

***OPERATING PROTOCOL AND MEETING GUIDELINES
FOR
THE INDIAN OIL VALUATION NEGOTIATED RULEMAKING
COMMITTEE***

Approved by the Committee - June 19, 2012

INTRODUCTION

This document describes the goals for the Indian Oil Valuation Negotiated Rulemaking Committee (the “Committee”), its operating structure and how Committee Members (“Members”) will communicate and make decisions. Upon review, revision and approval by the Committee, the Operating Protocol and Meeting Guidelines will guide and direct the Committee’s collaborative efforts, and any ad hoc Subcommittees it establishes, to develop recommendations to the Office of Natural Resources Revenue (ONRR) for changes in the Indian Oil Valuation Rule (the “Rule”).

This document contains the following Sections, which describe the Committee’s work and deliberative and decision-making processes to be used:

Section 1 – Background on Indian Oil Valuation

Section 2 – The Structure, Composition and Tasks of Key Parties Involved in the Indian Oil Valuation Negotiated Rulemaking Committee

Section 3 – How the Committee and Its Members Will Undertake Their Responsibilities and Relate to Others

Section 4 – How the Committee Will Make Decisions

Section 5 – How Committee, Executive Committee and Subcommittee Members Will Communicate With Each Other

Section 6 – How Communications Will Be Promoted and Conducted Between and Among Committee Members’ Constituents and the General Public

SECTION 1 – BACKGROUND ON INDIAN OIL VALUATION

The ONRR is an office within the U.S. Department of the Interior, under the Assistant Secretary for Policy, Management and Budget. The ONRR is responsible for the efficient, timely, and accurate collection and disbursement of all royalty payments, rentals, bonuses, fines, penalties, assessments, and other revenue due the Federal Government, American Indian Tribes and allottees, states and the American people from the leasing and production of natural resources from Federal and Indian lands onshore and in the Outer Continental Shelf. The Secretary of Interior, through ONRR, has a trust responsibility to Indian Tribes and allottees, which stems from the fact that Indian Tribes and allottees are the beneficial owners of Indian minerals.

ONRR is mandated to establish regulations concerning Indian Oil Valuation based on its trust responsibility, including the duty to maximize revenue of the Indian owners. As such, any action by the United States in relation to Indian owned trust property, including Indian minerals, must be that of a trustee who must act in a manner that is in the best interest of the Indian owner. Keeping in mind the maximizing revenue responsibility above, when faced with more than one reasonable alternative the Secretary must choose that alternative that most benefits the Indian mineral owner. However, even though the Secretary is authorized to promulgate regulations to supplement the statutes under which Indian oil and gas leases are authorized and supervised, the Secretary may not change the oil and gas lease royalty rates in existing leases, directly or indirectly.

Within the context of the Secretary's Trust responsibility, the intention of this rulemaking process is to ensure that Indian lessors receive maximum revenues from their mineral resources, as required by statute and the trust responsibility of the United States, while also to develop regulations that offer greater simplicity, certainty, clarity and consistency in production valuation for mineral revenue recipients and mineral lessees.

The existing Rule for valuation of oil produced from Indian leases was codified in 30 CFR part 1206, Subpart B, which was published in the Federal Register on January 15, 1988 (53 FR 1184), and effective March 1, 1988. Since then, many changes have occurred in the oil market, and concerns have been raised about the need for revision of valuation methodologies to address paragraph 3 (c) of standard Indian oil and gas leases, such as the major portion analysis requirement for valuation of oil production from leases on Indian land.

Between 1998 and the present, the Minerals Revenue Management (MRM) program of the Minerals Management Service (MMS), which is now the ONRR, took a number of initiatives to develop an acceptable Rule, including publishing proposed Rules in 1998, 2000 and 2006. A review of historical comments indicates a range of concerns about: how to calculate fair valuation; how "major portion" should be defined, specifically whether to include land outside of the reservation and how to incorporate information on oil type; and if and how to incorporate transportation allowances. In 2007, the Royalty Policy Committee of the Indian Oil Subcommittee also addressed some of these issues, and was able to reach agreement on some technical revisions to the Rule.

