# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency Standard Operating Procedures

## I. INTRODUCTION

The purpose of these Indian Trust Standard Operating Procedures (referred to in this document as "the SOP") is to establish common standards and methods for creating efficient and effective working relationships to achieve the Departmental goal of accurate energy and minerals accountability for onshore Indian leases.

The SOP describes the responsibilities and information sharing required among bureaus and offices (referred to in the SOP as "agencies") under the jurisdiction of the Assistant Secretary, Policy, Management and Budget (ASPMB); Assistant Secretary, Land and Minerals Management (ASLM); and Assistant Secretary, Indian Affairs (ASIA); in carrying out the Department of the Interior's responsibilities for Indian onshore lease management and accounting.

The SOP replaces earlier versions of the Tripartite Memorandum of Understanding (MOU) between the Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), the Office of Natural Resources Revenue (ONRR, the former Minerals Management Service), and the Office of Surface Mining (OSM).

The SOP reflects updates made by a working group of staff from the BIA, BLM, BTFA, OSM, and the Division of Energy and Mineral Development (DEMD) staff. These updates were necessary to improve performance of interagency activities by eliminating procedural ambiguities and updating organizational references. The updates reflect current practices, and more clearly define how agreed-to information can be exchanged more effectively and efficiently.

As before, other MOUs by and between various agencies under ASPMB, ASLM, and ASIA may exist to accommodate special operating circumstances, if the terms and conditions of the other MOUs are not in conflict with the terms and conditions of the SOP.

The SOP also makes note of instances where legal decisions mandate specific operational conduct.

All time frames specified in the SOP are calendar days, unless otherwise specified. All time frames are subject to extension, if the involved agencies determine that circumstances warrant such an extension. Such extensions shall be confirmed in writing at the lowest delegable level practicable. When established time frames are not met, the involved agencies will follow the usual Department conflict resolution process, as detailed in *370 DM 770*.

## II. DIVISION OF RESPONSIBILITIES

The lease management activities for Indian leases that involve BIA, BLM, BTFA, DEMD, ONRR, and OSM responsibilities and information sharing are described in the following Attachments:

- **Attachment A — Agency Responsibilities and Information Sharing – Fluid Minerals – Indian:**
  Contains the information sharing and division of functional responsibilities for Indian trust lands. This attachment does not apply to the Five Civilized Tribes District Court Leases in Oklahoma.

- **Attachment B — Agency Responsibilities and Information Sharing – Solid Minerals – Indian:**
  Contains the information sharing and division of functional responsibilities for Indian trust lands.

- **Attachment C — Information Sharing by BIA, BLM, BTFA, DEMD, ONRR, and OSM:**
  Describes general operating procedures for providing information to the public, sharing personally identifiable information, and for protecting information that may be proprietary or confidential

- **Attachment D — BLM/BIA/ONRR Responsibilities and Procedures for IMDA:**
  Describes specific administrative Indian Mineral Development Act (IMDA) responsibilities for the BLM, BIA, BTFA, DEMD, ONRR, and tribes.

- **Attachment E — Responsibilities and Procedures of BIA, BLM, and OSM for Coal Leasing and Mining Operations on Indian Lands:**
  Provides the procedures for cooperation and coordination among BIA, BLM, and OSM for the surface and resource management of coal mining and exploration on Indian lands. In addition to these procedures, the Agency Responsibilities and Information Sharing described in attachment B will also apply to coal leasing and mining operations. When a duplicate provision occurs, the provision contained in Attachment E has precedence.

- **Attachment F — Responsibilities and Procedures for Renewable Energy Resource Development on Indian Lands:**
  Describes specific administrative responsibilities for renewable energy leasing and development.

## III. INFORMATION SHARING

Attachments A through F provide details of the information sharing necessary for effective and efficient work accomplishment.

A. IT Systems

Agencies must supply to each other a substantial part of the data necessary to maintain automated accounting systems, perform lease management activities, and manage revenue collection, investment, and distribution.

The electronic exchange of information between all participants in the SOP is important to the performance of agencies' several and mutual duties. Therefore, whenever any agency plans to modify its Information Technology (IT) systems that depend on input from or provide input to another agency, they will consult as appropriate during the requirement development stage of their IT modifications. All affected agencies will work together to develop a project plan that contains project milestones and related dates. The project plan will provide sufficient time for affected agencies to modify their own systems accordingly, and to complete interagency testing successfully. The agency instituting IT modifications will transmit the final version of the IT system changes, including the requirements documentation and the project plan, to all affected agencies. If any agency cannot accommodate the IT system changes within the proposed time frame, the instituting agency will delay implementation of such changes until the affected agency(ies) can modify their systems. Agencies that cannot resolve a dispute may use the Departmental conflict resolution process.

B. Outreach

Agencies have responsibilities for outreach, including government-to-government consultation, into Indian communities to demonstrate the work they perform and to provide customer support. Agencies agree to share their outreach schedules with each other for each fiscal year (and updates as appropriate) to prevent conflicting information dissemination, to promote efficiencies, and to minimize imposition on the resources and time of tribes and Individual Indian Mineral Owners (IIMO's). Agencies will provide copies of inquiries from tribes and allottees to other affected agencies in a timely manner, and when appropriate.

## IV. REVIEW OF REGULATIONS AND OTHER POLICY DOCUMENTS

Each agency will provide its regulations and policies that may impact the mission of another agency in draft form to those agencies. To the extent that the regulatory and policy proposals of one agency affect the operations of another, the other agency(ies) will review and comment on the proposals before their implementation. Agencies that cannot resolve such disputes may use the Departmental conflict resolution process.

The reviewing agencies will provide comments to proposed regulations and policies no later than 30 days from the date of receipt. If comments are not provided to the agency proposing the change within 30 days, it will be assumed by the proposing agency that the reviewing agency(ies) have no comment. If such documents will be published as proposed in the *Federal Register*, the reviewing agency(ies) shall review the documents prior to publication.

## V. IMPLEMENTATION

Each bureau or office director is responsible for ensuring that employees are made aware of the SOP, and that they fully understand the expectations established within the SOP.

The SOP contains provisions that may require additional procedures, periodic reviews, or interpretations for specific cases.

The Indian Energy Minerals Steering Committee will review the SOP attachments at least once every five years, or on an as-needed basis, or at the request of one or more agencies, to examine issues such as, but not limited to, agency compliance with agreed-upon activities, legislative or judicial actions, or changes in energy and mineral resource development activities.

The SOP and its attachments are considered working documents. As such, proposed substantive changes to the SOP or its attachments will be presented to, and approved by, the Assistant Secretary – Indian Affairs.

## VI. MISCELLANEOUS PROVISIONS

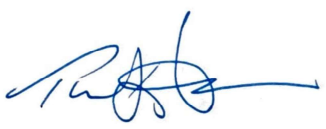
The bureaus and offices retain all applicable legal responsibility for their respective personnel working pursuant to the SOP. The SOP is not intended to change in any way the individual employee status or the liability or responsibility of any party under Federal law.

Nothing in this SOP is intended to conflict with current law, regulation, directive, or other governing authority of any party to this SOP. If any term of this SOP is inconsistent with such authority, then that term will not apply, but the remaining terms and conditions of the SOP will remain in full force and effect.

This document is an intra-agency agreement intended to facilitate cooperation and the internal management of the Federal government. This SOP does not create or confer any rights, privileges, trust responsibility, or benefits upon any person or entity not a signatory hereto. Nothing in this SOP will be enforceable by any person or entity through any action at law or in equity or by any other means against the Federal government or any of its employees or any person. This SOP is not to be construed as a rule or regulation. Nothing in this SOP will be deemed to waive any applicable privilege that the agencies may assert with respect to any of their documents or communications.

All provisions of this document are subject to the availability of funds.

The memorandum establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP) was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP).



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TIMOTHY HANSEN
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Timothy Hansen
Director, Appraisal and Valuation Services Office

Date

The memorandum to split the Federal and Indian Standard Operating Procedures (SOP), establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency SOP, was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), once they are finalized and before implementation.

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Darryl LaCounte
Director, Bureau of Indian Affairs

06/06/2024

Date

The memorandum to split the Federal and Indian Standard Operating Procedures (SOP), establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency SOP, was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), once they are finalized and before implementation.

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Date

The memorandum to split the Federal and Indian Standard Operating Procedures (SOP), establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency SOP, was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), once they are finalized and before implementation.

JEROLD GIDNER Digitally signed by JEROLD GIDNER Date: 2024.06.04 16:34:09 -04'00'

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Director, Bureau of Trust Funds Administration

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The memorandum to split the Federal and Indian Standard Operating Procedures (SOP), establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency SOP, was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), once they are finalized and before implementation.

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The memorandum to split the Federal and Indian Standard Operating Procedures (SOP), establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency SOP, was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), once they are finalized and before implementation.

HOWARD CANTOR

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The memorandum to split the Federal and Indian Standard Operating Procedures (SOP), establishing the new Onshore Indian Trust - Energy and Mineral Lease Management Interagency SOP, was reviewed by the subject matter experts and concurred by the delegated officials from the following agencies: Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), Appraisal and Valuation Services Office (AVSO) and the Indian Energy Service Center. All the agencies and offices listed above are required to sign each of the Attachments of the Onshore Indian Trust - Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), once they are finalized and before implementation.

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6/5/2024
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# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency SOP

## Attachment A

## Agency Responsibilities and Information Sharing

## FLUID MINERALS – INDIAN

**Attachment A**
**Agency Responsibilities and Information Sharing**
FLUID MINERALS - INDIAN

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**Attachment A**
**Agency Responsibilities and Information Sharing**
FLUID MINERALS - INDIAN

## ACRONYMS

| | |
|---|---|
| ABD | Abandoned |
| AFMSS | Automated Fluid Mineral Support System |
| APD | Application for Permit to Drill |
| AVSO | Appraisal and Valuation Services Office |
| BIA | Bureau of Indian Affairs |
| BLM | Bureau of Land Management |
| BTFA | Bureau of Trust Funds Administration |
| CA | Communitization Agreement |
| CFR | Code of Federal Regulations |
| CPI | Consumer Price Index |
| CRA | Compensatory Royalty Agreement |
| DEMD | Division of Energy and Mineral Development |
| DM | Departmental Manual |
| DME | Division of Mineral Evaluations |
| DOJ | Department of Justice |
| EOP | Explanation of Payments |
| EPA | Environmental Protection Agency |
| FOGRMA | Federal Oil and Gas Royalty Management Act of 1982 |
| GDP | Geothermal Drilling Permit |
| I&E/PV | Inspection and Enforcement/Production Verification |
| ILCA | Indian Land Consolidation Act |
| IMDA | Indian Mineral Development Act |
| INC | Incident of Noncompliance |
| IPAC | Inter-governmental Payment and Collection system |
| KGRA | Known Geothermal Resource Area |
| KLA | Known Leasing Area |
| LAS | Lease Account Status |
| LMU | Logical Mining Unit |
| MLA | Mineral Leasing Act |
| MOU | Memorandum of Understanding |
| MSHA | Mine Safety Health Administration |
| MRMSS | Minerals Revenue Management Support System |
| NBC | National Business Center |
| NEPA | National Environmental Policy Act of 1969 |
| NONC | Notice of Noncompliance |
| NPRA | National Petroleum Reserve Alaska |
| NTL | Notice to Lessees |
| OAC | Office of Appraisal Services |
| OCIO | Office of the Chief Information Officer |
| OGOR | Oil & Gas Operations Report |
| OIG | Office of Inspector General |
| ONRR | Office of Natural Resources Revenue |
| OSM | Office of Surface Mining |

**Attachment A**
**Agency Responsibilities and Information Sharing**
FLUID MINERALS - INDIAN

| | |
|---|---|
| P&A | Plugged and Abandoned |
| RIK | Royalty-in-Kind |
| ROW | Right-of-Way |
| RSFA | Royalty Simplification and Fairness Act |
| SF | Standard Form |
| TPAY | Tribal lockbox payment |
| UIC | Underground Injection Control |

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| **I. NONLEASING ACTIONS** | | | | | |
| I.A Mineral potential valuation | S | | | | The Division of Mineral Evaluations (DME) serves the mineral assessment and mineral valuation needs of the following:<br>• Indian Land Consolidation Act<br>• American Indian Probate Reform Act<br>• Legal statute or court request<br>• Appraisal and Valuation Services Office (AVSO)<br>• Economic development plans of a reservation-wide scope<br><br>The Bureau of Indian Affairs (BIA) will request AVSO-DME to perform mineral assessments and economic valuation determinations. BIA may, at its discretion, release or authorize release of such assessments to tribes and/or individual Indian mineral owners (IIMOs) upon receipt from AVSO-DME. |
| I.B Location of trust lands | S | | | | BIA will provide BLM with an electronic, GIS compatible, list of all trust lands. The list is used by BLM, in part, to identity drainage, wells drilled without approval, and acreage determinations for communization and unit agreements, etc. Within 60 days of a change in trust status, BIA will notify BLM. |
| **II. PRELEASING ACTIONS** | | | | | |
| II.A Business leases | S | | | | BIA is solely responsible for all facets of mineral business leases issued under 25 CFR Part 162. Collaboration with other agencies may be requested under side MOUs. |
| II.B Mineral potential evaluation | S | | | | To determine if an area has future potential leasing possibilities, BIA may request a mineral potential evaluation from the BLM or DEMD. Within 60 days of the request, BLM or DEMD will respond to BIA with time frames to complete the mineral potential evaluation. Upon completion, BLM or DEMD will provide BIA with a written report of the evaluation findings. BIA may, at their discretion, release or authorize BLM or DEMD to release the evaluation to tribes or allottees. When future potential leasing possibilities are evident, specific tract areas should be identified. |
| II.C Tract evaluation | F | | | | Within 60 days of a BIA request, BLM will complete an analysis of tracts available for lease and will provide BIA with a written report of its findings. |
| II.D List of leasable tracts | S | | | | BIA will provide BLM a list of leasable tracts. |
| II.E Tract selection | F | | | | BIA will identify unleased tracts for leasing. BLM will notify BIA of drainage, or if unleased lands are located within a unit or communitization agreement and the need to offer the subject lands for leasing. |

F = Final responsibility, consultation required with appropriate agencies
J = Joint responsibility, consultation required with appropriate agencies
S = Sole responsibility, no consultation required

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| II.F Fair Market Value | F | | | | Per 212 DM 33, AVSO-DME has delegated authority for determining fair market value for mineral leasing purposes. Within 30 days of receipt of BIA's request, AVSO-DME will provide BIA a fair market value recommendation, which will include, at a minimum: royalty rate, rental, and minimum bonus. A negotiated Statement of Work (SOW) may specify different time frames. |
| II.G Lease terms | F | | | | BIA will provide BLM and ONRR with a copy of proposed nonstandard and negotiated lease terms. Within 30 days, BLM and ONRR will provide any comments. BIA will perform follow-up consultations with BLM and ONRR regarding the resolution of all their comments. |
| II.H NEPA compliance | F | F | | | The principle for determining the responsible agency for NEPA compliance is "the bureau taking the action"; e.g., BIA for lease approval, BLM for APDs and GDPs. Leasing of the trust mineral estate is solely BIA's responsibility; therefore, BIA is responsible for the preparation of NEPA documents necessary to support leasing. Any NEPA compliance documentation prepared pursuant to 40 CFR Chapter V (see 25 CFR 211.7) will also be in compliance with Departmental NEPA regulations at 43 CFR Part 46 and the appropriate Bureau Chapter of 516 DM. BLM will support BIA as a technical advisor. |
| II.I Geothermal resources | F | | | | The development of trust geothermal resources is currently limited in scope. Therefore, this attachment does not separately address geothermal resource development. Provisions are in 25 CFR Parts 211, 212 and 225; in 43 CFR Part 3200; in Attachment B, section XII, Geothermal Leases; in Attachment F, “IMDA”; and in Attachment H, “Renewable Energy Resource Development on Indian Lands.” Prior to approval, BIA will provide BLM and ONRR a copy of a proposed lease or agreement. Within 30 days, BLM and ONRR will provide any comments. BIA will perform follow- up consultations with BLM and ONRR regarding the resolution of all their comments. |
| **III. LEASING ACTIONS** | | | | | |
| III.A Sale notice | S | | | | BIA will send the BLM office that has jurisdiction over the trust mineral estate a copy of the sale notice. |
| III.B Lease issuance | S | | | | Within 30 days of issuance, BIA will send BLM a copy of the lease document. |
| III.B.1 Bonus bid | F | | | | BIA will, within 30 days after the lease sale data has been compiled or a negotiated lease bid has been accepted, provide the BLM office that has jurisdiction over the trust mineral estate the lease sale bonus bid, royalty rate and rental rate results. |
| III.B.2 Rights-of-way (ROW) | S | | | | BIA is responsible for ROWs across trust properties, both on-lease and off-lease. For nontrust properties, off-lease ROWs are the responsibility of the surface management agency. |

F = Final responsibility, consultation required with appropriate agencies
J = Joint responsibility, consultation required with appropriate agencies
S = Sole responsibility, no consultation required

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.B.2a Surface damages | | | | | Within 30 days of BIA's request, the Appraisal and Valuation Services Office will provide BIA the value of the trust surface estate. |
| III.B.3 Surface use agreement | F | F | | | The preparation, execution, and administration of surface use agreements will follow the rules, regulations, and procedures of the responsible surface management agency as follows:<br>• Federal minerals/Indian surface (BIA)<br>• Indian minerals/Federal surface (BLM)<br>• Indian minerals/Indian surface (BIA)<br>• Fee, State minerals/Indian surface (BIA)<br>For split-estate trust surface, BIA must record the surface use agreement with the Land Title and Records Office within 30 days after execution. |
| III.B.3a Bonding-on | F | F | | | Absent the successful execution of a surface use agreement, the agency responsible for the mineral estate will be responsible for the "bonding-on" process, which will include annual payment disbursements to the surface owner when required. For the federal mineral estate, when mutually agreed between the BIA and BLM, the BIA may assume BLM's responsibilities for the surface use agreement and disbursement of any annual payments required. |
| III.C Assignment of record title | F | | | | Prior to BIA's approval of an assignment of record title, BIA may ask BLM to report on whether the lessee is in noncompliance or default of the lease terms as a result of a surface or subsurface operation. Within 30 days of a request, BLM will provide BIA a compliance history for the assignor and a recommendation on bond adequacy prior to assignment approval.<br><br>Within 30 days of a BIA request, ONRR will provide BIA a statement of account that shows the assignor’s or the assignee's open receivables, both royalty reports and invoices, and available funds. ONRR will also advise BIA if rent and minimum royalty are current on the lease. ONRR will provide BIA system access to its Data Warehouse, enabling BIA to view production and payment information. ONRR will follow up on all underpayments.<br><br>Within 30 days of approval, BIA will provide BLM and ONRR with a copy of the assignment. |
| III.C.1 Record title inquiries | S | | | | Within 30 days of ONRR's request, BIA will provide lessee of record information in a table format. The information will be based on information submitted by industry and contained in BIA’s files. |

F = Final responsibility, consultation required with appropriate agencies
J = Joint responsibility, consultation required with appropriate agencies
S = Sole responsibility, no consultation required

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.C.2 Assumption of a well by mineral trust owner | F | | | | Within 30 days of a BIA request, BLM will provide a recommendation and advice on the condition of the well, an estimate of remaining production, a final cost of abandonment and reclamation, and a final value to the trust owner. As a part of the BLM recommendation, operating equipment that is to remain with the well site will be stated, and an evaluation of its condition and usability for the continued operation by the trust owner.<br><br>Within 30 days of a BIA request, ONRR will provide BIA a statement of account that shows the assignor's open receivables, both royalty reports and invoices, and available funds. ONRR will also advise BIA if rent and minimum royalty are current on the lease. ONRR will provide BIA system access to its Data Warehouse, enabling BIA to view production and payment information. ONRR will follow up on all underpayments. |
| III.D Change in trust status | S | | | | When a producing lease has an increase in the portion of the land or minerals in trust status, BIA will notify ONRR of the new fractional interest within 30 days of the effective date. BIA will instruct the lessee to notify payors of the change in the portion of trust ownership. For information about a decrease in the trust portion, see section III.D.1 Relinquishment of supervision. |
| III.D.1 Surrender of supervision | S | | | | This action decreases the portion of the land or minerals in trust status. Within 30 days of the effective date, BIA will notify ONRR of a partial surrender of supervision or will notify BLM and ONRR of a full surrender of supervision. BIA will instruct the lessee to notify payors of the change in the portion of trust ownership. The period prior to surrender remains open for compliance and audit reviews. For total trust surrender information, see section III.E.3 Bond termination. |
| III.D.2 Other trust ownership changes | S | | | | These actions are redistributions of trust ownership percentages. They may result from, i.e., ILCA, probate actions, or gift deeding. BIA will notify ONRR of other trust ownership changes prior to the next ONRR royalty distribution. BIA will instruct the lessee to notify payors of the change in trust ownership. |
| III.E Bonding | | | | | Lease Bonds include acceptable forms of security including, but not limited to, irrevocable letters of credit, treasury securities, and certificates of deposit. |
| III.E.1 Bond amount and acceptance | F | | | | BIA may request a bond adequacy determination from BLM. BLM will respond within 30 days. |

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## Agency Responsibilities and Information Sharing
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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.E.1a Bond reduction request | F | | | | Within 30 days of a BIA request, BLM will provide pertinent information for lease bond reduction requests. BIA may consult with ONRR regarding potential royalty liabilities. ONRR will determine the level of effort needed to review bond reduction requests based on lease history and internal policies. Within 30 days, ONRR will notify BIA of the actions necessary to provide assurance. Within 30 days after work completion, ONRR will notify BIA of their findings and if any additional actions are necessary. |
| III.E.1b Insufficient bond | F | | | | BIA will monitor bonding sufficiency to cover operations, reclamation, and royalty obligations and, when necessary, take action to increase bond amount. BLM will review the bond and notify BIA of bond insufficiency related to operations and reclamation within 30 days of determination.<br><br>If BLM is unable to perform a bond review within 30 days, BLM will provide BIA with a notification for a time extension within 15 days of receipt of a proposed CA technical review request. This extension notification will include an explanation and estimated timeframe for completion. |
| III.E.2 Demand for performance | F | | | | ONRR (for royalty or bankruptcy) will notify BIA when a call on a lease bond is necessary. If requested BLM will provide BIA with pertinent information on noncompliance activities for determination for a demand on performance of a bond by BIA. BIA may consult with the Solicitor, and if so, the Solicitor will respond to BIA within 30 days. Within 30 days of receipt of notification from BLM or ONRR, or the Solicitor's opinion, BIA may demand performance from the surety; BIA will send a copy of their decision to the initiating agency office. Before issuing a demand for performance on its own initiative, BIA will notify BLM and ONRR. BLM and ONRR have 30 days to report on any additional default. Where there is competing interest in the bond, royalty matters take precedence. BIA will provide to BLM and ONRR a copy of the demand letter. Responsibility for further action returns to ONRR if only a rent or royalty-related debt remains after collection under the bond. |
| III.E.2a Demand status | S | | | | Upon request, BIA will provide BLM and ONRR with a status report on a demand on the bond. |
| III.E.2b Demand payment | S | | | | BIA will transfer appropriate funds to the respective agency within 30 days of receipt of funds that satisfy the demand requirements. |

