

H-3105-1 - COOPERATIVE CONSERVATION PROVISIONS

KeywordsIII. Invalidation of Approval of Unit/Communitization AgreementINVALIDATION
OF UNIT/
COMMUNITIZATION
AGREEMENTA. General

If the public interest requirement (PIR) identified in Manual Sections 3105.1 and 3107.4 is not met, approval of the unit/CA is declared invalid ab initio. Any lease segregation and extension of the segregated lease resulting from initial approval of a unit also are invalid. (See also Section I.A, above.)

The requirement that the PIR must be satisfied before any benefits can accrue to leases included in a unit/CA is contained in the Federal oil and gas regulations at 43 CFR 3105.2-3, 3107.1, 3107.3-2, 3107.4, 3183.4(b), and 3186.1 at Sections 9, 18(g), 20, and the "Certification-Determination." The determination whether the PIR has been met must be reviewed by Field Office fluid mineral operations in conjunction with any request for approval of a voluntary termination of a CA prior to the end of its fixed term, or when a CA automatically expires at the end of its term and a well has not been drilled to the communitized formation, or when a unit agreement terminates. The PIR determination also must be specifically addressed by the AO for fluid mineral operations prior to termination of a unit agreement. The PIR determination must be effected in a written notice to the operator that it is the finding of Field Office operations that the PIR has been met.

FIELD OFFICE
REVIEW THAT
PUBLIC INTEREST
REQUIREMENT
HAS BEEN MET
FOR UNIT/CA

The primary responsibility for determining whether the PIR for a unit or CA has been met, or has not been met, lies with the AO for fluid mineral operations, who is responsible for preparing the decision to the appropriate parties to the unit/CA concerning the PIR determination. If the determination is favorable (i.e., the PIR is met), the AO sends such notification to the unit/CA operator. If the determination is adverse (i.e., the PIR is not met), the Field Office fluid mineral operations must send a decision to the unit/CA operator providing the right of a State Director review of the adverse PIR determination. If the State Director affirms the AO's determination that the PIR has not been met, a decision must be issued with a right of appeal to IBLA (see Illustration 8). A copy of the decision that the PIR has not been met must be forwarded to the SO fluid lease adjudication.

FIELD OFFICE
OPERATIONS
RESPONSIBILITY

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KeywordsSTATE OFFICE
RESPONSIBILITY

The primary responsibility for actions taken on the affected leases, as a result of a determination that the PIR has not been met, lies with the SO fluid lease adjudication. It is important that Field Office fluid mineral operations provide a listing of all the leases affected by an adverse PIR determination.

If upon unit approval, the SO fluid lease adjudication had opted to delay processing the segregations and extensions of the involved leases pending the PIR determination, and the PIR is not favorable, the unit is not considered to be valid, and no further action concerning the involved leases is required. If the unit area had been noted on the oil and gas plat or other appropriate status records, such notation must be removed. However, if the leases were segregated and the segregated leases were extended at the time the unit was initially approved, proceed under Section III.B, below.

NOTE: If the PIR has not been met, use of the phrase "termination of the unit/CA" is not appropriate. A reference to the termination of a unit implies that the PIR has been met and that the affected leases are eligible for segregations, extensions, etc., which is not the case. When the PIR has not been met by the unit/CA, the unit/CA is deemed to not have existed, and no benefits whatever can accrue.

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B. Action on Committed Leases

Responsible Official	Step	Action	Keywords
Adjudication	1.	Receive from Field Office operations a copy of the determination decision declaring approval of the unit/CA invalid <u>ab initio</u> (see Illustration 8).	INVALIDATION NOTIFICATION
		<u>NOTE:</u> Ensure that the determination decision is final before proceeding, i.e., that the administrative review and appeal periods have expired.	
	2.	Access ALMRS Case Recordation unit/CA serial register page to determine the leases that were committed to the unit/CA.	
	3.	Request case files from Docket.	
Docket	4.	Charge case files to Adjudication.	
Adjudication	5.	File copy of decision determining unit/CA invalid <u>ab initio</u> in each lease case file. If the case file jacket was stamped to indicate the commitment status of the lease to the unit/CA, those markings either are to be crossed off or noted that the unit/CA approval was invalidated.	ACTION ON CASE FILES
	6.	Identify leases that were segregated, including segregated leases that were extended due to the segregation when the unit was approved.	
		<u>NOTE:</u> No segregation occurs when a lease is committed in part to a CA. Proceed to Step III.B.11, below, for processing an invalid CA.	

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Responsible

Official	Step	Action	Keywords
	7.	Prepare decision advising lessee that as a result of the invalidation of the unit approval, the lease segregation and extension of the segregated lease are also invalid, and the lease is consolidated as if no segregation based on the unit occurred (see Illustration 9).	UNIT SEGREGATION/ EXTENSION NULL AND VOID
		<u>NOTE:</u> Use special care to avoid use of the word "termination" in the decision.	
	8.	Combine each segregated lease with its base lease in the base lease case file.	CONSOLIDATION OF SEGREGATED LEASES
	8a.	The lands that were in the new segregated lease, now consolidated back into the base lease, will again have the same term as the base lease (and the same lease serial number as the base lease). If the base lease was nonproducing with a fixed expiration date at the time of the segregation, the consolidated lease will have the same expiration date.	

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Responsible Official	Step	Action	Keywords
	8b.	If the base lease was in its extended term by reason of production at the time of segregation, the consolidated lease will have the same extended term. Any activity that would affect the status of either the segregated lease or the base lease would affect the consolidated lease. For example, if production is established on either lease during the fixed term of the base lease, that production will hold the consolidated lease. Also, if actual drilling operations are diligently conducted over the expiration date of the base lease (on the base lease and not merely within the unit), the consolidated lease will have the benefit of the 2-year lease extension provided under 43 CFR 3107.1.	
	9	Prepare accounting advices for MMS-DMD for the nonproducing leases showing the lease consolidation and proper expiration date. Each lease consolidation will require two accounting advices, one to cancel the segregated lease in the MMS automated system and one to adjust the acreage, etc., of the base lease (see Illustration 10). Route decision for signing, mailing, Title Records notation, ALMRS Entry, and to Docket. Send copy of invalidation decision and unit/CA map to Title Records.	ACCOUNTING ADVICES
Signing Official	12.	Check and sign decision	
Title Records	13.	Remove unit/CA notation from oil and gas plat or other appropriate status records. Also, for consolidated leases, remove segregated lease serial number and adjust the lease lines.	

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Responsible Official	Step	Action	Keywords
ALMRS Entry	14.	Update leases to reflect lease consolidation due to invalidation of CA/unit, using the current data standards (see Illustration 11). Enter on both the segregated and base lease serial register pages:	AUTOMATED NOTATION
	14a.	Enter Action Date (MANDATORY ACTION CODE): Date unit approval invalidated (date of determination decision); DE 1775/2910 Action Code 691; Action Remarks: Unit/CA serial number.	
	15.	Enter on base lease serial register page: Enter Action Date (MANDATORY ACTION CODE): Date leases consolidated when unit approval invalidated (date of determination decision); DE 1775 Action Code 199/DE 2910 Action Code 972; Action Remarks: Serial number of segregated lease that was consolidated into this base lease. Adjust legal land description and acreage of the base lease.	
	16.	Make the following entry on the segregated lease serial page: Enter Action Date (MANDATORY ACTION CODE): Date case closed when unit approval invalidated (date of determination decision); DE 1775/2910 Action Code 970; Action Remarks: "INTO (<u>Serial number of base lease</u>)" that this lease was consolidated into.	