

Chapter 1

About this Handbook

1.0 Introduction

This chapter provides a framework for understanding the unique environment of oil and gas royalty valuation on Indian Lands. In this handbook, Indian lands refer to both tribal lands and allotted lands, which are held in trust by the United States for the Tribe or individual Indian mineral owner and have federal protection against alienation. Tribal lands are generally those held in trust for the communal benefit of a particular tribe or group of tribes. Allotted lands are those granted under the General Allotment Act of 1887, as amended, or a similar, Tribe-specific statute, for the use and benefit of individual Indian beneficiaries and their heirs.

Beginning in 1891, Congress authorized oil and gas development on certain Indian lands established by treaty and allotment. Later statutes expanded that scope to encompass most other Indian land classifications, including executive order reservations. These laws required that the United States Department of the Interior oversee and manage such oil and gas activities, including exploration, leasing, development, and ultimately—product and royalty valuation.

Under the statutes placing the Indian lands in trust for the use and benefit of tribes and individual Indian beneficiaries and the statutes allowing for mineral development, the United States is tasked with the responsibility of ensuring that both tribes and individual Indian mineral owners receive what is rightfully owed to them attributable to their oil and gas leases and agreements.

Royalties and other consideration provided for in the lease or agreement must be properly computed and paid. This handbook seeks to assist royalty payors in correctly calculating their royalties based on relevant laws, common Indian lease terms, regulations, and directives. It is important to note that other commodities removed and sold from Indian lands will have different authorizing statutes, regulations, and guidance.

When a company enters into a lease or agreement with an Indian tribe or individual Indian mineral owner, the company agrees to federal government supervision and oversight. This supervision and oversight is similar to what would be required on federal lands, but with additional requirements specific to Indian lands.

This *Oil and Gas Indian Payor Handbook* provides royalty valuation procedures for Indian oil and gas production, and information on establishing and reporting processing and transportation



Throughout this handbook, the term “you” will be used to refer to a lessee, operator, or other person legally responsible for paying royalties under 30 CFR Chapter XII, Subchapter A.

allowances. This handbook also provides examples for determining the value of production for royalty purposes and completing dual accounting, safety net, and transportation and processing allowance forms.

The Office of Natural Resources Revenue (ONRR) determines royalties based on the amount or value of production removed or sold from the lease. See Title 30, *Code of Federal Regulations*, Parts 1204 and 1206.

This handbook has been prepared for guidance purposes only and each lessee is responsible for the proper valuation, for royalty purposes, of federal and Indian production.

If you have any questions regarding the information in this handbook, please contact ONRR's Royalty Valuation team at royaltyvaluation@onrr.gov.

1.1 Handbook Outline

ONRR divided the *Oil and Gas Indian Payor Handbook* into the following chapters:

- Chapter 1 — About this Handbook
- Chapter 2 — Valuation Basics
- Chapter 3 — Oil Valuation
- Chapter 4 — Gas Valuation
- Chapter 5 — Oil Transportation Allowances
- Chapter 6 — Gas Transportation Allowances
- Chapter 7 — Gas Processing Allowances

1.2 Authority

Indian Lands

Tribal lands held in trust and Indian allotted lands have a unique legal status and have protections against alienation. Tribal lands are recognized by treaty, executive order, or act of Congress. Many current Indian reservation boundaries were created by one or more of these actions. Companies operating on Indian lands should be aware of the unique legal history surrounding the Indian reservation or allotment where they operate. The treaty, executive order, or act of Congress may result in a company having to interact with one or more tribal groups. Furthermore, the land status of both tribal and allotted lands can be complex due to checkerboarding and interests acquired by non-Indian parties. Tribes may also own land in fee simple, and in such situations, federal oversight may be limited in some situations. Depending on the unique legal history and specific land status, special valuation may be required for royalty determination that go beyond the scope of this handbook.

