

PROPOSED REPLACEMENT PER NOTICE OF SEPT. 30, 2025 PUBLIC HEARING

TITLE 19 NATURAL RESOURCES AND WILDLIFE **CHAPTER 2 STATE TRUST LANDS** **PART 7 RELATING TO GEOTHERMAL RESOURCES LEASES**

19.2.7.1 ISSUING AGENCY: Commissioner of Public Lands, New Mexico State Land Office, 310 Old Santa Fe Trail, P. O. Box 1148, Santa Fe, New Mexico 87501, Phone: (505) 827-5713.
[12/31/1999; 19.2.7.1 NMAC - Rn, 19 NMAC 3. SLO 7.1, 9/30/2002]

19.2.7.2 SCOPE: This rule pertains to state lands (as defined in the Geothermal Resources Act, Chapter 19, Article 13 NMSA 1978, as amended) which are subject to the jurisdiction, custody and control of the commissioner of public lands, and governs the leasing of geothermal resources on state lands and leases entered into subsequent to the date of this rule.

19.2.7.3 STATUTORY AUTHORITY: The commissioner's jurisdiction over and authority with respect to management, care, custody, control and disposition of state trust lands is found in N.M. Const., Art. XIII, and in Section 19-1-1 NMSA 1978. In accordance with N.M. Const., Art. XXIV, §1 (pertaining to the issuance of leases and other contracts for the development and operation of geothermal steam and waters on state trust lands), the legislature enacted the Geothermal Resources Act (Chapter 19, Article 13 NMSA 1978, as amended) authorizing the commissioner of public lands to issue leases containing terms and conditions not inconsistent with the provisions of the Geothermal Resources Act and which the commissioner determines to be in the best interest of the state. The authority to promulgate this rule is found in Sections 19-1-2 and 19-13-25 NMSA 1978.

19.2.7.4 DURATION: Permanent.
[12/31/1999; 19.2.7.4 NMAC - Rn, 19 NMAC 3. SLO 7.4, 9/30/2002]

19.2.7.5 EFFECTIVE DATE: January 20, 1984, unless a later date is cited at the end of a section.
[12/31/1999; 19.2.7.5 NMAC - Rn, 19 NMAC 3. SLO 7.5, 9/30/2002; A, 6/30/2016]

19.2.7.6 OBJECTIVE: The objective of 19.2.7 NMAC is to provide for the orderly and lawful administration and the appropriate development of geothermal resources on state trust lands in accordance with the Geothermal Resources Act.

19.2.7.7 DEFINITIONS: The following terms as used in this rule shall have the meaning here indicated, unless otherwise clearly stated in the text:

A. "Geothermal resources" - The natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or which may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gasses, and steam, in whatever form, found below the surface of the earth, but excluding oil, natural gas (as defined in NMSA 1978, Section 19-10-2, including carbon dioxide gas, helium gas, and hydrocarbon gas), hydrogen, and other hydrocarbon substances, and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, as may be used for the heating and cooling of buildings through an on-site geoechange heat pump or similar on-site system.

B. "Lessee" - The original geothermal lessee and the assignee of an assignment (other than a collateral assignment) duly approved and recognized by the commissioner in accordance with 19.2.7.29 NMAC.

C. "Land" - Includes all land owned by the state and subject to the jurisdiction, custody and control of the commissioner of public lands, including lands where the state owns and the commissioner of public lands exercises jurisdiction, custody and control over the mineral estate and such mineral estate includes the right to extract, remove or otherwise use the geothermal resources, regardless of whether state owns the surface estate.

D. "Legal subdivision" - Legal subdivision as designated by the U.S. public land survey system plats and New Mexico state land office tract books.

E. "Contiguous" - Adjoining or touching at a point or along at least one (1) common side or boundary.

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Commented [SJ3]: Added in accordance with NM Laws 2013, ch. 25, § 1 (see NMSA 1978, § 19-13-2(A))

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F. “Tract books” - Tract books kept and maintained at the New Mexico state land office for the purpose of recording geothermal leases, including automated or electronic versions.

G. “Person” - Individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or any legal or commercial entity.

H. “Geothermal lease” - A lease for the extraction and removal of geothermal resources from state trust lands or other use of geothermal resources from state trust lands.

I. “Well” - Any well for the discovery of geothermal resources or any well on lands producing or using geothermal resources or reasonably presumed to contain geothermal resources or otherwise extracting or using natural heat of the earth, including but not limited to an exploratory well, development well, monitoring well, injection well, disposal well, thermal gradient well, geothermal observation well, or low-temperature thermal well, whether drilled and/or operated pursuant to a permit issued by the energy, minerals and natural resources department or otherwise.

J. “Schedule of fees” - A list of fees that must be paid for performance of certain administrative functions. The schedule of fees shall be published on the state land office website and is subject to change at the discretion of the commissioner. Unless otherwise noted in the schedule of fees or in this rule, the fee shall be non-refundable.

K. “Open acreage” - Land not included in an existing geothermal lease and not withdrawn from leasing by the commissioner as shown on the tract books.

19.2.7.8 APPLICATION FOR LEASE: An application for a geothermal lease may be filed for open acreage in a manner prescribed in these rules and under the Geothermal Resources Act. [12/31/1999; 19.2.7.8 NMAC - Rn, 19 NMAC 3. SLO 7.8, 9/30/2002]

19.2.7.9 LANDS SUBJECT TO LEASE: An application for a geothermal lease may be considered when the lands are shown to be open acreage on the tract books. The commissioner may withhold a tract or tracts from leasing at any time before or after an application for a geothermal lease has been submitted. Alternatively, in lieu of a geothermal lease, the commissioner may provide for a compensatory agreement as to any tract or tracts. The commissioner may, in the commissioner’s sole discretion, include or exclude tracts from the final lands offered at any particular lease sale.

19.2.7.10 REQUIREMENTS FOR APPLICATIONS:

A. Each application for geothermal lease shall be made upon forms to be prescribed by the commissioner, with an applicant signature acknowledged before an officer authorized to administer oaths. The applicant shall pay the application fee as set forth in the schedule of fees, which fee shall not be refunded. An application for geothermal lease accompanying a sealed bid shall be executed under oath by the applicant, or by the applicant’s agent or attorney, duly authorized in writing, or by an officer or attorney-in-fact of a corporation, if application is by a corporation, and must be accompanied by an application fee as set forth in the schedule of fees and the amount of the first year’s rental and bonus offered. Unless the commissioner has approved the applicant’s use of a non-certified exchange, payments shall be made in cash, electronic transfer, money order or certified check on a solvent bank.

B. A person seeking an exploratory/due diligence geothermal lease to be issued in accordance with 19.2.7.11 NMAC shall submit an application specifically indicating that they are seeking an exploratory/due diligence geothermal lease.

19.2.7.11 EXPLORATORY/DUE DILIGENCE LEASE; LOW-TEMPERATURE RESOURCES:

A. Upon an application filed in accordance with 19.2.7.10.B NMAC, the commissioner may issue a lease for up to five (5) years allowing occupation and use of specified state trust lands for the sole and exclusive purpose of (i) exploring for the existence and location of geothermal resources; (ii) determining the extent and nature of geothermal resources; (iii) conducting other due diligence activities that do not involve extraction, removal or commercial use of geothermal resources. The lessee under an exploratory/due diligence lease issued pursuant to this 19.2.7.11 NMAC may maintain as confidential any proprietary information or data obtained as a result of its operations under the lease. If the lessee submits confidential information or data in accordance with Section 19-1-2.1 NMSA 1978, the commissioner and the commissioner’s employees and agents shall hold such information confidential in accordance with the statute.

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B. To the extent that a person seeks to lease land to extract or use naturally existing heat of the earth not in excess of two hundred fifty degrees Fahrenheit, the commissioner may issue a business lease for that purpose in accordance with 19.2.9 NMAC.

19.2.7.12 SEPARATE APPLICATIONS: Separate applications shall be made for each geothermal lease, and an application shall be deemed to seek a geothermal lease for all acreage listed thereon or for that part thereof as may be available for leasing. An application shall be rejected if it seeks to lease: (i) lands that are not contiguous; (ii) more than two thousand five hundred sixty (2,560) acres; or (iii) less than six hundred forty (640) acres or all of the land in a legal subdivision, unless the parcel is isolated from and not contiguous with other parcels available for lease. The commissioner may issue a geothermal lease for less than all of the acreage listed on an application.

19.2.7.13 COMPETITIVE BIDDING: Other than an exploratory/due diligence geothermal lease issued in accordance with 19.2.7.11 NMAC, no geothermal lease shall be issued except to the person making the highest qualified bid after notice of a lease sale to be conducted by sealed bids or oral bidding or on-line bidding.

19.2.7.14 NOMINATION OF TRACTS: A party seeking a geothermal lease may nominate one or more tracts or request a lease auction by letter or by email message. Prior to the completion of the bidding initiated pursuant to a nomination or request made in accordance with this 19.2.7.14 NMAC, the state land office shall not disclose to anyone outside of the state land office the identity of a party making the nomination or request.

19.2.7.15 DESIGNATION OF KNOWN GEOTHERMAL RESOURCES FIELDS:

A. After consulting with the director of the New Mexico bureau of geology and mineral resources, the commissioner may designate or remove the designation of specified lands as constituting a known geothermal resources field in accordance with Section 19-13-6(A) NMSA 1978.

B. If any lands within an area that the commissioner has designated as a known geothermal resources field in accordance with 19.2.7.15.A NMAC are offered for a geothermal lease, the lands shall be leased, if at all, to the highest responsible qualified bidder in accordance with 19.2.7.13 NMAC. The commissioner may issue a due diligence/exploratory lease of such lands in accordance with 19.2.7.11 NMAC without an auction. If the lease of such lands is issued in accordance with 19.2.7.11.B NMAC (low temperature), the need for an auction shall be governed by 19.7.9 NMAC.

