



## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 3200

[Docket No. BLM-2025-0017; PO #4820000251; Order #02412-014-004-047181.0]

RIN 1004-AF16

### Rescission of Regulations Regarding Competitive and Non-competitive Geothermal Leases

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This direct final rule rescinds a portion of the Bureau of Land Management's (BLM) regulations that address geothermal resource leasing.

**DATES:** The final rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless significant adverse comments are received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. In the Search box, enter the Docket Number "BLM-2025-0017" and click the "Search" button. Follow the instructions at this website.

- *Mail, personal, or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, 1849 C St. NW, Room 5646, Washington, DC 20240, Attention: 1004-AF16.

**FOR FURTHER INFORMATION CONTACT:** Lorenzo Trimble, Geothermal Program Lead, telephone: 775-861-6724; email: ltrimble@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

For a summary of the final rule, please see the abstract description of the document in Docket Number BLM-2025-0017 on [www.regulations.gov](http://www.regulations.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Department of the Interior's (Department) regulations implementing the Geothermal Steam Act of 1970, 30 U.S.C. 1001-1028, are contained in 43 CFR part 3200. These regulations manage the use of the public lands and the Federal mineral estate for geothermal resources leasing and development under the Geothermal Steam Act. Upon reviewing these regulations, the Department has determined that §§ 3203.5(b)(1), 3204.5(d), and 3204.13 are obsolete and no longer relevant. These three provisions applied to lease applications that were pending on August 8, 2005, which was the enactment date of the Energy Policy Act of 2005, but there are no longer any lease applications that were pending on August 8, 2005.

The Department has determined that this reason, independently and alone, justifies rescission of these regulations. The Department has no interest in maintaining rules that are obsolete.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551-559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when the agency "for good cause finds" that notice and comment are "impracticable, unnecessary, or contrary to the public interest." *Id.* section 553(b)(B). The Department has determined that notice and comment are unnecessary because this rule is

noncontroversial; of a minor, technical nature; involves little agency discretion; and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the rescission of the rules and raise, alone or in combination, (1) reasons why the rescission of the rule is inappropriate, including challenges to the rescission's underlying premise; or (2) serious unintended consequences of the rescission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

### **Procedural Matters**

*Executive Order (E.O.) 12866—Regulatory Planning and Review and E.O. 13563—Improving Regulation and Regulatory Review*

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 through 612) requires an

agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

#### *Congressional Review Act*

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will not have an annual effect on the economy of \$100 million or more; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

#### *Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove an obsolete provision that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

#### *E.O. 12630—Governmental Actions and Interference with Constitutionally Protected Property Rights*

This rule does not result in a taking of private property or otherwise have regulatory takings implications under E.O. 12630. The rule rescinds an obsolete regulatory provision; therefore, the rule will not result in private property being taken for

public use without just compensation. A takings implication assessment is therefore not required.

*E.O. 13132—Federalism*

Under the criteria of section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

*E.O. 12988—Civil Justice Reform*

This direct final rule complies with the requirements of E.O. 12988. Among other things, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

*E.O. 13175—Consultation and Coordination with Indian Tribal Governments*

The Department strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under E.O. 13175 and the Department's consultation policies and determined that it has no substantial, direct effects on federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove unnecessary regulatory language.

*Paperwork Reduction Act*

OMB previously approved the information collection activities contained in the existing regulations and assigned OMB Control Number 1004-0132. This rule does not impose any new or materially revised information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required.

*National Environmental Policy Act*

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions “that are of an administrative, financial, legal, technical, or procedural nature.” 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

*E.O. 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This direct final rule is not a significant energy action as defined in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

**List of Subjects in 43 CFR Part 3200**

Environmental protection, Geothermal energy, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

**Adam G. Suess,**

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the BLM amends 43 CFR part 3200 as follows:

## **PART 3200—GEOTHERMAL RESOURCE LEASING**

1. The authority citation for part 3200 continues to read as follows:

AUTHORITY: 30 U.S.C. 1001-1028; 43 U.S.C. 1701 *et seq.*; and Pub. L. 109-58.

### **Subpart 3203—Competitive Leasing**

2. Revise § 3203.5 to read as follows:

#### **§ 3203.5 What is the general process for obtaining a geothermal lease?**

(a) The competitive geothermal leasing process consists of the following steps:

(1)(i) Entities interested in geothermal development nominate lands by submitting to

BLM descriptions of lands they seek to be included in a lease sale; or

(ii) BLM may include land in a competitive lease sale on its own initiative.

(2) BLM provides notice of the parcels to be offered, and the time, location, and process for participating in the lease sale.

(3) BLM holds the lease sale and offers leases to the successful bidder.

(b) BLM will issue geothermal leases to the highest responsible qualified bidder after a competitive leasing process, except for situations where noncompetitive leasing is allowed under subparts 3204 and 3205 of this part, which include:

(1) Lands for which no bid was received in a competitive lease sale;

(2) Direct use lease applications for which no competitive interest exists; and

(3) Lands subject to mining claims.

### **Subpart 3204—Noncompetitive Leasing Other Than Direct Use Leases**

3. Revise § 3204.5 to read as follows:

#### **§ 3204.5 How can I obtain a noncompetitive lease?**

(a) Lands offered at a competitive lease sale that receive no bids will be available for noncompetitive leasing for a 2-year period beginning the first business day following the sale.

(b) You may obtain a noncompetitive lease for lands available exclusively for direct use of geothermal resources, under subpart 3205 of this part.

(c) The holder of a mining claim may obtain a noncompetitive lease for lands subject to the mining claim under § 3204.12.

**§ 3204.13 [Removed]**

4. Remove § 3204.13.