Indian Leasing Statutes

The Department of the Interior, through the Bureau of Indian Affairs (BIA), is responsible for approving oil and gas leases and agreements on Indian lands. Understanding the specific statute

authorizing the lease or agreement is important for understanding lessee responsibilities and obligations. The most common authorizing statutes are listed below:

- **Allotted Lands Leasing Act of 1909, 25 U.S.C. §396.** Congress authorized mineral leasing on allotted lands in which individual Indians own the beneficial interest.
- **Indian Mineral Leasing Act of 1938 (IMLA), 25 U.S.C. §396a-g.** Enacted to coincide with the Indian Reorganization Act of 1934, its purpose was to bring uniformity to the Indian mineral leasing program. IMLA leases must be approved in accordance with a tribe's own charter or constitution.
- **Service Contract Agreements, 25 U.S.C. §81.** This includes exploration and development agreements, joint ventures, production sharing agreement, managerial agreement, and net profit arrangements. There remains a large number of service contracts still in effect approved under 25 U.S.C. §81. However, beginning in 1980, the Department of the Interior stopped approving such contracts. Similar types of agreements may now be entered into under the Indian Mineral Development Act of 1982. Service Contract Agreements may have unique provisions that, depending on the circumstances, may supersede ONRR's regulations. Each Service Contract Agreement is unique and may require an individual valuation assessment.
- **Indian Mineral Development Act of 1982 (IMDA), 25 U.S.C. §2101-2108.** A majority of newly-approved oil and gas leases are approved under the IMDA. Tribes have authority to develop their own resources under their own negotiated terms. This may include operating agreements, net profit agreements, or other arrangements where a tribe may share in the risks and rewards of mineral development. Under the IMDA, tribes are free to enter into diverse agreement terms. With the consent of the Tribe and lessee, individually owned Indian minerals may also be included in a Tribe's agreement. IMDA agreements may have unique provisions that, depending on the circumstances, may supersede ONRR's regulations. In these instances, the lease agreement itself will govern the accounting treatment. There may be unique provisions for determining and calculating royalty and other types of consideration for the removal and disposition of oil and gas from the lands covered by an IMDA agreement. Each IMDA agreement is unique and may require an individual valuation assessment.

Certain tribes, particularly in Oklahoma, have their own authorizing statutes for leasing. This Handbook **does not** apply to leases on the Osage Indian Reservation, Osage County, Oklahoma. See 25 CFR Part 226.

Prior to any valuation assessment, it is important to review the lease. Because Indian leases have their own authorizing statutes, ONRR promulgated its own set of regulations applicable to Indian leases. Indian leases and agreements have different terms from federal leases, including major portion and dual accounting provisions, which are addressed in detail in the Valuation Basics, Oil Valuation, and Gas Valuation chapters.

Applicable Regulations

The *Code of Federal Regulations* (CFR) codifies the general and permanent rules published in the *Federal Register* (FR) by the executive agencies of the Government. The CFR is available for purchase from Government Printing Offices, located in most large metropolitan areas. Hard copies are also available in your local public library or on gpo.gov. Digital copies may be found at www.ecfr.gov.

Regulations affecting ONRR:

- [25 CFR](#) — Indians Parts 200–250: Energy and Minerals
- [30 CFR](#) — Mineral Resources Parts 1200-1299: Office of Natural Resources Revenue, Department of the Interior
- [43 CFR](#) — Public Lands: Interior

1.3 Fiduciary Trust

The Federal Indian trust responsibility is a legally enforceable fiduciary obligation on the part of the United States to carry out the mandates of Federal law with respect to American Indian and Alaska Native tribes and villages to protect tribal treaty rights, lands, assets, and resources. In several cases discussing the trust responsibility, the Supreme Court ruled that it entails not only legal duties set out in statutes and regulations but also moral obligations and the fulfillment of understanding and expectations that have arisen over the entire course of the relationship between the United States and the federally-recognized tribes.

From this, the United States is required to supervise and approve all dispositions of trust assets, including oil and gas resources. This is performed through the lease and agreement approval process. Generally, the Department of the Interior, through the BIA, is responsible for lease and agreement approval, administration, and termination. The Bureau of Land Management is responsible for oil and gas production and development activities. The Office of Natural Resources Revenue is responsible for production valuation and royalty management functions. ONRR, in conjunction with BIA and Office of the Special Trustee (OST), provides revenue management services for mineral leases on American Indian lands. One-hundred percent of monies collected for Indian mineral leases are returned to the Indian or Tribal lessor.

