



# United States Department of the Interior

## OFFICE OF NATURAL RESOURCES REVENUE

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

**OCT 16 2019**

Dear Reporter:

On October 8, 2019, the U.S. District Court, District of Wyoming<sup>1</sup> issued a partial preliminary injunction that enjoined the Office of Natural Resources Revenue's (ONRR) Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform rule (2016 Rule).<sup>2</sup> By partially enjoining the 2016 Rule, the Court stayed the Federal and Indian Coal Valuation portions of the 2016 Rule on a nationwide basis (30 CFR (2017) §§ 1206.250-273, 1206.450-473). Accordingly, **all Federal and Indian coal lessees are exempted from recalculating royalties under the 2016 Rule from January 1, 2017, forward while litigation challenging the merits of ONRR's 2016 rule is pending. Instead, the 1989 Federal and Indian Coal Valuation Rule<sup>3</sup> shall continue to govern during this litigation.**

ONRR expects the District Court's enjoinder of this rule to have limited impact on federal and Indian lessees as most coal is sold under arm's-length contracts. The 2016 Rule primarily affected royalties for coal not disposed under arm's-length transactions. Lessees that sell coal under arm's-length sales will continue to value coal royalties according to the rules in place prior to the adoption of the 2016 Rule. The court declined to enjoin new valuation methodologies for federal oil and gas.

Some coal lessees with non-arm's-length valued coal production may have already begun recalculating their royalties under the 2016 Rule for current and prior periods as instructed in ONRR's June 13, 2019 Dear Reporter<sup>4</sup> letter. These lessees should contact ONRR at [royaltyvaluation@onrr.gov](mailto:royaltyvaluation@onrr.gov) for further instructions.

The U.S. District Court, District of Wyoming enjoined the Federal and Indian Coal Valuation portions of the 2016 Rule during the pendency of the action in that court, requiring pre-2016 valuation methodologies applicable to coal to govern during the litigation. ONRR will issue further guidance to affected lessees when any additional ruling is made.

### Resources

#### *Valuation Guidance*

If you have questions regarding the application of the 1989 Coal Valuation Rule for a specific situation, please contact ONRR Royalty Valuation at [royaltyvaluation@onrr.gov](mailto:royaltyvaluation@onrr.gov) for assistance.

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<sup>1</sup> See Order Granting Partial Preliminary Injunction, Dkt No. 55, *Cloud Peak Energy Inc. v. DOI*, Case No. 19-CV-120-SWS (Wyoming).

<sup>2</sup> See 2016 Rule, 81 FR 43338 (July 1, 2016).

<sup>3</sup> See 1989 Rule, 54 FR 1492 (January 13, 1989).

<sup>4</sup> See <https://www.onrr.gov/PDFDocs/Dear-Reporter-Letter-2016-Rule.pdf>.

## *Training*

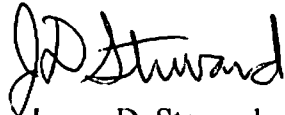
ONRR periodically provides payor training for coal lessees to assist them with reporting and paying their royalties accurately. Since lessees have been following the 1989 Coal Valuation Rule for many years, ONRR does not anticipate providing additional training at this time.

## **Guidance Information**

This letter is not an appealable decision, order, Notice of Noncompliance, or Civil Penalty Notice under 30 CFR Part 1290 Subpart B (2019) or 30 CFR Part 1241 (2019). If ONRR issues you an order, Notice of Noncompliance, or Civil Penalty Notice at a later date relating to matters addressed in this letter, ONRR will provide your appeal rights at that time.

Please note this letter and the letters referenced within refer to ONRR regulations that were made applicable by Court order.

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