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## Agency Responsibilities and Information Sharing
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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.E.3 Bond termination | F | | | | BIA will consult with BLM and ONRR on all bond termination/relinquishment requests to ensure that BLM has deemed the lessee's reclamations actions successful and that ONRR has collected all rents and royalties. Upon a BIA request, BLM and ONRR will determine the level of effort needed to review bond termination requests based on lease history and internal policies. Unless other time frames are negotiated, within 30 days, BLM and ONRR will notify BIA of the actions necessary to provide assurance. Within 30 days after work completion, BLM and ONRR will notify BIA of their findings and if any additional actions are necessary.<br><br>Note: Timing requires further discussion with the Solicitor about how long to hold a bond and about a reasonable standard to release a bond. |
| III.F Lease continuation | | | | | |
| III.F.1 Extensions – drilling, discovery on segregation, elimination from agreement | F | | | | BLM will notify BIA within 30 days of well status determination. BIA will provide BLM and ONRR with a copy of their decision within 30 days. |
| III.F.2 Release | S | | | | BIA will provide BLM and ONRR with a copy of the “release” decision (25 CFR 211.51. (c)) within five working days of their approval. |
| III.F.3 Production | J | J | J | | BLM will provide BIA and ONRR with the first production notice within 10 working days after receiving a notification of production from the operator. BIA will provide ONRR with a copy of the lease contract and related documents within 10 working days after receipt of the first production notice.<br><br>BLM will update AFMSS within 10 working days of well status changes and provide well reference data to ONRR weekly. ONRR will make its automated production information available in electronic format to DEMD monthly. ONRR will provide production data to BLM weekly. ONRR will also use AFMSS to perform research to update production reports. |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.F.4 Suspension of operations and/or production | F | | | | BLM will make a recommendation to BIA on suspension of operations and/or production.<br><br>BIA will provide a copy of the suspension of operations and/or production approval document to BLM and ONRR within 30 days of approval.<br><br>Within 30 days of lifting a suspension, BIA will provide a copy of the approval document to BLM and ONRR.<br><br>BIA will notify ONRR within 30 days to modify financial terms due to the approval or lifting of the suspension of operations and/or production if there have been any changes to lease-level obligations (rent, minimum royalty, advance royalty, etc.). |
| III.F.5 Surrender | F | | | | BIA may request a lease inspection from BLM. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies.<br><br>Within 30 days of a BIA request, ONRR will provide BIA and BLM with a statement of account for the lessee that shows open receivables, both royalty reports and invoices, and available funds. ONRR will also advise BIA if rent and minimum royalty are current on the lease. ONRR will follow up on all underpayments.<br><br>BIA will provide a lease surrender document to BLM and ONRR within 30 days of the decision. |
| III.G Lease consolidation or segregation | F | | | | BIA will consult with BLM and ONRR if one or more of the leases are producing. BIA will notify BLM and ONRR within 10 working days of approval. |
| III.H Lease changes (modifications, readjustments, resurveys, etc.) | F | | | | BIA may request a lease status review from BLM. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies.<br><br>Within 30 days of a BIA request, ONRR will provide BIA a statement of account for the lessee that shows open receivables, both royalty reports and invoices, and available funds. ONRR will also advise BIA if rent and minimum royalty are current on the lease. ONRR will follow up on all underpayments.<br><br>Prior to approval, BIA will contact BLM if the modification could affect operations, or BIA will contact ONRR if the modification could affect financial terms. BIA will send BLM and ONRR a copy of the modification and amendment within 30 days of approval. |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.H.1 Nonstandard terms | F | | | | Prior to approval, BIA will provide BLM and ONRR with a copy of proposed nonstandard lease terms. Within 30 days, BLM and ONRR will provide any comments. BIA will perform follow-up consultations with BLM and ONRR regarding the resolution of all their comments. BIA will send BLM and ONRR a copy of the modified lease within 30 days of approval. |
| III.H.2 Financial obligation adjustments | S | | | | Prior to approval, BIA will provide ONRR with a copy of proposed financial obligation adjustments. Within 30 days, ONRR will provide any comments. BIA will perform follow-up consultations with ONRR regarding the resolution of all their comments. BIA will send ONRR a copy of the financial obligation adjustments within 30 days of approval. |
| III.I Lease termination, cancellation | | | | | |
| III.I.1 Termination | F | | | | BIA may request a lease inspection from BLM. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies.<br><br>Within 30 days of a BIA request, ONRR will provide BIA a statement of account for the lessee that shows open receivables, both royalty reports and invoices, and available funds. ONRR will also advise BIA if rent and minimum royalty are current on the lease. ONRR will follow up on all underpayments.<br><br>BIA will notify BLM 30 days before executing a proposed termination, and BIA will notify BLM and ONRR within 30 days of the termination. |
| III.I.2 Cancellation | F | | | | Prior to BIA cancelling a lease, BIA will request a lease inspection from BLM. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies. Within 30 days of a BIA request, ONRR will provide BIA with a statement of account for the lessee that shows open receivables, both royalty reports and invoices, and available funds. ONRR will also advise BIA if rent and minimum royalty are current on the lease. ONRR will follow up on all underpayments.<br><br>BLM and ONRR will coordinate on the production reporting requirements and disposition of the remaining inventory. |
| III.I.2a Royalty liability | F | | | | After consultation with the Solicitor, ONRR may request that BIA cancel a lease due to royalty liability. See section IX.C Cancellation of leases |
| III.J Expirations | | | | | |

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|---|---|---|---|---|---|
| III.J.1 Expiration of primary term | F | | | | Within 30 days after the end of the primary lease term, BIA will notify BLM of potential lease expiration. Within five working days of BIA notification, BLM will notify BIA if drilling commenced prior to midnight on the lease expiration date. |
| III.J.2 Cessation of production | F | | | | Within 120 days of production cessation, BLM will notify BIA. Within 30 days of BIA's determination of lease expiration, BIA will provide BLM and ONRR a copy of the decision. |
| **IV. FORMAL AGREEMENTS** | | | | | |
| IV.A Indian Mineral Development Act | F | | | | See *Attachment F "BLM/BIA/ONRR Responsibilities and Procedures for IMDA."* |
| IV.B Royalty-in-Kind | F | | | | BIA will consult with BLM and ONRR before signing an RIK agreement. BIA is responsible for authorizing and administering an Indian RIK contract. Within 30 days of approval of the RIK agreement, BIA will provide BLM and ONRR with a copy. BLM and ONRR will perform their respective duties to ensure the Indian mineral owner receives accurate royalty volumes in-kind. ONRR may still perform compliance work to ensure production volumes were accurately reported and delivered to the royalty measurement point after the fact, or after the mineral owner takes possession/title.<br><br>This usually takes place as the oil/gas flows through the royalty measurement point and is considered removed from the lease. Contractual terms that BLM or ONRR cannot enforce will be referred to BIA for enforcement. See section VI.D Royalty-in-Kind. |
| IV.C Tribal Energy Resource Agreements (TERA) | | | | | See future SOP attachment for TERAs. |
| IV.D Drainage | | S | | | BLM will perform a drainage review on Indian lands. BLM will advise BIA of a potential drainage situation. Within 30 days of a final drainage determination, BLM will provide BIA with a memorandum and supporting documentation to request corrective action, with a copy to ONRR. The BLM memorandum will contain drainage factors and the date when drainage began. |
| IV.D.1 Leased lands | | | | | For drainage on leased lands, ONRR will collect compensatory royalties through the payment of compensatory royalty assessments. |
| IV.D.1a Corrective actions | J | J | J | | Corrective actions that can be taken are:<br>• drilling a protective well, and payment of compensatory royalty assessments for past drainage;<br>• entering into a Unit or Communitization Agreement with an effective date of initial drainage; or<br>• relinquishment of the lease and payment pursuant to a compensatory royalty assessment.<br><br>Within 30 days of determination of a corrective action plan, BLM will notify BIA and ONRR. |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| IV.D.1b Production and royalty verification | | J | J | | BLM will provide ONRR, and upon request BIA, with the monthly volumes and quality information for past drainage. ONRR will assign a value to those volumes and bill the appropriate parties for compensatory royalty due.<br><br>BLM will verify the quantity and quality of the drainage in accordance with BLM's inspection and enforcement program strategies.<br><br>ONRR will collect compensatory royalty from the lessee. ONRR will verify that the amounts paid are accurate in accordance with ONRR's compliance strategies.<br><br>Within 30 days after ONRR resolves OGOR discrepancies, ONRR will advise BLM. |
| IV.D.1c Notification of cessation of drainage | J | J | | | BLM will notify BIA and ONRR within 30 days when the offending well has been ABD, or a protective well has commenced production. BIA will notify BLM and ONRR within 30 days when the Indian lease is committed to an agreement. |
| IV.D.2 Unleased lands | | | | | For drainage on unleased lands, ONRR will collect royalties through Compensatory Royalty Agreements (CRA). |
| IV.D.2a Corrective actions | F | | | | Corrective actions that can be taken include:<br>• issue a lease (see section IV.D.1 Leased lands);<br>• Issue a Unit Agreement or a CA and then immediately invoke the 8/8ths provision of the CA<br>• execute a CRA<br><br>Within 30 days of determination of a corrective action plan, BIA will notify BLM and ONRR. |
| IV.D.2b Review of CRA provisions | J | J | | | BLM and BIA will consult on the terms and conditions of the CRA. |
| IV.D.2c CRA approval | S | | | | BIA will provide a copy of the agreement to BLM and ONRR within 10 working days of approval. |
| IV.D.2d CRA Production and royalty verification | | F | F | | BLM will provide ONRR, and upon request BIA, with the monthly volumes and quality information for past drainage. ONRR will assign a value to those volumes and bill the appropriate parties for compensatory royalty due.<br><br>BLM will verify production from Indian/Federal, State and fee wells.<br><br>ONRR will verify royalty paid.<br><br>Within 30 days after ONRR resolves the OGOR discrepancies, ONRR will advise BLM. |

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|---|---|---|---|---|---|
| IV.D.2e Cessation of drainage | | F | | | BLM will notify BIA within 30 days of the cessation of drainage for the need to terminate the CRA. Within 30 days of BIA termination of the CRA, BIA will notify BLM and ONRR. |
| IV.E Nonunitized secondary or tertiary production | F | | | | BLM will provide BIA and ONRR a first production notice within 10 working days after receiving a notification of production from the operator. Upon request, BIA will provide ONRR a copy of the lease contract or approved lease-basis secondary or tertiary production recovery agreement. BLM will include a paragraph in their approval letter to instruct the operator to notify the appropriate payors of ONRR's royalty reporting requirements. BLM will update AFMSS within 10 working days of well status changes and provide well reference data to ONRR weekly. |
| IV.F Communitization | F | | | | The Communitization Agreement (CA) approval process should not exceed a total of 120 days. The timeframe begins at the receipt of a proposed Communitization Agreement by BIA. |
| IV.F.1 Technical Review and Spacing Determination | J | J | | | <u>For all Communitization Agreements:</u><br>Within five (5) days of receiving a proposed Communitization Agreement (CA), BIA will ask BLM (in writing) to perform a technical review and make a recommendation. (This section does not apply to the Five Civilized Tribes District Court Leases.)<br><br>BLM will provide a recommendation to BIA within 30 days of receipt of a proposed Communitization Agreement. BLM jurisdictional offices will assign the Communitization Agreement a BLM serial number. BLM's technical review will reaffirm that the state and field rules, pertaining to spacing and pooling, are adequate to protect trust resources.<br><br>If BLM is unable to perform a technical review within 30 days, BLM will provide BIA with a notification for a time extension within 15 days of receipt of a proposed CA technical review request. This extension notification will include an explanation and estimated timeframe for completion. |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| IV.F.1.a Adjudication & Approval for Mixed Indian/Federal CAs | F | F | | | For Mixed Indian/Federal Communitization Agreements:<br>(For reference, a Mixed Indian/Federal CA refers to a CA that includes both Indian trust lands and Federal lands overseen by BLM.)<br><br>Within 90 days of receiving a proposed communitization agreement, BIA will approve or deny the proposed CA with regards to the Indian trust lands within the communitized area. BIA will forward the package to BLM.<br><br>Within 30 days of receipt of BIA's CA approval with regards to the Indian trust lands within the communitized area, BLM will approve or deny the proposed CA with regards to Federal lands in the CA. BLM will forward the completed approved CA package to the company. BLM will provide BIA and ONRR with a copy of the approved agreements.<br><br>BLM's approval letter will instruct the operator to notify the appropriate payor(s) of ONRR's royalty reporting requirements.<br><br>BLM will update AFMSS within 10 working days after approval and provide well reference data to ONRR weekly via automated data exchange.<br><br>BIA will update TAAMS within 10 working days after approval. |
| IV.F.1.b Adjudication & Approval for Indian-Only CAs | F | | | | For Indian-Only Communitization Agreements:<br>(For reference, Indian-Only CA refers to a CA that includes Indian trust lands but does not include Federal lands overseen by BLM.)<br>Within 120 days of receiving a proposed communitization agreement, BIA will approve or deny the proposed CA. BIA will forward the completed approved CA package to the company. Within 10 working days after approval, BIA will provide BLM and ONRR with a copy of the approved agreements and affected Indian leases.<br><br>BIA's approval letter will instruct the operator to notify the appropriate payor(s) of ONRR's royalty reporting requirements.<br><br>BLM will update AFMSS within 10 working days after approval and provide well reference data to ONRR weekly. |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| IV.F.2 Determination of first/last production | | S | | | Within 10 working days of receipt of the operator's notice to BLM of establishing first or last production, BLM will provide BIA and ONRR with the first or last production notice.<br><br>BIA will provide ONRR with a copy of the lease contract and related documents within 10 working days after receipt of the first production notice. BLM will update AFMSS within five working days after a well status change and provide well reference data to ONRR weekly via automated data exchange. |
| IV.F.3 Lease termination within an active CA | S | | | | When BIA terminates a lease committed to a CA, any new lease encumbered to the previously leased Indian tract must join the CA. BIA will notify BLM and ONRR within 10 working days upon lease termination and within 10 working days after issuance of a new lease.<br><br>Approved leases within an active CA will not be terminated for lack of production as they are receiving allocated production from the CA. Leases within an active CA may however be terminated for cause even though they receive allocated production from the CA. This may occur for any number of reasons including chronic nonpayment of royalties, gross failure to achieve workmen like conditions, etc. |
| IV.F.4 CA Termination | F | | | | BLM will notify BIA and ONRR within 10 working days of the communitization agreement (CA) last production determination. BLM and ONRR will provide all documents required by BIA to support the termination process for the CA and the affected leases. BIA will notify BLM and ONRR within 30 days of the termination. |
| IV.F.5 CA Change of Operator | F | | | | BIA will notify BLM of a change of operator and provide BLM a copy of the action document within 30 days of approval. BLM will update AFMSS within 10 working days of BIA's notification.<br><br>In cases where BLM is notified of a change of operator, BLM will work with the operator and BIA to complete the actions required for a change of operator. BIA will provide BLM their concurrence of the change of operator within 30 days. BLM will update the Automated Fluid Minerals Support System (AFMSS) within 10 working days of BIA's concurrence. |
| IV.G Unitization | | | | | |
| IV.G.1 Designation of logical unit area | | S | | | BLM will perform a technical review of the proposed unit area and make recommendations to the BIA for designation of the unit area. |
| IV.G.2 Agreement application submittal | | F | | | Within 10 working days of receipt, BLM will send a proposed unit agreement to BIA and, if it is other than the model form, will send the agreement to ONRR, and, within 30 days, ONRR will review and comment. BLM will perform follow-up consultations with ONRR on their comments. |

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|---|---|---|---|---|---|
| IV.G.3a Final approval or expansion of exploratory agreement (Indian unit agreement approved by BIA) | F | | | | BLM will provide a recommendation to BIA on a unit agreement (43 CFR Part 3180, onshore oil and gas unit agreements; unproven areas). BLM jurisdictional offices will assign a unit agreement number using a BLM serial number. Upon approval of the unit agreement, BIA will notify BLM. BIA will provide a copy of approved agreements to ONRR within 10 working days after an approval. |
| IV.G.3b Final approval or expansion of exploratory agreement (BLM approved federal unit agreement with Indian lease participation) | J | J | | | BLM will provide a recommendation to BIA. BIA must concur within 30 days for BLM to include the Indian lease in the agreement. BIA and BLM will approve the unit agreement by signing the certification determination page. A BLM jurisdictional office will assign a unit agreement number using a BLM serial number. BLM will provide a copy of approved agreements to ONRR within 10 working days after an approval. |
| IV.G.4 Approval of secondary or tertiary unit | S | | | | See sections *IV.G.3a* and *IV.G.3b Final approval or expansion of exploratory agreement* . BLM will update AFMSS within 10 working days after an approval and provide well reference data to ONRR weekly. BIA approval will instruct the unit operator to notify the appropriate payor(s) of ONRR's royalty reporting requirements. |
| IV.G.5 Secondary agreement allocation change | | S | | | BLM will notify BIA and ONRR within 10 working days after BLM's approval of an allocation schedule change. BLM will monitor cumulative production volumes and will notify ONRR of phase changes within 30 days after a determination. |
| IV.G.6 Change of operator or sub-operator | F | | | | BIA will notify BLM of a change of operator or sub-operator and provide BLM a copy of the action document within 30 days of approval. BLM will update AFMSS within 10 working days of BIA's notification. In cases where BLM is notified of a change of operator, BLM will work with the operator and BIA to complete the actions required for a change of operator. BIA will provide BLM their concurrence of the change of operator within 30 days. BLM will update AFMSS within 10 working days of BIA's concurrence. (For Federal units, see section IV.G.3b Final approval or expansion of exploratory agreement (BLM approved federal unit agreement with Indian lease participation). |
| IV.G.7 Bond adequacy | F | | | | BIA may request that BLM review the bond adequacy. BLM will respond within 30 days of receipt of a request. |
| IV.G.8 Plan of development | | S | | | BLM will notify BIA within 10 working days of approval. |
| IV.G.9 First production | | S | | | BLM will provide BIA and ONRR with the first production notice within 10 working days after determination of first production for the agreement. BLM will update AFMSS within 10 working days after a well status change and will provide well reference data to ONRR weekly. See section *IV.G.3a Final approval or expansion of exploratory agreement (Indian unit agreement approved by BIA)* . |

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|---|---|---|---|---|---|
| IV.G.10 Paying well determination | | S | | | Within 10 working days of BLM's paying well determination, BLM will notify BIA and ONRR. |
| IV.G.11 Nonpaying unit well determination | | S | | | Within 10 working days of a nonpaying unit well determination, BLM will notify BIA and ONRR of its determination. See section III.F.3 Production if a nonpaying unit well is the first discovery of production on a lease. |
| IV.G.12 Amendments | F | F | | | See sections *IV.G.3a Final approval or expansion of exploratory agreement (Indian unit agreement approved by BIA)* and *IV.G.3b Final approval or expansion of exploratory agreement (BLM approved federal unit agreement with Indian lease participation)* . |
| IV.G.13 Participating area actions including initial, expansion/ contraction, consolidation, termination | F | | | | Within 10 working days of the action, BLM will provide a recommendation to BIA for approval. BIA will provide BLM and ONRR with a copy of all participating area actions within 10 working days of the decision. BIA's approval letter will instruct the operator to notify the appropriate payor(s) of ONRR's royalty reporting requirements. |
| IV.G.14 Segregation of part of a lease from a unit | F | | | | Segregation may be vertical or horizontal, depending on the lease terms. BIA will approve the segregation and will provide ONRR and BLM with documentation within 10 working days of approval. |
| IV.G.15 Unit contraction | F | F | | | See sections *IV.G.3a Final approval or expansion of exploratory agreement (Indian unit agreement approved by BIA)* and *IV.G.3b Final approval or expansion of exploratory agreement (BLM approved federal unit agreement with Indian lease participation)* . |
| IV.G.16 Termination/ cancellation | J | J | | | The agency issuing the final decision (see sections *IV.G.3a Final approval or expansion of exploratory agreement (Indian unit agreement approved by BIA)* and *IV.G.3b Final approval or expansion of exploratory agreement (BLM approved federal unit agreement with Indian lease participation)* ) will provide BIA, BLM or ONRR, as appropriate, documentation within 10 days of an action. |
| IV.H Gas storage | F | | | | Within 60 days of receiving a BIA request, BLM and ONRR will provide assistance to BIA on developing a new or renegotiated Gas Storage Agreement. This assistance includes advice on: the engineering; geological, economic, and accounting issues; value of any native gas; legal terms, performance clauses; penalties; termination rights; and other contract items related to the operation of a gas storage field. BLM will provide support and assistance on measurement requests. |
| IV.H.1 Review | F | | | | BLM and ONRR will provide comments in response to BIA's request within 60 days after receiving BIA’s draft Gas Storage Agreement. BIA will perform follow-up consultations with BLM and ONRR on their comments. |

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|---|---|---|---|---|---|
| IV.H.2 Approval | S | | | | No documentation is needed by BLM or ONRR because a Gas Storage Agreement is a business lease, and approval is the sole responsibility of BIA. |
| IV.H.3 Reporting | F | | | | The terms of the agreement and regulations will determine reporting requirements. |
| IV.H.4 Native gas | F | | | | Native gas volumes are reported separately from injection and withdrawal volumes. The operator reports native gas volumes to ONRR, via a mineral lease. The operator reports injection and withdrawal volumes to BIA, via a business lease. |
| **V. OPERATIONS** | | | | | |
| V.A Approval of Applications for Permit to Drill (APDs) | | F | | | BLM has the authority for approval of all APDs for fluid mineral development on Federal onshore and Trust lands. BLM will process APDs according to Onshore Oil and Gas Order Number 1. BIA will provide comments and conditions of approval, as appropriate.<br><br>See the principles for NEPA compliance under II.H NEPA compliance. The BIA agency and the BLM field or district office (or higher organizational levels) are encouraged to develop a side MOU to define their respective roles and responsibilities for implementation of NEPA requirements to support the APD. In the absence of a side MOU, BLM is responsible for ensuring compliance with all facets of the NEPA for APDs.<br><br>BLM is responsible for the administration and acceptance of reclamation in the approved APD of Sundry Notices. |
| V.B Geothermal – Approval of exploration and development plans | | F | | | BLM has the authority for approval of GDPs and Geothermal Plans of Development under 43 CFR Part 3260 pursuant to 25 CFR Part 212.4. BLM will consult with BIA prior to approving a plan. Within 30 days of BLM's request, BIA will provide written comments. |
| V.C Change of operator | S | | | | BIA will notify BLM of a change of operator and will provide BLM a copy of the action document within 30 days of approval. BLM will update AFMSS within 10 working days of BIA's notification, and will provide successor of operator data to ONRR weekly, along with well reference data.<br><br>In cases where BLM is notified of a change of operator, BLM will work with the operator and BIA to complete the actions required for a change of operator. |
| V.D Operating rights | S | | | | Pursuant to 25 CFR Part 211.53, no operating rights shall be assigned, sublet, or transferred, without the consent of the Secretary. When operating rights information is requested by BLM or ONRR, within 30 days BIA will provide copies of operating rights information submitted by industry to BIA. |