ONRR implements its trust responsibility through:

- Consultation with tribes to determine how best to use or develop resources
- Analyzing all relevant information to determine how to act in the interest of Indian lessors
- Making decisions based on the Indian lessor's best interest
- Providing accurate accounting of all transactions involving resources

Agencies engaged with ONRR and information they provide

Bureau of Indian Affairs (BIA)	Bureau of Land Management (BLM)	Office of the Special Trustee for American Indians (OST)
<ul style="list-style-type: none"> ● Land ownership and lease status ● Mineral leasing ● Finalizing and approving Communitization Agreements (CA) ● Rights-of-Way ● Probate 	<ul style="list-style-type: none"> ● Permit approvals to drill or extract a mineral resource ● What happens in an inspection ● Frequency and results of onsite inspections ● Communitization review ● Lease production volumes ● Wells and other ownership that may affect your production ● Proper plugging of wells ● Official surveys of Indian lands 	<ul style="list-style-type: none"> ● How to receive funds from an Individual Indian Mineral Owner (IIM) account: <ul style="list-style-type: none"> ○ Direct deposit ○ Debit card ○ Check ● Privacy of financial trust accounts ● Why it is important to update lessor addresses ● If funds in a lessor’s account earn interest ● Trust Assets Information

1.4 Maintenance

ONRR may periodically revise this handbook to reflect changes in the law and regulations. Payors, however, are responsible for and should independently verify any intervening regulatory amendments or new law that affects information and guidance contained in this handbook.

ONRR will notify payors when updates to this handbook are available. ONRR recommends keeping superseded releases of this handbook for use in future reviews of your transactions that occurred while those releases were in effect.

You may send questions regarding the content of this handbook to ONRR at royaltyvaluation@onrr.gov.

1.5 Distribution and Related Handbooks

ONRR is responsible for making payor handbooks available. Payors can view and print this handbook, or portions thereof, from our web site, at www.onrr.gov. The online handbook is organized on a series of tabs, in content order, that contain printable pdf files.

The following handbooks and regulations contain related topics of interest.

- The [Minerals Production Reporter Handbook](#) provides instructions for completing an Oil and Gas Operations Report (OGOR).
- The [Minerals Revenue Reporter Handbook](#) provides instructions to assist reporters in preparing the Report of Sales and Royalty Remittance (Form ONRR-2014).

- The [Geothermal Payor Handbook—Product Valuation](#) provides instructions for valuing geothermal resources.
- Coming soon: The [Oil and Gas Federal Payor Handbook](#) provides instructions for valuing oil and gas from federal leases.

To view and print electronic copies of these handbooks free of charge (using Adobe Acrobat Reader), please visit onrr.gov.

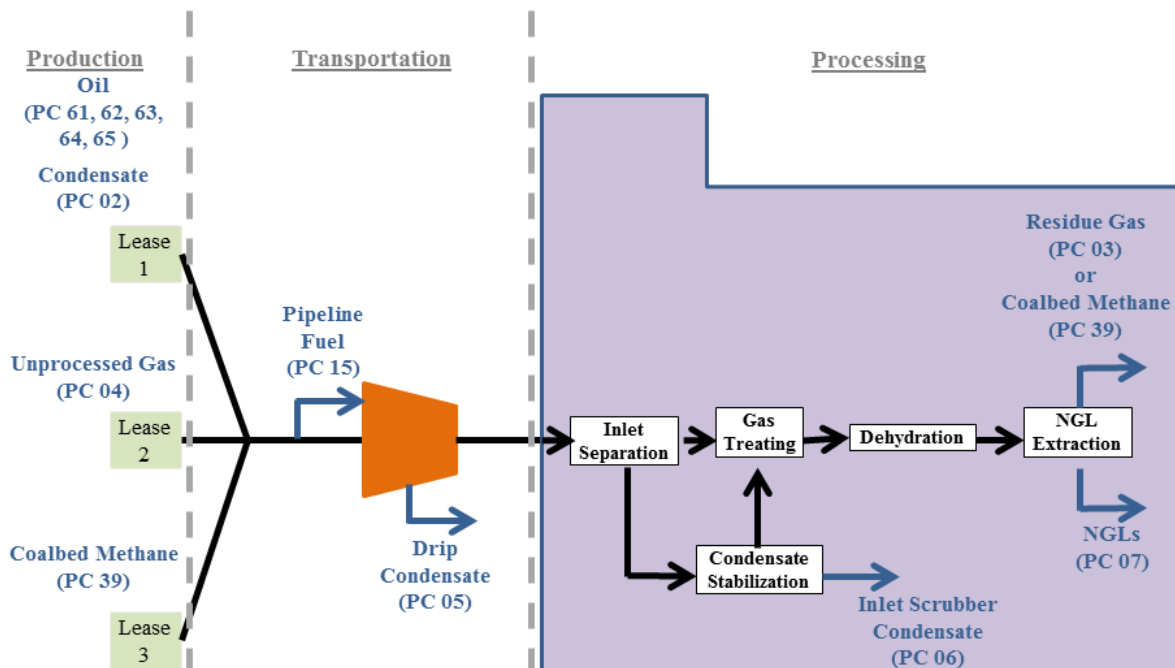
1.6 Resources

For further information on related topics, you can visit the following:

- [Bureau of Land Management](#)
- [Bureau of Safety and Environmental Enforcement](#)
- [Bureau of Indian Affairs](#)
- [Office of Special Trustee](#)
- [ONRR Reporter and Payor Letters](#)

ONRR’s [Product Codes](#) and [Transaction Codes](#) can be found in the *Minerals Production Reporter Handbook* and the *Minerals Revenue Reporter Handbook*. Both types of codes are referenced in this handbook. Please take time to familiarize yourself with them in this handbook appendices as well as in the diagram below.