C. If any lands within an area that the commissioner has designated as a known geothermal resources field in accordance with this 19.2.7.15 NMAC are leased for use of a geothermal resource as a renewable energy resource (i.e., to generate power and not exclusively to extract mineral products or chemical compounds), the lease shall require that the geothermal resource beyond the lands leased shall not be diminished beneath applicable natural seasonal fluctuations in the measurable quantity, quality or temperature. The commissioner shall presume that a lessee's use of geothermal resources complies with this 19.2.7.15.C where it is conducted in accordance with a permit issued by the energy conservation and management division of the energy, minerals and natural resources department (EMNRD/ECAM) upon a finding that the permitted activity will not impair correlative rights or cause waste. In addition, the lessee shall provide to the commissioner a copy of each Form G-111 report when submitted to EMNRD/ECAM for each well located on or producing or using geothermal resources on or under state trust lands or lands being operated jointly with state trust lands.

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19.2.7.16 [RESERVED]

19.2.7.17 [RESERVED]

19.2.7.18 COMMISSIONER MAY WITHHOLD LAND FROM LEASING: The commissioner, at the commissioner's discretion, may at any time either before or after application is made, withhold any tract or tracts of land from leasing, if in the commissioner's opinion the best interest of the trust would be served by so doing. A

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withdrawal from geothermal leasing may be posted in the tract books. Regardless of whether a withdrawal from geothermal leasing has been posted in the tract books, the commissioner may at any time prior to issuing a geothermal lease determine that issuance of a geothermal lease for a tract or tracts of land would not be in the best interests of the trust. Notwithstanding a withdrawal from geothermal leasing or a determination that a geothermal lease would not be in the best interests of the trust, the commissioner may exercise the full range of discretion to enter into or refuse to enter into a compensatory agreement as to such tract or tracts.

19.2.7.19 [RESERVED]

19.2.7.20 [RESERVED]

19.2.7.21 [RESERVED]

19.2.7.22 NOTICE OF LEASE SALE POSTED: Before any geothermal lease sale shall be held, the commissioner shall post in a conspicuous place in the New Mexico state land office and on the state land office website, not less than ten (10) days before the date of the sale, a notice of same, specifying the physical or online address, date and hour of the sale, and containing a description of the lands to be offered for lease and indicating whether the sale is to be by sealed bids or by oral bidding or on-line bidding.

19.2.7.23 SEALED BIDS PROCEDURE: In the event the sale is to be by sealed bids, bids will be received up to the deadline set forth in the notice of sale, and all bids submitted prior to the deadline set forth in the notice of sale will be opened at the appointed time, and the geothermal lease, if any, will be awarded to the highest bidder, subject to the right of the commissioner to reject all bids if the commissioner shall deem the bids too low or shall deem it in the best interest of the trust to do so. To qualify for consideration, sealed bids must be accompanied by remittance covering application fee, first year's rental and bonus offered. If provided for at the discretion of the commissioner and as stated in the notice of lease sale posted in accordance with section 19.2.7.22 NMAC, sealed bids may be submitted, received and opened on-line via a computer network or other electronic telecommunications system generally available to the public allowing any and all qualified bidders to submit bids. When two (2) or more sealed bids are equal and higher than all other bids, the commissioner shall notify the tied highest bidders that they may within ten (10) calendar days submit new sealed bids. The commissioner shall issue a geothermal lease, if any, to the bidder submitting the highest new sealed bid. If two (2) or more of the new sealed bids are equal, the commissioner shall repeat the process. If none of the tied highest bidders submits a new sealed bid, the commissioner shall flip a coin to select and offer a geothermal lease, if any, to one of the tied highest bidders.

19.2.7.24 ORAL OR ONLINE BIDS - PROCEDURE: In the event sale is by oral bidding or on-line bidding, the successful bidder will be required to pay the lease application fee, the first (1st) year's base rental and bonus offered in accordance with 19.2.7.10 NMAC on or before close of business on the date of sale. If the lease sale is conducted by on-line bidding, bidding shall be conducted via a computer network or other electronic telecommunications system generally available to the public allowing any and all qualified bidders to submit bids.

19.2.7.25 [RESERVED]

19.2.7.26 [RESERVED]

19.2.7.27 **BASE RENT; ROYALTIES; PERCENTAGE RENT; LEASE TERM:**

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A. Other than an exploratory/due diligence geothermal lease issued in accordance with 19.2.7.11 NMAC, each geothermal lease shall provide for payment of the following base rent, royalties and percentage rent with respect to geothermal resources produced or sold from the lands included within the geothermal lease:

1. a base lease rent based upon fair market value at the time of leasing as determined by the commissioner, which may provide for escalation from an amount payable prior to the lessee's discovery and extraction or use of geothermal resources to an amount payable after the lessee discovers and begins extraction or use of geothermal resources;

2. a royalty or percentage rent to be charged as a percentage of gross revenue derived from the production, sale or use of geothermal resources, or the energy produced therefrom, under the geothermal lease as determined by the commissioner, who shall not determine a value below or above a range that could be determined by the federal bureau of land management, based on fair market value of the geothermal resource or use of the geothermal resource at the time of leasing, provided that the commissioner may require an escalation of the royalty or percentage rent over time;

3. a royalty of the gross revenue received from the sale of mineral products or chemical compounds recovered from geothermal fluids, if any, based on fair market value of the mineral product as determined by the commissioner, except that as to any by-product or minerals covered by other mineral leasing statutes administered by the commissioner or rules or regulations of the commissioner, the rate of royalty for such mineral or by-product shall be the same as the then-existing rate of royalty under geothermal leases currently being issued by the commissioner.

B. A geothermal lease shall not preclude other uses of the land, including but not limited to leases on the same lands for deposits of other minerals. Provided, however, that operations under leases for other uses of the land shall not unreasonably interfere with or endanger operations under any geothermal lease, nor shall operations under a geothermal lease unreasonably interfere with or endanger operations under any lease for other use of the land.

C. If the commissioner determines that the lessee's production or use of geothermal energy creates an opportunity to economically produce other geothermal resources in commercially valuable quantities for which there is a market, the commissioner may require the lessee to produce and market the other geothermal resources.

D. A geothermal lease shall be for a primary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith. If the lessee fails to produce or utilize geothermal resources or to discover geothermal resources capable of being produced or utilized in commercial quantities from the lands or from lands unitized therewith during the initial five-year term, the lessee may continue the lease in full force and effect as to the portion held by the lessee for a secondary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith by continued payment each year, in advance, of rentals at the rate set by the lease. Provided that if for any reason beyond the control of the lessee production or utilization of geothermal resources in commercial quantities ceases or if the capability to so produce is temporarily lost after the secondary term has expired, the producing lessee may, with the written permission of the commissioner, continue such lease as to the acreage held by the lessee in effect from year to year for an additional period not to exceed three years by continued payment of rentals as provided in the lease at the rate provided in the secondary term of the lease.

19.2.7.28 LIMITATIONS OF ACREAGE: Except as otherwise provided in the Geothermal Resources Act, no person shall take, hold, own or control at the same time, directly or indirectly and whether acquired from the commission or otherwise, interest in one or more geothermal leases exceeding fifty-one thousand two hundred (51,200) acres.

19.2.7.29 ASSIGNMENTS: Subject to approval of the commissioner upon such conditions as the commissioner may require, a geothermal lease in good standing may be assigned in whole or in part; however, no assignment of an undivided interest in a geothermal lease or any part thereof, or any assignment of less than a legal subdivision or tract shall be recognized or approved by the commissioner. All assignments shall be filed in duplicate upon forms prescribed and furnished by the commissioner which shall recite, among other things, the consideration paid for the assignment. The fee for filing shall be as set forth in the schedule of fees. The commissioner may refuse to approve any assignment and may condition the commissioner's approval on such additional terms and compensation as the commissioner may deem in the best interests of the trust. An assignment

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shall not be approved if the assignment: (i) seeks to assign less than the assignor's interest in a legal subdivision (except where the transfer is by operation of law); (ii) seeks to assign acreage less than a legal subdivision; (iii) seeks to assign to more than two persons or legal entities; (iv) seeks to assign to a trust without setting forth the trust or the trust has more than two trustees; (v) seeks to assign an interest in a lease as to which a lis pendens has been filed; (iv) seeks to assign interests in more than one lease. If the assignee changes its name or its mailing address, the assignee shall promptly notify the commissioner, in writing, of the change in name or mailing address. If and when the commissioner approves the lessee's assignment of a portion of a geothermal lease, the assigned and the retained portions of the geothermal lease shall be treated and considered as separate geothermal leases.

19.2.7.30 [RESERVED]

19.2.7.31 [RESERVED]

19.2.7.32 MISCELLANEOUS INSTRUMENTS: The record owner of a geothermal lease may enter into a contract for the development of the leasehold premises or any portion thereof, or may create overriding royalties or obligations payable out of production, or enter into an agreements with respect to the development or operation of the leasehold premises. To the extent that the contract, agreement or instrument does not change ownership of the geothermal lease, it need not be approved by or filed with the office of the commissioner (but may be filed in the office of the county clerk wherein the lands are situated); it shall not shall relieve the record title owner of such geothermal lease from complying with any of the terms or provisions thereof; and the commissioner shall look solely and only to such record owner for compliance therewith. Documents pertaining to or affecting record title of a lease, including but not limited to mergers, death certificates, probate documents, and court orders, shall be filed as miscellaneous instruments, and the filing and recording thereof shall constitute notice to all the world of the existence and contents of the documents so filed. The fee for filing miscellaneous instruments with the commissioner shall be as set forth in the schedule of fees.

19.2.7.33 [RESERVED]

19.2.7.34 [RESERVED]

19.2.7.35 TRANSFER OF LEASE AFTER DEATH OF RESIDENT LESSEE: After receipt of a death certificate or other official notice that a lessee has died, the geothermal lease may be carried on the records of the state land office in the name of the lessee's estate until assigned by the duly appointed personal representative of the lessee's estate in accordance with 19.2.7.29 NMAC. If a duly appointed personal representative of the lessee's estate does not assign the geothermal lease within one year after the lessee's death, the geothermal lease may be cancelled if not so assigned within 30 days after the state land office mails notice of the intent to cancel by certified mail to the address of record for the lessee.