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| V.E Site security diagrams and plans | | S | | | BLM will provide a site security diagram and plan to BIA or ONRR within 30 days of their request. |
| V.F First and last production | | S | | | First Production: BLM will provide BIA and ONRR with the first production notice within 10 working days after receiving a notification of production from the operator. BIA will provide a copy of the lease document to ONRR within 10 working days of receipt of BLM's first production notice.<br><br>Last Production: Within 10 working days of determination, BLM will notify BIA and ONRR that production in paying quantities has ceased. BLM will also notify BIA and ONRR of any remaining produced minerals on the lease or agreement.<br><br>BLM will update AFMSS within 10 working days of well production status changes and provide well reference data to ONRR weekly. |
| V.G Diligent development | | S | | | BLM will periodically, or upon request, review Indian lease operations to ensure diligent development in accordance with the guidelines and procedures established in the BLM's *Indian Diligence Manual*. |
| V.H Disposal of produced water | | F | | | BLM will authorize disposal of produced water in accordance with the terms and conditions of the APD and with Onshore Oil and Gas Order Number 7. BLM will consult with BIA and the Tribes to obtain conditions of approval prior to authorization. Other agencies may become involved, depending on the method of disposal; e.g., EPA if injected.<br><br>When a split estate with Federal minerals and Trust surface is involved, BLM will consult with BIA to obtain conditions of approval for the surface use agreement, prior to authorization.<br><br>The BIA will authorize the ROW if needed. |
| V.I Approval of well deepening or plug-back | | S | | | If there is no new surface disturbance, pursuant to 43 CFR Part 3162.3-2, BLM has sole responsibility. If the operator proposes new surface disturbance, see section V.A Approval of APDs. BLM will update AFMSS within 10 working days of work completion and provide well reference data to ONRR weekly. |
| V.J Well conversions | | S | | | BLM will update AFMSS within 10 working days of well conversions and provide well reference data to ONRR weekly. |
| V.J.1 Water disposal | | | | | |

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| V.J.1a On lease | J | J | | | The operator will file a Notice of Intent to Convert to Injection on Form BLM-3160-5 with BLM. In accordance with BLM Onshore Oil and Gas Order No. 7, the operator must obtain an Underground Injection Control (UIC) permit from the EPA, the EPA's designated agent, or, where the tribe has primacy, from the tribe. BLM will review the document to ensure technical and administrative accuracy and will approve only with BIA concurrence. BLM will send BIA a copy of the form, affected lease(s), and supporting documents within 10 working days of approval.<br><br>The BIA will authorize the ROW if needed. |
| V.J.1b Off lease | F | | | | The operator will file an application for a business lease with BIA. BLM will review the document to ensure technical accuracy. The operator must obtain a UIC permit from the EPA, the EPA's designated agent, or, where the tribe has primacy, from the tribe. |
| V.J.2 Production enhancement | | F | | | The operator will file a Notice of Intent to Convert to Injection on BLM Form 3160-5 with BLM. In accordance with BLM Onshore Order No. 7, the operator must obtain a UIC permit from EPA, the EPA's designated agent, or, where the tribe has primacy, from the tribe. BLM will review the document to ensure technical and administrative accuracy and will approve only with BIA concurrence. BLM will send BIA a copy of the form, affected lease(s), and supporting documents within 10 working days of approval. |
| V.J.3 Water supply well | J | J | | | BLM will approve a well converted to water supply on a lease site with BIA concurrence. A tribal lease will require tribal concurrence. At the request of the Indian mineral owner, BLM will approve plugging a dry hole or an exhausted producing well back to the fresh water zone. BIA must concur. |
| V.K Other well status changes | | S | | | BLM will notify BIA of long-term well status changes within five working days of approval. BLM will update AFMSS within 10 working days of well status changes and provide well reference data to ONRR weekly. |
| V.L Determination of beneficial use | | F | | | BLM will notify ONRR of inappropriate claims of beneficial use within 10 working days of adjudication. ONRR will refer any unapproved or excessive beneficial use claims found during compliance activities to BLM for verification. BLM will respond to ONRR within 10 working days with the results of their research. |
| V.M Volume and measurement | | S | | | BLM will verify production from Indian/Federal and, when appropriate, State and fee wells. |
| V.M.1 Standard of accuracy | | S | | | BLM is responsible for ensuring that a measurement is in compliance with the Standard of Accuracy. |

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| V.M.2 Departure from equipment accuracy standard | | S | | | BLM has the authority to approve a departure from the established standard. |
| V.M.3 Meter proving and calibration | | S | | | BLM will ensure that meter-proving is performed by industry in accordance with the established standard. |
| V.M.4 Off-lease measurement | | S | | | BLM has the authority to approve off-lease measurement. To support an ONRR compliance activity, BLM will provide copies of an off-lease measurement approval within 30 days of an ONRR request. |
| V.M.5 Surface commingling | | S | | | BLM has the authority to approve surface commingling. |
| V.M.6 Sub-surface commingling | | F | | | Pursuant to 43 CFR 3162.3-2, BLM has sole responsibility. BLM will update AFMSS within 10 working days of sub-surface commingling approval or when a producing interval or zone is affected and will provide well reference data to ONRR weekly.<br><br>Within 30 days of sub-surface commingling approval, BLM will notify BIA. |
| V.N Avoidable loss of royalty-bearing minerals | | J | J | | BLM will make a determination if an avoidable loss of production has occurred and will notify BIA within 10 working days that a loss occurred. Within 30 days of receiving specific volume details from BLM, ONRR will take collection action and, when requested, will provide copies of the bill to BIA and BLM. |
| V.O Vented or flared | | S | | | BLM has the authority to approve venting and flaring pursuant to 43 CFR 3179. BLM will defer to any BLM approved tribal resolution pursuant to 43 CFR 3179. ONRR will refer apparent excessive vented or flared volumes found during compliance activities to BLM for verification. BLM will respond to ONRR within 10 working days with the results of their research. |
| V.P Alleged theft | | S | | | BLM will pursue alleged theft in accordance with BLM instructional manuals. This responsibility includes alleged employee misconduct. BLM will document an inspection related to alleged theft in AFMSS and will follow established procedures. |
| V.Q Down hole abandonment | | F | | | BLM will advise BIA of the operator's intent for down-hole abandonment. BIA will respond within 30 days of the trust owner's request for other purposes of the well bore. BLM approves the plugging procedures and ensures proper down-hole abandonment. Within 30 days of abandonment acceptance, BLM will update AFMSS, and will provide well reference data to ONRR weekly. |

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| V.R Reclamation plan | | F | | | BLM is responsible for the administration and acceptance of reclamation of the lease including all well-sites and infrastructure related disturbance, since the provisions of the APD include a reclamation plan. |
| V.R.1 Approval | | F | | | See section *V.A Approval of APDs* . BLM will use BIA reclamation standards in evaluating the operator's restoration plan, or any modification thereof, as applicable. BIA will notify BLM within 30 days when BIA reclamation standards change. |
| V.R.2 Monitoring | | F | | | BLM will monitor for reclamation plan compliance, consistent with the terms of any side MOUs related to approvals of APDs. See section V.A Approval of APDs. |
| V.R.3 Acceptance of reclamation | | F | | | BLM will advise BIA of BLM's intent to accept the reclamation activity on the lease or agreement and, when requested by BIA, will coordinate a joint inspection. Within 60 days, BIA will respond with any concerns regarding the reclamation activities. BLM will notify BIA and the operator of acceptance of reclamation. |
| V.R.4 Release of bond | F | | | | See section *III.E.3 Bond termination.* |
| **VI. COLLECTIONS** | | | | | |
| VI.A Revenue collections and billings | | | | | |
| VI.A.1 Leases | | | | | |
| VI.A.1a Bonus | J | | | J | BIA will bill, collect, and account for bonuses on all Indian fluid mineral leases, unless otherwise specified by the mineral estate owner and approved by the BIA superintendent. BIA will deposit accepted bonus bids into an BTFA-managed trust account. |
| VI.A.1b Rentals | J | | J | J | BIA will bill, collect, and account for rental on a lease prior to BLMs notice of first production. BIA will deposit rentals into an BTFA-managed trust account. After BLM provides ONRR with a notice of first production, ONRR will collect, account for, and deposit rentals into an BTFA Treasury account. ONRR will bill late or underpaid rentals on producing leases.<br><br>Tribal lease direct pay: The tribe will collect and account for all rentals, whether producing or not. |
| VI.A.1c Royalties | | | F | | ONRR will collect, account for, and deposit royalties into an BTFA Treasury account for all Indian producing leases and agreements. ONRR will bill for late or underpaid royalties.<br><br>Tribal lease direct pay: The tribe will collect, and ONRR will account for, royalties from Tribal direct pay leases. |

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| VI.A.1d Compliance- based collections | | | F | | ONRR will bill, collect, and account for additional royalties resulting from compliance activities. Within 30 days of a request from BIA or a trust mineral owner, ONRR will share compliance collection information. |
| VI.A.1e Other collections | J | | | J | BIA will bill, collect, and account for other lease related revenue, e.g., surface damages, unless otherwise specified by the mineral estate owner and approved by the BIA superintendent. BIA will deposit these collections into an BTFA-managed trust account. |
| VI.A.1f Recoupment policy | | | F | | ONRR will enforce recoupment procedures in accordance with ONRR rules, regulations, and policies. |
| VI.A.2 Allotted Lease Direct Pay | | | | | For allotted leases with direct pay, lessees or their designees submit payments directly to the lease owner rather than through ONRR. |
| VI.A.2a Authority | S | | | | A mineral owner may request that BIA require the payor to make direct payment(s) to that mineral owner. BIA will approve or deny direct pay requests. Upon approval, BIA will update their ownership records to reflect that this mineral owner will not receive an allocation of revenues paid through ONRR. Within 30 days of approval, BIA will notify ONRR. |
| VI.A.2b Information exchanges | J | | J | | The payor will report the corresponding royalty transaction(s) to ONRR in accordance with ONRR reporting requirements. Within 30 days of a request from ONRR, BIA will provide a listing of direct pay authorizations. |
| VI.A.2c Authority verification | J | | J | | Within 30 days of identification, BIA will notify ONRR when unapproved direct payments occur. Within 30 days of receipt of BIA notification, ONRR will require the payor to correct reports and remit payment deficiencies. |
| VI.B Lease royalty rate adjustment | S | | | | BIA will notify ONRR within 30 days of royalty rate adjustment. BIA requests production information from BLM if variable royalty rate is based on production level. An example of such an adjustment is an annual modification based on the Consumer Price Index. |
| VI.B.1 Variable royalty rate | S | | | | BIA will notify ONRR of a royalty rate change within 30 days of approval. |
| VI.B.1a Countable wells | | S | | | Within 30 days of an ONRR request, BLM will determine the number of countable wells, and will notify ONRR of their determination. |
| VI.B.1b Continuation of variable rate | | S | | | Within 30 days of an ONRR request, BLM will determine production rates, and will notify ONRR of their determination. |

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| VI.C Compensatory Royalty Assessment | | | F | | Within 30 days of receiving a final drainage determination from BLM, ONRR will initiate action to assess royalty value due. ONRR will send a copy of the resolution to the originating BLM office. |
| VI.D Royalty-in-Kind | J | J | J | | For Indian leases in which royalties are paid in kind, ONRR will require from the lessee or their designee a Form ONRR-2014, Report of Sales and Royalty Remittance (royalty report), and the operator's Form ONRR-4054, Oil & Gas Operations Report, (production report). Exception: If the lessee is tribally owned, they are not legally required to submit a royalty report; however, a courtesy royalty report is encouraged and will enable ONRR to perform compliance work. BLM and ONRR will follow their normal processes to ensure compliance. |
| VI.E Avoidably lost mineral assessments | | J | J | | Within 30 days of receiving an avoidably lost mineral assessment from BLM, ONRR will initiate action to assess royalty value due. ONRR will send a copy of the resolution to the originating BLM office. |
| VI.F Assessments | | | F | | Prior to disbursement, ONRR will notify BIA and the originating BLM office of an assessment resolution. |
| **VII. REVENUE DISTRIBUTION** | | | | | |
| VII.A Fund transfer | | | J | J | ONRR will transfer all Indian lease funds to an BTFA Treasury account on the next business day after receipt, if received prior to the ONRR cut-off time. BTFA will post funds to a tribe's account within one (1) business day of notification from ONRR. |
| VII.B Provide collection data to BIA/BTFA/tribal accounts | J | | J | J | ONRR will provide all Indian lease collection data to BTFA by the next business day following the deposit date. ONRR will summarize collection data by deposit ticket for tribal and allotted Treasury accounts and provide a schedule of tribal amounts. Within five working days, ONRR will send BTFA documentation to support the daily collections data provided to BTFA. |
| VII.C Tribal lockboxes | | | S | | Certain tribes have authorization to receive their funds directly. ONRR will coordinate with BIA and BTFA for tribal lockbox requests. |
| VII.D Explanation of Payments (EOP) to tribes | J | | J | J | ONRR will provide a financial distribution report (Explanation of Payment Report) to the Tribes no later than the 10th of the month following the month of payment as required by 30 CFR Part 1219.104. BTFA will provide the Statement of Performance and the BIA will provide Tribes with any necessary information such as rents, bonuses, surface damages, etc. |
| VII.E Data transfer and distribution to allottees | | | S | | Twice monthly, ONRR will provide the financial distribution report to BIA necessary to create the EOPs for mineral owners. |

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| VII.E.1 Creation and mailing of Explanation of Payments (EOP) to allottees | J | | | J | When the financial distribution report is received from ONRR, BIA will apply the lease revenue to the TAAMS ownership file and create an Explanation of Payment Report (EOP) showing the distribution for each mineral owner. BTFA sends the EOP file to Treasury for printing and mailing of EOP's to each fund recipient. |
| VII.E.2 Payment posting and funds disbursement | | | | F | BTFA will transfer the funds from the BTFA treasury account to the mineral estate owner's Individual Indian Money (IIM) account, then make payment via check, debit card, or automate clearing house (ACH) to the mineral estate owner. |
| VII.E.3 Data business rules | | | F | | An allottee transaction reported to BIA by ONRR will be a net zero or positive amount for the lease. ONRR will suspend negative transactions until ONRR achieves a resolution with the industry reporter. |
| VII.F Payment and disbursement pending appeal | | | S | | ONRR will require either a payment or surety bond in lieu of payment on an appealed bill. If ONRR receives revenue on an appealed bill, ONRR will forward the revenue to BTFA for investment, but ONRR will not provide BIA with distribution details until final resolution is reached. |
| VII.G Payment error resolution | F | | F | F | Payment errors are resolved by the appropriate agency using their processes, rules, and regulations. |
| **VIII. COMPLIANCE VERIFICATION** | | | | | |
| VIII.A Prepare and coordinate compliance strategies | | J | J | | BLM and ONRR will coordinate requests for joint compliance strategies. BLM and ONRR may contract with a tribe to perform compliance activities pursuant to Public Law 95-638 and FOGRMA Section 202. Upon request, BLM and ONRR will notify the appropriate agencies and the lessee of compliance action results. |
| VIII.A.1 Allottee/tribal compliance requests | J | J | J | | Tribes not covered by FOGRMA 202 agreements, and allottees, may ask that BIA determine lease term compliance, BLM perform surface compliance and production verification, and ONRR assess royalty compliance. (Side MOUs may govern agency responsibilities, as discussed in the cover memorandum.) Requests received by an agency without jurisdiction will be forwarded to the appropriate agency within five business days. Within 30 days, agencies will respond to requestors with a status of their request. The responsible agency provides copies of the request and the response to other agencies as appropriate. |

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| VIII.A.2 Other compliance requests | | J | J | | BLM performs surface and production compliance activities and ONRR performs royalty compliance activities and will coordinate appropriate production compliance aspects with BLM. Upon request by an individual or organization with standing, BLM and ONRR will determine the level of effort needed to complete compliance requests based on lease history and complexity. Unless other time frames are negotiated, within 30 days BLM and ONRR will notify the requestor of the actions necessary and an expected completion date. Within 30 days after work completion, BLM and ONRR will notify the requestor of their findings and whether additional actions are necessary to achieve compliance. |
| VIII.B Surface compliance | J | J | | | BLM has sole responsibility for all inspection and operations-related enforcement on all Federal and Indian lands, in accordance with Federal regulations, Onshore Orders, and NTLs on well pads, approved ancillary facilities, associated on-lease roads and other on lease aspects of the approved APD or Sundry Notice. Side MOUs may govern agency responsibilities (see section *V.A Approval of APDs* ). The BIA has the sole responsibility for all ROWs.<br><br>BLM will retain oversight authority on contracted (i.e., P.L. 93-638) or delegated (i.e., FOGRMA Section 202) inspections in accordance with Federal regulations, Onshore Orders, NTLs and BLM's annual strategy. |
| VIII.B.1 Undesirable events | | J | J | | BLM and ONRR will process undesirable events, i.e., spills and avoidable losses, in accordance with Federal rules, regulations, Onshore Orders, and NTLs. BLM will make avoidable/unavoidable loss and volume determinations, and within 30 days BLM will provide the determination to ONRR for valuation and collection. BLM will assure surface reclamation in accordance with reclamation requirements as defined in the approved APD or Sundry. Also see sections V.N Avoidable loss of royalty-bearing minerals and VI.E Avoidably lost mineral assessments |
| VIII.C Production compliance | | | | | |
| VIII.C.1 Production volume verification | J | J | J | | BLM will verify production from Indian/Federal and, when appropriate, State and fee wells. Within 30 days of a request, BLM and ONRR will coordinate on work plans and share results. When requested, BLM and ONRR will coordinate site visits. BIA may also request and coordinate site visits.<br><br>BLM will request the operator to modify OGORs when a volume discrepancy is found. If the operator fails to comply, BLM will request ONRR to issue an Order to Report.<br><br>Within 30 days of resolution of the Order to Report, ONRR will notify the originating BLM office. |

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| VIII.C.1a Production volume reporting verification | | | S | | ONRR will perform Form ONRR-2014 and OGOR sales volume comparisons, and will request reporter corrections, when necessary, in accordance with ONRR rules, regulations, and policies. ONRR will provide updated production data to BLM weekly. |
| VIII.C.1b Production inventory verification | | F | | | Within 30 days of a request from ONRR, BLM will validate inventories. |
| VIII.C.1c Vented and flared volume verification | | J | J | | Pursuant to 43 CFR 3179 Waste Prevention and Resource Conservation, BLM will monitor vented or flared volumes and will notify ONRR of any unapproved or unacceptable volumes. BLM will request that the operator modify OGORs when vented or flared volumes are either unapproved or unacceptable. If the operator fails to comply, BLM will request that ONRR initiate an action. Within 30 days of resolution of the action, ONRR will notify the originating BLM office. |
| VIII.C.2 Used on lease verification | | F | | | BLM will request the operator to modify OGORs when volumes used on a lease are unacceptable. If the operator fails to comply, BLM will request that ONRR initiate an action. Within 30 days of resolution of the action, ONRR will notify the originating BLM office. |
| VIII.C.3 Missing production reports | | F | | | BLM will request the operator to submit missing reports and wells. If the operator fails to comply, BLM will request that ONRR initiate an action on the operator via an official memo to ONRR. Within 30 days of resolution of the action, ONRR will notify the originating BLM office. |
| VIII.D Revenue compliance | | | | | Revenue compliance activities may include audit, compliance reviews, data mining, verification of financial lease terms, interest billing, etc. |
| VIII.D.1 Leasing revenue verification (nonroyalties) | S | | | | BIA will verify nonroyalty lease revenues; i.e., pre-production rent, bonuses, surface damages, off-lease rights-of-way, and other revenue, in accordance with BIA rules, regulations, and policies. |
| VIII.D.2 Rent and royalty verification | | | S | | ONRR will verify that rents and royalties are paid in accordance with ONRR rules, regulations, and policies. |
| VIII.D.2a Commodity price and allowances | | | S | | ONRR will verify reported commodity prices and claimed allowances in accordance with ONRR rules, regulations, and policies. |
| VIII.D.2b Verification of royalty rate | | | S | | ONRR will verify the accuracy of reported royalty rates. BLM and ONRR will coordinate as necessary. BLM will respond to an ONRR request within 30 days. |
| VIII.D.3 Gas storage fees | J | J | | | BIA is responsible for verifying gas storage injection and withdrawal volumes, and proper payment verification. BLM will provide support and assistance on measurement requests. See section *IV.H Gas storage* |

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| VIII.E Distribution compliance | | | | | |
| VIII.E.1 Leasing revenue | J | | | J | BIA and BTFA will verify lease revenue distributions in accordance with their rules, regulations, and policies. |
| VIII.E.2 Royalty revenue | J | | J | J | In accordance with agency rules, regulations, and policies, ONRR will ensure royalty distribution files are accurate, and BIA and BTFA will ensure distributions to tribes and allottees are accurate. |
| VIII.F Compliance documentation requests | | J | J | | Upon request, each agency will provide a copy of documents, e.g., lease and compliance related documents, to respective offices, and to States and tribes working under delegated and cooperative agreements, at no cost, pursuant to *30 USC 1711(c)(3)* . |
| VIII.G Notice of noncompliance | F | F | F | | BIA, BLM, and ONRR may issue a noncompliance notification in their respective areas of responsibility. The originating office will forward the notification to affected agencies within 30 days. |
| **IX. NONCOMPLIANCE ENFORCEMENT AND RESOLUTION** | | | | | |
| IX.A Shut-in (order to cease production) | | F | | | BLM may initiate, or BIA or ONRR may request, an order to an operator to shut in a well or to cease production. BLM will coordinate with BIA, depending upon severity and urgency, and will issue the shut-in order. BLM will perform follow-up consultations with BIA or ONRR regarding their request. Within 30 days of the order to shut in or cease production, BLM will provide a copy of the order to BIA or ONRR. |
| IX.B Civil penalties and assessments | J | J | J | | BIA, BLM, or ONRR may impose civil penalties and assessments in their respective areas of responsibility. Within 30 days of a BIA, BLM or ONRR request, agencies will provide appropriate documentation to the requestor. |
| IX.C Cancellation of leases | | | | | |
| IX.C.1 Violations of BIA regulations | F | | | | BIA will coordinate with BLM and ONRR for any lease cancellation. BIA will notify BLM and ONRR within 30 days of a proposed lease cancellation. Also see section III.I.2 Cancellation |

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| IX.C.2 Violations of BLM or ONRR regulations | F | | | | ONRR may request that BIA cancel a lease due to royalty liability, or BLM may request that BIA cancel a lease due to operational deficiencies, when other means to gain compliance have failed. BIA may request BLM or ONRR to provide a summary of actions taken to date. If BIA requests supporting documentation, BLM and ONRR will provide such documentation within 30 days. BLM, BIA and ONRR will assist the Solicitor's Office in handling judicial proceedings (25 CFR 211.54; 43 CFR Part 3108.3(b)). Within 30 days of a BLM or ONRR lease cancellation request, BIA will provide a summary of actions taken to date or will notify BLM and ONRR of a proposed lease cancellation. |
| IX.D Settlements | | | F | | While negotiating a settlement agreement, ONRR may request information from BIA and BLM. Within 30 days of an ONRR request, BIA and BLM will provide requested information. The Assistant Secretary for Indian Affairs will sign all settlement agreements. Within 30 days of the full execution of the settlement agreement that specifically fully resolves volume issues for a specified period of time, ONRR will send copies to BLM. |
| IX.E Interest on late payments | | | S | | ONRR will calculate and bill interest on a late payment in accordance with ONRR rules, regulations, and policies. |
| IX.F Debt collection | | | S | | ONRR will perform debt collection activities, including a referral to Treasury, in accordance with ONRR's rules, regulations, and policies. BIA and/or BLM will respond to ONRR's requests for required debt collection information (e.g., Lessee of Record, Operating Rights ownership) within 30 days. Should ONRR fail to collect outstanding debt, ONRR may recommend that BIA cancel the lease. |
| IX.F.1 Revocation of leasing and other privileges | F | | | | ONRR may recommend that BIA request that the Departmental Suspension and Debarment Officer revoke the ability of a person or company to engage in leasing and other activities if that person or company inexcusably or willfully fails to pay a debt.<br><br>BIA will respond to ONRR's recommendation within 60 days.<br><br>BLM may request that the Departmental Suspension and Debarment Office revoke the ability of a person or company to engage in leasing and other activities if that person or company knowingly and willfully violates BLM's rules or regulations. |
| **X. PROTESTS AND APPEALS** | | | | | |

