



# United States Department of the Interior

## OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165  
Denver, Colorado 80225-0165

**OCT 05 2016**

Dear Reporter:

The Office of Natural Resources Revenue (ONRR) recently published the Consolidated Federal Oil & Gas and Federal & Indian Coal<sup>1</sup> Valuation Reform Final Rule<sup>2</sup> (2017 Rule). This letter provides guidance on changes to Federal and Indian coal valuation and reporting as required under the 2017 Rule, which is effective beginning with production occurring January 1, 2017. Specifically, this letter includes information and instructions regarding:

- General valuation changes
- Changes to Federal and Indian coal valuation
- Changes to Federal and Indian coal reporting
- Guidance information

### **General Valuation Changes**

This letter addresses the changes to Federal and Indian coal royalty valuation in the 2017 Rule but does not provide a comprehensive account of each change or the reasoning behind it. Please refer to the preamble to the 2017 Rule for further information.

#### *Definitions*

ONRR consolidated the definitions that apply to Federal oil and gas and Federal and Indian coal into a single section at 30 CFR § 1206.20. ONRR also added, modified, and deleted several definitions.

#### *Guidance and Determinations*

ONRR clarified the information necessary to receive a valuation determination. ONRR also clarified the differences between determinations and guidance.<sup>3</sup>

#### *Default Provision*

ONRR clarified the Secretary of Interior's (Secretary's) authority to determine value under a new "default provision" in the 2017 Rule.<sup>4</sup> The default provision addresses valuation situations where we cannot reasonably determine the correct value of production. Cases where ONRR may determine value under the default provision include but are not limited to:

- instances involving failure to provide documents

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<sup>1</sup> ONRR will discuss reporting and valuation changes associated with Oil and Gas production from Federal leases in a separate letter.

<sup>2</sup> See 81 FR 43338 -- July 1, 2016

<sup>3</sup> See the preamble to the 2017 Rule, 30 CFR §§ 1206.258 and 1206.458 for Federal and Indian coal, respectively.

<sup>4</sup> The default provision is at 30 CFR §§ 1206.254 and 1206.454 for Federal and Indian coal, respectively.

- misconduct (as defined in 30 CFR § 1206.20)
- breach of the duty to market, or
- any other situation that significantly compromises the Secretary's ability to reasonably determine the correct value

## **Changes to Federal and Indian Coal Valuation**

### *Coal Cooperatives*

ONRR defined a coal cooperative as “an entity organized to provide coal or coal-related services to the entity's members (who may or may not also be owners of the entity), partners, and others. The entity may operate as a coal lessee, operator, payor, logistics provider, or electricity generator, or any of their affiliates, and may be organized to be non-profit or for-profit.”<sup>5</sup>

### *Removal of Benchmarks*

In order to simplify non-arm's-length coal valuation for royalty purposes, ONRR removed the benchmarks and made the following changes:

- You must now value coal based on the first arm's-length disposition.
- When you value coal based on the first arm's-length disposition, you may need to trace the sales through your affiliates to their first arm's-length disposition.
- If the first arm's-length disposition of your coal is an electricity sale, the value of the coal for royalty purposes is the value of the electricity less allowances.<sup>6</sup>

### *Transportation and Washing Cost Allocations*

ONRR clarified the cost allocation method you must use if you commingle coal production from Federal or Indian with non-Federal or non-Indian production, or production from more than one Indian lease. Your allocation method must use the same proportion as the ratio of the tonnage from the Federal or Indian lease production to the tonnage from all production.<sup>7</sup>

## **Changes to Federal and Indian Coal Reporting**

- You must file a new Form ONRR-4292 to take a washing allowance for any Indian coal production after January 1, 2017.<sup>8</sup>
- You must also file a new Form ONRR-4293 to take a transportation allowance for any Indian coal production after January 1, 2017.<sup>9</sup>
- You may claim a transportation or washing allowance retroactively for a period of not more than three months prior to the first day of the month when ONRR receives your Form ONRR-4293 (transportation) or Form ONRR-4292 (washing).<sup>10</sup>
- If ONRR values your production using the default method, ONRR will assign you an AG sales type code.

<sup>5</sup> See 30 CFR § 1206.20

<sup>6</sup> See 30 CFR §§ 1206.252 and 1206.452

<sup>7</sup> See 30 CFR §§ 1206.251, 1206.260, 1206.267, 1206.451, 1206.460, and 1206.467

<sup>8</sup> See 30 CFR §§ 1206.467, 1206.470, and 1206.471

<sup>9</sup> See 30 CFR §§ 1206.460, 1206.463 and 1206.464

<sup>10</sup> See 30 CFR §§ 1206.461 and 1206.467

## Guidance Information

This letter does not require you to perform any type of restructured accounting or require you to recalculate and pay royalties. It is valuation guidance and general information for reporting and paying royalties on Federal and Indian coal. This letter is not an appealable decision, order, Notice of Noncompliance, or Civil Penalty Notice under 30 CFR § 1290 Subpart B (2016) or 30 CFR § 1241 (2016).

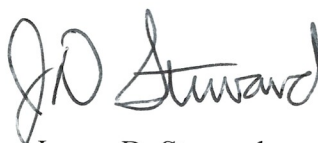
If ONRR issues you an order, Notice of Noncompliance, or Civil Penalty Notice at a later date in accordance with the matters addressed in this letter, we will provide your appeal rights at that time.

## Summary

This letter addresses the reporting changes you should make once the 2017 Rule is effective on January 1, 2017. However, please assess your individual situation in light of the discussion provided in the preamble to the 2017 Rule to ensure that you are valuing, reporting, and paying correctly. The 2017 Rule is available on the ONRR website at [http://www.onrr.gov/Laws\\_R\\_D/FRNotices/PDFDocs/43338.pdf](http://www.onrr.gov/Laws_R_D/FRNotices/PDFDocs/43338.pdf).

ONRR is providing valuation training on the changes in the 2017 Rule in October and November 2016. The Dear Reporter letter outlining that training is available at <http://www.onrr.gov/DearRep.htm>. As always, if you have any questions regarding the changes outlined above, or any questions regarding valuation of your Federal or Indian production, please contact ONRR Royalty Valuation at [royaltyvaluation@onrr.gov](mailto:royaltyvaluation@onrr.gov).

Sincerely,

A handwritten signature in black ink that reads "JD Steward". The signature is written in a cursive style with a large, stylized "J" and "D" at the beginning.

James D. Steward  
Deputy Director