto in which separate ownership units are independently operated without allocation of production.

(c) *Agreement.* For convenience, the term "agreement" as used in the regulations in this part refers to either a unit or a cooperative agreement as defined in paragraphs (a) and (b) of this section unless otherwise indicated.

(d) *Unit area.* The area described in a unit agreement as constituting the land logically subject to development under such agreement.

(e) *Unitized land.* The part of a unit area committed to a unit agreement.

(f) *Unitized substances.* Deposits of geothermal resources recovered from unitized land by operation under and pursuant to a unit agreement.

(g) *Unit operator.* 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.

(h) *Participating area.* That part of the Unit Area which is deemed 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.

(i) *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 a unit or cooperative 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.

[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, Sept. 30, 1983]

Subpart 3281—Application for Unit Agreement

§ 3281.1 Preliminary consideration of agreements.

The form of unit agreement set forth in § 3286.1 of this title is acceptable for use in unproved areas. The use of this form is not mandatory, but any proposed departure therefrom should be submitted with the application submitted under § 3281.2 of this title for preliminary consideration and for such revision as may be deemed necessary. In areas proposed for unitization in which a discovery of geothermal resources has been made, or where a cooperative agreement is contemplated, the proposed agreement should be submitted with the application submitted under § 3281.2 of this title for preliminary consideration and for such revision as may be deemed necessary. The proposed form of agreement should be submitted in triplicate and should be plainly marked to identify the proposed variances from the form of agreement set forth in § 3286.1 of this title.

§ 3281.2 Designation of area.

An application for designation of an area as logically subject to development and/or operation under a unit or cooperative agreement may be filed, in triplicate, by any proponent of such an agreement through the authorized officer. Each copy of the application shall be accompanied by a map or diagram on a scale of not less than 1 inch to 1 mile, outlining the area sought to be designated under this section. The Federal, State, and privately owned land should be indicated on said map by distinctive symbols or colors and Federal geothermal leases and lease applications should be identified by serial number. Geological information, including the results of geophysical surveys, and such other information as may tend to show that unitization is necessary and advisable in the public interest should be furnished in triplicate. Geological and geophysical information and data so furnished will not be available for public inspection, as provided by 5 U.S.C. 552(b), without the consent of the proponent. The application and supporting data will be

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considered by the Director and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an executed agreement for such area, nor preclude the inclusion of such area or any part thereof in another unit area.

§ 3281.3 Parties to unit or cooperative agreement.

The owners of any rights, title, or interest in the geothermal resources deposits to be developed and operated under an agreement can be regarded as proper parties to a proposed agreement. All such owners must be invited to join as parties to the agreement. If any owner fails or refuses to join the agreement, the proponent of the agreement should declare this to the authorized officer and should submit evidence of efforts made to obtain joinder of such owner and the reasons for non-joinder.

§ 3281.4 State land.

Where State-owned land is to be included in the unit, approval of the agreement by appropriate State officials should be obtained prior to its submission to the Department for approval of the executed agreement. When authorized by the laws of the State in which the unitized land is situated, provisions may be made in the agreement accepting State law, to the extent that they are applicable to non-Federal unitized land.

Subpart 3282—Qualification of Unit Operator

§ 3282.1 Qualifications of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in geothermal leases issued under the Geothermal Steam Act of 1970. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests and approved by the authorized officer. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of, or

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change in, a unit operator will become effective unless and until approved by the authorized officer, and no such approval will be granted unless the unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

Subpart 3283—Filing and Approval of Documents

§ 3283.1 Filing of documents and number of counterparts.

All proposals and supporting papers, instruments and documents submitted under this part shall be filed with the authorized officer, unless otherwise provided in this part or otherwise instructed by the Director.

[48 FR 44793, Sept. 30, 1983]

§ 3283.2 Executed agreement.

(a) Where a duly executed agreement is submitted for Departmental approval, a minimum of 6 signed counterparts shall be filed. The same number of counterparts shall be filed for documents supplementing, modifying or amending an agreement, including change of operator, designation of a new operator and notice of surrender, relinquishment or termination.