F = Final responsibility, consultation required with appropriate agencies
J = Joint responsibility, consultation required with appropriate agencies
S = Sole responsibility, no consultation required

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| X.A Resolution | F | F | F | | Each agency will follow its established rules, regulations, and policies to resolve protests and appeals. Examples of items that lessees or operators may protest or appeal include, but are not limited to:<br>• Lease cancellation<br>• Drainage assessments<br>• Avoidable loss assessments<br>• Lease bond increases<br>• Agreement or contract actions (i.e.. compensatory royalty agreements or diligent development requirements)<br>• Orders to Report or Pay<br><br>Agencies may request information from each other in order to resolve protests and appeals. Agencies will provide requested information within time frames established in the request. Bureaus may consult with the Solicitor's Office during the resolution of protests and appeals. |
| **XI. REPORTS AND INFORMATION SHARING** | | | | | |
| XI.A Industry reporting | J | J | J | | Each agency will follow its internal policies and procedures to resolve data discrepancies, and will coordinate, as needed, to resolve any issues. |
| XI.A.1 Extending Reporting Due Dates | | | F | | A reporter requests to extend reporting due dates must be submitted to ONRR for approval. Within 30 days after ONRR approves reporting due date extensions, ONRR will notify BIA and BLM. |
| XI.A.2 Production and product quality data | | J | J | | BLM will update AFMSS within 10 working days and will provide well reference data to ONRR weekly. ONRR will provide production data to BLM weekly. ONRR will also use AFMSS to perform research to update production reports. Established time frames can be modified pursuant to section I. Introduction in the cover letter. |
| XI.A.2a Error Correction | | | | | ONRR is responsible for receipt, data entry, edit, error correction, and exception resolution for all industry-reported oil and gas production data. Production reporting errors may require BLM's assistance to resolve. |
| XI.A.2a(1) Fatal errors on original reports | | | S | | ONRR is responsible for resolving all fatal errors for industry-submitted original report data. ONRR provides original report data that is free of fatal errors to BLM. As ONRR resolves fatal errors, ONRR provides the resolved report data to BLM. |
| XI.A.2a(2) Fatal errors on modified reports | | | S | | ONRR is responsible for resolving all fatal errors for industry-submitted modified report data. Modified report data is not provided to BLM until ONRR resolves all fatal errors on the report. |

F = Final responsibility, consultation required with appropriate agencies
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S = Sole responsibility, no consultation required

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| XI.A.2a(3) Warning errors | | | S | | ONRR transmits production data to BLM with warning errors identified. |
| XI.A.2a(4) Exceptions | | | F | | ONRR is responsible for resolving all reporting exceptions, with BLM assistance as necessary, including missing wells, missing documents, royalty exceptions, and BLM-identified exceptions. |
| XI.A.3 Sales and royalty remittance data | | | S | | ONRR will provide sales and royalty remittance data to BIA bimonthly. ONRR will make sales and royalty remittance data accessible to BLM through its automated systems. |
| XI.B Agency information sharing | | | | | |
| XI.B.1 Data access | J | J | J | J | Each agency will provide the other agencies with access to its IT systems, as appropriate. In accessing another agency's IT system, each agency will comply with that system's Rules of Behavior for access and use. |
| XI.B.2 Data requests | J | J | J | J | Agencies will respond within 30 days of a request from another agency for information not otherwise available through their IT systems. |
| XI.B.3 Public release of data | J | J | J | J | Before any agency releases, or otherwise makes available, another agency's data, they must first collaborate with the originating agency to ensure that the intended purpose of the information release is consistent with the original purpose of the data. |
| XI.C Bankruptcy notifications | J | J | J | | If a lessee, payor, or operator files for bankruptcy protection, ONRR will notify BIA and BLM as soon as feasible following receipt of notification. Likewise, BIA and BLM will notify ONRR as soon as feasible, but no later than 15 days after receipt, when they become aware of a bankruptcy notification or other related information, unless a specific time frame is necessary in order to comply with a court order.<br><br>BIA will provide to ONRR or the Solicitor's Office lessee of record ownership information or operating rights ownership information. BIA will provide the current and historical lessee of record ownership information and/or operating rights ownership information within 10 days from the date of the notification of the bankruptcy filing.<br><br>Agencies will coordinate with the Solicitor's Office and with each other to ensure that complete and accurate claims are submitted timely to the appropriate U.S. Bankruptcy Court on behalf of the Department. |

F = Final responsibility, consultation required with appropriate agencies
J = Joint responsibility, consultation required with appropriate agencies
S = Sole responsibility, no consultation required

# Attachment A
## Agency Responsibilities and Information Sharing
FLUID MINERALS - INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| XI.D Allottee/tribal inquiries | J | J | J | J | Tribes or allottees may have a question which requires the efforts of multiple bureaus or offices to resolve. Inquiries may be received through the BTFA call center, BTFA trust officers, bureau outreach sessions, or visits/phone calls to any agency. When necessary, requests received by an agency without jurisdiction will be provided to the agency that has jurisdiction within five days. Within 30 days, agencies will respond to requestors, and if appropriate, to the referring agency, with the status of the request. For inquiries received by the BTFA call center that are forwarded to the trust officer, the trust officer will relay the response to the requestor. See *Attachment E, "Information Sharing by BIA, BLM, DEMD, ONRR, OSM and BTFA"*. |
| XI.E Outreach | J | J | J | J | Agencies will communicate with tribes and allottees on trust-related issues or in response to inquiries. Agencies will communicate and coordinate with each other in order to prevent conflicting information dissemination, to promote efficiency, and to minimize imposition on the resources and time of tribes and allottees. Agencies will provide each other with 10 business days' advance notice of scheduled meetings with tribes or allottees. |
| XI.F Training | | | | | |
| XI.F.1 Industry training | J | J | J | J | As needs and opportunities for industry training that require multiple agency participation arise, the sponsoring agency will notify and coordinate with appropriate agencies. Within 30 days of a request, participating agencies will respond to the sponsoring agency. |
| XI.F.2 Employee training | J | J | J | J | As needs, class offerings, and opportunities for on-the-job training arise within an agency, the agency will notify the BLM-ONRR Minerals Liaison, who will serve as the central contact point for joint training. The Liaison will notify the other agencies and will facilitate joint training. |

F = Final responsibility, consultation required with appropriate agencies
J = Joint responsibility, consultation required with appropriate agencies
S = Sole responsibility, no consultation required

# Attachment A - Addendum 2

# Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures

Attachment A - Addendum 2 incorporates updated provisions into the Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP). The following is a comprehensive list of amendments to the SOP:

**Section IV.F -** Changed language from “Within 30 days of a BIA request, BLM will perform a technical review and make a recommendation. (This section does not apply to the Five Civilized Tribes District Court Leases.) If BLM is unable to perform a technical review within 30 days, BLM will provide BIA with a notification for a time extension within 15 days of receipt of a proposed CA technical review request. This extension notification will include an explanation and estimated timeframe for completion.” to new language “The Communitization Agreement (CA) approval process should not exceed a total of 120 days. The timeframe begins at the receipt of a proposed Communitization Agreement by BIA.”

**Section IV.F.1** – Changed from “State field rules or pooling” to “Technical Review and Spacing Determination.” The following language was added under the section: "For all Communitization Agreements: Within five (5) days of receiving a proposed Communitization Agreement (CA), BIA will ask BLM (in writing) to perform a technical review and make a recommendation. (This section does not apply to the Five Civilized Tribes District Court Leases.) BLM will provide a recommendation to BIA within 30 days of receipt of a proposed Communitization Agreement. BLM jurisdictional offices will assign the Communitization Agreement a BLM serial number. BLM’s technical review will re-affirm that the state and field rules, pertaining to spacing and pooling, are adequate to protect trust resources. If BLM is unable to perform a technical review within 30 days, BLM will provide BIA with a notification for a time extension within 15 days of receipt of a proposed CA technical review request. This extension notification will include an explanation and estimated timeframe for completion.”

**Section IV.F.1** – Added subsection IV.F.1.a – Adjudication and Approval for Mixed Indian/Federal CAs. The follow language was added under the section: "For Mixed Indian/Federal Communitization Agreements: (For reference, a Mixed Indian/Federal CA refers to a CA that includes both Indian trust lands and Federal lands overseen by BLM.) Within 90 days of receiving a proposed communitization agreement, BIA will approve or deny the proposed CA with regards to the Indian trust lands within the communitized area. BIA will forward the package to BLM. Within 30 days of receipt of BIA’s CA approval with regards to the Indian trust lands within the communitized area, BLM will approve or deny the proposed CA with regards to Federal lands in the CA. BLM will forward the completed approved CA package to the company. BLM will provide BIA and ONRR with a copy of the approved agreements. BLM's approval letter will instruct the operator to notify the appropriate payor(s) of ONRR's royalty reporting

requirements. BLM will update AFMSS within 10 working days after approval and provide well reference data to ONRR weekly via automated data exchange. BIA will update TAAMS within 10 working days after approval."

**Section IV.F.1** – Added subsection IV.F.1.b - Adjudication and Approval for Indian-Only CAs. The following language was added under the section: "For Indian-Only Communitization Agreements: (For reference, Indian-Only CA refers to a CA that includes Indian trust lands but does not include Federal lands overseen by BLM.) Within 120 days of receiving a proposed communitization agreement, BIA will approve or deny the proposed CA. BIA will forward the completed approved CA package to the company. Within 10 working days after approval, BIA will provide BLM and ONRR with a copy of the approved agreements and affected Indian leases. BIA's approval letter will instruct the operator to notify the appropriate payor(s) of ONRR's royalty reporting requirements. BLM will update AFMSS within 10 working days after approval and provide well reference data to ONRR weekly."

**Section IV.F.2** – Changed from "Approval" to "Determination of First/Last Production" Previous "Approval" section language was incorporated in Section IV.F.1.a and IV.F.1.b. The following language was added under the section: "Within 10 working days of receipt of the operator's notice to BLM of establishing first or last production, BLM will provide BIA and ONRR with the first or last production notice. BIA will provide ONRR with a copy of the lease contract and related documents within 10 working days after receipt of the first production notice. BLM will update AFMSS within five working days after a well status change and provide well reference data to ONRR weekly via automated data exchange."

**Section IV.F.3** – Renumbered to Section IV.F.2. Changed sentence "BLM will update AFMSS within 10 working days after a well status change…" to "BLM will update AFMSS within five working days after a well status change…"

**Section IV.F.4 –** Renumbered to Section IV.F.3. Language changed from "When BIA terminates a lease committed to a CA, any new lease issued must join the CA. BIA will notify BLM and ONRR within 10 working days upon lease termination and within 10 working days after issuance of a new lease" to new language "When BIA terminates a lease committed to a CA, any new lease encumbered to the previously leased Indian tract must join the CA. BIA will notify BLM and ONRR within 10 working days upon lease termination and within 10 working days after issuance of a new lease. Approved leases within an active CA will not be terminated for lack of production as they are receiving allocated production from the CA. Leases within an active CA may however be terminated for cause even though they receive allocated production from the CA. This may occur for any number of reasons including chronic non-payment of royalties, gross failure to achieve workmen like conditions, etc."

**Section IV.F.5** – Renumbered to Section IV.F.4

**Section IV.F.6** – Renumbered to Section IV.F.5.

**Section VII.E.1** – Changed language to "When the financial distribution report is received from ONRR, BIA will apply the lease revenue to the TAAMS ownership file and create an Explanation of Payment Report (EOP) showing the distribution for each

mineral owner. BTFA sends the EOP file to Treasury for printing and mailing of EOP's to each fund recipient."

**Section XI.A.1** – Removed "Changes to reporting frequency" section from the SOP. Removed language: ONRR will send a lessee's or operator's request for non-monthly reporting on tribal leases/agreements to tribal offices, BLM, and BIA for concurrence. For allotted leases/agreements, ONRR will send the request to BIA and BLM. Agencies will respond within 30 days; otherwise, failure to respond is deemed to be concurrence with the proposal. ONRR will notify BLM, BIA, and the tribe (for tribal leases) when it implements non-monthly reporting frequencies.

**Section XI.A.2 thru XI.A.4** – Renumbered to XI.A.1 thru XI.A.3

**Section XI.C** – Updated language to "If a lessee, payor, or operator files for bankruptcy protection, ONRR will notify BIA and BLM as soon as feasible following receipt of notification. Likewise, BIA and BLM will notify ONRR as soon as feasible, but no later than 15 days after receipt, when they become aware of a bankruptcy notification or other related information, unless a specific time frame is necessary in order to comply with a court order.

BIA will provide to ONRR or the Solicitor's Office lessee of record ownership information or operating rights ownership information. BIA will provide the current and historical lessee of record ownership information and/or operating rights ownership information within 10 days from the date of the notification of the bankruptcy filing.

Agencies will coordinate with the Solicitor's Office and with each other to ensure that complete and accurate claims are submitted timely to the appropriate U.S. Bankruptcy Court on behalf of the Department."

**Table of Contents** – Updated to page numbers and titles.

**Acronyms** – Added "OGOR – Oil & Gas Operations Report."

**Entire Document** – All mentions of IEED changed to DEMD.

**Entire Document** – All mentions of OST changed to BTFA.

All modifications were reviewed by subject matter experts from the following agencies:

Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), and the Appraisal and Valuation Services Office (AVSO)

All of the agencies listed above are required to sign the Attachment A - Addendum 2.

Attachment A - Addendum 2 shall be effective the date of the final signature.

Digitally signed by Hansen Timothy J
Date: 2022.01.21 08:03:07 -07'00'

Timothy Hansen
Director
Appraisal and Valuation Services Office

Date

All modifications were reviewed by subject matter experts from the following agencies:

Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), and the Appraisal and Valuation Services Office (AVSO)

All of the agencies listed above are required to sign the Attachment A - Addendum 2.

Attachment A - Addendum 2 shall be effective the date of the final signature.

Darryl LaCounte Digitally signed by Darryl LaCounte
Date: 2022.01.24 15:36:39 -05'00'

Darryl LaCounte
Director
Bureau of Indian Affairs

Date

All modifications were reviewed by subject matter experts from the following agencies:

Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), and the Appraisal and Valuation Services Office (AVSO)

All of the agencies listed above are required to sign the Attachment A - Addendum 2.

Attachment A - Addendum 2 shall be effective the date of the final signature.

NICHOLAS DOUGLAS

Digitally signed by NICHOLAS DOUGLAS
Date: 2022.02.10 11:19:11 -07'00'

Nicholas Douglas
Assistant Director of Energy, Minerals and Realty Management
Bureau of Land Management

Date

All modifications were reviewed by subject matter experts from the following agencies:

Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), and the Appraisal and Valuation Services Office (AVSO)

All of the agencies listed above are required to sign the Attachment A - Addendum 2.

Attachment A - Addendum 2 shall be effective the date of the final signature.

Jerold Gidner

Jerold Gidner
Director
Bureau of Trust Funds Administration

1/21/2022

Date

All modifications were reviewed by subject matter experts from the following agencies:

Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), and the Appraisal and Valuation Services Office (AVSO)

All of the agencies listed above are required to sign the Attachment A - Addendum 2.

Attachment A - Addendum 2 shall be effective the date of the final signature.

KIMBRA DAVIS Digitally signed by KIMBRA DAVIS
Date: 2022.02.10 15:27:39 -07'00'

Kimbra Davis
Director
Office of Natural Resources Revenue

Date

All modifications were reviewed by subject matter experts from the following agencies:

Office of the Solicitor (SOL), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Office of Natural Resources Revenue (ONRR), Bureau of Trust Funds Administration (BTFA), and the Appraisal and Valuation Services Office (AVSO)

All of the agencies listed above are required to sign the Attachment A - Addendum 2.

Attachment A - Addendum 2 shall be effective the date of the final signature.

ERIC SHEPARD Digitally signed by ERIC SHEPARD Date: 2022.02.09 13:31:31 -05'00'

Eric Shepard
Associate Solicitor
Office of the Solicitor

Date

Stephen L. Simpson

2/7/2022

Date

Stephen Simpson
Senior Attorney
Office of the Solicitor, Division of Indian Affairs

I am signing this Addendum subject to BIA's commitment to discuss and finalize, at a future date, a new addendum that will include necessary changes for SOP Sections IV.F.6 (now 5); IV.G.6; and V.C.

# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency SOP

## Attachment B

## Agency Responsibilities and Information Sharing

## SOLID MINERALS – INDIAN

**Attachment B**
Agency Responsibilities and Information Sharing
**SOLID MINERALS – INDIAN**

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**Attachment B**
Agency Responsibilities and Information Sharing
**SOLID MINERALS – INDIAN**

## ACRONYMS

| | |
|---|---|
| BIA | Bureau of Indian Affairs |
| BLM | Bureau of Land Management |
| BTFA | Bureau of Trust Funds Administration |
| CFR | Code of Federal Regulations |
| DEMD | Division of Energy and Mineral Development |
| DOJ | Department of Justice |
| EOP | Explanation of Payments |
| EPA | Environmental Protection Agency |
| F | Final Agency responsibility, consultation required |
| FOGRMA | Federal Oil and Gas Royalty Management Act of 1982 |
| I&E/PV | Inspection and Enforcement/Production Verification |
| IMDA | Indian Mineral Development Act |
| ILCA | Indian Land Consolidation Act |
| IPAC | Inter-governmental Payment and Collection system |
| J | Joint Agency responsibility, concurrence required |
| LAS | Lease Account Status |
| MOU | Memorandum of Understanding |
| NEPA | National Environmental Policy Act of 1969 |
| NONC | Notice of Noncompliance |
| ONRR | Office of Natural Resources Revenue |
| OSM | Office of Surface Mining |
| RIK | Royalty-in-Kind |
| S | Sole Agency responsibility, no consultation required |

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| **I. NONLEASING ACTIONS** | | | | | |
| I.A Mineral potential valuation | S | | | | The Office of Mineral Evaluations (OME) serves the mineral assessment and mineral valuation needs of:<br>• Indian Land Consolidation Act<br>• American Indian Probate Reform Act<br>• Legal statute or court request<br>• Appraisal services Directorate and the Office of Appraisal Services<br>• Economic development plans of a reservation-wide scope.<br>BIA or DEMD will request and fund the OME to perform mineral assessments and economic valuation determinations. The agency funding OME may, at its discretion, release or authorize OME to release such assessments to tribes, allottees, or in consultation with tribes or allottees, to industry. |
| | | | | | |
| I.B Location of trust lands | S | | | | BIA will provide BLM with a list of all trust lands. The list is used by BLM, in part, for acreage determinations for logical mining units, etc. Within 60 days of a change in trust status, BIA will notify BLM. |
| **II. PRELEASING ACTIONS** | | | | | |
| II.A Business leases | S | | | | BIA is solely responsible for all facets of mineral business leases issued under 25 CFR Part 162. Collaboration with other agencies may be requested under side MOUs. |
| | | | | | |
| II.B Mineral potential evaluation | S | | | | To determine if an area has future potential leasing possibilities, BIA or DEMD may request a mineral potential evaluation from BLM. Within 60 days of the request, BLM will respond to BIA or DEMD with time frames to complete the mineral potential evaluation. Upon completion, BLM will provide BIA or DEMD with a written report of the evaluation findings. BIA or DEMD may, at their discretion, release or authorize BLM to release such evaluation to tribes, allottees, or in consultation with tribes or allottees, to industry. When future potential leasing possibilities are evident, the next step is to identify specific tract areas. |
| II.C Tract evaluation | F | | | | Within 60 days of a BIA request, BLM will complete an analysis of tracts available for lease and will provide BIA with a written report of its findings. |
| | | | | | |

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J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| II.D List of leasable tracts | S | | | | BIA will provide BLM a list of leasable tracts. |
| | | | | | |
| II.E Fair Market Value | | F | | | Per Departmental Manual 516, OME is responsible for determining fair market value for mineral leasing purposes. However, when OME was created, funding was not provided for this function and until such time as funding is provided, the responsibility remains BLM's. Within 30 days of receipt of BIA's request, BLM will respond to BIA with time frames to provide BIA a fair market value recommendation, which will include, at a minimum: royalty rate, rental, and minimum bonus. An existing MOU may specify different time frames. |
| | | | | | |
| II.F Lease terms | F | | | | BIA will provide BLM and ONRR with a copy of proposed non-standard and negotiated lease terms. Within 30 days, BLM and ONRR will provide any comments. BIA will perform follow-up consultations with BLM and ONRR regarding the resolution of all their comments. |
| | | | | | |
| II.G NEPA compliance | F | | | | The principle for determining the responsible agency for NEPA compliance is "the bureau taking the action." Leasing of the trust mineral estate is solely BIA's responsibility; therefore, BIA is responsible for the preparation of NEPA documents necessary to support leasing. Any NEPA compliance documentation prepared pursuant to 40 CFR Chapter V (see 25 CFR Part 211.7) will also be in compliance with Departmental NEPA regulations at 43 CFR Part 46 and the appropriate Bureau Chapter of 516 DM. BLM will support BIA as a technical advisor. |
| | | | | | |
| **III. LEASING ACTIONS** | | | | | |
| III.A Sale notice . | S | | | | BIA will send the BLM office that has jurisdiction over the trust mineral estate a copy of the sale notice. |
| | | | | | |
| III.B Lease/ contract/permit issuance | S | | | | Within 60 days of issuance, BIA will provide BLM and ONRR a copy of the document. |
| | | | | | |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.B.1 Bonus bid | F | | | | BIA will, within 30 days after the lease sale data has been compiled or a negotiated lease bid has been accepted, provide the BLM office that has jurisdiction over the trust mineral estate the lease sale bonus bid, royalty rate and rental rate results. |
| | | | | | |
| III.B.2 Rights-of-way | S | | | | BIA is responsible for rights-of-way across trust properties, both on-lease and off-lease. For non-trust properties, off-lease rights-of-way are the responsibility of the surface management agency. |
| | | | | | |
| III.B.3 Surface use agreement | F | F | | | The preparation, execution, and administration of surface use agreements will follow the rules, regulations, and procedures of the responsible surface management agency as follows:<br>• Federal minerals/Indian surface (BIA)<br>• Indian minerals/Federal surface (BLM)<br>• Indian minerals/Indian surface (BIA)<br>• Fee, State minerals/Indian surface (BIA)<br><br>For split-estate trust surface, BIA must record the surface use agreement with the Land Title and Records Office within 30 days after execution. |
| | | | | | |
| III.B.3a Bonding-on (bonding for making surface owner whole on split estates) | F | F | | | Absent the successful execution of a surface use agreement, the agency responsible for the mineral estate will be responsible for the "bonding-on" process, which will include annual payment disbursements to the surface owner when required. For the federal mineral estate, when mutually agreed to, the BIA may assume BLM's responsibilities for the surface use agreement and disbursement of any annual payments required for the trust surface. |
| | | | | | |