To address a range of concerns about various issues related to the current Rule and develop broadly supported consensus agreements on revisions, the ONRR is convening a regulatory negotiation ("reg-neg") to address identified provisions of concern for the valuation of oil produced from Indian leases.

The ONRR requests that recommendations developed and agreed upon by the Committee be presented to the agency for consideration, and as appropriate, adoption and implementation.

The regulatory negotiation is scheduled to begin in the spring of 2012, and be conducted over a 24 month period.

ONRR has undertaken this effort with the assistance of the U.S. Institute for Environmental Conflict Resolution (USIECR). The USIECR is an independent federal entity that provides impartial collaboration, consensus building and mediation services. USIECR assisted the ONRR in planning the process, and identifying and selecting CDR Associates (hereafter Facilitators) as the provider of facilitation services. The CDR team is independent and neutral regarding its relationships with any involved parties and impartial regarding issues under discussion. CDR reports directly to the USIECR.

SECTION 2 –STRUCTURE, COMPOSITION, AND TASKS OF THE INDIAN OIL VALUATION NEGOTIATED RULEMAKING COMMITTEE

The Indian Oil Negotiated Rulemaking Committee

This body is established under the Negotiated Rulemaking Act of 1996 (NRA) (5 U.S.C. Appendix 2, section 1 *et seq*); the Indian Mineral Development Act of 1982 (25 U.S.C. 2101-2108); the Indian Mineral Leasing Act of 1938 (25 U. S. C. 396a-g) the Act of March 3, 1909 (25 U.S.C. 396); 30 CFR part 1206; and the Indian oil and gas lease and agreement terms.

In negotiated rulemaking, a committee is convened by the government, which is composed of representatives of the government and key parties that will be significantly affected by the rule. The ONRR has followed legally mandated rules and procedures to identify, propose nominees and secure federal appointment of individuals who represent the diverse interests concerned about Indian oil valuation issues. However, it must be kept in mind that unlike oil and gas production from federal lands, Indian oil and gas production is solely owned by the Indian lessor and subject to the trust relationship as noted above; thus the interests of the Indian mineral owners are paramount.

In general, the Committee will advise the Office of Natural Resources Revenue (ONRR) on a rulemaking to address Indian oil valuation, as it relates to the major portion requirement in Indian oil leases. Other issues related to Indian oil valuation that the ONRR and Committee Members mutually agree to address may also be discussed. The Committee will act solely in an advisory capacity to ONRR, and will neither exercise program management responsibility nor make decisions directly affecting the matters on which it provides advice.

Committee Membership

ONRR

ONRR will be a member of the Committee. It has appointed three staff members authorized to negotiate on behalf of the agency and U.S. Government. They will report to, consult with and secure approval of the agency's negotiation parameters with the Designated Federal Officer (DFO) of the ONRR.

Bureau of Indian Affairs (BIA)

The BIA has one member on the Committee.

Native American/Tribal Members

Indian tribes and individual Indian mineral owners concerned with Indian oil valuation issues have seven representatives on the Committee. Some Indian members represent tribes and others associations of individual allottees and royalty owners. Participation in the Indian Oil Valuation Negotiated Rulemaking Committee in no way precludes or supersedes tribes' legal rights to engage in government-to-government meetings and consultations with ONRR or the U.S. Department of the Interior.

The Petroleum Industry

The petroleum industry has six members on the Committee. Its representatives are drawn from both trade associations and several oil companies with leases on Indian land.

The Committee and its Members

The Committee is composed of designated representatives and their alternates. Once Committee membership is established, no new members will be added unless a member is unable to continue participation and needs to be replaced.

