Utsarga Bhattarai

Associate
303.295.8168
Denver
ubhattarai@hollandhart.com

Rosario Hecht Domínguez

Partner
303.295.8589
Denver
RDHechtDominguez@hollandhart.com

Tina Van Bockern

Partner
303.295.8107
Denver
trvanbockern@hollandhart.com

ONRR Proposes New Rule to Streamline Federal Oil, Gas, and Coal Royalty Valuation

Insight — June 30, 2026

On June 30, 2026, the Office of Natural Resources Revenue (ONRR) published a highly anticipated proposed rule to "better define and update portions of" ONRR's royalty valuation regulations for federal oil, gas, and coal leases "to reflect current practices and recent industry reporting data." 91 Fed. Reg. 39,754 (June 30, 2026). The proposed rule amends valuation and appeals regulations at 30 C.F.R. Parts 1206 and 1290, respectively. The amendments are intended "to streamline and clarify these regulatory requirements with the goal of reducing cost and administrative burden to ONRR and industry."

Crucially, the proposed rule addresses several of the most contentious issues that have plagued ONRR audits and litigation over the past decade. Key proposed changes include:

- Eliminating the "default" provision;
- Redefining "gathering" for onshore and offshore Outer Continental Shelf (OCS) leases;
- Extending the index-based valuation option to arm's-length sales;
- Defining "marketable condition" standards for gas delivered to a mainline pipeline;
- Providing a clearer path for lessees to claim capital costs for non-arm's-length transportation allowances;
- Expanding deductions for pipeline repair and flow assurance; and
- Clarifying the standard of review for appeals before the ONRR Director.

Indeed, the proposal is driven by new executive mandates to reduce regulatory cost and burden and "unleash energy dominance." ONRR estimates the proposed rule will reduce industry administrative costs by $2 million and industry royalty burdens in the short-term by approximately $331 million annually, representing a decrease of approximately 2% of the total federal oil, gas and coal royalties ONRR collected in 2024. Over the long-term, however, ONRR anticipates increased production, resulting in greater lease bonus and royalty revenue paid to ONRR. According to ONRR, the proposed rule "provides businesses with more flexibility as each entity, including small businesses, are able to determine whether it is economically advantageous to incur increases in administrative costs to reduce the royalties paid, based on an entity's individual circumstances."

Combined with the Bureau of Land Management's (BLM) recent proposal to amend its regulations addressing royalties on vented, flared, and other lost gas volumes, federal lessees could see a near-complete overhaul of the existing royalty regulations. BLM proposed to revise its regulations to "eliminate the significant and overburdensome regulatory requirements" on industry related to measuring, reporting, and paying royalties on gas volumes unavoidably lost. 91 Fed. Reg. 37,906 (June 24, 2026). Among other changes, BLM proposes to remove costly leak detection requirements, time or volume limits on royalty-free flaring of gas lost during certain events, and the requirement for submitting a waste minimization plan with drilling applications.

Together, ONRR's and BLM's proposed rules are expansive and should provide more clarity and reduce the administrative burden for operations on federal oil, gas, and coal leases.

Key Regulatory Changes and Industry Benefits

ONRR's proposed rule includes only minor regulatory updates affecting coal lessees but introduces several notable changes and benefits for oil and gas lessees, effectively reversing many of the positions ONRR previously took in the 2016 Valuation Rule.

- **Eliminating the "default" provision:** ONRR is entirely removing the "default provision" and its associated definition of "misconduct." Previously, the default provision gave ONRR considerable discretion to substitute its own valuation of federal oil and gas if the agency determined (1) a contract does not reflect total consideration, (2) the gross proceeds accruing to a lessee or its affiliate under a contract do not reflect reasonable consideration due to misconduct or breach of the duty to market for the mutual benefit of the lessee and the lessor, or (3) ONRR is unable to ascertain the correct value of production due to a lessee's failure to provide documents, for example. Furthermore, while the proposed rule establishes a lessee cannot report royalty values of less than zero for federal unprocessed gas, residue gas, or natural gas liquids, ONRR clarifies lessees may report zero values.
- **Redefining "gathering" for onshore and OCS oil and gas leases:** For years, ONRR's definition of a "central accumulation or treatment point" allowed auditors to improperly classify dozens of miles of deepwater pipeline movement as non-deductible "gathering." The proposed rule fixes this by defining OCS gathering as ending at the closest of (1) a point of accumulation of one or more wells, (2) the point at which production is separated, or (3) the boundary of the lease. This alignment provides significant cost savings and certainty to OCS operators. Based on data provided by the Bureau of Ocean Energy Management (BOEM), ONRR anticipates "the monies retained by industry could encourage lessees to reinvest in oil and gas production and infrastructure on the OCS." For onshore leases, ONRR proposes to define gathering as the movement from the wellhead to the BLM-approved Facility Measurement Point (FMP).