19.2.7.36 TRANSFER OF LEASE AFTER DEATH OF FOREIGN LESSEE: In the event a decedent lessee was a resident of a state other than New Mexico, the estate must be probated in the state of such residence and ancillary proceedings conducted in the proper New Mexico court, and certified copies of such proceedings showing proper legal authority to transfer must be filed with the commissioner within one year after the lessee's death. The geothermal lease may be cancelled if not so assigned within 30 days after the state land office mails notice of the intent to cancel by certified mail to the address of record for the lessee.

19.2.7.37 SURETY TO PROTECT SURFACE LESSEE WAIVERS:

A. Before the lessee and/or operator begins prospecting, development or operations under a geothermal lease, such lessee shall execute and file with the commissioner a sufficient bond or other surety, in an

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amount to be fixed by the commissioner, but not less than twenty-five thousand dollars (\$25,000.00), in favor of the state of New Mexico, for the benefit of the state, its contract purchaser, patentee, or surface lessee, to secure the lessee's payment for any damages to the land or tangible improvements upon the leased land as may be suffered by reason of development and operations upon the land by the lessee.

B. The bond may be either a corporate or individual surety bond and such sureties may be required to furnish proof that their net worth free and clear of all indebtedness or claims equals or exceeds the amount of the obligation. In lieu of said bond, with the commissioner's consent, the lessee may file with the commissioner a waiver of bond or other surety duly executed and acknowledged by the applicable surface owner or holders owning improvements.

19.2.7.38 PERFORMANCE SURETY: Before a geothermal lease shall issue, the lessee shall file with the commissioner a bond or other surety in an amount to be set by the commissioner which the commissioner deems necessary to guarantee the lessee's payment of rent and royalties as they become due and to guarantee the lessee's performance of all lessee obligations under or pertaining to the geothermal lease. If and when the lessee learns of a material change affecting the financial assurance, the lessee shall notify the state land office of such change within 30 days. The lessee's obligation under this 19.2.7.38 NMAC shall be in addition to any bond or other surety provided to EMNRD/ECAM.

19.2.7.39 FORMS: Forms for all bonds are prescribed and furnished by the commissioner.
[12/31/1999; 19.2.7.39 NMAC - Rn, 19 NMAC 3. SLO 7.39, 9/30/2002]

19.2.7.40 PRODUCTION REPORTS; RIGHT TO INSPECT RECORDS: The lessee under a geothermal lease shall file production, percentage rent, and royalty reports at such times and upon forms as may be prescribed by the commissioner. The commissioner or the commissioner's representative shall have the right to inspect all lessee and/or operator records, books or accounts pertaining to geothermal resources existing on or under the lands leased under a geothermal lease and the use or extraction thereof. Without limiting the foregoing, the lessee and/or operator shall, at the commissioner's request, furnish such reports, samples, logs, geophysical data and models, reservoir models, assays or cores within reasonable bounds as the commissioner may deem to be necessary for the proper administration of the state lands under a geothermal lease.

19.2.7.41 SURFACE OPERATIONS:

A. No person shall begin on-site exploration, development or production of geothermal resources without an operation plan approved in writing by the state land office addressing (i) well pad layout and design; (ii) a description of existing and planned access roads; (iii) a description of all ancillary facilities; (iv) the source of drill pad and road building material; (v) the source of water or fluid used; (vi) a description of procedures to be used to protect the environment and other resources; (vii) plans for reclamation; and (viii) all other information that the state land office may require. The operation plan must include complete geological and engineering data presented in clear and understandable form. The commissioner shall keep such data confidential for a period of six months or until such plan is approved, whichever occurs first, after which such data will be made a permanent part of the records and open for public inspection. The state land office may require that the operator update the information as may be reasonably necessary. If for any reason such proposed plan is not approved, the commissioner shall, upon request, return it to the person submitting it along with the accompanying data. The state land office may request updated information from the operator as the commissioner deems necessary.

B. In addition to requiring compliance with the operation plan approved in accordance with 19.2.7.41.A NMAC, state land office personnel may, from time to time, recommend compliance with reasonable use of the surface and prudent operator standards other than those specified in the approved operation plan.

C. The lessee shall ensure that all persons engaged in operations under the geothermal lease remove from the leased premises all surface trash and debris caused by their operations and shall keep such premises free and clear of such trash and debris. As used in 19.2.7.41 NMAC, "surface trash and debris" means all nonoperational and nonessential equipment resulting from drilling and other operations under the geothermal lease and includes, but is not limited to, garbage, rubbish, junk or scrap.

D. All access roads shall be built, maintained and reclaimed in accordance with 19.2.20 NMAC.

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19.2.7.42 COLLATERAL ASSIGNMENTS OF LEASES:

A. With the consent of the Commissioner, a geothermal lease in good standing, together with improvements placed on the land thereunder, may be assigned as collateral security to insure the payment of an indebtedness specified in said assignment.

B. A collateral assignment shall be in such form as prescribed by the commissioner, which the lessee shall submit to the commissioner for the commissioner's approval in duplicate together with the filing fee as set forth in the schedule of fees.

C. Upon approval of a collateral assignment by the commissioner, the assignee shall have a lien upon the lessee's interest in the geothermal lease, and the commissioner shall not subsequently approve the lessee's assignment or relinquishment of the geothermal lease unless the collateral assignee has released the collateral assignment, except that the commissioner may approve the lessee's assignment of the geothermal lease if the assignee agrees in writing to assume or take the geothermal lease subject to the rights of the collateral assignee.

D. If the collateral assignee changes its name or its mailing address, the collateral assignee shall promptly notify the commissioner, in writing, of the change in name or mailing address.

E. The collateral assignee may foreclose on the collateral assignment in the manner provided by law for the foreclosure of chattel mortgages. If and when the purchaser of a geothermal lease in a foreclosure sale is qualified to hold a geothermal lease and submits to the commissioner documentation showing bona fide foreclosure and purchase, along with a completed assignment form and the fee required for an assignment of the geothermal lease, the lessee's interest in the geothermal lease shall be assigned to the purchaser.

F. If the debt secured by the collateral assignment is satisfied or the collateral assignee otherwise seek to release the collateral assignment, the collateral assignee shall execute a release using a form prescribed by the commissioner and file it with the commissioner along with the required fee as set forth in the schedule of fees. If a collateral assignee fails to execute and file with the commissioner the release of a collateral assignment upon the satisfaction of the debt and the lessee submits to the commissioner documentation showing that the debt has been satisfied, the commissioner shall provide written notice to the collateral assignee at its address of record with the state land office that the collateral assignment will be deemed released unless the collateral assignee provides a sufficient showing that the debt has not been satisfied. If the collateral assignee fails to provide a timely showing that the debt has not been satisfied, the commissioner may deem the collateral assignment released.

19.2.7.43 CO-OPERATIVE OR UNITIZED DEVELOPMENT FOR OPERATION OF LEASES:

A. The commissioner may consent to and approve agreements made by the lessee providing for cooperative or unit development for operation of a geothermal lease in accordance with Section 19-13-14 NMSA 1978.

B. In order to obtain the commissioner's consent and approval as required under 19.2.7.43.A NMAC, the lessee shall file with the commissioner an application containing a statement of facts showing that the proposed cooperative or unit development will serve the purpose of conserving geothermal resources.

C. When the commissioner has consented to and approved an agreement in accordance with 19.2.7.43.A NMAC, the terms and conditions of the agreement shall supersede inconsistent terms and conditions of the geothermal lease, so far as they apply to lands within the unit area; provided that, all other terms and conditions of the geothermal lease shall remain in full force and effect. The agreement shall then be included in the lease file maintained in the state land office records division. If the if said agreement is not in the public records, there is a presumption no such agreement exists.

19.2.7.44 ENERGY CONSERVATION AND MANAGEMENT DIVISION REPORTS; OTHER COMPLIANCE NOTICES OR ORDERS:

A. The lessee under a lease issued pursuant to this 19.2.7 NMAC shall at its own expense comply with the Geothermal Resources Development Act (Section 71-9-1 et seq. NMSA 1978) and regulations promulgated thereunder by EMNRD/ECAM.

B. If and when the lessee or operator files with EMNRD/ECAM an application, report or notice regarding contemplated or actual operations under a geothermal lease, including but not limited to notification of a fire, break, leak, spill or blowout, the person filing such an application or report shall contemporaneously submit to the state land office a true and correct copy of the application, report or notice. If and when the lessee or operator

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receives from EMNRD/ECAM a permit or citation or notice of violation, the lessee or operator shall promptly submit to the state land office a true and correct copy.

C. Lessee shall notify the commissioner in writing within ten (10) calendar days of lessee's receipt of any compliance order, enforcement order, notice of violation, warning letter, or other written notice of final or contemplated enforcement action taken by any federal, state, or local governmental entity arising out of or concerning any operations on the leased premises. Upon the commissioner's request, lessee shall promptly provide the commissioner with a copy of any such order, notice, or letter.

19.2.7.45 CLOSEOUT AND RECLAMATION:

A. If a well has not been used to use or produce geothermal resources for a period of 180 days, the commissioner may deem the well abandoned and, in such case, shall notify the lessee that a well has been deemed abandoned. Upon issuance of a notice of abandonment, the lessee shall have 30 days to submit information or evidence showing that the well had not been abandoned, including but not limited to evidence of diligently pursued rework operations.

B. Unless waived in writing by the commissioner, an abandoned well shall be plugged within 180 days of abandonment and in accordance with all applicable rules promulgated by EMNRD/ECAM.

C. If a geothermal lease is cancelled or expires, the lessee shall reclaim all lands disturbed as a result of activities conducted under the geothermal lease in accordance with 19.2.7.45 NMAC or a reclamation plan approved in writing by the commissioner.