FORM ONRR-2014 COMMON PRODUCT CODES



1.7 Recordkeeping Requirements

What Records Must I Keep To Support My Calculations?

You must retain all data relevant to the determination of royalty value across all applicable commodities including showing how you calculated the value that you reported, plus all adjustments for location, quality, and transportation. In addition, you must be able to demonstrate how you complied with these rules under 30 CFR §1206.64. Additional provisions regarding recordkeeping may also be found under 30 CFR §1207.1.

Each lessee, operator, and revenue payor is required to make and retain accurate and complete records necessary to demonstrate that payments of rentals, royalties, net profit shares, and other payments related to offshore and onshore federal and Indian oil and gas leases are in compliance with lease terms, regulations, and orders under 30 CFR §1212.51. Records that are covered in these regulations include, but are not limited to, those items specified by lease terms, notices and orders. Records also include computer programs, automated files, and supporting systems documentation used to produce automated reports or magnetic tape submitted to ONRR.

Each reporter/payor must submit accurate, complete, and timely information to ONRR. If a reporter/payor discovers an error in a previous submission or report, the reporter/payor must file an accurate and complete amended report within thirty (30) days of the discovered error under 30 CFR §1210.30. Noncompliance may result in the assessment of civil penalties under 30 CFR part 1241.

What Information Must I Provide When Requested?

Lessees, operators, and revenue payors are responsible for making the records identified in the prior section available for inspection. Records shall be provided at a business location of the lessee, operator, payor, or other person during normal business hours upon the request of any officer, employee or other party that is authorized by the Secretary of the Interior under 30 CFR §1212.51. Lessee, operators, and revenue payors will be afforded a reasonable period of time to produce the historical records that are part of the inquiry.

Parties that are responsible for compiling and keeping records under ONRR regulations shall maintain and preserve the records from the day on which the relevant transaction occurred unless the Secretary notifies the record holder of an audit or investigation involving the records and that they must be maintained for a longer period under 30 CFR §1212.51. When an audit or investigation is underway, you shall maintain records until the record holder is released in writing from the obligation to maintain the records.

The Office of Management and Budget (OMB) approved the information collection requirements identified in ONRR's regulations under 44 U.S.C. 3501 *et seq.* Detailed information about each information collection request is included on the ONRR website at https://www.onrr.gov/Laws_R_D/index.htm as well as under 30 CFR §1210.10.

1.8 Privacy Information

Does ONRR protect information that I provide?

In accordance with 30 CFR §1210.40, ONRR will treat information obtained under 30 CFR part 1200 as confidential to the extent permitted by law as specified in 43 CFR part 2.

Confidential Information

Information submitted to ONRR to support valuation proposals, including transportation and processing contracts, transportation and processing costs, statements, and sales contracts, may be exempted from disclosure under the Freedom of Information Act, 5 U.S.C. 552, or other federal law. ONRR will maintain any data specified by law to be privileged, confidential, or otherwise exempt in a confidential manner in accordance with applicable laws and regulations.

1.9 Disclaimer

ONRR will periodically revise this *Oil and Gas Indian Payor Handbook* to reflect the most current regulatory language, Interior Board of Land Appeals (IBLA) rulings, and applicable judicial decisions. Payors should exercise caution in referencing to or relying on this handbook, being cognizant of changes in judicial decisions as well as how the handbook provisions are applied to individual scenarios or situations. Payors should independently verify that the information and guidance contained in this handbook has not been affected by intervening regulatory amendments or recent IBLA or judicial decisions.

The citations in this letter refer to ONRR's current published regulations. If ONRR regulations change, use the most recent applicable version. For detailed regulatory language, please visit <http://ecfr.gpoaccess.gov> and select Title 30 - Mineral Resources, Chapter XII (1200).

You may send questions regarding the content of this handbook to ONRR at royaltyvaluation@onrr.gov.