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.C Assignment of record title | F | | | | Prior to BIA's approval of an assignment of record title, BIA may ask BLM to report on whether the lessee is in non-compliance or default as a result of a surface or subsurface operation. Within 30 days of a request, BLM will provide BIA a compliance history for the assignor and a recommendation on bond adequacy prior to assignment approval.<br><br>Within 30 days of a request, ONRR will provide BIA an LAS review that indicates if the lease is in good standing. ONRR will perform an LAS review to ensure that the lessee is in compliance with all lease terms, including all reporting and payment requirements.<br><br>Within 30 days of approval, BIA will provide BLM and ONRR with a copy of the assignment. |
| | | | | | |
| III.C.1 Record title inquiries | S | | | | Within 30 days of ONRR's request, BIA will provide lessee of record information in a table format. The information will be based on information submitted by industry and contained in BIA's files. |
| | | | | | |
| III.D Change in trust status | S | | | | When a producing lease has an increase in the portion of the land or minerals in trust status, BIA will notify ONRR of the new fractional interest within 30 days of the effective date. BIA will instruct the lessee to notify payors of the change in the portion of trust ownership. For information about a decrease in the trust portion, see section *III.D.1 Relinquishment of supervision.* |
| | | | | | |
| III.D.1 Relinquishment of supervision | F | | | | This action decreases the portion of the land or minerals in trust status. Within 30 days of the effective date, BIA will notify ONRR of a partial relinquishment of supervision or will notify BLM and ONRR of a full relinquishment of supervision. BIA will instruct the lessee to notify payors of the change in the portion of trust ownership. The period prior to relinquishment remains open for compliance and audit reviews. For total trust relinquishment information, see section *III.E.3 Bond termination.* |
| | | | | | |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.D.2 Other trust ownership changes | F | | | | These actions are redistributions of trust ownership percentages. They may result from, e.g., ILCA, probate actions, or gift deeding. BIA will notify ONRR of other trust ownership changes prior to the next ONRR royalty distribution. BIA will instruct the lessee to notify payors of the change in trust ownership. |
| | | | | | |
| III.E Bonding | | | | | Lease Bonds include acceptable forms of security including, but not limited to, irrevocable letters of credit, treasury securities, and certificates of deposit. |
| | | | | | |
| III.E.1 Bond amount and acceptance | F | | | | When minerals development plans require the submission of a mine plan, BLM will provide BIA with a recommendation on the bond amount. BIA may request a bond adequacy determination from BLM. BLM will respond within 30 days. |
| | | | | | |
| III.E.1a Bond reduction request | F | | | | Within 30 days of a BIA request, BLM will provide pertinent information for lease bond reduction requests. BIA may consult with ONRR regarding potential royalty liabilities. ONRR will determine the level of effort needed to review bond reduction requests, based on lease history. Within 30 days, ONRR will notify BIA of the actions necessary to provide assurance. Within 30 days after work completion, ONRR will notify BIA of its findings and whether any additional action is necessary. |
| III.E.1b Insufficient bond | F | | | | BIA will monitor bonding sufficiency to cover operations, reclamation, and royalty obligations and, when necessary, take action to increase bond amount. BLM will notify BIA of bond insufficiency related to operations and reclamation within 90 days of determination. |
| | | | | | |

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.E.2 Demand for performance | F | | | | BLM (for operations) or ONRR (for royalty or bankruptcy) will notify BIA when a call on a lease bond is necessary. BIA may consult with the Solicitor, and if so, the Solicitor will respond to BIA within 30 days. Within 30 days of receipt of notification from BLM or ONRR, or the Solicitor's opinion, BIA may demand performance from the surety; BIA will send a copy of their decision to the initiating agency office. Before issuing a demand for performance on its own initiative, BIA will notify BLM and ONRR. BLM and ONRR have 30 days to report on any additional default. Where there is competing interest in the bond, royalty matters take precedence. BIA will provide to BLM and ONRR a copy of the demand letter. Responsibility for further action returns to ONRR if only a rent or royalty-related debt remains after collection under the bond. |
| | | | | | |
| III.E.2a Demand status | S | | | | Upon request, BIA will provide BLM and ONRR a status report on a demand on the bond. |
| | | | | | |
| III.E.2b Demand payment | F | | | | BIA will transfer appropriate funds to the respective agency within 30 days of receipt of funds that satisfy the demand requirements. |
| | | | | | |
| III.E.3 Bond termination | F | | | | BIA will consult with BLM and ONRR on all bond termination/relinquishment requests to ensure that BLM has deemed the lessee's reclamation actions successful, and that ONRR has collected all rents and royalties. Upon BIA's request, BLM and ONRR will determine the level of effort needed to review bond termination requests, based on lease history and internal policies. Unless other time frames are negotiated, within 30 days, BLM and ONRR will notify BIA of the actions necessary to provide assurance. Within 30 days after work completion, BLM and ONRR will notify BIA of its findings and whether any additional action is necessary.<br><br>*Note: Timing requires further discussion with the Solicitor on how long to hold a bond and a reasonable standard to release a bond.* |
| | | | | | |

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.F Lease continuation | | | | | |
| | | | | | |
| III.F.1 Extensions – discovery on segregation, elimination from agreement | S | | | | BIA will provide BLM and ONRR with a copy of their decision within 30 days. |
| | | | | | |
| III.F.2 Renewal or exchange | F | | | | BIA will provide BLM and ONRR with a copy of the decision within five working days of approval. BIA will consult with BLM and ONRR if changes occur. Upon BIA request, ONRR will provide a LAS review. |
| | | | | | |
| | | | | | |
| III.F.3 Production | | S | | | BLM will provide BIA and ONRR with the first production notice within 10 working days after receiving a notification of production from the operator. BIA will provide ONRR with a copy of the lease contract and related documents within 10 working days after receipt of the first production notice. |
| | | | | | |
| III.F.4 Suspension of operations and production | F | | | | BLM will make a recommendation to BIA on suspension of operations and/or production. BIA will provide BLM with a copy of the approved suspension within 30 days of approval. BIA will notify ONRR within 30 days of approval so that lease obligations can be modified if the suspension includes the suspension of a lease-level obligation (e.g., rents, minimum royalty, advance royalty). ONRR will need a copy of the suspension of operations AND production (modifies financial obligations), not suspension of operations OR production (does not modify financial obligations). Within 30 days of lifting a suspension, BIA will provide a copy of the approval document to BLM and ONRR. |
| | | | | | |

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.F.5 Relinquishment | F | | | | BIA may request a lease status review and a lease inspection from BLM and may request from ONRR an LAS review that indicates whether the lease is in good standing. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies. Within 30 days of the request, ONRR will perform an LAS review to ensure that the lessee is in compliance with all lease terms, including all reporting and payment requirements. BIA will provide a lease relinquishment document to BLM and ONRR within 30 days of the decision. |
| | | | | | |
| III.G Lease consolidation or segregation | F | | | | BIA will consult with BLM and ONRR if one or more of the leases are producing. BIA will notify BLM and ONRR within 10 working days of approval. |
| | | | | | |
| III.H Lease changes (modifications, readjustments, resurveys, etc.) | F | | | | BIA may request a lease status review from BLM and may request from ONRR an LAS review that indicates whether the lease is in good standing. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies. Within 30 days of the request, ONRR will perform an LAS review to ensure that the lessee is in compliance with all lease terms, including all reporting and payment requirements.<br><br>Prior to approval, BIA will contact BLM if the modification could affect operations, or BIA will contact ONRR if the modification could affect financial terms. BIA will send BLM and ONRR a copy of the modification and amendment within 30 days of approval. |
| | | | | | |
| III.H.1 Non-standard terms | F | | | | Prior to approval, BIA will provide BLM and ONRR with a copy of proposed non-standard lease term modifications. Within 30 days, BLM and ONRR will provide any comments. BIA will perform follow-up consultations with BLM and ONRR regarding the resolution of all their comments. BIA will send BLM and ONRR a copy of the modified lease within 30 days of approval. BIA will notify ONRR when a contingency clause on a non-standard lease is satisfied. |
| | | | | | |

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.H.2 Financial obligation adjustments | S | | | | Prior to approval, BIA will provide ONRR with a copy of proposed financial obligation adjustments. Within 30 days, ONRR will provide any comments. BIA will perform follow-up consultations with ONRR regarding the resolution of all their comments. BIA will send ONRR a copy of the financial obligation adjustments within 30 days of approval. |
| | | | | | |
| III.I Lease termination, cancellation | | | | | |
| | | | | | |
| III.I.1 Termination | F | | | | BIA may request a lease status review and a lease inspection from BLM and may request from ONRR a LAS review that indicates whether the lease is in good standing. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies. Within 30 days of the request, ONRR will perform a LAS review to ensure that the lessee is in compliance with all lease terms, including all reporting and payment requirements. ONRR will follow up on all under-payments.<br><br>BIA will notify BLM 30 days before executing a proposed termination, and BIA will notify BLM and ONRR within 30 days of the termination. |
| | | | | | |
| III.I.2 Cancellation | F | | | | Prior to BIA cancelling a lease, BIA will request a lease status review and a lease inspection from BLM and may request from ONRR an LAS review that indicates whether the is in good standing. Within 30 days of the request, BLM will notify BIA and ONRR of any operational or production reporting deficiencies. Within 30 days of the request, ONRR will perform an LAS review to ensure that the lessee is in compliance with all lease terms, including all reporting and payment requirements. ONRR will follow up on all under-payments. BIA will notify BLM and ONRR within 30 days of lease cancellation.<br><br>BLM and ONRR will coordinate on the production reporting requirements and disposition of the remaining inventory. |
| | | | | | |
| III.I.2a Royalty liability | F | | | | After consultation with the Solicitor, ONRR may request that BIA cancel a lease due to royalty liability. See section *IX.C Cancellation of leases* |
| | | | | | |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| III.J Expirations | | | | | |
| | | | | | |
| III.J.1 Expiration of primary term | F | | | | Within 30 days after the end of the primary lease term, BIA will notify BLM of potential lease expiration. Within five working days of BIA notification BLM will notify BIA if operations commenced prior to midnight of the lease expiration date. |
| | | | | | |
| III.J.2 Cessation of production | F | | | | Within 120 days of production cessation, BLM will notify BIA. Within 30 days of BIA's determination of lease expiration, BIA will provide BLM and ONRR a copy of the decision. |
| | | | | | |
| **IV. FORMAL AGREEMENTS** | | | | | |
| IV.A Indian Mineral Development Act | F | | | | *See Attachment D "BLM/BIA/ONRR Responsibilities and Procedures for IMDA."*<br><br>*See Attachment E "Responsibilities and Procedures of BIA, BLM and OSM for Coal Leasing and Mining Operations on Indian Lands."* |
| | | | | | |
| IV.B Royalty-in-Kind | F | | | | BIA will consult with BLM and ONRR before signing an RIK agreement. BIA is responsible for authorizing and administering an Indian RIK contract. Within 30 days of approval of the RIK agreement, BIA will provide BLM and ONRR with a copy. BLM and ONRR will perform their respective duties as though it were an in-value sale. Contractual terms that BLM or ONRR cannot enforce will be referred to BIA for enforcement. See section *VI.D Royalty-in-Kind*. |
| | | | | | |
| IV.C Tribal Energy Resource Agreements (TERA) | F | | | | See future SOP attachment for TERAs. |
| | | | | | |
| **V. OPERATIONS** | | | | | |

**Attachment B**
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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| V.A Mine plan and revisions to the mine plan | | F | | | BLM will provide technical review and approval following an on-site inspection with BIA. BLM will provide BIA and ONRR a copy of an approval or a revision document for a mining plan within 30 days. BLM will advise BIA of the bond adequacy. See section *III.E.1 Bond amount and acceptance.*<br><br>For a contract that will require consultation, BLM will consult with BIA and the tribal mineral owner prior to approval of the plan. For allotted lands, BLM will consult with the BIA agency.<br><br>When the surface management agency is not BLM, the BLM field or district office (or higher organizational level) is encouraged to develop a side MOU with the surface management agency to define roles and responsibilities for implementation of NEPA requirements to support the mine plan. In the absence of a side MOU, BLM is responsible for ensuring compliance with all facets of the NEPA for the mine plan. BLM is responsible for the administration and acceptance of reclamation of the lease, since the provisions of the mine plan include a reclamation plan |
| V.B Exploration plans | | F | | | For a contract that will require consultation, BLM will consult with BIA and the tribal mineral owner prior to approval of the exploration plan. For allotted lands, BLM will consult with the BIA agency. BLM will provide BIA a copy of the approval or revision document within 30 days.<br><br>BLM approves all exploration and mine plan developments on Federal onshore and Trust lands. Associated with this responsibility is the compliance with all facets of the NEPA. Since the provisions of the mine plan include reclamation plans, BLM is responsible for the administration and acceptance of reclamation of the mine. |
| V.C Change of operator | S | | | | BIA will notify BLM and ONRR of a change of operator, and will provide them a copy of the action document within 30 days of approval. |
| | | | | | |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| V.D Operating rights | S | | | | Pursuant to 25 CFR Part 211.53, no operating rights shall be assigned, sublet, or transferred without the consent of the Secretary. When operating rights information is requested by BLM or ONRR, within 30 days BIA will provide copies of operating rights information submitted by industry to BIA. |
| | | | | | |
| V.E First and last production | | S | | | First Production: BLM will provide BIA and ONRR with the first production memorandum within 10 working days after receiving a notification of production from the operator. BIA will provide a copy of the lease document(s) to ONRR within 10 working days of receipt of BLM's first production memorandum.<br><br>Last Production: Within 10 working days of determination, BLM will notify BIA and ONRR that production in paying quantities has ceased. BLM will also notify BIA and ONRR of any remaining inventory on the lease or agreement. |
| | | | | | |
| V.F Diligent development | | S | | | BLM will periodically, or upon BIA's request, review Indian leases to ensure diligent development in accordance with BLM's guidelines and procedures. |
| | | | | | |
| V.G Disposal of waste | | F | | | BLM will authorize disposal of waste in accordance with the terms and conditions of the mine plan and for which the operator will be responsible. BLM will consult with BIA and the Tribes to obtain conditions of approval prior to authorization. Other agencies may become involved, depending on the method of disposal, e.g., EPA. |
| | | | | | |
| V.H Determination of beneficial use | | F | | | BLM will notify ONRR of inappropriate claims of beneficial use within 10 working days of adjudication. ONRR will refer any unapproved or excessive beneficial use claims found during compliance activities to BLM for verification. BLM will respond to ONRR within 10 working days with the results of their research. |
| | | | | | |
| V.I Volume and weight measurement | | S | | | BLM will verify volume and weight measurement from Indian/Federal, and when appropriate, State and fee lands. |
| | | | | | |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| V.I.1 Approval | | F | | | BLM will approve a volume and weight measurement, and within 30 days, BLM will notify BIA of the approval and will notify ONRR of the royalty product and the point of royalty determination. |
| | | | | | |
| V.I.2 Standard of accuracy | | | F | | BLM is responsible for ensuring that a measurement is in compliance with the Standard of Accuracy. Within 30 days of a BLM request, ONRR will determine and respond if the standard yields acceptable accuracy. |
| | | | | | |
| V.I.2a Departure from equipment accuracy standard | | F | | | BLM has the authority to approve a departure from the established standard. BLM may consult with ONRR before approving a departure from the established standard. ONRR will respond within 30 days of a request. |
| | | | | | |
| V.J Off-lease measurement | | S | | | BLM has the authority to approve off-lease measurement. To support an ONRR compliance activity, BLM will provide copies of an off-lease measurement approval within 30 days of a request. |
| | | | | | |
| V.K Avoidable loss of royalty-bearing minerals | | J | J | | BLM will make a determination if an avoidable loss of production has occurred and will notify BIA within 10 working days that a loss occurred. Within 30 days of receiving specific volume details from BLM, ONRR will take collection action and, when requested, will provide copies of the bill to BIA and BLM. |
| | | | | | |
| V.L Alleged theft | | F | | | BLM will pursue alleged theft in accordance with BLM instructional manuals. This responsibility includes alleged employee misconduct. BLM will document an inspection related to alleged theft, and will follow the established procedures. |
| | | | | | |
| V.M Reserve calculations | | S | | | BLM will perform a calculation as necessary. |
| | | | | | |
| V.N Reclamation plan (non-coal) | | F | | | BLM must consult with BIA before approving an operator's reclamation plan for non-coal solid minerals. BIA will provide a written response within 30 days.<br><br>Refer to *Attachment E "Responsibilities and Procedures of BIA, BLM, and OSM for Coal Leasing and Mining Operations on Indian Lands"* for coal reclamation plans |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| | | | | | |
| V.N.1 Approval | | F | | | See section *IV. A Mine plan and revisions to the mine plan*. BLM will use BIA reclamation standards in evaluating the operator's restoration plan, or any modification thereof, as applicable. BIA will notify BLM within 30 days when BIA reclamation standards change. |
| | | | | | |
| V.N.2 Monitoring | | F | | | BLM will monitor for reclamation plan compliance, consistent with the terms of any side MOUs related to approvals of the mine plan (see section *V.A Mine plan and revisions to the mine plan*). |
| | | | | | |
| V.N.3 Acceptance of reclamation | | F | | | BLM will advise BIA of BLM's intent to accept the reclamation activity on the lease or agreement and, when requested by BIA, will coordinate a joint inspection. Within 60 days, BIA will respond with any concerns regarding the reclamation activities. BLM will notify BIA and the operator of acceptance of reclamation. |
| | | | | | |
| V.N.4 Release of bond | F | | | | See section *III.E.3 Bond termination.* |
| | | | | | |
| **VI. COLLECTIONS** | | | | | |
| VI.A Collection methods | | | | | |
| | | | | | |
| VI.A.1 BTFA Lockbox | | | | S | |
| | | | | | |
| VI.A.2 Tribal lockbox | F | | | | Tribes receive their funds directly through a tribal-owned lockbox. The tribe will collect, receipt and account for collections. |
| | | | | | |
| VI.A.2a Authority | | | F | | ONRR will inform BIA and BTFA of a lockbox request. ONRR will coordinate and approve all tribal lockbox requests. ONRR will notify payors of lockbox procedures. |
| | | | | | |
| VI.A.2b Information exchanges | | | F | | The payor will report the corresponding royalty and production transactions to ONRR in accordance with ONRR reporting requirements. ONRR will generate an EOP (see section *VII.C Explanation of Payments (EOP) to tribes*). ONRR may request that the Tribe provide payment information. |
| | | | | | |

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| VI.A.3 Allotted lease direct pay | S | | | | For allotted leases, lessees or their designees submit payments directly to the mineral lease owner rather than through ONRR. Direct pay is not managed in the trust fund system. |
| | | | | | |
| VI.A.3a Information exchanges | | | F | | The payor will report the corresponding royalty and production transactions to ONRR in accordance with ONRR reporting requirements. ONRR does not generate an EOP. |
| | | | | | |
| VI.B Revenue collections and billings | | | | | |
| VI.B.1 Leases | | | | | |
| | | | | | |
| VI.B.1a Bonus | J | | | J | BIA will bill, collect, and account for bonuses on all Indian solid mineral leases, unless otherwise specified by the mineral estate owner and approved by the BIA superintendent. BIA will deposit accepted bonus bids into an BTFA-managed trust account. |
| | | | | | |
| VI.B.1b Rentals | J | | J | J | BIA will bill, collect, and account for rental on both non-producing and producing solid mineral leases. BIA will deposit rentals into an BTFA-managed trust account. Within 30 days of a rental payment on a producing lease BIA will notify ONRR.<br><br>Tribal lockbox remittances: BIA will bill and the tribe will collect, receipt and account for all rentals, whether producing or not. |
| | | | | | |

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|---|---|---|---|---|---|
| VI.B.1c Royalties | J | | J | J | Industry will submit to ONRR royalty and production reports in accordance with ONRR rules, regulations and handbooks.<br><br>ONRR may not collect royalty payments for solid mineral leases unless requested by BIA. Payments may be submitted by industry in any of the following ways, unless otherwise specified.<br><br>Tribal leases:<br>• BTFA-owned lockbox,<br>• Tribal-owned lockbox.<br>Allotted leases:<br>• BTFA-owned lockbox,<br>• Allottee receives a check in mail (see Section VI.A. Collection methods). |
| | | | | | |
| VI.B.1d Compliance based collections | | | F | | ONRR will bill for compliance activity findings that require additional collections. Within 30 days of a request, ONRR will share findings and collection information with the appropriate bureau. |
| | | | | | |
| VI.B.1e Recoupment policy | | | F | | ONRR will enforce recoupment procedures in accordance with ONRR rules, regulations and policies. |
| | | | | | |
| VI.B.2 Other collections | J | | J | J | BIA will bill and collect, and BTFA will receipt and account for, other non-mineral trust; i.e., water payment, lease-related revenue, e.g., surface damages, unless otherwise specified. While enforcing its rules and regulations ONRR may collect other non-standard/IMDA lease-related revenues, e.g., mineral access fees, over-recoupment invoice billings. BTFA will receipt and account for such revenues as well. |
| | | | | | |
| VI.B.3 Royalty-free use | F | | | | BIA, the Indian mineral owner, and the lessee determine royalty-free use during lease negotiations. BIA will notify BLM and ONRR within 30 days after approval of any royalty-free use. |
| | | | | | |

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| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| VI.C Lease royalty rate adjustment | S | | | | BIA will notify ONRR within 30 days of royalty rate adjustment. An example of such an adjustment is an annual modification based on the Consumer Price Index. |
| | | | | | |
| VI.C.1 Variable royalty rate | S | | | | ONRR and BLM will provide technical advice to a tribe as needed. BIA will notify ONRR of a royalty rate change within 30 days of approval. |
| | | | | | |
| VI.C.1a Continuation of variable rate | F | | | | BLM will monitor production rates. BIA will consult with BLM and will notify ONRR as needed. |
| | | | | | |
| VI.D Royalty-in-Kind | J | J | J | | BLM and ONRR will perform their respective duties as though it were an in-value sale. ONRR will require a Solid Mineral Production & Royalty Report from the operator. BLM and ONRR will follow their normal processes to resolve non-compliance issues. Contractual terms that cannot be enforced by BLM or ONRR will be referred to BIA for enforcement. Any ONRR-related appeal decision would be made by the Assistant Secretary for Indian Affairs. Any BLM-related appeal decision would be made by the Assistant Secretary for Land and Minerals. |
| | | | | | |
| VI.E Avoidably lost mineral assessments | | J | J | | Within 30 days of receiving BLM's notification of the type, quantity, and quality of avoidably lost minerals, ONRR will bill for royalty compensation and will send a copy of the bill to the originating BLM office. Upon request, ONRR will notify BIA and the originating BLM office of the bill's resolution. |
| | | | | | |
| VI.F Assessments | | | F | | Prior to disbursement, ONRR will notify BIA and the originating BLM office of an assessment resolution. |
| | | | | | |
| VI.G Trespass | J | J | | | BIA will notify BLM if it makes a trespass determination. BLM will notify BIA and ONRR of its findings on a volume determination. |
| | | | | | |
| VI.G.1 Billing | J | | J | | ONRR will bill for trespass royalties within 30 days of receipt of notice from BLM. BIA will bill for liquidated damages. |
| VI.G.2 Collection | J | | J | J | ONRR will collect trespass royalties and process to BTFA. ONRR will then notify BIA. BIA will bill for liquidated damages and BTFA will receive funds. |
| | | | | | |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| **VII. REVENUE DISTRIBUTION** | | | | | |
| VII.A Fund transfer | | | J | J | For any ONRR collections, ONRR will transfer all Indian lease funds to an BTFA Treasury account on the next business day after receipt, if received prior to the ONRR cut-off time. BTFA will post funds to a tribe's account within one (1) business day of notification from ONRR. |
| | | | | | |
| VII.B Provide collection data to BIA/BTFA/tribal accounts | J | | J | J | For any ONRR collections, ONRR will provide all Indian lease collection data to BTFA by the next business day following the deposit date. ONRR will summarize collection data by deposit ticket for tribal and allotted Treasury accounts and provide a schedule of tribal amounts. Within five working days, ONRR will send BTFA documentation to support the daily collections data provided to BTFA. |
| | | | | | |
| VII.C Explanation of Payments (EOP) to tribes | | | S | | ONRR will provide a financial distribution report (Explanation of Payment Report) to the Tribes no later than the 10th of the month following the month of payment as required by 30 CFR Part 1219.104. |
| | | | | | |
| VII.D Data transfer and distribution to allottees | | | S | | For ONRR collections, twice monthly ONRR will provide distribution data to BIA to create the EOP to the mineral owner(s). No EOP is generated if direct payment is made to allottees. |
| | | | | | |
| VII.D.1 Creation and mailing of Explanation of Payments (EOP) to allottees | F | | | | When the financial distribution report is received from ONRR, BIA will apply the lease revenue to the TAAMS ownership file and create an Explanation of Payment Report (EOP) showing the distribution for each mineral owner. BTFA will print and mail an EOP to each fund recipient. |
| | | | | | |
| VII.D.2 Payment posting and funds disbursement | J | | | J | BTFA will transfer the funds from the BTFA treasury account to either the mineral estate owner's IIM account, or make payment via check or ACH to the mineral estate owner. |
| | | | | | |
| VII.E Data business rules | J | | J | J | An allottee transaction reported to BIA by ONRR will be a net zero or positive amount for the lease. ONRR will suspend negative transactions until ONRR achieves a resolution with the industry reporter. |