D. Within one year after the geothermal lease is cancelled or expires, the lessee shall:

1. reclaim pads by ripping all caliche to the underlying material, replacing topsoil, and reseeded with a seed mix approved by the state land office;
2. reclaim roads by ripping, reseeded, berming (closing) at the entrance, and constructing water bars as directed or approved by the state land office and performing all other work required under 19.2.20 NMAC;
3. remove all surface pipelines and properly disable all buried pipelines;
4. remove all above-ground power lines specific to the site and any associated poles, structures or equipment; and
5. remove all lessee or operator buildings or structures.

HISTORY OF 19.2.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

CPL 69-5, Rules and Regulations Concerning the Sale, Lease, and Other Disposition of State Trust Lands, filed 9/02/1969;

CPL 71-2, filed 12/16/1971;

CPL 77-1, filed 1/7/1977;

Rule 7, Rules and Regulations Relating to Geothermal Resources Leases, filed 3/11/1981;

SLO Rule 7, filed 1/20/1984;

SLO Rule 7, Amendment No. 1, filed 6/16/1995.

History of Repealed Material: [RESERVED]

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TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 2 STATE TRUST LANDS PART 7 RELATING TO GEOTHERMAL RESOURCES LEASES

19.2.7.1 ISSUING AGENCY: Commissioner of Public Lands, New Mexico State Land Office, 310 Old Santa Fe Trail, P. O. Box 1148, Santa Fe, New Mexico 87501, Phone: (505) 827-5713.
[12/31/1999; 19.2.7.1 NMAC - Rn, 19 NMAC 3. SLO 7.1, 9/30/2002]

19.2.7.2 SCOPE: This rule pertains to ~~all geothermal resources on those state lands held (as defined in trust by the Geothermal Resources Act, Chapter 19, Article 13 NMSA 1978, as amended) which are subject to the jurisdiction, custody and control of the~~ commissioner of public lands ~~under the terms of the Enabling Act and subsequent legislation (trust lands). This rule, and~~ governs the ~~lessees~~ leasing of ~~such trust geothermal resources on state lands and leases~~ entered into subsequent to the date of this rule.
[~~12/31/1999; 19.2.7.2 NMAC - Rn, 19 NMAC 3. SLO 7.2, 9/30/2002~~]

19.2.7.3 STATUTORY AUTHORITY: The ~~commissioner's~~ commissioner's jurisdiction over and authority ~~to manage the~~ with respect to management, care, custody, control and disposition of state trust lands is found in N.M. Const., Art. XIII, and in Section 19-1-1 NMSA 1978. ~~In accordance with N.M. Const., Art. XXIV, §1 (pertaining to the issuance of leases and other contracts for the development and operation of geothermal steam and waters on state trust lands), the legislature enacted the Geothermal Resources Act (Chapter 19, Article 13 NMSA 1978, as amended) authorizing the commissioner of public lands to issue leases containing terms and conditions not inconsistent with the provisions of the Geothermal Resources Act and which the commissioner determines to be in the best interest of the state. The authority to promulgate this rule is found in Section Sections 19-1-2 NMSA 1978.~~
[~~12/31/1999; and 19.2.7.3 NMAC - Rn, 19 NMAC 3. SLO 7.3, 9/30/2002~~]-13-25 NMSA 1978.

19.2.7.4 DURATION: Permanent.
[12/31/1999; 19.2.7.4 NMAC - Rn, 19 NMAC 3. SLO 7.4, 9/30/2002]

19.2.7.5 EFFECTIVE DATE: January 20, 1984, unless a later date is cited at the end of a section.
[12/31/1999; 19.2.7.5 NMAC - Rn, 19 NMAC 3. SLO 7.5, 9/30/2002; A, 6/30/2016]

19.2.7.6 OBJECTIVE: The objective of 19.2.7 NMAC is to provide for the orderly and lawful administration and the appropriate development of geothermal resources on state trust lands in accordance with the Geothermal Resources Act.
[~~12/31/1999; 19.2.7.6 NMAC - Rn, 19 NMAC 3. SLO 7.6, 9/30/2002~~]

19.2.7.7 DEFINITIONS: The following terms as used in this rule shall have the meaning here indicated, unless otherwise clearly stated in the text:

A. "Geothermal resources" - The natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, ~~or~~ created by, or which may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gasses, and steam, in whatever form, found below the surface of the earth, but excluding oil, ~~hydrocarbon gas and other hydrocarbon substances~~ natural gas (as defined in NMSA 1978, Section 19-10-2, including carbon dioxide gas, helium gas, and hydrocarbon gas), hydrogen, and other hydrocarbon substances, and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, as may be used for the heating and cooling of buildings through an on-site geoechange heat pump or similar on-site system.

B. "Lessee" - The original geothermal lessee and the assignee of an assignment (other than a collateral assignment) duly approved and recognized by the commissioner ~~pursuant to in accordance with~~ 19.2.7.29 NMAC ~~through 19.2.7.36 NMAC.~~

C. "Land" - Includes all land owned by the state, ~~all land owned by school districts, beds of navigable navigable rivers and lakes, submerged~~ subject to the jurisdiction, custody and control of the commissioner of public lands, ~~and including lands in which where the state owns and the commissioner of public lands exercises jurisdiction, custody and control over the mineral rights have been reserved to the state~~ state and such mineral estate

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includes the right to extract, remove or otherwise use the geothermal resources, regardless of whether state owns the surface estate.

D. **“Legal subdivision”** – Legal subdivision as ~~used and recognized~~designated by the ~~general~~U.S. public land office of the United States survey system plats and the New Mexico state land office, ~~ordinarily consisting of forty (40) acres, more or less, or one-sixteenth (1/16) part of a standard section, including lots as designated by the U.S. survey plats tract books.~~

E. **“Contiguous”** - Adjoining ~~and having or touching at a point or along~~ at least one (1) common side or boundary.

F. **“Tract books”** - ~~That set of tract~~Tract books kept and maintained at the New Mexico state land office. ~~for the purpose of recording geothermal leases, including automated or electronic versions.~~

G. **“Person”** - Individual ~~or~~, corporation, ~~but does not include business trust, estate, trust, partnership or any other unincorporated, limited liability company, association, joint venture or any legal or commercial entity.~~

H. **“Lease”**“Geothermal lease” - A lease for the extraction and removal of geothermal resources from state trust lands ~~or other use of geothermal resources from state trust lands.~~

I. **“Well”** - Any well for the discovery of geothermal resources, ~~or any well on lands producing or using geothermal resources or reasonably presumed to contain geothermal resources~~ or otherwise extracting or using natural heat of the earth, including but not limited to an exploratory well, development well, monitoring well, injection well, disposal well, thermal gradient well, geothermal observation well, or low-temperature thermal well, whether drilled and/or operated pursuant to a permit issued by the energy, minerals and natural resources department or otherwise.

J. **“Schedule of fees”** - A list of fees that must be paid for performance of certain administrative functions. The schedule of fees shall be published on the state land office website and is subject to change at the discretion of the commissioner. Unless otherwise noted in the schedule of fees or in this rule, the fee shall be ~~be~~ non-refundable.

~~[12/31/1999; 19.2.7.7 NMAC - Rn, 19 NMAC 3. SLO 7.7, 9/30/2002; A, 6/30/2016]~~ K. **“Open acreage”** - Land not included in an existing geothermal lease and not withdrawn from leasing by the commissioner as shown on the tract books.

19.2.7.8 APPLICATION FOR LEASE: ~~State trust lands may be leased only upon~~An application ~~made to the commissioner for a geothermal lease may be filed for open acreage~~ in a manner prescribed in these rules and under the Geothermal Resources Act ~~of 1967.~~
~~[12/31/1999; 19.2.7.8 NMAC - Rn, 19 NMAC 3. SLO 7.8, 9/30/2002]~~

19.2.7.9 LANDS SUBJECT TO LEASE: ~~Application to~~An application for a geothermal lease ~~will~~may be considered ~~only for such when the lands as may be~~ shown to be open ~~upon~~open acreage on the tract books ~~of the New Mexico state land office or. The commissioner may withhold a tract or tracts from leasing at any time before or after an application for those for which existing leases have a geothermal lease has been officially canceled or have expired and such action noted on the mineral tract books of the New Mexico state land office. Lands of other school districts or state agencies shall be available for leasing only after written request by submitted. Alternatively, in lieu of a geothermal lease, the commissioner may provide for a compensatory agreement as to any tract or tracts. The commissioner may, in the commissioner's sole discretion, include or exclude tracts from the governing board of public officials having ordinary jurisdiction of such lands~~final lands offered at any particular lease sale.
~~[12/31/1999; 19.2.7.9 NMAC - Rn, 19 NMAC 3. SLO 7.9, 9/30/2002]~~

19.2.7.10 FORMAL REQUIREMENTS FOR APPLICATIONS:

A. Each application for geothermal lease shall be made ~~with ink, or with typewriter using a record ribbon, in duplicate, upon~~upon forms to be prescribed by the commissioner, ~~which application shall be with an applicant signature~~ acknowledged before an officer authorized to administer oaths. ~~The applicant shall be accompanied by~~pay the application fee as set forth in the schedule of fees, which fee shall not be refunded. ~~An application for geothermal lease accompanying a sealed bid shall be executed under oath by the applicant, or by the applicant's agent or attorney, duly authorized in writing, or by an officer or attorney-in-fact of a corporation, if application is by a corporation, and must be accompanied by an application fee as set forth in the schedule of fees and shall be accompanied by the amount of the first (1st) year's year's rental and bonus offered, if any such bonus is offered, together with an appraisal of the value of the land for geothermal lease purposes made under oath by some disinterested party who is familiar therewith. Unless the commissioner has approved the applicant's use of a non-~~

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certified exchange, payments shall be made in cash, electronic transfer, money order or certified check on a solvent bank.

~~B.~~ ~~B.~~ A separate check or other remittance covering the fee, rentals and bonus, if any, shall person seeking an exploratory/due diligence geothermal lease to be submitted issued in accordance with each separate 19.2.7.11 NMAC shall submit an application to which applicable; however specifically indicating that they are seeking an exploratory/due diligence geothermal lease.

