PART 1290—APEAL PROCEDURES

§ 1290.100 What is the purpose of this part?
This part tells you how to appeal Office of Natural Resources Revenue (ONRR) or delegated State orders concerning reporting to the Minerals Revenue Management (MRM) and the payment of royalties and other payments due under leases subject to this part.

§ 1290.101 What leases are subject to this part?
This part applies to:
(a) All Federal mineral leases onshore and on the Outer Continental Shelf (OCS); and
(b) All federally-administered mineral leases on Indian tribal and individual Indian mineral owners’ lands, regardless of the statutory authority under which the lease was issued or maintained.

§ 1290.102 What definitions apply to this part?
Assessment means any fee or charge levied or imposed by the Secretary or a delegated State other than:
(1) The principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;
(2) Any interest; or
(3) Any civil or criminal penalty.
Delegated State means a State to which ONRR has delegated authority to perform royalty management functions under an agreement or agreements under regulations at 30 CFR part 1227.
Designee means the person designated by a lessee under 30 CFR 1218.52 to make all or part of the royalty or other payments due on a lease on the lessee’s behalf.
IBLA means the Interior Board of Land Appeals.
Indian lessor means an Indian tribe or individual Indian mineral owner with a beneficial or restricted interest in a property that is subject to a lease issued or administered by the Secretary on behalf of the tribe or individual Indian mineral owner.
Lease means any agreement authorizing exploration for or extraction of any mineral, regardless of whether the instrument is expressly denominated as a “lease,” including any:
(1) Contract;
(2) Net profit share arrangement;
(3) Joint venture; or
(4) Agreement the Secretary approves under the Indian Mineral Development Act, 25 U.S.C. 2101 et seq.
Lessee means any person to whom the United States, or the United States on behalf of an Indian tribe or individual Indian mineral owner, issues a lease subject to this part, or any person to whom all or part of the lessee’s interest or operating rights in a lease subject to this part has been assigned.
Notice of Order means the notice that ONRR or a delegated State issues to a lessee that informs the lessee that ONRR or the delegated State has issued an order to the lessee’s designee.
Obligation means:
§ 1290.105  How do I appeal an order?

(a)(1) You may appeal to the Director, Office of Natural Resources Revenue (ONRR Director), by filing a Notice of Appeal in the office of the official issuing the Order:

(i) Within 30 days from service of an Order to Pay or a Denial involving Federal or Indian mineral leases, or an Order to Perform a Restructured Accounting involving Indian mineral leases or Federal solid mineral or geothermal leases; or

(ii) Within 60 days from service of an Order to Perform a Restructured Accounting involving Federal oil and gas leases if a delegated State issued the Order to Perform a Restructured Accounting.

(i) A lessee’s, designee’s or payor’s duty to:

(ii) Make a lease-related payment, including royalty, minimum royalty, rental, bonus, net profit share, proceeds of sale, interest, penalty, civil penalty, or assessment; and

(ii) Take oil or gas royalty-in-kind; or

(ii) Make a lease-related payment, refund, offset, or credit, including royalty, minimum royalty, rental, bonus, net profit share, proceeds of sale, or interest.

(3) The obligations identified in paragraphs (1)(i) and (2)(i) of this definition are nonmonetary obligations. The obligations identified in paragraphs (1)(ii) and (2)(ii), including the requirement to compute the amount of such obligations, are monetary obligations.

Order, for purposes of this part only, means any document issued by ONRR or a delegated State that contains mandatory or ordering language that requires the recipient to do any of the following for any lease subject to this part: Report, compute, or pay royalties or other obligations, report production, or provide other information.

(1) Order includes:

(i) An order to pay (Order to Pay) or to compute and pay (Order to Perform a Restructured Accounting); and

(ii) An ONRR or delegated State decision to deny a lessee’s, designee’s, or payor’s written request that asserts an obligation due the lessee, designee, or payor (Denial).

(2) Order does not include:

(i) A non-binding request, information, or guidance, such as:

(A) Advice or guidance on how to report or pay, including a valuation determination, unless it contains mandatory or ordering language; and

(B) A policy determination;

(ii) A subpoena;

(iii) An order to pay that ONRR issues to a refiner or other person involved in disposition of royalty taken in kind;

(iv) A Notice of Noncompliance or a Notice of Civil Penalty issued under 30 U.S.C. 1719 and 30 CFR part 1241, or a decision of an administrative law judge or of the IBLA following a hearing on the record on a Notice of Noncompliance or Notice of Civil Penalty;

(v) A “Dear Payor,” “Dear Operator,” or “Dear Reporter” letter unless it explicitly includes the right to appeal in writing; or

(vi) Any correspondence that does not include the right to appeal in writing.