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| VII.F Payment and disbursement pending appeal | | | S | | ONRR will require either a payment or surety in lieu of payment on an appealed bill. ONRR will approve the stay of payment and will authorize the surety. If ONRR receives revenue on an appealed bill, the revenue is forwarded to BTFA for investment, but ONRR will not provide BIA with distribution details until final resolution is reached. |
| | | | | | |
| VII.G Payment error resolution | F | | F | F | Payment errors are resolved by the appropriate agency using their processes, rules, and regulations. |
| | | | | | |
| **VIII. COMPLIANCE VERIFICATION** | | | | | |
| VIII.A Prepare and coordinate compliance strategies | | J | J | | BLM and ONRR will provide each other with copies of an annual compliance work plan. BLM and ONRR will coordinate requests for joint compliance strategies. BLM and ONRR may contract with a tribe to perform compliance activities pursuant to Public Law 95-638 and FOGRMA Section 202. Upon request, BLM and ONRR will notify the appropriate agencies and the lessee of compliance action results. |
| | | | | | |
| VIII.A.1 Allottee/ tribal compliance requests | J | J | J | | Tribes not covered by FOGRMA 202 agreements, and allottees, may ask that BIA determine lease term compliance, that BLM perform surface compliance and production verification, and that ONRR assess royalty compliance. (Side MOUs may govern agency responsibilities, as discussed in the cover memorandum.) Requests received by an agency without jurisdiction will be forwarded to the appropriate agency within five business days. Within 30 days, agencies will respond to requestors with a status of their request. The responsible agency provides copies of the request and the response to other agencies, as appropriate. |
| | | | | | |

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| VIII.A.2 Other compliance requests | | J | J | | BLM performs surface and production compliance activities, and ONRR performs royalty compliance activities and will coordinate appropriate production compliance aspects with BLM. Upon request by an individual or organization with standing, BLM and ONRR will determine the level of effort needed to complete compliance requests, based on lease history and complexity. Unless other time frames are negotiated, within 30 days BLM and ONRR will notify the requestor of the necessary actions and an expected completion date. Within 30 days after work completion, BLM and ONRR will notify the requestor of their findings and whether additional actions are necessary to achieve compliance. |
| | | | | | |
| VIII.B Surface compliance | | S | | | BLM has sole responsibility for all inspection and operations-related enforcement on all Federal and Indian lands, in accordance with Federal regulations. Side MOUs may govern agency responsibilities, see section *V.A Mine plan and revisions to the mine plan*.<br><br>BLM will still retain oversight authority on contracted (i.e., P.L. 93-638) inspections, in accordance with Federal regulations and BLM's annual strategy. |
| | | | | | |
| VIII.B.1 Undesirable events | | S | | | BLM and ONRR will process undesirable events, e.g., spills and avoidable losses, in accordance with Federal rules and regulations. BLM will make volume determinations, and within 30 days BLM will provide the determination to ONRR for valuation and collection. BLM will assure surface reclamation in accordance with reclamation requirements as defined in the Mine plan. Also see sections *V.K Avoidable loss of royalty-bearing minerals* and *VI.E Avoidably lost mineral assessments.* |
| | | | | | |
| VIII.C Production compliance | | | | | |
| | | | | | |

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| VIII.C.1 Production volume verification | | J | J | | BLM will conduct I&E/PV on a producing operation in accordance with the annual compliance work plan. BLM will conduct quarterly, routine I&E/PV on all operations, and compare to ONRR production volume data. BLM will inspect a producing facility within 90 days of receipt of a request to resolve a reporting exception or an audit finding when it relates to production volumes.<br><br>BLM will report a volume discrepancy to ONRR, in accordance with existing BLM policies, within 30 days after determination. ONRR will request corrected production and royalty reports (Form ONRR-4430) and will advise BLM when resolved. |
| | | | | | |
| VIII.C.1a Sales volume reporting verification | | | S | | ONRR will perform sales volume comparisons with production and royalty report (Form ONRR-4430) data to ensure all leases, mines, and sales points are reported properly. ONRR will request reporter corrections when necessary. ONRR system access will be provided so that BLM can identify volume-reporting discrepancies. |
| | | | | | |
| VIII.C.1b Used on lease verification | | F | | | BLM will request the operator to modify P&R reports when volumes used on lease are unacceptable. If the operator fails to comply BLM will request ONRR to issue an Order to Report. Within 30 days of resolution of the Order to Report, ONRR will notify the originating BLM office. |
| | | | | | |
| VIII.C.2 Missing production reports | | F | | | BLM will request ONRR to issue an Order to Report for missing reports if BLM does not resolve the issues with the operator. ONRR will issue an Order to Report within 30 days of the request and will send a copy of the order to the originating BLM office. Within 30 days of a BLM request, ONRR will respond on the status or resolution of the order. |
| | | | | | |
| VIII.D Revenue Compliance | | | | | Revenue compliance activities may include audits, compliance reviews, data mining, verification of financial lease terms, interest billing, etc. |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| VIII.D.1 Leasing revenue verification (non-royalties) | S | | | | BIA will verify lease revenues, i.e., pre-production rent, bonuses, surface damages, off-lease rights-of-way, and other revenue in accordance with BIA rules, regulations, and policies. |
| VIII.D.2 Rent and royalty verification | | | S | | ONRR will verify producing lease rent and royalties are paid in accordance with ONRR rules, regulations, and policies. |
| VIII.D.2a Commodity price and allowances | | | S | | ONRR will verify reported commodity prices and claimed allowances in accordance with ONRR rules, regulations, and policies. |
| VIII.D.2b Verification of royalty rate | | | F | | ONRR will verify the accuracy of reported royalty rates based on current lease terms. BLM and ONRR will coordinate as necessary. BLM will respond to an ONRR request within 30 days. |
| VIII.D.2c Inventory and stockpiles | | F | | | BLM will assist ONRR by validating inventories within 30 days of receipt of a request. |
| VIII.E Distribution compliance | | | | | |
| VIII.E.1 Leasing revenue | J | | | J | BIA and BTFA will verify lease revenue distributions in accordance with their rules, regulations and policies. |
| VIII.E.2 Royalty revenue | J | | J | J | In accordance with agency rules, regulations, and policies, ONRR will ensure royalty distribution files are accurate, and BIA and BTFA will ensure distributions to tribes and allottees are accurate. |
| VIII.F Compliance documentation requests | J | J | J | | Upon request, each agency will provide a copy of documents to each other and to states and tribes working under delegated and cooperative agreements at no cost, pursuant to *30 USC 1711(c)(3)*. |
| VIII.G Notice of noncompliance | F | F | F | | BIA, BLM, and ONRR may issue a noncompliance notification in their respective areas of responsibility. BIA or BLM may work with the Solicitor's Office and the DOJ when necessary. The originating office will forward the notification to affected agencies within 30 days. |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| **IX. NONCOMPLIANCE ENFORCEMENT AND RESOLUTION** | | | | | |
| IX.A Order to cease production | | F | | | BLM may initiate, or BIA or ONRR may request, an order to an operator to cease production. BLM will coordinate with BIA, depending upon severity and urgency, and will issue the order. BLM will perform follow-up consultations with BIA or ONRR regarding their request. Within 30 days of the order to cease production, BLM will provide a copy of the order to BIA or ONRR. |
| IX.B Civil penalties and assessments | J | J | J | | BIA, BLM, or ONRR may impose civil penalties and assessments in their respective areas of responsibility. Within 30 days of a BIA, BLM or ONRR request, agencies will provide appropriate documentation to the requestor. |
| IX.C Cancellation of leases | F | | | | Also see section *III.I Lease termination, cancellation.* |
| IX.C.1 Violations of BIA regulations | F | | | | BIA will coordinate with BLM and ONRR for any lease cancellation. BIA will notify BLM and ONRR within 30 days of lease cancellation. |
| IX.C.2 Violations of BLM or ONRR regulations | F | | | | ONRR may request that BIA cancel a lease due to royalty liability, or BLM may request that BIA cancel a lease due to operational deficiencies, when other means to gain compliance have failed. BIA may request BLM or ONRR to provide a summary of actions taken to date. If BIA requests supporting documentation, BLM and ONRR will provide such documentation within 30 days. BLM and ONRR will assist the Solicitor's Office in handling judicial proceedings (25 CFR Part 211.54; 43 CFR Part 3400; and 43 CFR Part 3500). Within 30 days of a BLM or ONRR lease cancellation request, BIA will provide a summary of actions taken to date, or will notify BLM and ONRR of a proposed lease cancellation. |
| IX.D Settlements | | | S | | While negotiating a settlement agreement, ONRR may request information from BIA and BLM. Within 30 days of an ONRR request, BIA and BLM will provide requested information. The Assistant Secretary for Indian Affairs will sign a settlement agreement on behalf of Indian allottees. Within 30 days of the full execution of the settlement agreement, ONRR will send copies to BIA and BLM. |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| | | | | | |
| IX.E Interest on late payments | | | S | | ONRR will calculate and bill interest on a late payment in accordance with ONRR rules, regulations, and policies. |
| | | | | | |
| IX.F Debt collection | | | S | | ONRR will perform debt collection activities, including a referral to Treasury, in accordance with ONRR's rules, regulations, and policies. BIA and/or BLM will respond to ONRR's requests for required debt collection information (e.g., Lessee of Record) within 30 days. Should ONRR fail to collect outstanding debt, ONRR may recommend that BIA cancel the lease. |
| | | | | | |
| IX.F.1 Revocation of leasing and operating privileges | F | | | | ONRR may recommend that BIA or BLM revoke the ability of a person or company to engage in leasing and other activities if that person or company inexcusably or willfully fails to pay a debt. BIA or BLM will respond to ONRR's recommendation within 60 days. |
| | | | | | |
| **X. PROTESTS AND APPEALS** | | | | | |
| X.A Resolution | F | F | F | | Each agency will follow its established rules, regulations, and policies to resolve protests and appeals. Examples of items that lessees or operators may protest or appeal include, but are not limited to:<br>• Lease cancellation,<br>• Avoidable loss assessments,<br>• Lease bond increases,<br>• Agreement or contract actions (i.e., diligent development requirements).<br>Agencies may request information from each other to resolve protests and appeals. Agencies will provide requested information within time frames established in the request. Bureaus may consult with the Solicitor's Office during the resolution of protests and appeals. |
| | | | | | |
| **XI. REPORTS AND INFORMATION SHARING** | | | | | |
| XI.A Industry reporting | J | J | J | | Each agency will follow its internal policies and procedures to resolve data discrepancies, and will coordinate, as needed, to resolve any issues. |
| | | | | | |

**Attachment B**
**Agency Responsibilities and Information Sharing**
SOLID MINERALS – INDIAN

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| XI.A.1 Changes to reporting frequency | J | J | J | | ONRR will send a lessee's or operator's request for non-monthly reporting on tribal leases/agreements to tribal offices, BLM, and BIA for concurrence. For allotted leases/agreements, ONRR will send the request to BIA and BLM. Agencies will respond within 30 days; otherwise, failure to respond is deemed to be concurrence with the proposal. ONRR will notify BLM, BIA, and the tribe (for tribal leases) when it implements non-monthly reporting frequencies. |
| | | | | | |
| XI.A.2 Extending Reporting Due Dates | | | F | | A reporter request to extend reporting due dates must be submitted to ONRR for approval. Within 30 days after ONRR approves reporting due date extensions, ONRR will notify BIA and BLM. |
| | | | | | |
| XI.A.3 Production & Royalty report (Form ONRR-4430) | | | S | | The consolidated form entitled Solid Minerals Production and Royalty Report (Form ONRR-4430) is used by ONRR to obtain solid mineral monthly production and royalty information from operators. |
| | | | | | |
| XI.A.3a Production and product quality data | | | F | | ONRR will receive and distribute all solid mineral production information for operations conducted under an approved mine plan. ONRR will make its production information, including product quality information, available to BIA and BLM after data acceptance. |
| | | | | | |
| XI.A.3b Sales and royalty remittance data | | | S | | ONRR will provide sales and royalty remittance data to BIA bi-monthly. ONRR will make sales and royalty remittance data accessible to BLM through its automated systems. |
| | | | | | |
| XI.A.3c Data corrections | | | F | | ONRR is responsible for production and royalty reporting error corrections. Production reporting errors may require BLM's assistance to resolve. |
| | | | | | |
| XI.B Bureau information sharing | | | | | |
| | | | | | |
| XI.B.1 Data access | J | J | J | J | Each agency will provide the other agencies with access to its IT systems, as appropriate. In accessing another agency's IT system, each agency will comply with that system's Rules of Behavior for access and use. |
| | | | | | |

F = Final responsibility, consultation required
J = Joint responsibility, concurrence required
S = Sole responsibility, no consultation required

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| XI.B.2 Data requests | J | J | J | J | Agencies will respond within 30 days of a request from another agency for information not otherwise available through their IT systems. |
| | | | | | |
| XI.B.3 Public release of data | J | J | J | J | Before any agency releases, or otherwise makes available, another agency's data, they must first collaborate with the originating agency to ensure that the intended purpose of the information release is consistent with the original purpose of the data. |
| | | | | | |
| XI.C Bankruptcy notifications | J | J | J | | If a lessee, payor, or operator files for Chapter 7 or Chapter 11 protection, ONRR will notify BIA and BLM as soon as practicable following receipt of notification via the Master Bankruptcy List, unless a shorter time frame is court mandated. ONRR will update the list and will provide it to BLM monthly. Likewise, BIA and BLM will notify ONRR as soon as practicable when they become aware of a bankruptcy notification or other related information, unless a shorter time frame is court-mandated.<br><br>ONRR or the Solicitor will notify BIA if they need lessee of record or operating rights ownership information. BIA will provide ONRR or the Solicitor with the current and historical lessee and operator information, within 10 working days from the date of receipt of the request.<br><br>Agencies will coordinate with the Solicitor, and with each other, to ensure that complete and accurate claims are submitted timely by the Department to the appropriate U.S. Bankruptcy Court. |
| | | | | | |

| ACTIVITY | BIA | BLM | ONRR | BTFA | REMARKS |
|---|---|---|---|---|---|
| XI.D Allottee/tribal inquiries | J | J | J | J | Tribes or allottees may have a question that requires the efforts of multiple agencies or offices to resolve. Inquiries may be received through the BTFA call center, BTFA Trust Officers, agency outreach sessions, or visits/phone calls to any agency. When necessary, requests received by an agency without jurisdiction will be provided to the agency that has jurisdiction within five business days. Within 30 days, agencies will respond to requestors, and if appropriate, to the referring agency, with the status of the request. For inquiries received by the BTFA call center that are forwarded to the trust officer, the trust officer will relay the response to the requestor. See *Attachment C, "Information Sharing by BIA, BLM, DEMD, ONRR, OSM and BTFA"*. |
| | | | | | |
| XI.E Outreach | J | J | J | J | Agencies will communicate with tribes and allottees on trust-related issues or in response to inquiries. Agencies will communicate and coordinate with each other to prevent conflicting information dissemination, to promote efficiency, and to minimize imposition on the resources and time of tribes and allottees. Agencies will provide each other with 10 business days' advance notice of scheduled meetings with tribes or allottees. |
| | | | | | |
| XI.F Training | | | | | |
| | | | | | |
| XI.F.1 Industry training | J | J | J | J | As needs and opportunities arise for industry training that require multiple agency participation, the sponsoring agency will notify and coordinate with appropriate agencies. Within 30 days of a request, participating agencies will respond to the sponsoring agency. |
| | | | | | |
| XI.F.2 Employee training | J | J | J | J | As needs, class offerings, and opportunities for on-the-job training arise within an agency, the agency will notify the BLM-ONRR Minerals Liaison, who will serve as the central contact point for joint training. The Liaison will notify the other agencies, and will facilitate joint training. |

# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency SOP

## Attachment C

## Information Sharing by BIA, BLM, BTFA, DEMD, ONRR, and OSM

# Attachment C
# Information Sharing by
# BIA, BLM, BTFA, DEMD, ONRR, and OSM

This attachment applies to agency records for Federal and Indian (tribal and individual) energy and mineral lease activities, and describes the general processes for how BIA, BLM, BTFA, DEMD, ONRR, and OSM ("agencies"):

1. Provide information to the public;
2. Maintain proprietary and confidential information;
3. Share information or data with each other; and
4. Share information with tribes.

The processes described in this attachment apply to all records of the agencies. Agency records, as defined in 43 CFR Part 2.3(c) and 383 DM 15, 1.5D, are "any documentary material which is either created or obtained by an agency in the transaction of agency business and under agency control."

The processes follow applicable statutes, regulations, and Departmental policy and guidance. If these processes conflict with any applicable statutes or regulations or Departmental policy or guidance, the statutes, regulations or Departmental policy or guidance take precedence.

### Providing Information to the Public

Providing information to the public includes responding to the Freedom of Information Act (FOIA) requests and posting information in agency reading rooms or on agency web sites.

### Requests for agency records

Requests for agency records from individuals or entities outside the Executive Branch of the Federal Government are processed by the office of record under FOIA (5 USC 552).

The Department of the Interior (DOI) FOIA Handbook (handbook), 383 DM 15, provides policy and general guidance for administering and implementing FOIA in the DOI. The handbook is used in conjunction with:

1. Freedom of Information Act (FOIA) (5 U.S.C. 552),
2. DOI FOIA regulations (43 CFR Part 2, Subparts A-E),
3. Privacy Act of 1974, as amended (5 U.S.C. 552a),
4. DOI Privacy Act regulations (43 CFR Part 2, Subpart G),
5. DOI Privacy Act Manual (383 DM 1-13),

6. The most recently issued Department of Justice FOIA Guide and Case List, DOI's Office of the Chief Information Officer (OCIO)/Information Resource Management bulletins or other directives, and

7. Agency-specific guidance for handling requests for information, such as the ONRR/MRM memo for handling requests for proprietary and other records/information/data.

The OCIO's FOIA and privacy pages on the DOI web site provide comprehensive lists of references for assistance in implementing FOIA and the Privacy Act. In addition, each agency has a FOIA officer and a Privacy Act officer, who are consulted by the recipient of a FOIA or Privacy Act request. Agencies may also consult with the Solicitor's Office when responding to FOIA requests.

In order for an agency record to be a record subject to FOIA, "it must be in the agency's possession and control as of the date the agency begins its search for responsive records" for a FOIA request (383 DM 15, 1.10 B).

The following table shows the Departmental regulation and handbook process for determining agency responsibilities in response to a FOIA request.

| **If the agency that receives a FOIA request finds the requested records are** | **Then the agency will…** | **And…** |
|---|---|---|
| in its possession and control, | respond to the FOIA request (383 DM 15, 3.8-3.10). | |
| not in its possession, but knows that another agency has or is likely to have the records, | refer the request to that agency for direct response, | in writing, notify the requestor of the referral and provide the name of a contact in the other agency (43 CFR Part 2.22(a) and 383 DM 15, 3.14). |
| in its possession, but another DOI agency created or is substantially concerned with the records, | consult with the other agency before deciding whether to release or withhold the records (43 CFR Part 2.22(a) and 383 DM 15, 3.14) **OR** | respond to the request. |
| in its possession, but another DOI agency created or is substantially concerned with the records, | refer the request, along with the records, to the other agency for direct response, | notify the requestor of the referral in writing, and provide the name of a contact in the other agency (43 CFR Part 2.22(a) and 383 DM 15, 3.12) |

**FOIA does not provide a specific exemption for withholding information related to Indian energy and mineral development contained in an agency record.** However, FOIA does provide exemptions that may apply to certain information concerning Federal or Indian energy and mineral leases, which are as follows.

## FOIA Exemption 3

Agencies must withhold information for which another statute "requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue"; or another statute "establishes particular criteria for withholding or refers to particular types of matters to be withheld" (5 USC 552 (b) and 383 DM 15, 5.5) For example, under the Indian Mineral Development Act of 1982 (IMDA), 25 USC 2103(c), agencies must withhold "[the Secretary's written] findings [approving or disapproving a minerals agreement] and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof . . . as privileged proprietary information of the affected Indian or Indian tribe." Note that this provision of the IMDA only protects information related to a specific Minerals Agreement; it generally does not protect all Indian minerals information the Department holds.

There must be an approved Minerals Agreement in place for the specific Indian mineral resources to protect information concerning "the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof." If there is no approved Minerals Agreement applicable to a particular reservoir or deposit, then information concerning that reservoir or deposit is not protected by the IMDA, and therefore not by FOIA Exemption 3.

## FOIA Exemption 4

Agencies must withhold (1) "trade secrets" and (2) "commercial or financial information obtained from a person [including a tribe, a corporation, an individual, a state] as privileged or confidential" (5 USC 552(b)(4) and 383 DM 15). The Trade Secrets Act prevents agencies from divulging trade secrets, financial data, and related information (18 USC 1905). It operates with FOIA Exemption 4 and carries severe penalties for agency employees who release covered information. (See discussion of Exemption 4 below under "Maintaining Commercial or Financial Information.") Also see Executive Order 12600, Pre-disclosure Notification Procedures for Confidential Commercial Information.

## FOIA Exemption 5

Agencies may withhold privileged interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the DOI (5 USC 552 (b)(5)). Under the exemption, agencies may withhold pre-decisional, deliberative documents; attorney work product (during or in anticipation of litigation); attorney-client communications; and government commercial information (383 DM 15, 5.7).

## FOIA Exemption 6

Agencies may withhold "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" (5 USC 552 (b)(6)).

**FOIA Exemption 9**

> Agencies may withhold geological and geophysical information concerning wells (5 USC 552 (b)(9)). The exemption includes "geological and geophysical information and data (including maps) concerning wells and has been invoked to withhold well logs and maps, seismic reports, and other exploratory findings of oil companies. The exemption applies to wells broadly, including oil wells, natural gas wells, and water wells" (383 DM 15, 5.11).

DOI FOIA Regulations (43 CFR Part 2, Appendix F) also contain Special Rules Governing Certain Information Concerning Coal Obtained under the Mineral Leasing Act (30 USC 201(b)) or the Mineral Leasing Act for Acquired Lands (30 USC 351-360)."

**Reading rooms/web sites**

Agencies' physical and electronic reading rooms are covered under FOIA (5 USC 552(a)(2), 43 CFR Part 2, and 383 DM 15, 1.7 and 1.8).