19.2.7.11 EXPLORATORY/DUE DILIGENCE LEASE; LOW-TEMPERATURE RESOURCES:

A. Upon an application filed in accordance with 19.2.7.10.B NMAC, the commissioner may waive issue a lease for up to five (5) years allowing occupation and use of specified state trust lands for the sole and exclusive purpose of (i) exploring for the existence and location of geothermal resources; (ii) determining the extent and nature of geothermal resources; (iii) conducting other due diligence activities that do not involve extraction, removal or commercial use of geothermal resources. The lessee under an exploratory/due diligence lease issued pursuant to this requirement when extreme hardship to the applicant would otherwise 19.2.7.11 NMAC may maintain as confidential any proprietary information or data obtained as a result of its operations under the lease. If the lessee submits confidential information or data in accordance with Section 19-1-2.1 NMSA 1978, the commissioner and the commissioner's employees and agents shall hold such information confidential in accordance with the statute.

~~B.~~ [12/31/1999; 19.2.7.10 NMAC ~~Rn, 19 NMAC 3. SLO 7.10, 9/30/2002; A, 6/30/2016~~] To the extent that a person seeks to lease land to extract or use naturally existing heat of the earth not in excess of two hundred fifty degrees Fahrenheit, the commissioner may issue a business lease for that purpose in accordance with 19.2.9 NMAC.

~~19.2.7.11 APPLICATIONS WITHOUT DEPOSIT REJECTED: Applications not accompanied by the proper fees, money or deposit, shall immediately be stamped "Rejected, No Deposit" and shall not be deemed a proper application. In computing proper rental to be due in this connection, the acreage as shown on the New Mexico state land office tract books shall be the basis. Rentals for application purposes are to be computed at the minimum rate of one dollar (\$1.00) per acre or fraction thereof, unless otherwise specified by the commissioner. [12/31/1999; 19.2.7.11 NMAC ~~Rn, 19 NMAC 3. SLO 7.11, 9/30/2002~~]~~

19.2.7.12 SEPARATE APPLICATIONS: Separate applications shall be made for each geothermal lease, and an application shall be deemed to seek a geothermal lease for all acreage listed thereon or for that part thereof as may be available for leasing. ~~If an application covers~~ An application shall be rejected if it seeks to lease: (i) lands that are not contiguous; (ii) more than two thousand five hundred sixty (2,560) acres, or if all legal subdivisions applied for are not contiguous, the application shall be rejected; provided, however, if an application covers less than six hundred forty (640) acres, or if all legal subdivisions are not contiguous, the application shall be rejected; provided, however, a lease, or leases, may be issued covering; or (iii) less than six hundred forty (640) acres if for all of the land in a legal subdivision or, unless the parcel is isolated from and not contiguous with other parcels available for lease. An application which covers less than a legal subdivision or less than an entire parcel in the case of a navigable river or lake bed shall be rejected. The commissioner may issue a geothermal lease for less than all of the acreage listed on an application.

19.2.7.13 COMPETITIVE BIDDING: Other than an exploratory/due diligence geothermal lease issued in accordance with 19.2.7.11 NMAC, no geothermal lease shall be issued except to the person making the highest qualified bid after notice of a lease sale to be conducted by sealed bids or oral bidding or on-line bidding.

19.2.7.14 NOMINATION OF TRACTS: A party seeking a geothermal lease may nominate one or more tracts or request competitive by letter or by email message. Prior to the completion of the bidding initiated pursuant to a nomination or request made in accordance with this 19.2.7.14 NMAC, the state land office shall not disclose to anyone outside of the state land office the identity of a party making the nomination or request.

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~~19.2.7.15~~ ~~[12/31/1999; 19.2.7.12 NMAC — Rn, 19 NMAC 3. SLO 7.12, 9/30/2002]~~ **DESIGNATION OF KNOWN GEOTHERMAL RESOURCES FIELDS:**

~~A.~~ After consulting with the director of the New Mexico bureau of geology and mineral resources, the commissioner may designate or remove the designation of specified lands as constituting a known geothermal resources field in accordance with Section 19-13-6(A) NMSA 1978.

~~B.~~ If any lands within an area that the commissioner has designated as a known geothermal resources field in accordance with 19.2.7.15.A NMAC are offered for a geothermal lease, the lands shall be leased, if at all, to the highest responsible qualified bidder in accordance with 19.2.7.13 NMAC. The commissioner may issue a due diligence/exploratory lease of such lands in accordance with 19.2.7.11 NMAC without an auction. If the lease of such lands is issued in accordance with 19.2.7.11.B NMAC (low temperature), the need for an auction shall be governed by 19.7.9 NMAC.

~~19.2.7.13~~ ~~MISCELLANEOUS LANDS:~~ Lands of other state agencies or school districts (other than state trust lands or escheat lands under the direct control of the commissioner) shall be leased only after the agency or body controlling same has made request in writing to the commissioner to make same available for leasing and after such lands have been posted to the mineral tract books as herein provided. Premature applications covering such lands ~~C.~~ shall be rejected. Lands sold prior to July 17, 1967, with minerals reserved, shall be leased only after consultation with the surface patentee or contract purchaser. In addition, in the event the lessee's operation will involve appropriation of water, which is under the jurisdiction of the state engineer, written permission of the state engineer will be required before operations can commence. A copy of the written authorization of the state engineer to appropriate water shall be filed with the commissioner before water is appropriated. ~~[12/31/1999; 19.2.7.13 NMAC — Rn, 19 NMAC 3. SLO 7.13, 9/30/2002]~~ If any lands within an area that the commissioner has designated as a known geothermal resources field in accordance with this 19.2.7.15 NMAC are leased for use of a geothermal resource as a renewable energy resource (i.e., to generate power and not exclusively to extract mineral products or chemical compounds), the lease shall require that the geothermal resource beyond the lands leased shall not be diminished beneath applicable natural seasonal fluctuations in the measurable quantity, quality or temperature. The commissioner shall presume that a lessee's use of geothermal resources complies with this 19.2.7.15.C where it is conducted in accordance with a permit issued by the energy conservation and management division of the energy, minerals and natural resources department (EMNRD/ECAM) upon a finding that the permitted activity will not impair correlative rights. In addition, the lessee shall provide to the commissioner a copy of each Form G-111 report when submitted to EMNRD/ECAM for each well located on or producing or using geothermal resources on or under state trust lands or lands being operated jointly with state trust lands.

~~19.2.7.14~~ ~~ONE (1) APPLICANT:~~ If more than one (1) person shall sign an application, the first (1st) name appearing thereon shall be considered as the bona fide applicant and the lease shall issue only in the name first listed. Such person only will be recognized by the commissioner as the lessee and sole record holder. This Rule specifically applies to cases of partnerships and other unincorporated associations; however, said agreements defining and setting out the various interests of other parties in the lease may be filed with the commissioner as miscellaneous instruments, and when so filed shall constitute constructive notice to the world of the existence and the contents thereof; provided, however, that the commissioner shall look solely and only to the lessee record holder for compliance with the terms and conditions of the lease, and the commissioner shall not be a necessary party to any dispute or controversy arising out of or because of such side agreement. Notices hereunder and under the Geothermal Resources Act required to be given to the lessee by the commissioner shall be sufficient if mailed to the record lessee.

~~[12/31/1999; 19.2.7.14 NMAC — Rn, 19 NMAC 3. SLO 7.14, 9/30/2002]~~

~~19.2.7.15~~ ~~PRIORITY OF APPLICANTS — LIMITATIONS:~~ A prior application, if submitted in accordance with these rules and if in proper form, shall ordinarily be given a preference right to lease; provided, however, that neither this provision nor any other provision or combination of provisions contained in these rules shall ever be construed to limit the power of the commissioner to withhold at any time any tract or tracts from leasing for geothermal resources purposes, if in the commissioner's opinion the best interests of the trust, or the state agency involved would be served by so doing, and no such provision or provisions shall ever be construed so as to prohibit the commissioner from rejecting any application at any time prior to approval and issuance of lease, and to

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~~offer said tract or tracts for lease at public auction as provided in 19.2.7.21 NMAC through 19.2.7.26 NMAC, inclusive.
[12/31/1999; 19.2.7.15 NMAC — Rn, 19 NMAC 3. SLO 7.15, 9/30/2002; A, 6/11/2019]~~

19.2.7.16 APPLICATION BY MAIL—SIMULTANEOUS APPLICANTS:[RESERVED]

~~A. Applications received in the same delivery of open mail shall be deemed to have been filed simultaneously and shall be stamped as of the date and hour delivery was made to the New Mexico state land office.~~

~~B. When newly acquired acreage is posted to the tract books, or when open acreage is designated upon the tract books to be open acreage after having been previously leased or withdrawn from leasing by the commissioner, all applications for lease filed thereon within three (3) New Mexico state land office work days after such posting or designating, shall be considered as simultaneous applications.~~

~~C. In computing the time, the day of relinquishment, expiration, posting or designation shall be disregarded.~~

~~[12/31/1999; 19.2.7.16 NMAC — Rn, 19 NMAC 3. SLO 7.16, 9/30/2002]~~

~~**19.2.7.17 DISPOSAL OF SIMULTANEOUS APPLICATIONS:** When simultaneous applications for lease are filed for the same lands, they may be disposed of in either of the following methods, as the commissioner may decide:~~

~~A. by submission of amended applications by the applicant in which case preference will be given to the applicant offering the highest bonus; or~~

~~B. by rejecting all applications and offering the lands for lease at public auction in the manner provided in 19.2.7.21 NMAC through 19.2.7.26 NMAC, inclusive.~~

19.2.7.17 [RESERVED]