(b) The address of each signatory party to the agreement shall be inserted below the party's signature. Each signature shall be attested to by at least 1 witness, if not notarized. Corporate or other signatures made in a representative capacity shall be accompanied by evidence of the authorization of the signatories to act unless such evidence is already a matter of record in the Bureau of Land Management. (The parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification of consent in a separate instrument with like force and effect.)

(c) Any modification of an approved agreement shall require approval of the Secretary or his/her duly authorized representative under procedures similar to those cited in § 3283.2-1 of this title.

[48 FR 44793, Sept. 30, 1983]

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§ 3283.2-1 Approval of executed agreement.

A duly executed unit or cooperative agreement shall be approved by the Secretary or his/her duly authorized representative upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of properly conserving the natural resources, taking into account the environmental consequences of the action. Such approval shall be incorporated in a certificate appended to the agreement. No such agreement shall be approved unless at least 1 of the parties is a holder of a Federal lease embracing lands being committed to the agreement and unless the parties signatory to the agreement hold sufficient interests in the area to give effective control of operations therein.

[48 FR 44793, Sept. 30, 1983]

§ 3283.2-2 Review of executed agreement.

No more than 5 years after approval of any cooperative or unit plan of development or operation, and at least every 5 years thereafter, the authorized officer shall review each plan and, after notice and opportunity for comment, eliminate from such plan any lease or part of a lease not regarded as reasonably necessary for cooperative or unit operations under the plan. Such elimination shall be based on scientific evidence, and shall occur only when it is determined by the authorized officer to be for the purpose of conserving and properly managing the geothermal resource.

[54 FR 13887, Apr. 6, 1989 and 55 FR 26443, June 28, 1990]

§ 3283.3 Participating area.

Each application for approval of a participating area, or revision thereof, shall be accompanied by 3 copies of a substantiating geologic and engineering report, structure contour map(s), cross-section or other pertinent data.

[48 FR 44793, Sept. 30, 1983]

§ 3283.4 Plan of development.

Plans of development and operation, plans of further development and operation and proposed participating areas

and revisions thereof shall be submitted in quadruplicate.

[48 FR 44793, Sept. 30, 1983]

§ 3283.5 Return of approved documents.

All instruments or documents other than plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof submitted for approval shall be submitted for approval in sufficient number to permit the approving official to return at least 1 approved counterpart.

[48 FR 44793, Sept. 30, 1983]

Subpart 3284 [Reserved]

Subpart 3285—Appeals

§ 3285.1 Appeals.

Appeals from final orders or decisions issued under the regulations in this part shall be made in the manner provided in Part 4 of this title.

Subpart 3286—Model Forms

§ 3286.1 Model unit agreement: Unproven areas.

UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE _____ UNIT AREA COUNTY OF _____, STATE OF _____

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_____ UNIT AGREEMENT
_____ COUNTY _____

This Agreement entered into as of the _____ day of _____, 19____, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the "parties hereto".

WITNESSETH: 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), 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 cooperative or unit plan of development or operation of any geothermal resources pool, field, or like area, or any part thereof, for the purpose of more properly conserving the natural resources 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 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 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), 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 part of the Unit Area which is deemed 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.

(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.

(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 when practicable be expanded 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) Unit Operator either on demand of the Director or on its own motion and after prior concurrence by the Director, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the Unit Area, the reasons therefor, 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 for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, 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 which 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 which are 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 fifth 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 fifth anniversary and 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 fifth 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 four (4) 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 in a zone or deposit below any zone or deposit for which a Participating Area has been established and is in effect, or any well, regardless of surface location, projected for completion 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 four (4) months immediately preceding the fifth 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 fifth anniversary, provided the drilling of another exploratory well is commenced under an approved Plan of Operation within four (4) 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 four (4) 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 period of time in excess of four (4) 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 which 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 fifth anniversary.