



U.S. Department of the Interior

# Office of Natural Resources Revenue

## Indian Oil Valuation Negotiated Rulemaking

### Welcome and Introduction

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Designated Federal Official



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# Background

- The Office of Natural Resources Revenue (ONRR) is responsible for the efficient, timely, and accurate collection, disbursement, and verification of all 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.
- ONRR is mandated to establish regulations for valuing oil produced from Indian leases.
- The existing rule for the valuation of oil produced from Indian leases has been in place since March 1, 1988. Since then, many changes have occurred in the oil market, and ONRR constituents have raised concerns about the need to revise the rules to address the major portion analysis requirement contained in most Indian leases.



# Background (cont.)

- In 1998 and 2000, the Department published proposed rules for Indian oil valuation. Those rules were subsequently withdrawn because of market changes and the passage of time.
- In 2005, the Department held eight public meetings to consult with tribes and to obtain information from interested parties and, in 2006, published a third proposed rule:
  - Tribal and industry commenters on this proposed rule did not agree on most of the issues regarding oil valuation, and none of the commenters supported the major portion provisions.
  - The Royalty Policy Committee's Indian Oil Valuation Subcommittee evaluated the 2006 rule but was unable to reach consensus about how the Department should proceed.



# Background (cont'd)

- In 2007, the Department published a final rule with technical amendments and the intent to convene a negotiated rulemaking committee to make specific recommendations regarding the major portion provision.
- On June 8, 2010, the Secretary signed a decision memorandum giving approval to go forward with establishing the negotiated rulemaking committee.
- On January 31, 2011, ONRR published in the *Federal Register* a Notice of Intent to form the Committee and solicit member-nominees. In response, we received six nominees to represent tribal interests and six nominees to represent industry's interests.



# Background (cont.)

- ONRR held three successful public meetings to consult with tribes and to obtain information from interested parties:
  - May 19, 2011 – Albuquerque, New Mexico
  - May 26, 2011 – Denver, Colorado
  - June 9, 2011 – Oklahoma City, Oklahoma
  
- On August 22, 2011, the Department published a second notice of intent to establish an Indian Oil Valuation Negotiated Rulemaking Committee to address the remaining requirements of Section 564 of the Negotiated Rulemaking Act and to inquire if all interests were represented by the proposed members.
  
- On December 8, 2011, the Department published a notice in the *Federal Register* establishing the Indian Oil Valuation Negotiated Rulemaking Committee.
  
- The Department filed the Signed Charter with GSA, the Library of Congress, and congressional committees of the Senate and House having legislative jurisdiction over DOI.



# Negotiated Rulemaking

- Developing an acceptable rule requires the agency to find a fair and equitable balance among potentially or actually competing needs and interests of concerned entities and stakeholders who will be affected by the final rule.
- A negotiated rulemaking is convened by the government and is comprised of representatives of the government and key parties that will be significantly affected by the rule.
- This Committee was established under the authority of,
  - The Negotiated Rulemaking Act of 1996 (NRA) (5 U.S.C. Appendix 2, section 1 *et seq*).
  - The Indian Mineral Development Act of 1962 (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.
  - The Indian oil and gas lease and agreement terms.



# Purpose of the Committee

The purpose of this Committee is to advise the Secretary, through the Director of the Office of Natural Resources Revenue, on a rulemaking to address Indian oil valuation as it relates to the major portion requirement in Indian oil and gas leases:

- Major portion refers to the highest price paid for a part or a majority of the oil produced in a particular area.
- The scope of the Committee is directed toward solving the major portion calculation for oil produced from Indian leases.

The Committee acts 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.

The intent of this rulemaking process is to develop regulations that offer greater simplicity, certainty, clarity, and consistency in production valuation for mineral revenue recipients and mineral lessees.



# Membership Designations

- ***Non-Federal Members*** - To ensure fair and balanced representation of viewpoints, the Secretary shall appoint members from groups representing the interests affected by the regulations, including members representing Native Americans and various oil and gas companies and/or associations.
- ***Federal Members*** - ONRR will provide at least three voting members. The Bureau of Indian Affairs will provide one voting member.
- ***Designated Federal Officer (DFO)*** – This position will be a non-voting, ex officio member of the Committee.
- ***Neutral Facilitator*** – A neutral facilitator will facilitate the Committee’s proceedings and provide an impartial viewpoint.





# Approved Members

## Federal

- ✓ Bruce Loudermilk, BIA
- ✓ John Barder, ONRR
- ✓ Don Sant, ONRR
- ✓ Paul Tyler, ONRR

## Industry

- ✓ Kevin Barnes, COPAS
- ✓ Daniel Riemer, API
- ✓ Dee Ross, Chesapeake Energy
- ✓ Robert Thompson, III WEA
- ✓ Jack Vaughn, Peak Energy
- ✓ Patrick Flynn, Resolute

## Tribal

- ✓ Roger Birdbear, Ft. Berthold Landowners Association
- ✓ Marcella Giles, OILMAN
- ✓ Manuel Myore, Ute Tribe
- ✓ Perry Shirley, Navajo Nation
- ✓ Claire Ware, Joint Business Council, Shoshone/ Arapaho Tribes
- ✓ Grinnell Day Chief, Blackfeet Nation
- ✓ Alan Taradash, Jicarilla Apache Nation

### Member Appointments

*Members are appointed by the DOI Secretary, at his discretion, for three years. Non-Federal members may not serve more than two consecutive, 3-year terms as a member.*

## Designated Federal Official

Deborah Gibbs Tschudy, ONRR



# Questions?