The Committee and its Members will be responsible for:

- 1) Defining the overall direction and process for the development of recommendations on Indian oil valuation issues,
- 2) Determining the mandates and scopes of work for any ad hoc Subcommittees that are established,
- 3) Reviewing proposals and recommendations developed by Subcommittees, and
- 4) Making final decisions on recommendations to the ONRR.

The Committee will make decisions by consensus. (See definition of consensus below in Section 4 – How the Committee will make Decisions.)

Meetings of the Committee will be open to members of the public.

The Executive Committee (EC) – This committee will represent the Negotiated Rulemaking Committee as a whole. It will be composed of the DFO or his/her designee, and one representative each from tribal and industry Committee Members.

The EC will have responsibility for procedural coordination. It will make only procedural decisions, and not substantive decisions regarding the Committee's recommendations to ONRR.

The EC will have a number of management tasks including:

- 1) Representation of the Negotiated Rulemaking Committee as a whole to the general public;

- 2) Assistance to the Facilitators in the development of agenda and approaches for addressing relevant issues;
- 3) Coordination between meetings of issues to be discussed;
- 4) Oversight with the Facilitators of the functioning of the Subcommittees
- 5) Liaison between the Committee as a whole, USIECR staff and CDR facilitators.

The EC will operate by consensus. (See definition of consensus in Section 4 – How the Committee will make Decisions.)

Meetings or phone calls of the EC may be open or closed to members of the public. The process to determine whether an EC meeting or phone call will be open to the public will be determined by a vote of 2/3 of its members.

Members of the Negotiated Rulemaking Committee are free to listen in and participate as appropriate on EC meetings or phone calls.

Committee Members' Alternates – Each Committee member has the option, but is not required, to nominate an alternate who can represent him or her at a Committee Meeting if the Member cannot attend. Alternates are expected to:

- 1) Attend as many Committee Meetings as possible to assure that they are informed and up to speed on issues that have been discussed, ongoing deliberations and agreements reached on recommendations; and
- 2) Confer with their Committee Member so that they know and understand the former's thinking and views on issues under discussion and decisions to be made on recommendations.

In the event that a Committee or Subcommittee Member cannot attend a meeting, he or she should inform the Facilitators and the EC as early as possible about their absence.

A Committee Member may, as appropriate, give their proxy to their alternate to participate in: a) the Committee's, discussions and deliberations, and b) decision making on recommendations to the ONRR on the Indian Oil Valuation Rule.

If a Committee Member's alternate has not attended Committee Meetings on a regular basis, other Committee Members are not obligated to use time dedicated for deliberations or problem solving sessions to backtrack and accommodate information needs of the alternate who has not attended prior meeting(s). Decisions made at prior session will not be reopened to accommodate concerns of alternates who did not attend these meetings, unless agreed upon by the Committee as a whole.

Ad hoc Subcommittees – The Committee, on an as needed basis, may establish Ad hoc Subcommittees to assist in deliberations. Subcommittees may be composed of Committee Members, technical experts or others designated by Committee Members with knowledge and expertise relevant to topics under discussion.

Subcommittees will have responsibility for developing technical data needed by the Committee for productive deliberations, and, as appropriate, the generation of draft proposals regarding changes to the Indian Oil Valuation Rule. Subcommittees will make decisions on recommendations to the Committee by consensus. (See definition of consensus in Section 4 – How the Committee will make Decisions.) Subcommittees do not have final substantive decision making authority on any issue. Subcommittees, to the greatest extent possible, will bring consensus-based recommendations back to the Committee as a whole for its consideration and potential approval.

Meetings of Subcommittees will be open to members of the public. Allowing time for public input at Subcommittee Meetings is at the discretion of its members.

Public Involvement Sessions or Meetings – Members of the public and organizations and staff of agencies who are not formal representatives on the Committee will have an opportunity to provide input, ask questions and receive answers from the members of the Committee at Committee meetings. A time for public input will be designated at each meeting. Additional public involvement meetings may be initiated by the Committee as desired or appropriate.