Party means ONRR, any person who files a Notice of Appeal, and any person who files a Notice of Joinder in an appeal under this part.

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§ 1290.106  How do lessees join a designee’s appeal and how does joinder affect the appeal?

(a) If you are a lessee, and your designee files an appeal under §1290.103, you may join in that appeal within 30 days after you receive your designee’s Notice of Appeal under §1290.105(a)(2) by filing a Notice of Joinder with the office or official that issued the order.

(b) If you join in an appeal under paragraph (a) of this section, you are deemed to appeal the order jointly with the designee, but the designee must fulfill all requirements imposed on appellants under this part and 43 CFR part 4, subparts E and J. You may not file submissions or pleadings separately from the designee.

(c) If you are a lessee and you neither appeal nor join in your designee’s appeal under this section, your designee’s actions with respect to the appeal and any decisions in the appeal bind you.

(d) If you are a designee and you decide to discontinue participation in the appeal, you must serve written notice within 30 days before the next submission or pleading is due on:

(1) All lessees who have joined in the appeal under paragraph (a) of this section;

(2) The office or officer with whom any subsequent submissions or pleadings must be filed, including the IBLA; and

(3) All other parties to the appeal.

(e) If you have joined in the appeal under paragraph (a) of this section, and if the designee notifies you under paragraph (d) of this section that it declines to further pursue the appeal, you become an appellant and must then meet all requirements of this part and 43 CFR part 4, subparts E and J, as the appellant.

§ 1290.107 Where are the rules concerning the effect of the Department not issuing a decision in my appeal within the statutory time frame?

If your appeal involves monetary or nonmonetary obligations under Federal oil and gas leases, the rules concerning the effect of the Department not issuing a final decision in your appeal within the 33-month period prescribed under 30 U.S.C. 1724(h) are located in 43 CFR part 4, subpart J.

§ 1290.108 How do I appeal to the IBLA?

(a) Any party to a case adversely affected by an order the ONRR Director issues or a decision the ONRR Director or Director, Bureau of Indian Affairs issues under this part shall have a right of appeal to the IBLA under the procedures provided in 43 CFR part 4, subpart E.

(b) Notwithstanding 43 CFR 4.414(a), a party shall file an answer or appropriate motion within 60 days after service of the statement of reasons for appeal unless an extension of time is requested and granted.

[79 FR 62051, Oct. 16, 2014]

§ 1290.109 How do I request an extension of time?

(a) If you are a party to an appeal under this part, and you need additional time after the appeal commences under 43 CFR 4.904 for any purpose:

(1) You may obtain an extension of time under this section; and

(2) You must submit a written request for an extension of time to:

(i) The office or official with whom you must file a document before the required filing date; or

(ii) If you are not seeking an extension of time to file a document, to the office or official before whom the appeal is pending.

(b) If you are an appellant, and if your appeal involves monetary or nonmonetary obligations under Federal oil and gas leases, you must agree in writing in your request to extend the period in which the Department must issue a final decision in your appeal under 30 U.S.C. 1724(h) and 43 CFR 4.906, by the amount of time for which you are requesting an extension.

(c) If you are any other party to an appeal involving monetary or nonmonetary obligations under Federal oil and gas leases, the office or official with whom you must file the request may require you to submit a written agreement signed by the appellant to extend the period in which the Department must issue a final decision in the appeal under 43 CFR 4.906, by the amount of time for which you are requesting an extension.

(d) The office or official with whom you must file your request may decline any request for an extension of time.

(e) You must serve your request on all parties to the appeal.


§ 1290.110 How do I exhaust administrative remedies?

(a) To exhaust administrative remedies, you must appeal an Office of Natural Resources Revenue (ONRR) or delegated State order:

(1) To the ONRR Director (or the Director, Bureau of Indian Affairs when Indian lands are involved); and

(2) Subsequently to the Interior Board of Land Appeals under 30 CFR part 1290, and 43 CFR part 4.

(b) This section does not apply if an order was made effective by:

(1) The Assistant Secretary for Policy, Management and Budget;

(2) The Assistant Secretary for Indian Affairs; or

(3) The Interior Board of Land Appeals under 43 CFR part 4.


§ 1290.111 What happens if I do not pay or appeal an order?

If you neither pay nor appeal an order under this part, that order is the final decision of the Department, you have failed to exhaust administrative remedies as required under § 1290.110(a), and you may not contest the validity or merits of that order in any subsequent proceeding to enforce that order.
§ 1290.111

under 30 U.S.C. 1719 and part 1241 of this chapter.

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