19.2.7.18 COMMISSIONER MAY WITHHOLD LAND FROM LEASING—~~POSTING TO TRACT~~

BOOK: The commissioner, at the commissioner's discretion, may at any time either before or after application is made, withhold any tract, ~~subdivision~~ or ~~parcel~~tracts of land from leasing, if in the commissioner's opinion the best interest of the trust would be served. ~~Immediately after making determination to withhold any tract or tracts, the commissioner shall reject any and all pending applications and enter a proper notation upon the tract books, indicating the action taken and the date thereof. If and when thereafter the commissioner shall determine said lands again to be open for leasing, the commissioner shall enter a notation on the tract books to that effect, and the provisions of 19.2.7.16 NMAC (three day rule) shall apply from the date of said notation. Provided, further, that should the commissioner so determine said lands again to be open for leasing within six months from the date of withdrawal, the commissioner shall give 15 days advance written notice to all previously rejected applicants, if any, by so doing. A withdrawal from geothermal leasing may be posted in the tract books. Regardless of whether a withdrawal from geothermal leasing has been posted in the tract books, the commissioner may at any time prior to issuing a geothermal lease determine that issuance of a geothermal lease for a tract or tracts of land would not be in the best interests of the trust. Notwithstanding a withdrawal from geothermal leasing or a determination that a geothermal lease would not be in the best interests of the trust, the commissioner may exercise the full range of discretion to enter into or refuse to enter into a compensatory agreement as to such tract or tracts.~~

19.2.7.19 [RESERVED]

19.2.7.20 [RESERVED]

~~**19.2.7.** [12/31/1999; 19.2.7.18 NMAC — Rn, 19 NMAC 3. SLO 7.18, 9/30/2002; A, 6/11/2019]~~

~~**19.2.7.19 APPLICANTS REJECTED—LEASE AUCTIONED:** The commissioner may, at the commissioner's discretion, reject any pending application for lease and offer the acreage embraced therein for lease upon competitive bidding by sealed bids or at public auction to the bidder offering the highest bonus in addition to the minimum annual rentals as set by the commissioner.~~

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~~[12/31/1999; 19.2.7.19 NMAC — Rn, 19 NMAC 3. SLO 7.19, 9/30/2002; A, 6/11/2019]~~²¹ ~~[RESERVED]~~

~~**19.2.7.20** **KNOWN GEOTHERMAL FIELDS:** Lands classified as "known geothermal fields" as provided in Section 6 of the Geothermal Resources Act (Section 19-13-6 NMSA 1978) shall be withdrawn, such withdrawal posted to the tract books, and such lands shall be leased at public auction only as provided in 19.2.7.18 NMAC, 19.2.7.19 NMAC, and 19.2.7.21 NMAC through 19.2.7.26 NMAC, inclusive.~~
~~[12/31/1999; 19.2.7.20 NMAC — Rn, 19 NMAC 3. SLO 7.20, 9/30/2002]~~

~~**19.2.7.21** **PUBLIC AUCTION SALE DATE:** Regular lease sales will ordinarily be held on the third (3rd) Thursday of each month, or on the next business day following where the third (3rd) Thursday falls on a holiday. Special sales may also be held on other dates at the discretion of the commissioner.~~
~~[12/31/1999; 19.2.7.21 NMAC — Rn, 19 NMAC 3. SLO 7.21, 9/30/2002]~~

19.2.7.22 **NOTICE OF LEASE SALE POSTED—SEALED OR ORAL BIDS:** Before any ~~regular or special geothermal lease~~ sale shall be held, the commissioner shall post in a conspicuous place in the New Mexico state land office and on the state land office website, not less than ten (10) days before the date of the sale, a notice of same, specifying the ~~place~~physical or online address, date and hour of the sale, and containing a description of the lands to be offered for lease and indicating whether the sale is to be by sealed bids or ~~at by~~ oral public auction bidding or on-line bidding.
~~[12/31/1999; 19.2.7.22 NMAC — Rn, 19 NMAC 3. SLO 7.22, 9/30/2002]~~

19.2.7.23 **SEALED BIDS PROCEDURE:** In the event the sale is to be by sealed bids, bids will be received up to the ~~hour~~deadline set ~~forth~~ in the notice of sale, and all bids submitted prior to the deadline set forth in the notice of sale will be opened at the appointed ~~hour~~time, and the geothermal lease, if any, will be awarded to the highest bidder, subject to the right of the commissioner to reject all bids if the commissioner shall deem the bids too low or shall deem it in the best interest of the trust to do so. ~~In the event of such rejection, the action taken, the date and hour thereof, and reason therefor, shall be indicated on the tract books, in the same manner as provided in 19.2.7.18 NMAC. Sealed bids will be accompanied by remittance covering application fee, first year's rental and bonus offered.~~ To qualify for consideration, sealed bids must be accompanied by remittance covering application fee, first year's rental and bonus offered. If provided for at the discretion of the commissioner and as stated in the notice of lease sale posted in accordance with section 19.2.7.22 NMAC, sealed bids may be submitted, received and opened on-line via a computer network or other electronic telecommunications system generally available to the public allowing any and all qualified bidders to submit bids. When two (2) or more sealed bids are equal and higher than all other bids, the commissioner shall notify the tied highest bidders that they may within ten (10) calendar days submit new sealed bids. The commissioner shall issue a geothermal lease, if any, to the bidder submitting the highest new sealed bid. If two (2) or more of the new sealed bids are equal, the commissioner shall repeat the process. If none of the tied highest bidders submits a new sealed bid, the commissioner shall flip a coin to select and offer a geothermal lease, if any, to one of the tied highest bidders.
~~[12/31/1999; 19.2.7.23 NMAC — Rn, 19 NMAC 3. SLO 7.23, 9/30/2002; A, 6/11/2019]~~

19.2.7.24 **ORAL OR ONLINE BIDS - PROCEDURE:** In the event sale is by ~~public auction~~oral bidding or on-line bidding, the successful bidder will be required to pay the ~~lease application fee as set forth in the schedule of fees~~, the first (1st) ~~year's~~year's base rental and bonus offered in accordance with 19.2.7.10 NMAC on or before close of business on the date of sale. If the lease sale is conducted by on-line bidding, bidding shall be conducted via a computer network or other electronic telecommunications system generally available to the public allowing any and all qualified bidders to submit bids.

~~**19.2.7.** [12/31/1999; 19.2.7.24 NMAC — Rn, 19 NMAC 3. SLO 7.24, 9/30/2002; A, 6/30/2016]~~

~~**19.2.7.25** **WHERE NO BIDS RECEIVED:** If no bids are received for any tract described in the notice, said tract shall be considered as withdrawn until further notice and proper notations made upon the mineral tract books.~~
~~[12/31/1999; 19.2.7.25 NMAC — Rn, 19 NMAC 3. SLO 7.25, 9/30/2002]~~

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~~19.2.7.26~~ ~~TIE BIDS:~~ In the event the sale is by sealed bid and in the event two (2) or more highest bids are received for the same tract, offering the same bonus, the lease shall be disposed of by submission of amended applications by the applicants, in which case preference will be given to the applicant offering the higher bonus. [12/31/1999; 19.2.7.26 NMAC Re, 19 NMAC 3. SLO 7.26, 9/30/2002] ~~25~~ [RESERVED]

~~19.2.7.26~~ [RESERVED]

19.2.7.27 **BASE RENT; ROYALTIES; PERCENTAGE RENT; PRESERVATION OF RENEWABLE ENERGY RESOURCE:**

~~A. FORMS:~~ Leases are to be made upon forms prescribed and furnished. Other than an exploratory/due diligence geothermal lease issued in accordance with 19.2.7.11 NMAC, each geothermal lease shall provide for payment of the following base rent, royalties and percentage rent with respect to geothermal resources produced or sold from the lands included within the geothermal lease:

1. a base lease rent based upon fair market value at the time of leasing as determined by the commissioner, which may provide for escalation from an amount payable prior to the lessee's discovery and extraction or use of geothermal resources to an amount payable after the lessee discovers and begins extraction or use of geothermal resources;

2. a royalty or percentage rent to be charged as a percentage of gross revenue derived from the production, sale or use of geothermal resources, or the energy produced therefrom, under the geothermal lease as determined by the commissioner, who shall not determine a value below or above a range that could be determined by the federal bureau of land management, based on fair market value of the geothermal resource or use of the geothermal resource at the time of leasing, provided that the commissioner may require an escalation of the royalty or percentage rent over time;

3. a royalty of the gross revenue received from the sale of mineral products or chemical compounds recovered from geothermal fluids, if any, based on fair market value of the mineral product as determined by the commissioner, except that as to any by-product or minerals covered by other mineral leasing statutes administered by the commissioner or rules or regulations of the commissioner, the rate of royalty for such mineral or by-product shall be the same as the then-existing rate of royalty under geothermal leases currently being issued by the commissioner.

B. A geothermal lease shall not preclude other uses of the land, including but not limited to leases on the same lands for deposits of other minerals. Provided, however, that operations under leases for other uses of the land shall not unreasonably interfere with or endanger operations under any geothermal lease, nor shall operations under a geothermal lease unreasonably interfere with or endanger operations under any lease for other use of the land.

C. If the commissioner determines that the lessee's production or use of geothermal energy creates an opportunity to economically produce other geothermal resources in commercially valuable quantities for which there is a market, the commissioner may require the lessee to produce and market the other geothermal resources.

D. A geothermal lease shall be for a primary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith. If the lessee fails to produce or utilize geothermal resources or to discover geothermal resources capable of being produced or utilized in commercial quantities from the lands or from lands unitized therewith during the initial five-year term, the lessee may continue the lease in full force and effect as to the portion held by the lessee for a secondary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith by continued payment each year, in advance, of rentals at the rate set by the lease. Provided that if for any reason beyond the control of the lessee production or utilization of geothermal resources in commercial quantities ceases or if the capability to so produce is temporarily lost after the secondary term has expired, the producing lessee may, with the written permission of the commissioner, continue such lease as to the acreage held by the lessee in effect from year to year for an additional period not to exceed three years by continued payment of rentals as provided in the lease at the rate provided in the secondary term of the lease.