The Committee will also accept written input or comments from members of the public. Input can be sent to the facilitators or to the Executive Committee. E-mail addresses where input can be submitted will be posted on the project’s website.

ONRR – This agency is mandated to make final decisions on recommendations and revisions to the Indian Oil Valuation Rule.

The U.S. Institute for Environmental Conflict Resolution – USIECR is the overall project manager for the work of the Facilitators. It will supervise all activities of the Facilitators and will coordinate as needed and/or requested with members of the Committee, the EC, the DFO to ensure high quality facilitation and consensus building services for the negotiated rulemaking committee.

SECTION 3 – HOW THE COMMITTEE AND ITS MEMBERS WILL UNDERTAKE THEIR RESPONSIBILITIES AND RELATE TO OTHERS

Roles and Responsibilities of Individual Committee, Executive and Ad Hoc Subcommittee Members

Committee members are expected to:

- 1) Commit to engage in respectful and good faith negotiations and discussions to develop mutually acceptable recommendations on an Indian oil valuation rule;
- 2) Regularly prepare for and attend Committee, EC and Subcommittee Meetings;
- 3) Keep other members of the Committee, including alternates, informed about what is being or will be discussed in the future by appropriate committees, and solicit their input on these issues;
- 3) Keep their constituents informed about what is being or will be discussed in the future by appropriate committees, potential recommendations to the ONRR and solicit their input on these issues;

- 4) Clearly articulate and represent the interests of his/her organization, group or stakeholders;
- 5) Listen to other points of view and try to understand the interests of other Committee Members;
- 6) Openly discuss issues with Committee, EC and Subcommittee Members who hold diverse views, and participate in a cooperative problem solving procedure to resolve differences;
- 7) Generate and evaluate options to address the needs expressed by Committee, EC and Subcommittee Members; and
- 8) Agree to support and abide by the content of this Operating Protocol.

Facilitators

Facilitators from CDR Associates will serve at the pleasure of the collective membership of the Committee, as independent process designers and facilitators of meetings. The Facilitators are contractors of the USIECR.

The Facilitators are accountable to the Committee as a whole and not to any one committee Member or participating party. The Facilitators are not beholden to any government agency or organization involved in substantive discussions related to the development of recommendations for revisions of the Indian Oil Valuation Rule.

To the greatest extent possible, the Facilitators will assist Committee Members to reach and record consensus agreements. (See Section 4 below on How the Committee will make Decisions.) If and when consensus agreements are not possible, the Facilitators will help the Committee and Committee Members to determine appropriate way to respond to impasses and provide ONRR with information on the diversity of views.

The Facilitators will remain impartial toward the substance of the issues under discussion, and “multipartial” toward all parties in that they will work with all Committee Members to help identify and/or develop mutually acceptable solutions that meet all parties’ interests to the greatest extent possible.

In collaboration with members of the EC, the Facilitators will design meeting agenda for the Committee and Subcommittee meetings and strategies to address identified issues for discussion.

The Facilitators will enforce Meeting Guidelines approved by the Committee.

The Facilitators will ensure that important information is available to Committee and Subcommittee Members in advance of each meeting.

Representation of Committee Members' Interests

To enhance creativity during meetings, Committee Members and their alternates are expected to not restrict themselves to prior positions held by their organization or group. Instead, they should remain open to new options or solutions to issues being addressed that may emerge in negotiations and deliberations.

The goals of the Committee and Subcommittee(s) are to have frank and open discussions of the issues in question and develop options to address these issues. Therefore, ideas raised in the process of negotiations and prior to the development of final recommendations to the ONRR, will be considered "for discussion purposes only", and will not be construed to reflect the final conclusion a Committee or Subcommittee Member or his or her constituent group.