- **Extending the index-based valuation option to arm's-length gas and natural gas liquid (NGL) sales:** To eliminate the costly administrative burdens of unbundling midstream costs, ONRR proposes to permit lessees to elect to use an index-based option for *both* federal arm's-length and non-arm's-length gas and NGL sales. Furthermore, ONRR is abandoning the "highest bidweek price" metric in favor of the "average" (or midpoint) bidweek index price, and ONRR is updating the index-based transportation deductions based on more current data. By extending the index-based valuation option to arm's-length sales and switching from the highest bidweek price to a "published average bidweek price," more lessees may elect this option for certainty "instead of using their gross proceeds and unbundling allowances." The proposed rule, however, includes a caveat that ONRR may still require lessees to produce underlying actual transaction records to "assess the validity of the index-based valuation option."
- **Defining "marketable condition" standards for gas delivered to a mainline pipeline:** The proposed rule codifies ONRR's existing practice that "when a lessee, or a service provider on behalf of a lessee, delivers residue gas or gas plant products to a mainline pipeline, then a lessee's marketable condition would be set by the required delivery specifications for that pipeline." This would provide upfront certainty and transparency and may prevent common audit inconsistencies.
- **Providing clearer path for lessees to claim capital costs in non-arm's length transportation allowances:** The proposed rule permits oil and gas lessees to deduct capital costs for acquired midstream assets in non-arm's-length allowances by utilizing an "alternative in-service date" or proposing a depreciation schedule if the lessee did not receive a compliant depreciation schedule in the acquisition. With respect to federal coal, ONRR's proposed changes focus on clarifying depreciation and the process for companies to propose depreciation schedules.
- **Expanding deductions for pipeline repair and flow assurance:** After facing rebukes from federal courts following ONRR's refusal to allow deductions for pipeline remediation, the proposed rule explicitly clarifies that lessees may deduct reasonable, actual costs for pipeline repair, replacing, or restoring a plugged or damaged pipeline. In addition, "flow assurance" costs, such as pipeline pigs, heaters, and hydrate/paraffin inhibitors, are now expressly deductible as transportation allowances.
- **Clarifying the standard of review for appeals before the ONRR Director:** The rule proposes ONRR-Director level appeals of orders related to oil, gas, and coal royalties will review conclusions of law *de novo* but apply only a "credible evidence" standard to factual findings. The proposed rule also emphasizes timely decisions.
- **Clarifying definitions**: The proposed rule also introduces new terms and definitions, such as "actual cost" and "alternative in-service date," to provide clarity and certainty for oil, gas, and coal lessees when determining non-arm's-length transportation

allowances. ONRR anticipates the consistent application of terms will also reduce administrative burden on industry.

The Comment Period Has Begun

Both ONRR's and BLM's proposed rules are now open for public comments. ONRR seeks “comments on all aspects of this proposed action,” specifically including whether each component “achieves the rule's stated objectives to reduce costs and administrative burden to both ONRR and industry.”

Under the Administrative Procedure Act (APA) standard set in *FCC v. Fox Television Stations*, an agency can change its policy, but it must show “good reasons” for the new policy. 556 U.S. 502, 515-16 (2009). When reviewing the proposed rules, operators should therefore consider not only whether to comment upon or challenge any unworkable provisions but also how any favorable amendments might be supported by additional data and considerations. Such comments may strategically assist in building the agency's robust administrative record, in the event either final rule is challenged.

BLM is soliciting comments on its proposed rule until **August 24**, and comments on ONRR's proposed rule are due by **August 31**.

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.