19.2.7.28 **LIMITATIONS OF ACREAGE:** ~~No~~ Except as otherwise provided in the Geothermal Resources Act, no person, association or corporation shall take, hold, own or control ~~any~~ at the same time, directly or

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~~indirectly and whechter acquired from the commissioenr or otherwise, interest, direct in one or indirect, in-state more~~
geothermal ~~resources~~-leases exceeding fifty-one thousand two hundred (51,200) acres.
~~[12/31/1999; 19.2.7.28 NMAC — Rn, 19 NMAC 3. SLO 7.28, 9/30/2002]~~

19.2.7.29 ~~**LIMITATIONS ON ASSIGNMENTS—MANNER OF EXECUTION:**~~ Subject to approval of the commissioner upon such conditions as the commissioner may require, ~~leases a geothermal lease in good standing~~ may be assigned in whole or in part; however, no assignment of an undivided interest in a geothermal lease or any part thereof, or any assignment of less than a legal subdivision or tract shall be recognized or approved by the commissioner. ~~Such assignments shall be executed and acknowledged in the same manner prescribed for conveyance of real estate and shall be filed in triplicate with the commissioner. One (1) copy shall be recorded permanently, another filed, and the third (3rd) copy returned to the assignee. The approval of the commissioner shall be noted upon all copies.~~

19.2.7.30 ~~**FORMS AND FEE:**~~ All assignments shall be filed in duplicate upon forms prescribed and furnished by the commissioner which shall recite, among other things, the consideration paid for the assignment. The fee for filing shall be as set forth in the schedule of fees.

19.2.7.31 ~~**REFUSAL AND CONDITIONS:**~~ The commissioner may refuse to approve any assignment and may condition the commissioner's approval on such additional terms and compensation as the commissioner may deem in the best interests of the trust. An assignment shall not be approved if the assignment: (i) seeks to assign less than the assignor's interest in a legal subdivision (except where the ransfer is by operation of law); (ii) seeks to assign acreage less than a legal subdivision; (iii) seeks to assign to more than two persons or legal entities; (iv) seeks to assign to a trust without seting forth the trust or the trust has more than two trustees; (v) seeks to assign an interest in a lease as to which a lis pendens has been filed; (iv) seeks to assign interests in more than one lease. If the assignee changes its name or its mailing address, the assignee shall promptly notify the commissioner, in writing, of the change in name or mailing address. If and when the commissioner approves the lessee's assignment of a portion of a geothermal lease, the assigned and the retained portions of the geothermal lease shall be treated and considered as separate geothermal leases.
~~[12/31/1999;~~

19.2.7.30 [RESERVED]

19.2.7.31 [RESERVED]

19.2.7.32 ~~**EFFECT OF COMMISSIONER'S APPROVAL—MISCELLANEOUS INSTRUMENTS:**~~ Upon approval of the commissioner, the assignor shall be relieved from all obligations owing to the state of New Mexico with respect to the lands embraced in the assignment, and the state shall likewise be relieved from all obligations to the assignor as to the said lands, and the assignee shall succeed to all the rights and privileges of the assignor and assumes all of the duties and obligations of the assignor as to the said lands; provided, however, any The record owner of anya geothermal lease may enter into anya contract for the development of the leasehold premises or any portion thereof, or may create overriding royalties or obligations payable out of production, or enter into anyan agreements with respect to the development or operation of the leasehold premises. ~~It shall not be necessary for any such contracts, agreements or other instruments to be~~ To the extent that the contract, agreement or instrument does not change ownership of the geothermal lease, it need not be approved by or filed with the office of the commissioner. ~~(but nothing contained may be filed in these rules the office of the county clerk wherein the lands are situated); it shall not~~ shall relieve the record title owner of such geothermal lease from complying with any of the terms or provisions thereof; and the commissioner shall look solely and only to such record owner for compliance therewith, ~~and in any controversy respecting any such contracts, agreements or other instruments, the commissioner shall not be a necessary party. All such contracts, agreements and other instruments may be filed either in the office of the commissioner or recorded in the office of the county clerk wherein the lands are situated. Documents pertaining to or affecting record title of a lease, including but not limited to mergers, death certificates, probate documents, and court orders, shall be filed as miscellaneous instruments, and the filing and recording thereof shall constitute notice to all the world of the existence and the contents thereof, except as to the commissioner. of the~~

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documents so filed. The fee for filing ~~such~~ miscellaneous instruments with the commissioner shall be as set forth in the schedule of fees.

~~[12/31/1999; 19.2.7.32 NMAC Rn, 19 NMAC 3. SLO 7.32, 9/30/2002; A, 6/30/2016]~~

~~**19.2.7.33 EFFECT OF ASSIGNMENT ON PRODUCTION:** When any assignment of a portion of the lease shall be approved by the commissioner, the assigned and the retained portions of the lease shall be treated and considered as separate leases for the purpose of determining whether the lessee or lessees have a right of renewal for succeeding five (5) year terms, and also for the purpose of bonding as provided in 19.2.7.37 NMAC, 19.2.7.38 NMAC, and 19.2.7.39 NMAC.~~

~~[12/31/1999; 19.2.7.33 NMAC Rn, 19 NMAC 3. SLO 7.33, 9/30/2002]~~

~~**19.2.7.34 ASSIGNMENTS TO BE RECORDED IN NEW MEXICO STATE LAND OFFICE:**~~

~~Assignments must be accompanied by the filing fee as set forth in the schedule of fees and filed with the commissioner within one hundred (100) days after having been signed by the assignor as shown upon the face of the instrument and not from the date of acknowledgment. Those presented after expiration of that time shall not be approved unless it can be shown to the satisfaction of the commissioner that extreme hardship will result to one (1) or more of the parties and that no prejudice to the rights of the state of New Mexico will occur. An additional fee as set forth in the schedule of fees will be charged for each such assignment (or each group of assignments, if the same basic facts are involved) to cover expense of investigation and records search.~~

~~[12/31/1999; 19.2.7.34 NMAC Rn, 19 NMAC 3. SLO 7.34, 9/30/2002; A, 6/30/2016]~~

~~**19.2.7.35 RESIDENT DECEDENT'S LEASE:** To effect transfer of an interest in a lease owned by a deceased resident of New Mexico, proper probate proceedings must be had in accordance with the New Mexico Probate Code, and certified copies of such proceedings showing proper legal authority to transfer must be filed with the commissioner.~~

~~[12/31/1999; 19.2.7.35 NMAC Rn, 19 NMAC 3. SLO 7.35, 9/30/2002]~~

19.2.7.33 [RESERVED]

19.2.7.34 [RESERVED]

19.2.7.35 TRANSFER OF LEASE AFTER DEATH OF RESIDENT LESSEE: After receipt of a death certificate or other official notice that a lessee has died, the geothermal lease may be carried on the records of the state land office in the name of the lessee's estate until assigned by the duly appointed personal representative of the lessee's estate in accordance with 19.2.7.29 NMAC. If a duly appointed personal representative of the lessee's estate does not assign the geothermal lease within one year after the lessee's death, the geothermal lease may be cancelled if not so assigned within 30 days after the state land office mails notice of the intent to cancel by certified mail to the address of record for the lessee.

19.2.7.36 TRANSFER OF LEASE AFTER DEATH OF FOREIGN DECEDENT LESSEE: In the event a decedent ~~owner of a lease~~lessee was a resident of a state other than New Mexico, the estate must be probated in the state of such residence and ancillary proceedings conducted in the proper New Mexico court, and certified copies of such proceedings showing proper legal authority to transfer must be filed with the commissioner. ~~Provided, however, where the decedent died on or after July 1, 1976, the lease may be transferred upon the foreign personal representative's compliance with the provisions of the New Mexico Probate Code within one year after the lessee's death.~~ The geothermal lease may be cancelled if not so assigned within 30 days after the state land office mails notice of the intent to cancel by certified mail to the address of record for the lessee.

~~[12/31/1999; 19.2.7.36 NMAC Rn, 19 NMAC 3. SLO 7.36, 9/30/2002]~~

19.2.7.37 SURETY TO PROTECT SURFACE LESSEE WAIVERS:

A. Before anythe lessee ~~shall commence~~and/or operator begins prospecting, development or operations, ~~including any and all prospecting activities upon the lands~~ under a geothermal lease, such lessee shall

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execute and file with the commissioner a sufficient bond or other surety, in an amount to be fixed by the commissioner, but not less than ~~twenty~~-five thousand dollars (\$~~25~~,000.00), in favor of the state of New Mexico, for the benefit of the state, its contract purchaser, patentee, or surface lessee, to secure the lessee's payment for any damages to the ~~leased~~ land or tangible improvements upon the leased land as may be suffered by reason of development and operations upon the land by the lessee.

B. The bond may be either a corporate or individual surety bond and such sureties may be required to furnish proof that their net worth free and clear of all indebtedness or claims equals or exceeds the amount of the obligation. In lieu of said bond, with the ~~commissioner's~~commissioner's consent, the lessee may file with the commissioner a waiver of bond or other surety duly executed and acknowledged by the applicable surface owner or holders owning improvements.