In addition to copies of required records on their FOIA home pages (including frequently requested FOIA records), agencies may, at their discretion, make other records available for inspection and copying in reading rooms or on their Internet home pages (43 CFR Part 2.4(c)(1)(iv) and 383 DM 15,1.7(A) and 1.7 (C)). Before making records available for public inspection in those locations, agencies must determine whether any information in the records should be withheld from public release under a FOIA exemption and make any necessary redactions, carefully considering the interests of the Government and commercial entities, the personal privacy of individuals, and any potential security implications that might be impacted by disclosure (43 CFR Part 2.4(c)(2)) and 383 DM 15, 1.8 (B)). If information is deleted from a record prior to placing it in a physical or electronic reading room, the agency will indicate the volume of information that has been deleted on the document and the exemption(s) used to withhold it (43 CFR Part 2.4(c)(1)(iv) and 383 DM 15, 1.8 (B)(1)).

Agencies have determined that they may post certain "aggregated" information on their respective web sites, e.g., total number of leases and total volume of oil produced, which does not identify submitters, personally identifiable information, specific locations, terms of specific leases or any information that may be withheld under a FOIA exemption or may not be released to a third party under the Privacy Act.

**Maintaining "Privileged Proprietary Information" or "Commercial or Financial Information that is Privileged or Confidential."**

In general, agencies rely on FOIA exemptions to determine information that may be or is required to be withheld from disclosure. FOIA does not provide an exemption specifying "privileged proprietary information." However, see FOIA Exemption 4 – "commercial or financial information that is privileged or confidential."

Under FOIA Exemption 3, agencies must withhold information for which another statute forbids disclosure (an "Exemption 3 statute"). To be an Exemption 3 statute, a statute must "require that the matters be withheld from the public in such a manner as to leave no discretion on the issue"; or "establish particular criteria for withholding or refer to

particular types of matters to be withheld" (5 USC 552(b)(3) and 383 DM 15, 5.5). As discussed above, the IMDA may, in certain circumstances, be such a statute.

Records may be "commercial" if the submitter [defined as a "person" above] has a "commercial interest" in them. Also, in general, whether information is "commercial or financial" is based on whether disclosure of such information could adversely affect the submitter's ability to negotiate, or jeopardize its commercial interests, or reveal information about its ongoing operations (Department of Justice FOIA Guide, 2009). Information from a submitter is not "commercial or financial" under Exemption 4 merely because it may be labeled as "proprietary and confidential" (Department of Justice FOIA Guide, 2009). An agency's "promise that information would not be released" is not determinative (Department of Justice FOIA Guide, 2009).

In general, a determination of whether commercial or financial information is confidential is based on whether the submitter was required to provide the information or submitted the information voluntarily (383 DM 15, 5.6(C)(2)(c)).

If the submitter was required to submit the information and the agency receiving the information exercised the authority to require the information, then confidentiality is determined by whether disclosure of the information is likely to "impair the Government's ability to obtain necessary information in the future" or "to cause substantial harm to the competitive position of the person from whom the information was obtained" or "harm an identifiable private or governmental interest; e.g., impair the effectiveness of a Government program or agency compliance" (383 DM 15, 5.6 (C)(2)(c)(ii)(A-C)). If one of these tests is met, then the commercial or financial information that was required to be submitted is confidential and exempt from disclosure.

If the submitter provided information voluntarily, then the information is confidential and protected if the submitter does not customarily disclose it to the public (383 DM 15, 5.6(C)(2)(c)(i)). Commercial or financial information that courts have found to be properly withheld under Exemption 4 include:

1. Commercial or financial information received in confidence in connection with bids, contracts or proposals [examples not included here];

2. Scientific and manufacturing processes or developments containing technical or scientific data submitted with an application or report while research is in progress;

3. Some solid mineral information, such as production data and royalty statistics; and

4. Geophysical information—location of oil and gas wells, drilling plans, exploration data, geologic reports, maps, etc.; and financial information maintained on Indian tribes (383 DM 15, 5.6 (H) (1-5)).

## Data and information sharing among agencies

DOI agencies may share data and information in the performance of their duties. Such exchanges of data or information are not governed by FOIA.

Before any agency releases or otherwise makes available another agency's data, they must first collaborate with the originating agency to ensure that the intended purpose of the information release is consistent with the original purpose of the data.

Any shared information should not contain personally identifiable information (PII).

The Office of Management and Budget (OMB) defines personally identifiable information as "any information about an individual maintained by an agency, including, but not limited to education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information which is linked or linkable to an individual (OMB Memorandum M-06-19).

## Information sharing with Tribes and States under FOGRMA

Under the Federal Oil and Gas Royalty Management Act, Public Law 97-451 (FOGRMA), ONRR enters into cooperative agreements with any State or Indian tribe to share certain information for oil and gas management on leases on Federal land within states and on Indian lands with the tribe that has jurisdiction of the lands. In entering into a "cooperative agreement or agreements with . . . [an] Indian tribe to share oil or gas royalty management information, to carry out inspections, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act, . . . The Secretary shall not enter into any such cooperative agreement with a State with respect to such activities on Indian lands, except with the permission of the Indian tribe involved. Except as provided in section 203, and pursuant to a cooperative agreement:

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe." (Section 202).

In addition, under FOGRMA, upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State; except that the Secretary may not undertake such a

delegation with respect to any Indian lands, except with the permission of the Indian tribe or allottee involved. (Section 205)

Trade secrets, proprietary, and other confidential information shall be made available by the Secretary, to a State or Indian tribe upon request only when a FOGRMA cooperative agreement exists and contains the following terms:

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe (Section 203).

A FOGRMA cooperative agreement which contain these terms must be in place before an authorized release may occur to a State or Indian tribe.

Where there is no FOGRMA cooperative agreement in place, or there is an agreement without these terms, a State's or tribe's trade secrets, including proprietary and other confidential information related to oil and gas royalty accounting, is protected from unauthorized disclosure under FOIA Exemption 4.

# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency SOP

## Attachment D

## Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

# Attachment D
# Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

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# Attachment D
# Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

## ACRONYMS

| | |
|---|---|
| AS-IA | Assistant Secretary of Indian Affairs |
| AVSO-DME | Appraisal and Valuation Services Office<br>Division of Minerals Evaluation |
| BIA | Bureau of Indian Affairs |
| BLM | Bureau of Land Management |
| CFR | Code of Federal Regulations |
| DEMD | Division of Energy and Mineral Development |
| DOI | Department of the Interior |
| IESC | Indian Energy Service Center |
| IMDA | Indian Mineral Development Act of 1982 |
| NEPA | National Environmental Policy Act of 1969 |
| NONC | Notice of Noncompliance |
| NTL | Notice to Lessees and Operators |
| ONRR | Office of Natural Resources Revenue |
| SOP | Onshore Energy and Mineral Lease Management<br>Intra-Agency Standard Operating Procedures |
| SOL | Office of the Solicitor |

# Attachment D
# Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

## INTRODUCTION

The Indian Mineral Development Act (IMDA) of 1982 permits Tribes to enter into certain agreements for the disposition of tribal mineral resources and for other purposes.

The Department of the Interior's (DOI) various bureaus and offices share Indian trust responsibilities to provide advice, technical assistance, and oversight during the negotiation and implementation of an IMDA Agreement (Agreement). Before deciding, DOI is responsible for providing a written "best interest" determination to the tribes addressing the Agreement. This "best interest" determination is to consider the Agreement's likely economic return to the tribe, as well as its likely environmental, social, and cultural effects.

A Tribe may submit an Agreement to the BIA for approval. The approval or disapproval must follow the time frame laid out in Title 25 CFR 225.22, which begins when the BIA receives a complete submission. The Agreement must be approved within one hundred and eighty (180) days after submission or sixty (60) days after compliance with NEPA or any other requirement of Federal law, whichever is later.

Once the Department approves an Agreement, the roles and responsibilities of the AVSO-DME, BLM, BIA, DEMD, IESC, and ONRR continue in much the same way as other Indian minerals leases are managed by DOI (as outlined in this SOP and Attachments A, B, and E), except as described below.

The Tribe has the primary role in negotiating mineral development agreements, but Congress tasked DOI with providing technical assistance to the Tribe upon request and to the extent of available resources. This must occur whether the bureau or office has a budget line item for this or not. If the Department receives a request from a Tribe for technical assistance, the Department should strive to inform the Tribe of any potential problems with the Agreement before the Tribe finalizes the terms and while negotiations are in progress.

# Attachment D
# Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

## BUREAU AND OFFICE RESPONSIBILITIES

**AVSO-DME responsibilities include:**

1. Determining fair market value for mineral leasing purposes and providing a recommendation on royalty rate, rental, and minimum bonus, when requested.

**BIA responsibilities include:**

1. Approving IMDA Agreements after consultation with other bureaus and offices.
2. During the approval process, compiling bureau and office comments and providing responses to the appropriate bureau/office on which comments were incorporated. If comments were not incorporated, an explanation should be provided to the bureau/office that submitted the comment.
3. Oversight responsibilities for lease management as defined in this SOP, Attachment A, Attachment B, and Attachment E.
4. Oversight for all unique IMDA provisions not otherwise outlined in this SOP.

**BLM responsibilities include:**

1. Carrying out all operational activities within the context of the lease/agreement in accordance with the Title 43 of the CFR operational regulations, as applicable, and this SOP.
2. Supporting all ONRR activities, not just audit activities, when necessary.
3. Providing technical advice and assistance to BIA on non-operational provisions, upon request.
4. Managing all BLM activities contained in this SOP not covered by preceding items 1 through 3.

**DEMD responsibilities include:**

1. Completing a mineral potential evaluation, if requested.
2. Evaluating resource potential on tribal lands.

**IESC responsibilities include:**

1. Coordinating the review of the IMDA Agreement and convening a review committee consisting of subject matter experts from the appropriate bureaus and offices.
2. Compiling findings that form the basis for Departmental decision-making on the IMDA and distributing findings to appropriate bureaus and offices.

**ONRR responsibilities include:**

1. Conducting compliance and accounting activities, including reporting and payment requirements, after a mineral lease enters production status.
2. Performing product valuation determinations.
3. Verifying processing and transportation allowances.

**Tribal basic responsibilities include:**

1. Negotiating IMDA Agreements.
2. Collecting tribal taxes and other non-trust payments.
3. Enforcement of employment provisions.

# Attachment D
# Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

## THE IMDA PROCESS

**Leasing:**

1. Although it is not mandatory, DOI encourages a pre-filing consultation between proponents of the Agreement and AS-IA. The purpose of a pre-filing consultation is to ensure that the Agreement conforms to the IMDA's regulatory requirements, thereby enhancing the prospects for approval of the Agreement. Additional coordination by BIA Regional and Agency offices with other involved bureaus may be necessary.
2. The Tribe must submit the executed Agreement, together with a copy of the resolution of endorsement from the Tribal governing body to the BIA Agency/Regional office. The BIA Regional or Agency office will forward a copy to the IESC. The Tribe's submission of the Agreement must include the tribal resolution.

   Receipt of the complete copy of the Agreement at the BIA Regional Office triggers the 180-day time frame to begin.

3. The IESC will coordinate the review of the Agreement by sending copies to the relevant Department bureaus and offices with stated deadlines for a response. IESC will also convene a review committee including representatives from AVSO-DME, BIA, BLM, DEMD, ONRR, and SOL. The appropriate points of contact of each bureau or office should be the office that is involved in the geographic region of the participating tribe. The appropriate contacts are:
   a. AVSO-DME – Deputy Director
   b. BLM – State Office
   c. BIA – Regional Office and Agency Office
   d. DEMD – Division Chief
   e. ONRR – Tribal Liaison Officer
   f. SOL – Field Office
4. BIA is responsible for NEPA compliance.
5. AVSO-DME will provide an economic assessment of the Agreement to determine fair market value of the minerals proposed for development.
6. IESC distributes compiled responses to the appropriate bureaus and offices. Compiled responses from the review committee form the basis for Departmental decision-making on the Agreement.
7. Upon completion of the environmental and economic assessment, BIA prepares "findings" based on the reviews.

   At least 30 days prior to formal approval/disapproval of the Agreement, the Secretary shall provide the affected Indian mineral owner(s) with a document of "best interest" findings that forms the basis for the approval/disapproval decision. This document informs Indian mineral owner(s) of the DOI's intention to approve or disapprove the Agreement. The time period begins on the date the written findings are received by the Indian mineral owner(s).

   The content of the written findings is considered privileged and proprietary information held by the DOI. The letter containing the written findings should be headed with: PRIVILEGED PROPRIETARY INFORMATION OF THE (names of Indian mineral owners).

8. The Designated BIA official may approve the Agreement at the end of the 30-day review by the Indian mineral owner(s). The approving officer will provide copies of the approved Agreement and associated findings document to the bureaus or offices affected.

# Attachment D
# Bureaus and Offices Responsibilities and Procedures for IMDA Agreements

The Agreement must be approved if it is determined that all of the following conditions are met per Title 25 CFR 225.22(c):

a. The minerals agreement is in the best interest of the Indian mineral owner.
b. The minerals agreement does not have adverse cultural, social, or environmental impacts sufficient to outweigh its expected benefits to the Indian mineral owners.
c. The minerals agreement complies with the requirements of 25 CFR Part 225 and all other applicable regulations and the provisions of applicable Federal law.

The AS-IA has the delegated authority to disapprove an Agreement.

9. IESC will convene a post-approval meeting for the Agreement among the affected bureaus and offices. This meeting will foster a clear understanding of roles and responsibilities within each bureau or office with respect to any special/unique provisions contained in the Agreement, and facilitate any coordination needed during post- approval operations. This meeting will also discuss the comments and provide feedback on which comments were incorporated into the Agreement.

**Operations:**

1. BLM will handle post-approval operational activities in accordance with the operations regulations contained in Title 43 of the CFR that pertains to the particular mineral being developed. All operational regulations, orders, and NTL's apply.
2. Inspection and enforcement will be conducted by BLM in accordance with operations regulations contained in Title 43 of the CFR that pertain to the particular mineral being developed.
3. The BIA may issue NONC for violation of terms and conditions of the Agreement, other than those enforced by BLM and ONRR, and impose its own penalty provisions.
4. ONRR will handle post-approval accounting, compliance, auditing, and enforcement activities in accordance with regulations contained in Titles 25 and 30 of the CFR that pertain to the particular mineral being developed.

# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency SOP

## Attachment E

## Responsibilities and Procedures of BIA, BLM, and OSM for Coal Leasing and Mining Operations on Indian Lands

**Attachment E**
Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

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## DEFINITIONS AND ACRONYMS

| | |
|---|---|
| Allotted Land | Land owned by the United States in trust for an individual Indian or land owned by an individual Indian subject to a restriction on alienation |
| Applicant | Any person, operator, proprietorship, partnership, corporation, or business association seeking a prospecting permit, lease, minerals agreement, contract, or mining permit/mining plan approval |
| Authorized officer | Any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described in 25 CFR Parts 211 and 225 and in 43 CFR Part 3480 |
| BIA | United States Bureau of Indian Affairs |
| BLM | United States Bureau of Land Management |
| Exploration Plan | A detailed plan developed in accordance with 25 CFR Part 216 submitted to and approved by BLM under a prospecting permit or minerals agreement approved by BIA in accordance with 25 CFR Parts 211, 212, and 225 |
| Indian Lands (as defined within SMCRA) | All lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe |
| Indian Mineral Owner | (1) Any individual Indian or Alaska native person who owns land or mineral interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, or (2) Any Indian tribe, band, native, pueblo, community, rancheria, colony, or other group that owns land or mineral interest in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. This definition does not include owners of lands patented to a village or regional corporation pursuant to the Alaska Native Claims Settlement Act, P.L. 92-203 |
| Indian Surface Owner | (1) (1) Any individual Indian or Alaska native person who owns an interest in the surface estate of land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, or (2) any Indian tribe, band, native, pueblo, community, rancheria, colony, or other group that owns an interest in the surface estate of land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. This definition does not include owners of lands patented to a village or regional corporation pursuant to the Alaska Native Claims Settlement Act, P.L. 92-203 |
| Lease | Any contract, approved by the Secretary of the Interior under the Act of March 3, 1909 (35 Stat. 783) (25 U.S.C. 396), as amended, or the Act of May 11, 1938 (52 Stat. 347) (25 U.S.C. 396a–396g), as amended, that authorize exploration for, extraction of, or removal of any minerals |

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|---|---|
| Minerals Agreement | Any joint venture, operating, production sharing, service, managerial, lease (other than a lease entered into pursuant to the Act of May 11, 1938, or the Act of March 3, 1909), contract, or other minerals agreement; or any amendment, supplement or other modification of such minerals agreement, providing for the exploration for, or extraction, processing, or other development of minerals in which an Indian mineral owner owns a beneficial or restricted interest, or providing for the sale or other disposition of the production or products of such minerals |
| Minerals agreement area or lease area | The area within the scope of a minerals agreement or lease |
| Minerals agreement performance bond or lease performance bond | A bond approved in consultation with BLM and administered by BIA by which a permittee or operator assures faithful performance of all the provisions of a BIA-approved minerals agreement, lease, or prospecting permit as set forth in 25 CFR Parts 211, 212, 216, or 225 |
| Mining Plan | The complete plan submitted to BLM relating to the development, production, and recovery of coal resources as required by 25 CFR Parts 216 and 225, and minerals agreement or lease provisions. This is the same mining plan referred to as item 3 in the definition of Permit Application Package below |
| Mining Supervisor | As used in 25 CFR Part 216 this term means the authorized officer or his designee of the BLM. (In 25 CFR Parts 211, 212, and 225, the term “authorized officer” is used for the same official, rather than “mining supervisor”) |
| NEPA | National Environmental Policy Act of 1969, as amended |
| Operator (Contractor) | A person, proprietorship, partnership, corporation, or business association which is authorized to conduct exploration or mining activities on Indian lands |
| OSM | United States Office of Surface Mining Reclamation and Enforcement |
| Permit Application Package (PAP) | A proposal, submitted to OSM by an applicant, to conduct surface coal mining and reclamation operations on Indian lands and includes: (l) an application for a SMCRA permit, SMCRA permit revision, or SMCRA permit renewal; (2) all the information required by the SMCRA regulations under 30 CFR Part 750; (3) the mining plan or mining plan modifications required under 25 CFR Parts 216 and 225; (4) all the information required by minerals agreement provisions; and, (5) all information required by other applicable laws and regulations |
| Prospecting Permit | An authorization in accordance with 25 CFR Parts 211.56 or 212.56, to conduct coal exploration activities upon Indian lands prior to BIA approval of a lease or minerals agreement |
| Regional Director | Bureau of Indian Affairs Official in charge of a regional office |
| SMCRA | Surface Mining Control and Reclamation Act of 1977 (PL 95-87), as amended |

| | |
|---|---|
| SMCRA Performance Bond | A bond approved and administered by OSM by which an operator or contractor assures faithful performance of all the reclamation and/or environmental protection requirements of the minerals agreement and approved SMCRA permit and other environmental requirements as set forth in 30 CFR Part 750 |
| SMCRA Permit Area | That area specifically approved by OSM within which surface coal mining and reclamation operations on Indian lands are conducted pursuant to 30 CFR Part 750 |
| TRA | Tribal Regulatory Authority that regulates surface coal mining and reclamation operations on tribal lands pursuant to a Tribal Program approved by the Secretary of the Interior under SMCRA |

**Attachment E**
Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

## INTRODUCTION

This Attachment to the Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP) describes the responsibilities and procedures for cooperation and coordination among the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM), and the Office of Surface Mining Reclamation and Enforcement (OSM) for coal leasing and mining operations on Indian lands in the United States. It replaces the MOU signed in 2002 by the Assistant Secretary, Land and Minerals Management, Assistant Secretary, Indian Affairs, Deputy Commissioner, Indian Affairs, Director, Bureau of Land Management, and Director, Office of Surface Mining, entitled “Memorandum of Understanding, BIA-BLM-OSM, Management of Coal Mining on Indian Lands.” This Attachment provides a reference framework and procedural arrangements by which the BIA, BLM, and OSM will carry out their functions and responsibilities that must be coordinated for effective and efficient coal leasing and mining operations on Indian lands (see definition).

The responsibilities and procedures described herein recognize: (1) the role of Indian tribes as coal owners and governing entities having basic authorities and responsibilities for the development and administration of Indian resource programs;

(2) the lead role of the BIA representing the Secretary in the Federal-Indian trust relationship and in consultation with the Indian mineral owners; (3) BLM's authority to administer operational aspects of exploration, development, and production on Indian lands; and (4) OSM’s role as the regulatory authority with respect to the conduct of surface coal mining and reclamation operations. The SOP also recognizes that Indian tribes may exercise OSM’s role as a regulatory authority under a tribal program approved by the Secretary pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This Attachment does not specifically address all the notifications, coordination, and consultation that must take place between each specific agency and the tribal governments and Indian mineral or surface owners. Each agency, in accordance with its regulations, policies, and internal procedures, conducts such activities. The framework of responsibilities and procedures set forth are those that would normally occur on Indian lands within a reservation boundary. Outside a reservation boundary, the complex patterns of Indian and non-Indian ownership of surface and/or mineral rights may require some modifications of the standard procedures set forth in this Attachment. These unusual or unique situations will be resolved on a case-by-case basis according to the general principles set forth in this Attachment.

The responsibilities and procedures described herein will be supplemented and amended as legislation, court rulings, and modified regulations may require, and as Indian mineral owners become more involved in the Indian coal management program.

