



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

National Policy Memorandum

Bureau of Indian Affairs Office of the Director

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Effective: 8/27/2015

Expires: 8/27/2016

Title: Revised Communitization Review Procedures

1. Purpose

This memorandum provides updated guidance regarding the communitization agreement (CA) process. The CA process involves the documented receipt and review of royalty allocation agreements for completeness and accuracy, coordinating the adjudication of said agreements with the Bureau of Land Management (BLM), and preparing the CAs for Bureau of Indian Affairs' (BIA) approval. Changes to the CA transmittal process have become a necessity given the increase in cooperative agreements being filed by industry, and the surge in caseload backlog of this activity.

2. Scope

This policy applies to all Indian Affairs (IA) programs, offices, regions, and agencies involved in the CA process.

3. Policy and Procedure

All BIA regions and agencies will immediately discontinue the practice of utilizing the "pre-CA" process to allocate royalties of producing oil and gas leases. All offices will review their current procedures and take corrective measures, if necessary, to ensure the timely review, adjudication, and approval (in final form) of CAs.

Companies, or their representative(s), **will submit CAs directly to the BIA Regional Director or Superintendent of the Agency which has jurisdiction over the lands involved.**

1. The submitted agreements will be logged in and date stamped; this date will be the official "receive date" for BIA.

2. One (1) original will be forwarded to, or retained by, the BIA Agency with jurisdiction for review.
3. The remaining four (4) originals will be forwarded to the BLM for adjudication.

Agencies are advised, upon receipt of their review copy, to perform a “quick review” in order to determine if there are problems which may ultimately delay CA approval. Receiving a review copy early in the process allows adequate time for identifying any problems that may exist with the CA, so that a solution may be devised and implemented before oil and gas well completion and royalty payment activity. For example, solutions for acreage mismatches require coordination between BIA, BLM, and the company/operator, if royalty holdups are to be avoided.

Critical Check Points for BIA Agency Review:

1. Ensure proper inclusion of all trust tracts within the CA unit area and the status of those tracts (unleased/leased/primary term date).
2. Ensure that proper **net** acres are attributed to the CA for each tract.
3. Ensure, in turn, that correct percentages are assigned to each trust tract on the recapitulation page of the CA.

Problems uncovered by the initial BIA review of the CA should be addressed quickly by notifying both the company and BLM of the apparent problems noted. It is the responsibility of BLM and the company to provide an approvable CA document to BIA; however, BIA should take the lead in documenting potential acreage errors that will affect royalty payments, upon initial receipt of the agreement. This is an important step considering the length of time it takes for the agreements to be adjudicated and recommended for approval.

It is the responsibility of the BIA, as the approving office, to monitor the review and adjudication time frames. IA agencies are encouraged to actively participate in the process with BLM and the company.

This procedure is in accordance with BIA’s regulations at 25 CFR 211.28 and 212.28, and will facilitate an accurate account of CAs submitted by the companies for approval. This in turn will provide for more accurate management of the CA receipt date, lease expiration(s), and future lease decisions. This procedure also more accurately follows the current Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures, Attachment A, Section IV, Formal Agreements.

Be advised that although the BIA has the discretion to approve a CA which is filed late by a company, the risk is with the company for filing late or filing with the wrong office (i.e., BLM).

The BLM has agreed to immediately return CAs to companies and/or operators who file CAs with them rather than with the appropriate BIA office. The attached Notice (Attachment 1)


can be provided to your respective BLM office for their use as a cover Notice to industry. BIA agencies and regions may also provide this Notice to oil and gas companies doing business within their areas of jurisdiction.

All CAs must be encoded, imaged, and recorded in Indian Affairs' official system of record, the Trust Asset and Accounting Management System (TAAMS), within 24 hours after approval (during normal business hours). A copy of the approved CA must be provided to BLM and to the Department of the Interior's Office of Natural Resource Revenue (ONRR) within 10 business days of approval.

4. Roles and Responsibilities

- A. **Director, BIA** is responsible for establishing policy and guidance for oil and gas leases, agreements, and associated procedures.
- B. **Deputy Bureau Director – Trust Services, BIA** is responsible for developing standardized procedures, communicating those policies and procedures to the field, and monitoring compliance.
- C. **Regional Directors** are responsible for approval of oil and gas agreements.
- D. **Agency Superintendents** are responsible for timely review and adjudication of agreements, the coordination of corrections, and the approval and recording of agreements.

5. Approval



Michael Black
Director, Bureau of Indian Affairs



Date

Attachment 1

NOTICE TO OPERATORS COMMUNITIZATION AGREEMENT SUBMISSION REQUIREMENTS as of 2015

Please be advised that all Indian Communitization Agreements must be filed with the Bureau of Indian Affairs (BIA).

25 CFR 211.28 and 212.28 state: "A request for approval of a proposed cooperative agreement . . . must be filed with the superintendent or area director at least ninety (90) days prior to the first expiration date of any of the Indian leases in the area proposed to be covered by the cooperative agreement."

Indian Communitization Agreements, as referred to in this Notice, are defined as "Indian" when there is any interest of trust lands (either tribally and/or individually owned) in the proposed agreement area, regardless of interest amount.

The risk of not having an approved agreement in place before the expiration of the Indian lease(s) is the company's and may be the result of the company's failure to properly file the Indian CA with BIA. Filing the CA with the Bureau of Land Management (BLM) will NOT be accepted as compliance with the regulations or this Notice.

If BLM receives an Indian CA from an operator, they will immediately return the CA to the operator, with this Notice. The company will then submit the agreement to the BIA office that has jurisdiction over the lands involved.