Disclosure of Information

A goal of the regulatory negotiation is to have as transparent and candid discussions of relevant issues as possible. This process also requires that the participants speak as openly and creatively as possible. To encourage free and open discussion by representatives of institutions that have been or may in the future be involved in legal proceedings, all communications and documents under this process are accepted by all participating persons or institutions to be part of this negotiated rulemaking. Therefore, members of the Committee agree not to use information revealed during the negotiations in any pending or future legal proceedings for any purpose.

Any participating Committee Member may mark information used in discussions to identify them as being prepared for use exclusively in the Indian Oil Valuation Negotiated Rulemaking Committee. However, future limitations on use of information do not preclude the use of data that might be obtained through normal public channels.

Adversarial or Legal Proceedings

As a matter of courtesy, Members of the Indian Oil Valuation Negotiated Rulemaking Committee agree to notify the Facilitators and all other Committee Members verbally and in writing before initiating any adversarial or legal proceedings that may involve other Committee members or which could adversely affect deliberations of the Committee. Notification should provide all parties adequate time to consider options, and take appropriate measures to minimize potential adverse impacts on the work of the Committee or its Members.

Schedule

The Committee will determine its own schedule and complete its work within the time frame designated for the reg-neg. Initially, the Committee is scheduled to meet for two days every month or month-and-a-half. However, the Committee may change this schedule upon mutual agreement by all Members.

Technical Support

Committee Members may bring staff from their organizations or agencies or members of their constituency groups to support the problem solving process. Committee Members can defer to these individuals when their expertise is required or when requested by the Committee as a whole. However,

the use of support persons must not disrupt deliberations, and technical support people are neither formal members of the Committee nor authorized to participate in decision making.

Attendance

Participation in and effective consensus decision making requires consistent attendance by Committee and Subcommittee Members. Committee and Subcommittee Members commit to attend as many meetings as possible, and let the Facilitators and EC know if they are not able to participate.

SECTION 4 – HOW THE COMMITTEE WILL MAKE DECISIONS

The Committee, EC and any Subcommittees will strive to use a consensus decision-making process. Consensus decision making is a procedure by which a group makes a collective decision or agreement without voting that all members can accept.

Reaching a consensus requires all group members to educate each other about their important needs, interests and concerns, and develop an integrative solution or agreement that addresses and satisfies both individual and group interests to the greatest extent possible.

A consensus decision or agreement does not require or mean unanimity – an outcome toward which all group members hold identical opinions or views concerning issues in question, their and other’s interests, a proposed solution or the final agreement. Participants in a consensus do not have to feel equally strongly about or have the same degree of enthusiasm for a specific outcome or its component parts.

Reaching a consensus decision requires each group member to *accept* a proposal, decision or agreement as a whole. They do not have to equally support all of its component parts. They must concur that it is the best solution possible for the issue(s) in question at this moment in time given the individuals and groups involved, their relationships, potential or actual means of influencing the outcome and alternative issue-resolution procedures and solutions available to them in other forums if an agreement cannot be reached.

A consensus decision at its best is the strongest form of agreement a group can reach. It is an outcome that *all group members can support*. However, at a minimum, a consensus agreement may be a compromise that *all group members can accept*, “live with” and at a minimum will not oppose.

A consensus agreement will be considered to have been reached when either the Facilitator or a group member has articulated a proposed agreement, all Committee Members either verbally or non-verbally affirm their support for it, or at a minimum agree not to actively oppose or subvert it.

Options if Consensus is Not Reached

In the event that a consensus as described above is not reached on a given issue or a package of recommendations, Committee Members have several options:

- 1) A Committee Member may ask for a non-binding vote to determine Committee Members’ views on the issue(s) in question. Members may voice affirmative support for or objection to a proposal or agreement; refrain from “voting” or remain silent. Based on the results of the non-binding vote, Committee Members may use the input to continue their deliberations and try to reach a

consensus, or, when appropriate voluntarily agree to recognize the degree of support or rejection of the proposal and accept the results.