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| **I. ACTIONS BEFORE ISSUANCE OF A BIA-APPROVED LEASE OR MINERALS AGREEMENT** | | | | | |
| I.A Exploration operations under a Prospecting Permit | | | | | OSM and the TRA have no regulatory role but may recommend specific data be collected that would be required in the permit application package (PAP) or cumulative hydrologic impact assessment in association with anticipated mining activities. |
| I.A.1 Provide technical assistance to Indian mineral owner in preparation of prospecting permit | J | J | O | BLM OSM | BIA normally receives the prospecting permit application and/or request for assistance from the Indian mineral owner(s). BIA provides copies of the application to BLM and OSM of the action within 30 days of receipt of request or application. |
| I.A.2 Provide compliance with NEPA requirements | S | O | O | BLM | Upon request, BLM and OSM will assist BIA. |
| I.A.3 Approve or disapprove prospecting permit | S | O | O | | BIA may consult as appropriate with BLM prior to permit approval. BIA establishes performance bond for prospecting permit and provides BLM with copies of the prospecting permit within 30 days of approval. |
| I.A.4 Provide assistance to the mineral owner in evaluating exploration plans | J | J | O | | BLM will assist BIA. |
| I.A.5 Approve or disapprove the exploration plan | O | F | O | BIA OSM | BLM consults with BIA before approving the exploration plan. |
| I.A.6 Provide regulatory oversight of exploration operations | O | F | O | | BLM consults with BIA about activities related to surface management. |
| I.A.7 Issue Notice of Noncompliance should operator fail to comply with the terms or conditions of an approved Exploration Plan | O | F | O | | BLM issues notice and reinspects after the time provided to cure the noncompliance. BLM notifies BIA and the Indian mineral owner of the Notice of Noncompliance. |

| | |
|---|---|
| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| I.A.8 Issue Notice of Noncompliance should operator fail to comply with the terms or conditions of an approved Prospecting Permit | F | O | O | | BIA issues notice and reinspects after the time provided to cure the noncompliance. BIA notifies BLM and the Indian mineral owner of the Notice of Noncompliance. BLM may provide technical assistance to the BIA for these Notices of Noncompliance. |
| I.A.9 Approve abandonment of exploration operations | O | F | O | BIA OSM | Consults with BIA before approval. |
| I.A.10 Terminate prospecting permit and release performance bond for prospecting permit | F | O | O | BLM OSM | Consults with BLM before termination. |
| I.B Minerals Agreement or lease Issuance | | | | | The Indian mineral owner and the applicant will enter into a minerals agreement, subject to approval by BIA. |
| I.B.1 IMDA Agreements | | | | | Also see *Attachment D, "*BLM/BIA/ONRR Responsibility and Procedures for IMDA." |
| I.B.1.a Technical Assistance | J | J | J | All | BIA, BLM, and OSM will provide technical assistance, consistent with their expertise, to the mineral owner during mineral owner negotiation of the minerals agreement under IMDA. Assistance can be provided to the tribe in the course of negotiating, evaluating, and preparing minerals agreement terms, stipulations, and conditions. |
| 1.B.1.b Document Review | F | O | O | BLM OSM | BIA will coordinate the review of the draft agreement for the Department within the 180 day time-frame established in the regulations. BLM and OSM will provide an evaluation, consistent with their expertise and the extent of available resources, of the negotiated terms of the agreement to BIA. This review is needed in order for the Secretary to make an informed determination of whether to approve the draft minerals agreement. It is an inherently Federal function. |

| | |
|---|---|
| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| I.B.2 Appraisals/ Bond Recommendations | O | F | O | BIA | BLM provides appraisal information and bond recommendation to BIA for leases under the 1909 and 1938 leasing acts |
| I.B.3 NEPA Compliance | F | O | O | | BIA will be the lead agency in the preparation of required NEPA documents. BLM and OSM may be cooperating agencies. |
| I.B.4 Approve or disapprove the IMDA minerals agreement or lease | S | O | O | BLM OSM | Copies provided upon approval. |
| **II. ACTIONS AND APPROVALS AFTER ISSUANCE OF A BIA APPROVED MINERALS AGREEMENT OR LEASE** | | | | | |
| II.A Applications and actions not related to rights granted by the Minerals Agreement or lease | | | | | BIA processes applications on Indian lands overlying Indian coal, subject to a minerals agreement or lease, for uses not related to the recovery of coal (e.g., grazing, timbering, rights of way, sand and gravel). |
| II.A.1 Applications distributed for comment | F | O | O | BLM OSM TRA | Copies will be distributed within 30 calendar days of receipt to BLM and OSM for comment |
| II.A.2 Approve or disapprove the application | F | O | O | BLM OSM TRA | BLM and TRA/OSM provide recommendations to BIA on potential conflicts with surface coal mining and reclamation operations within 30 days of receipt of the application. |
| II.B Exploration operations under a BIA-approved Minerals Agreement or lease | | | | | |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| II.B.1 Receive the exploration plan from the applicant | O | S | O | BLM OSM TRA | Additional exploration work under a minerals agreement or lease is conducted under an exploration plan approved by BLM. If a SMCRA permit has been issued, responsibilities and procedures are those set forth in section *III.B Exploration operations – SMCRA permit area* |
| II.B.2 Request interagency participation | O | F | O | | If requested, TRA/OSM identifies special data that could be required in a PAP. BIA makes recommendations after consultation with tribal and individual Indian mineral and surface owners. |
| II.B.3 Conduct a field examination of the area of the exploration plan | J | J | O | | BLM notifies BIA and TRA/OSM of the time and place of the joint field examination. |
| II.B.4 Prepare required NEPA documents | O | F | O | | BIA and TRA/OSM cooperate in the preparation of documents required by NEPA |
| II.B.5 Approve, disapprove or conditionally approve the exploration plan | O | F | O | BIA OSM TRA | BLM consults with BIA prior to approval or disapproval |
| II.B.6 Supervise exploration and reclamation operations under the approved plan | O | F | O | | BIA and TRA/OSM will assist upon request. BLM makes all data obtained under the approved plan available to BIA and Indian mineral owner. For geological data a secondary office of control will be established by BIA if necessary. |
| II.B.7 Conduct final abandonment inspection(s) of the area of exploration operations | J | J | O | | BIA and Indian mineral owner participate in the final inspection(s) and make recommendations as required |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
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| II.B.8 Approve reclamation of the area of exploration operations | O | F | O | BIA OSM TRA | BLM will advise BIA of BLM's intent to accept the reclamation activity. Within 60 days, BIA will respond with any concerns regarding the reclamation activities. BLM will notify BIA and the operator of acceptance of reclamation. |
| II.B.9 Approve abandonment of area of exploration operations | O | F | O | BIA OSM TRA | BLM approves abandonment of operations in consultation with BIA and Indian mineral owner. |
| II.C SMCRA permit issuance and Mining Plan approval | | | | | |
| II.C.1 Receive PAP which includes the mining plan from operator | O | O | S | BIA OSM TRA | TRA/OSM transmits copies to BIA, BLM and Indian mineral owner(s). BIA notifies Indian surface owners of receipt of the PAP. |
| II.C.2 Identify principals responsible for interagency coordination and cooperation | J | J | J | | BIA, BLM, and TRA/OSM will identify a principal as point of contact responsible for interagency cooperation and notify the others within 10 calendar days of receipt of the PAP. |
| II.C.3 Review the SMCRA permit application for administrative completeness | O | O | S | | TRA/OSM will determine the administrative completeness of the SMCRA permit application |
| II.C.4 Interagency PAP conference(s) | O | O | F | | Upon request, an interagency (BIA-BLM-OSM/TRA) conference(s) will be held and shall include the tribe. |
| II.C.5 Notify applicant of deficiencies in administrative completeness | O | O | S | BIA BLM | TRA/OSM will provide copies of any deficiency letters to BIA, BLM, the tribe, and other Federal agencies. |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
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**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
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| II.C.6 Receive, distribute and review applicant's submittals in response to administrative completeness deficiencies | O | O | S | BIA BLM | TRA/OSM will send copies of notification to BIA, BLM, and the tribe. |
| II.C.7 Issue notice of administrative completeness of the SMCRA permit application to applicant | O | O | F | | TRA/OSM will issue the notice of administrative completeness to the applicant within 30 days of the determination. |
| II.C 8 Conduct a technical review of the SMCRA permit application for compliance with SMCRA requirements | O | O | F | | BIA, BLM, the tribe, and other Federal agencies will review the PAP and provide comments to TRA/OSM within 30 calendar days of the SMCRA permit application being determined administratively complete |
| II.C.9 Notify applicant of specific technical deficiencies | O | O | S | BIA BLM | Include appropriate deficiencies identified by BIA, BLM, the tribe, and other Federal agencies. |
| II.C.10 Receive, distribute, and review applicant's response to technical deficiencies | O | O | F | BIA BLM | BIA, BLM, the tribe, and other Federal agencies will review the applicant's response and provide comments to TRA/OSM within 30 calendar days |
| II.C.11 Assure compliance with NEPA requirements for the mining plan and SMCRA permit application decisions by BLM and OSM, respectively | O | J | J | | TRA/OSM and BLM will be cooperating agencies during preparation of the NEPA documents. BLM will have lead responsibility for issues related to coal resource recovery and protection, and TRA/OSM will have lead responsibility for issues related to SMCRA-related reclamation and post mining land use issues |
| II.C.12 Conduct technical review of the mining plan that addresses coal development, production, resource recovery and protection | O | F | O | | BLM consults with BIA, the tribe, and TRA/OSM during the review and prior to approval of the mining plan. BIA and the tribe provide comments and recommendations to BLM within 45 calendar days of receipt of the mining plan. TRA/OSM provides comments and recommendations to BLM concerning SMCRA requirements pertaining to the mining plan. |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| II.C.13 Issue written notification to applicant to approve, disapprove, or conditionally approve the mining plan | O | S | O | BIA OSM TRA | BLM provides BIA, Indian mineral owners, TRA/OSM and other Federal agencies with copies of the decision. BIA notifies Indian surface owners of the decision |
| II.C.14 Issue written notification to applicant of the completion of the technical review stage and approve, disapprove, or conditionally approve the SMCRA permit application | O | O | S | BIA BLM | TRA/OSM furnishes copies of notification to BIA, BLM, Indian mineral owners, and other Federal agencies. BIA notifies Indian surface owners. TRA/OSM's decision on the permit application occurs after BLM's decision on the mining plan |
| II.C.15 Issue an SMCRA permit | O | O | S | BIA BLM | TRA/OSM provides copies of permit, decision documents and NEPA documentation to BIA, BLM, the tribe, and other Federal agencies. |
| **III. ACTIONS AFTER SMCRA PERMIT AND MINING PLAN APPROVALS** | | | | | |
| III.A Changes to SMCRA Permit/PAP and/or Mining Plan | | | | | |
| III.A.1 In accordance with 25 CFR Part 216, BLM initiates and or receives mining plan modifications and approves, disapproves or conditionally approves these applications | O | F | O | BIA OSM TRA | BLM receives and processes the modifications. BLM sends a copy of the proposed modification to BIA, TRA/OSM, the tribe and other Federal agencies. BIA, TRA/OSM, the tribe, and other Federal bureaus will respond within 30 days with comments and/or concerns. If a revision to the SMCRA permit is necessary, and the operator has not submitted one, TRA/OSM will advise the operator. Joint site visits will be conducted by the bureaus when appropriate. On occasion, BLM may determine that field conditions or other circumstances require an expedited review and a decision for a mining plan modification. BLM will immediately contact the BIA, TRA/OSM and the tribe (by phone or fax) to make appropriate arrangements. On these occasions, BLM will make every attempt to ensure that the other bureaus are properly briefed and involved and as follow-up will provide all parties with a copy of the written decision and documentation. |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
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| III.A.2 In accordance with 30 CFR Part 750, OSM initiates revisions and/or receives applications for SMCRA permit renewal, revision, transfer, sale or assignment and approves, disapproves or conditionally approves these applications | O | O | F | BIA BLM | TRA/OSM receives and processes the applications and sends a copy of the application to BIA, BLM, the tribe, and other Federal agencies. BIA, BLM, the tribe, and other Federal agencies will respond within 30 days with comments and/or concerns. If a modification to the mining plan is necessary, and the operator has not submitted one, BLM will advise the operator. Joint site visits will be conducted by the bureaus when appropriate. On occasion, TRA/OSM may determine that field conditions or other circumstances require an expedited review and a decision for a permit revision application and will immediately contact the BIA, BLM and the tribe (by phone or fax) to make appropriate arrangements. On these occasions, TRA/OSM will make every attempt to ensure that the other bureaus are properly briefed and involved and as follow-up will provide all parties with a copy of the written decision and documentation. |
| III.B Exploration operations – SMCRA permit area | | | | | |
| III.B.1 Exploration within an SMCRA permit area | O | O | F | | Exploration operations are conducted as approved in the SMCRA permit. |
| III.B.2 Approval of Exploration Plans outside as SMCRA permit area | O | F | O | | Exploration Plans for operations outside a SMCRA permit area are approved by BLM in consultation with BIA and TRA/OSM. Procedures are those in section *I.A Exploration operations under a Prospecting Permit* or section *II.B Exploration operations under a BIA-approved Minerals Agreement or lease*, as appropriate. |
| III.C Inspection and enforcement | | | | | |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| III.C.1 Monitor, inspect and enforce SMCRA and SMCRA permit requirements for surface effects and reclamation requirements | S | O | O | BLM OSM TRA | BIA retains surface management jurisdiction over the area as defined in the minerals agreement or lease. BIA invites participation of BLM, the tribe, and TRA/OSM in inspections conducted by BIA in the mineral agreement or lease area. |
| III.C.2 Monitor, inspect and enforce mining plan requirements for coal development, production and resource recovery | O | S | O | BLM OSM TRA | BLM informs BIA, the tribe, and TRA/OSM of scheduled inspections and invites participation. Participation by these bureaus is voluntary. |
| III.C.3 Monitor and enforce minerals agreement or lease terms, conditions, and stipulations not related to mining plan or SMCRA permit | S | O | O | BLM OSM TRA | BIA retains surface management jurisdiction over the area as defined in the minerals agreement or lease. BIA invites participation of BLM, the tribe, and TRA/OSM in inspections conducted by BIA in the mineral agreement or lease area |
| III.C.4 Notify cooperating bureaus of violations or potential violations of SMCRA permit, mining plan, minerals agreement lease, or surface use and provide copies of reports of inspection and enforcement | J | J | J | BIA BLM OSM TRA | BIA, BLM, and TRA/OSM as a result of monitoring and enforcement activity notifies the other(s) of violations or problems germane to the relevant bureau's sphere of responsibility and provides inspection and enforcement reports to the other bureaus, TRA, if any, and the Indian mineral owner. |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
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**Attachment E**
Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| III.C.5 Issue to operators notices of violation, cessation orders, and orders to show cause; and assess civil penalties required by SMCRA and SMCRA permits | O | O | S | BIA BLM | TRA/OSM provides BIA, the tribe, and BLM with copies of notices, orders and penalty actions (including notices of proposed assessments and assessment conference reports). |
| III.C.6 Issue notice to operators of noncompliance with mining plan or minerals agreement terms, conditions, and stipulations | J | J | O | BIA OSM TRA | BLM notifies BIA of noncompliance or potential noncompliance with an approved mining plan; BIA serves notice of noncompliance on the operator and provides copies of notification of noncompliance to TRA/OSM and BLM. Notices of noncompliance originating with BIA are served only after consultation with BLM and Indian mineral owner. |
| III.C.7 After the issuance of a notice of noncompliance with an approved mining plan, lease, or minerals agreement terms, conditions, and stipulations; take appropriate action up to and including suspension of operations. | J | J | O | BIA OSM TRA | BLM provides notification and copies of action(s) taken and supporting documentation to BIA and TRA/OSM. BIA assesses penalties up to and including cancellation of the minerals agreement or lease and provides BLM and TRA/OSM copies of the decision, action taken and any additional documentation. Only BLM issues orders of suspension, unless emergency conditions exist. |
| **IV. ABANDONMENT OF OPERATIONS, RELEASE OF SMCRA PERFORMANCE BOND, AND TERMINATION OF A MINERALS AGREEMENT OR LEASE** | | | | | |
| IV.A Receive and transmit the operator's application to abandon operations required under 25 CFR Parts 216 and 225 | O | F | O | BIA OSM TRA | BLM provides copies of the abandonment plan to BIA, Indian mineral owners, and TRA/OSM within 30 calendar days of receipt. BIA will notify the Indian surface owners. |
| IV.B Arrange for initial interagency abandonment inspection required under 25 CFR Parts 216 and 225 | O | F | O | | BLM arranges for participation of BIA, TRA/OSM, and the Indian mineral owner(s) in the abandonment inspection |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
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Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| IV.C Evaluate the proposed abandonment plan required under 25 CFR Parts 216 and 225 | O | F | O | | After consultation with Indian mineral/surface owners, BIA provides recommendations to BLM. BLM evaluates coal resource recovery and protection of any remaining coal against the standards in the approved mine plan. |
| IV.D Conduct an interim inspection of the records and area within the minerals agreement or lease and determine if the coal production requirements have been met | O | F | O | BIA OSM TRA | BLM provides BIA, TRA/OSM, and the Indian mineral owner with written notification that the operator has complied with the production requirements of the agreement or lease. |
| IV.E Approve abandonment of operations required under 25 CFR Parts 216 and 225 | O | F | O | BIA OSM TRA | After interim inspection and consultation with BIA and the Indian mineral owner, BLM certifies that the coal has been removed as described in the approved plan. BLM notifies the operator, BIA, Indian mineral owner and TRA/OSM of approval. |
| IV.F Receive operator's application for release of SMCRA reclamation performance bond (or phase of bond) | O | O | S | BIA BLM | TRA/OSM will provide copies within 30 days |
| IV.G For SMCRA performance bond, conduct joint inspection of the permit area | O | O | F | | TRA/OSM arranges for joint inspection in cooperation with the operator, BIA, BLM, tribal and surface owners. BIA notifies the individual Indian surface owners. |
| IV.H After operator's public notice of release of SMCRA performance bond, receive comments/objections, hold public hearings and/or conferences on proposed release of SMCRA performance bond | O | O | F | | BIA and BLM will provide comments to TRA/OSM within 30 days after the last publication of the bond release notice; BIA, after consultation with the Indian mineral/surface owners, notifies TRA/OSM of operator compliance with requirements for protection of non-coal resources and with measures for post-mining land use; BIA and BLM should participate in hearing(s) and meeting(s). |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

**Attachment E**

Responsibilities and Procedures of BIA, BLM, and OSM for
Coal Leasing and Mining Operations on Indian Lands

| ACTIVITY | BIA | BLM | TRA/ OSM | Dist. to | REMARKS |
|---|---|---|---|---|---|
| IV.I Approve or disapprove application for release of SMCRA performance bond | | | | | |
| IV.I Approve or disapprove application for release of SMCRA performance bond | O | O | S | BIA BLM | TRA/OSM notifies BIA, the tribe, and BLM of remedial action (if any), BIA and BLM will comment within 10 calendar days on remedial action (if any) taken. TRA/OSM notifies BIA, the tribe, and BLM of final release of reclamation performance bond within 30 calendar days of release. |
| IV.J Receive operator's application for termination of minerals agreement or lease and release of minerals agreement or lease performance bond | S | O | O | BLM OSM TRA | BIA provides copies of application to BLM, Indian mineral owner, and TRA/OSM within 30 calendar days of receipt |
| IV.K Approve or disapprove application(s) for termination of minerals agreement or lease, and release the minerals agreement or lease performance bond | S | O | O | BLM OSM TRA | After notification by TRA/OSM that the affected lands have been satisfactorily reclaimed, and after notification by BLM that production requirements are satisfied, BIA approves termination of the minerals agreement and release of minerals agreement performance bond. BIA notifies BLM, Indian mineral owner, and TRA/OSM of approval actions within 30 calendar days of termination of the minerals agreement. |

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| F | Responsible for final action after normally-occurring consultation with other agencies and/or Indian mineral/surface owner(s). |
| J | Joint (shared) responsibility for the specified action or procedure (concurrence required). |
| O | Responsible in a consulting, contributory, or supporting (cooperative) role, but no direct or final responsibility for the specified procedures or action. |
| S | Sole responsibility for the action. No consultation is required. |
| TRA/OSM | TRA is responsible, if it assumed primacy over the duty under an approved tribal program; otherwise, OSM will perform. |

## ADMINISTRATION

These responsibilities and procedures clarify the roles of the BIA, BLM, and OSM with respect to applicable regulations (25 CFR Parts 200, 211, 212, 216, and 225; 30 CFR Part 750), 303 DM 2, and Secretarial Order No. 3087, "Organizational Restructuring of the Department of the Interior Minerals Management Functions" for purposes of coal leasing and mining operations on Indian lands. In the event of a conflict, the regulations or any authorities cited in any permit, lease, contract, or minerals agreement shall prevail over these responsibilities and procedures.

1. BIA will be the point of contact with the operator and others for all actions not related to the SMCRA permit or mining plan which may include, but not be limited to, the minerals agreement, lease, minerals agreement, or lease performance bond, grazing permits, rights-of-way, existing structures, sale or assignment of lease, etc.
2. BLM will provide the normal point of contact for the operator and all others for coal development, production, and resource recovery (mining plan) as outlined in 25 CFR Parts 211, 212, 216, 225; 43 CFR Part 3400S; 30 CFR Part 750, and in minerals agreement or lease terms and conditions related to the mining plan.
3. OSM or the TRA will provide the normal point of contact for the operator and all others for PAP submittal, review, and approval; for the environmental aspects of the PAP as outlined in 30 CFR Part 750; and for compliance with the approved SMCRA permit.
4. The BIA, BLM, and OSM will assume joint and continuing responsibility for the interagency information exchange and appropriate communication necessary to the discharge of their individual and collective responsibilities in the management of the mining of coal on Indian lands. To this end, the agencies will:
    a. Hold examinations or meetings with applicants, operators, contractors, Indian mineral owners, Indian surface owners, and other involved parties to discuss problems, stipulations, conditions, working agreements, and other items of common concern. Each agency will notify the other(s) of such examination and/or meetings and invite participation to the extent appropriate and reasonable.
    b. Immediately notify the other agencies of any Tribal Program approvals by OSM, and agreements or Indian self-determination contracts negotiated to perform any responsibilities outlined in this SOP, pursuant to the Indian Self-Determination Act (Public Law 93-638). Such notification shall specifically identify the responsibilities identified in this Attachment that would be affected by the Tribal Program, agreements, or self-determination contracts and delineate the effects on these responsibilities. Notification procedures shall be the same for modifications to or terminations of any existing Tribal Programs, agreements or self-determination contracts. The other parties shall adjust their coordination activities to facilitate the terms of these Tribal Programs and agreements. Since these Tribal Programs and agreements are subject to change periodically and the ultimate responsibilities remain with the Federal agencies, no modifications of this Attachment shall result from these Tribal Programs and agreements.

# Onshore Indian Trust Energy and Mineral Lease Management Intra-Agency SOP

## Attachment F

## Responsibilities and Procedures for Renewable Energy Resource Development on Indian Lands

## Attachment F

Responsibilities and Procedures for Renewable Energy
Resource Development on Indian Lands

Interaction between DOI agencies concerning the development of renewable energy resources in Indian country depends on the type of resource proposed for development.

**Renewable Energy Resource Development Using Geothermal Resources**
(see Attachment A)

The Geothermal Steam Act of 1970 (30 USC 1001 *et seq*.), as amended, requires the U.S. Department of the Interior (DOI) to establish rules and regulations for the leasing of geothermal resources on lands managed by federal agencies.

Regulations addressing the leasing of geothermal resources, issued by the Bureau of Land Management (BLM), are available at 43 CFR Part 3200. In addition, under the authority of the Indian Mineral Leasing Act of 1938 (25 USC 396a-g), which provides for leasing of minerals on tribal lands with DOI approval, and the Indian Mineral Development Act of 1982 (25 USC 2101 *et seq*.), which provides for tribes to enter into energy development agreements with DOI approval, the Bureau of Indian Affairs (BIA) has issued regulations relevant to geothermal energy development.

In 25 CFR Part 211 (regulations under the IMLA) and Part 225 (regulations under the (IMDA), the definition for geothermal resources is:

1. All products of geothermal processes, including indigenous steam, hot water, and hot brines;
2. Steam and other gases, hot water, and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations;
3. Heat or other associated energy found in geothermal formations; and
4. Any byproduct derived therefrom.

For development purposes, therefore, leases or agreements that involve geothermal energy resources on tribal lands are treated the same as leases or agreements involving fluid minerals, and would be handled as are other fluid minerals in Attachment A of this SOP.

**Renewable Energy Resource Development other than Geothermal**

The development of wind, solar, and biomass resources for the production of electricity is largely a matter of surface land use. Developers may approach tribes with proposals that require some combination of business agreement for terms and conditions (e.g., duration, operations and maintenance, ownership, etc.) under 25 USC sec. 81 or sec. 415, and lease for siting of electric generation facilities under 25 USC sec. 415, and/or right-of-way agreement for construction and maintenance access as well as transmission corridors under 25 USC sec. 323 *et seq.*

In these cases on Indian land, the necessary agency review and approval processes lie wholly with the BIA because neither BLM nor ONRR has any authority under the relevant statutes. However, BIA should provide notice of any review and subsequent approvals of these types of renewable energy projects to BLM and ONRR so those agencies can indicate any potential impacts to federal resources or federally-approved projects.

As with other land leases and right-of-way agreements, BTFA may be involved in the accounting for and distribution of revenue under agreements that gain BIA approval, and therefore should receive notice when such agreements are under consideration.

For development of hydropower resources that incorporate electric power generation technologies into existing hydropower infrastructure, BIA should ensure that the existing management authorities are given timely notice and involved in the discussions about proposed projects, so that there is no compromise of existing functionality and that there is a comprehensive evaluation of the potential impacts of long-term, cooperative use of these facilities.