~~[12/31/1999; 19.2.7.37 NMAC - Rn, 19 NMAC 3. SLO 7.37, 9/30/2002]~~

19.2.7.38 PERFORMANCE SURETY: Before a geothermal lease shall issue, the lessee shall file with the commissioner a bond or other surety in an amount to be set by the commissioner which the commissioner deems necessary to guarantee ~~payment of royalties to become due the state of New Mexico. With the approval of the commissioner, in lieu of separate surface improvement damage and performance bonds, a twenty-five thousand dollar (\$25,000.00) bond or other surety may be used at the option of lessee for the use and benefit of the commissioner, to secure surface improvement damage and the performance of the lessee as lessee under one or more state leases or permits for minerals, oil and gas, coal or geothermal resources, or as holder under one or more state rights of way or easements which the lessee has executed with the commissioner. The lessee will be obligated to perform and keep all terms, covenants, conditions and requirements of all state leases for minerals, oil and gas, coal or geothermal resources, and of all state rights of way and easements executed with the commissioner, including the payment of royalties when due and compliance with all established mining plans and reclamation requirements~~the lessee's payment of rent and royalties as they become due and to guarantee the lessee's performance of all lessee obligations under or pertaining to the geothermal lease. If and when the lessee learns of a material change affecting the financial assurance, the lessee shall notify the state land office of such change within 30 days. The lessee's obligation under this 19.2.7.38 NMAC shall be in addition to any bond or other surety provided to EMNRD/ECAM.
~~[12/31/1999; 19.2.7.38 NMAC - Rn, 19 NMAC 3. SLO 7.38, 9/30/2002; A, 6/11/2019]~~

19.2.7.39 FORMS: Forms for all bonds are prescribed and furnished by the commissioner.

~~[12/31/1999; 19.2.7.39 NMAC - Rn, 19 NMAC 3. SLO 7.39, 9/30/2002]~~

19.2.7.40 ROYALTY REPORTS: ~~Lessees shall file royalty reports as such times and upon forms as may be prescribed by the commissioner.~~**PRODUCTION REPORTS; RIGHT TO INSPECT RECORDS:** The lessee under a geothermal lease shall file production, percentage rent, and royalty reports at such times and upon forms as may be prescribed by the commissioner. The commissioner or the commissioner's representative shall have the right to inspect all lessee and/or operator records, books or accounts pertaining to geothermal resources existing on or under the lands leased under a geothermal lease and the use or extraction thereof. Without limiting the foregoing, the lessee and/or operator shall, at the commissioner's request, furnish such reports, samples, logs, geophysical data and models, reservoir models, assays or cores within reasonable bounds as the commissioner may deem to be necessary for the proper administration of the state lands under a geothermal lease.

19.2.7.41 ~~[RESERVED]~~ SURFACE OPERATIONS:

A. No person shall begin on-site exploration, development or production of geothermal resources without an operation plan approved in writing by the state land office addressing (i) well pad layout and design; (ii) a description of existing and planned access roads; (iii) a description of all ancillary facilities; (iv) the source of drill pad and road building material; (v) the source of water or fluid used; (vi) a description of procedures to be used to protect the environment and other resources; (vii) plans for reclamation; and (viii) all other information that the state land office may require. The operation plan must include complete geological and engineering data presented in clear and understandable form. The commissioner shall keep such data confidential for a period of six months or until such plan is approved, whichever occurs first, after which such data will be made a permanent part of the records and open for public inspection. The state land office may require than the operator update the information as may be reasonably necessary. If for any reason such proposed plan is not approved, the commissioner shall, upon

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request, return it to the person submitting it along with the accompanying data. The state land office may request updated information from the operator as the commissioner deems necessary.

B. In addition to requiring compliance with the operation plan approved in accordance with 19.2.7.41.A NMAC, state land office personnel may, from time to time, recommend compliance with reasonable use of the surface and prudent operator standards other than those specified in the approved operation plan.

C. The lessee shall ensure that all persons engaged in operations under the geothermal lease remove from the leased premises all surface trash and debris caused by their operations and shall keep such premises free and clear of such trash and debris. As used in 19.2.7.41 NMAC, "surface trash and debris" means all nonoperational and nonessential equipment resulting from drilling and other operations under the geothermal lease and includes, but is not limited to, garbage, rubbish, junk or scrap.

D. All access roads shall be built, maintained and reclaimed in accordance with 19.2.20 NMAC.

19.2.7.42 COLLATERAL ASSIGNMENTS OF LEASES: ~~Collateral assignments of leases shall be filed~~

A. With the consent of the Commissioner, a geothermal lease in good standing, together with improvements placed on the land thereunder, may be assigned as collateral security to insure the payment of an indebtedness specified in said assignment.

B. A collateral assignment shall be in such form as prescribed by the commissioner, which the lessee shall submit to the commissioner for the commissioner's approval in duplicate ~~upon forms provided by the commissioner~~ together with the filing fee as set forth in the schedule of fees.

C. Upon approval of a collateral assignment by the commissioner, the assignee shall have a lien upon the lessee's interest in the geothermal lease, and the commissioner shall not subsequently approve the lessee's assignment or relinquishment of the geothermal lease unless the collateral assignee has released the collateral assignment, except that the commissioner may approve the lessee's assignment of the geothermal lease if the assignee agrees in writing to assume or take the geothermal lease subject to the rights of the collateral assignee.

D. If the collateral assignee changes its name or its mailing address, the collateral assignee shall promptly notify the commissioner, in writing, of the change in name or mailing address.

E. The collateral assignee may foreclose on the collateral assignment in the manner provided by law for the foreclosure of chattel mortgages. If and when the purchaser of a geothermal lease in a foreclosure sale is qualified to hold a geothermal lease and submits to the commissioner documentation showing bona fide foreclosure and purchase, along with a completed assignment form and the fee required for an assignment of the geothermal lease, the lessee's interest in the geothermal lease shall be assigned to the purchaser.

F. If the debt secured by the collateral assignment is satisfied or the collateral assignee otherwise seek to release the collateral assignment, the collateral assignee shall execute a release using a form prescribed by the commissioner and file it with the commissioner along with the required fee as set forth in the schedule of fees. If a collateral assignee fails to execute and file with the commissioner the release of a collateral assignment upon the satisfaction of the debt and the lessee submits to the commissioner documentation showing that the debt has been satisfied, the commissioner shall provide written notice to the collateral assignee at its address of record with the state land office that the collateral assignment will be deemed released unless the collateral assignee provides a sufficient showing that the debt has not been satisfied. If the collateral assignee fails to provide a timely showing that the debt has not been satisfied, the commissioner may deem the collateral assignment released.

19.2.7.43 CO-OPERATIVE OR UNITIZED DEVELOPMENT FOR OPERATION OF LEASES:

A. The commissioner may, ~~after public hearing,~~ consent to and approve agreements made by the lessee providing for cooperative or unit development for operation of ~~leases under the provisions of a geothermal lease in accordance with~~ Section 19-13-14 NMSA 1978.

B. In order to obtain the commissioner's consent and approval as required under 19.2.7.43.A NMAC, the lessee shall file with the commissioner an application containing a statement of facts showing that the proposed cooperative or unit development will serve the purpose of conserving geothermal resources.

C. When the commissioner has consented to and approved an agreement in accordance with 19.2.7.43.A NMAC, the terms and conditions of the agreement shall supersede inconsistent terms and conditions of the geothermal lease, so far as they apply to lands within the unit area; provided that, all other terms and conditions of the geothermal lease shall remain in full force and effect. The agreement shall then be included in the lease file maintained in the state land office records division. If the if said agreement is not in the public records, there is a presumption no such agreement exists.

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19.2.7.44 ENERGY CONSERVATION AND MANAGEMENT DIVISION REPORTS; OTHER COMPLIANCE NOTICES OR ORDERS:

A. The lessee under a lease issued pursuant to this 19.2.7 NMAC shall at its own expense comply with the Geothermal Resources Development Act (Section 19-13-14 NMSA 1978) upon the commissioner's determining that such will be in the interest of conservation of geothermal resources and where the commissioner finds such would be to the best interests of the trust or the agency with jurisdiction over the lands involved 71-9-1 et seq. NMSA 1978) and regulations promulgated thereunder by EMNRD/ECAM.

B. If and when the lessee or operator files with EMNRD/ECAM an application, report or notice regarding contemplated or actual operations under a geothermal lease, including but not limited to notification of a fire, break, leak, spill or blowout, the person filing such an application or report shall contemporaneously submit to the state land office a true and correct copy of the application, report or notice. If and when the lessee or operator receives from EMNRD/ECAM a permit or citation or notice of violation, the lessee or operator shall promptly submit to the state land office a true and correct copy.

C. Lessee shall notify the commissioner in writing within ten (10) calendar days of lessee's receipt of any compliance order, enforcement order, notice of violation, warning letter, or other written notice of final or contemplated enforcement action taken by any federal, state, or local governmental entity arising out of or concerning any operations on the leased premises. Upon the commissioner's request, lessee shall promptly provide the commissioner with a copy of any such order, notice, or letter.

19.2.7.45 CLOSEOUT AND RECLAMATION:

A. If a well has not been used to use or produce geothermal resources for a period of 180 days, the commissioner may deem the well abandoned and, in such case, shall notify the lessee that a well has been deemed abandoned. Upon issuance of a notice of abandonment, the lessee shall have 30 days to submit information or evidence showing that the well had not been abandoned, including but not limited to evidence of diligently pursued rework operations.

B. Unless waived in writing by the commissioner, an abandoned well shall be plugged within 180 days of abandonment and in accordance with all applicable rules promulgated by EMNRD/ECAM.

C. If a geothermal lease is cancelled or expires, the lessee shall reclaim all lands disturbed as a result of activities conducted under the geothermal lease in accordance with 19.2.7.45 NMAC ~~—Rn, 19—~~ or a reclamation plan approved in writing by the commissioner.

D. Within one year after the geothermal lease is cancelled or expires, the lessee shall:

1. reclaim pads by ripping all caliche to the underlying material, replacing topsoil, and reseeding with a seed mix approved by the state land office;

2. reclaim roads by ripping, reseeding, berming (closing) at the entrance, and constructing water bars as directed or approved by the state land office and performing all other work required under 19.2.20 NMAC;

3. SLO 7.43, 9/30/2002; A, 6/11/2019] remove all surface pipelines and properly disable all buried pipelines;

4. remove all above-ground power lines specific to the site and any associated poles, structures or equipment; and

5. remove all lessee or operator buildings or structures.

HISTORY OF 19.2.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

CPL 69-5, Rules and Regulations Concerning the Sale, Lease, and Other Disposition of State Trust Lands, filed 9/02/1969;

CPL 71-2, filed 12/16/1971;

CPL 77-1, filed 1/7/1977;

Rule 7, Rules and Regulations Relating to Geothermal Resources Leases, filed 3/11/1981;

SLO Rule 7, filed 1/20/1984;

SLO Rule 7, Amendment No. 1, filed 6/16/1995.

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COMPARISON TO EXISTING**

History of Repealed Material: [RESERVED]