- 2) A Committee Member who is not in agreement with the general opinion in the group may voluntarily "stand aside" and not block a consensus decision by other Committee Members. This may be done verbally noting that the individual is not in agreement with the rest of the group members, but will stand aside and allow the group to reach a decision on a recommendation.
- 3) A Committee Member may stand aside, allow the rest of the group to reach a consensus and request that a minority report be prepared that details their view(s). The minority report will be added to the final document on recommendations.
- 4) A Committee Member may block consensus and request that the group recognize that there is not an agreement on a particular question or issue. The individual blocking consensus, another group member or the group as a whole can request that the final report to ONRR on the issue in question contain one or more of the following options:
 - a. A detailed explanation of the issue, and the basis or for disagreement or principle that resulted in a lack of consensus, which will be published to the same extent as the final report;
 - b. A list of the interests that all parties want considered by the ONRR when a future decision on the Rule is made,
 - c. Suggested standards and criteria that the Committee would like the ONRR to consider when making a decision about a contested issue;
 - d. Descriptions of a range of possible alternative recommendations that were explored by the reg-neg, but which were not agreed upon; or
 - e. Two integrative options that have been developed through an interest-based negotiation process, which attempt to meet all parties' interests but fall short of being a consensus because of a matter of principle or failure to meet one or more parties' critical needs.

Option to Switch Decision Making to a Voting

A final option for decision making is to switch to a voting process. This may be appropriate if a consensus cannot be reached on an issue in question, Committee Members want a decision and they will agree to be bound the purpose of the negotiated rulemaking by its outcome.

The process for changing the decision making procedure from consensus to voting is as follows:

- 1) After a complete discussion of an issue(s) has occurred, all members have been given a fair opportunity to present their views, and the Committee has been unable to reach a consensus, the Committee *may* change its decision making process from one seeking a consensus to a majority/minority vote.
- 2) All Committee Members must be given an opportunity to be present at the meeting at which the vote to shift decision making procedures is taken, and be properly notified of the proposed action.
- 3) The shift from consensus to voting requires 13 Committee Members attending the meeting to vote in favor of the change in procedure. If at least 13 members do not approve the change in the decision making process, the issue(s) under consideration will be addressed either using one of the

options described in #4 in the section above, or another vote may be held on changing the process or make a decision on an issue at a future Committee Meeting.

- 4) If 13 Committee Members vote to shift the decision making process from consensus to voting, the vote on the issue in question will be held at the next regularly scheduled Committee meeting. All Committee Members must be notified of the proposed vote, and have an opportunity to consult with their constituents, be present at the meeting in which the vote takes place or give their proxy to their alternate.
- 5) Prior to the vote, any Committee Member who wants to will be given an opportunity to state his or her views. All present Committee Members, or in the event that a Committee Member is not present their alternate, will have an opportunity to vote. Committee Members can choose to “stand aside” if they like, knowing that the final outcome will be the basis for the Committee’s recommendation.
- 6) Approval of a question or issue will be considered to have been achieved when it is supported and ratified by voice or written vote by 13 Committee Members. Votes can be submitted at the meeting by the Committee Member or their alternate via telephone or written correspondence.
- 7) A vote by 13 members on a recommendation will be considered to be binding for the purposes of the negotiated rulemaking Committee.
- 8) Following a vote, Committee Members may, but do not have to, request the preparation of majority and minority reports. Reports may be prepared by either the involved Committee Members or Facilitators. If reports are prepared they should indicate which and how many Committee Members supported or opposed the issue or proposal in question. Reports will be forwarded to ONRR at the conclusion of the reg-neg.

SECTION 5 –HOW COMMITTEE, EXECUTIVE COMMITTEE AND AD HOC SUBCOMMITTEE MEMBERS WILL COMMUNICATE WITH EACH OTHER

The following Meeting Guidelines have been adopted by the Committee to encourage productive deliberations and decision making. Members of the Committee, ad hoc Subcommittees and Executive Committee commit to their “best efforts” at following them and give the Facilitators the authority to enforce them.

It is crucial that everyone have a chance to be heard and to hear others. Therefore, Committee, EC and Subcommittee Members will:

- Pay attention to speakers and issues being discussed in the meeting, and avoid side conversations
- Allow people to speak and refrain from interrupting
- Be brief and speak to the point. At the same time, recognize cultural differences and enable participants in the negotiations to express their views in the format and the amount of time that is comfortable to them.
- Be patient.

- Avoid making redundant comments (i.e., “me too” comments).
- Avoid getting side-tracked when related conversations will be held later.
- Use terminology that others understand and/or explain what terms mean.

It is important to find creative, innovative solutions. Therefore, Committee, EC and Subcommittee Members will:

- Avoid judging ideas prematurely
- Look for the need or interest that gives rise to the idea
- Look for ways to improve proposals
- Try to remain open minded
- Take time for private meetings to discuss ideas with members of their interest group

Some disagreements are inevitable, but they should be focused on the issues involved rather than on the people holding a particular view. Therefore, Committee, EC and Subcommittee Members will:

- Be respectful. When responding with a different viewpoint, do so as you would with a friend.
- Promote cooperative interactions and avoid competitive behaviors that put down other participants
- Promote positive behaviors that promote productive discussions and agreement and avoid behavior that is disruptive to the work of the group
- Address one another in a respectful manner

SECTION 6 – HOW COMMUNICATIONS WILL BE PROMOTED AND CONDUCTED BETWEEN AND AMONG COMMITTEE MEMBERS’ CONSTITUENTS AND THE GENERAL PUBLIC

Work session notes and other working documents will be available to the public upon request. Information, including meeting notes, will also be posted on a web site managed by the ONRR.

Constituents

Informed constituencies enhance the prospect for approval of recommendations by the Committee. To achieve this goal:

- 1) Members of the Committee will represent the interests of their constituent group and bring their constituents’ concerns and ideas to the deliberations. Members will inform their constituents about issues under discussion and solicit their opinions about issues as needed or appropriate.
- 2) Committee Members will hold periodic meetings with their constituent group, set up a small advisory group or send electronic solicitations, as appropriate, to secure input on the content of negotiations.

Observers

All Committee and Subcommittee Meetings will be open to the public. However, in order for the Committee and Subcommittees to achieve their goals, discussion and deliberation at work sessions must be focused and manageable. Participation and times for input by non-members of the Committee or Subcommittees during their working sessions will be determined by the Committee as a whole, or this decision may be delegated to the Executive Committee. A decision regarding when to open a Committee meeting for public comment may be made by consensus of Committee Members or by a simple majority vote of all Members present at the meeting.

Communications with the Media

Work sessions of the Committee and Subcommittees will be open to the media. The consensus process is a solution-oriented, problem solving approach, not a platform for lobbying the public through the media. The deliberations of the Committee should not be used as opportunities for individual members to posture in order to gain the attention of the media or broader publics.

Each Committee or Subcommittee Member is free to speak with the press *on behalf of the agency or organization he or she represents*, but must make it clear to the press that his or her comments should not be attributed to the Committee as a whole. No Committee Member will formally speak for or represent the Committee without express authorization by consensus of the Committee as a whole.

No Committee or Subcommittee Member will characterize to the press the point of view of other Committee representatives.

If the Committee as a whole or the EC determines that there is a need to communicate formally with the press, they will designate a spokesperson(s) and/or draft a statement or press release. Committee Members can refer members of the press to the Facilitators for questions about the process.

In communicating with the media and the general public, a clear distinction should be made between preliminary information, concept papers or proposals under consideration and final decisions on recommendations. It is important to differentiate between documents used for discussions and decisions. Preliminary documents will be marked with "DRAFT" or "FOR DISCUSSION PURPOSES ONLY."