August 29, 2025

Re: Revision to Regulations Regarding Coal Management Provisions and Limitations; Fees, Rentals, and Royalties

90 Federal Register 36120 (August 1, 2025)
Agency/Docket Number: BLM-2025-0141

Dear Acting Assistant Secretary Suess:

Taxpayers for Common Sense (TCS) appreciates the opportunity to comment on the direct final rule (DFR) published in the Federal Register on August 1, 2025, regarding the "Revision to Regulations Regarding Coal Management Provisions and Limitations; Fees, Rentals, and Royalties."

TCS is a national nonpartisan budget watchdog that has been working on behalf of the nation's taxpayers since 1995. We work to ensure taxpayers receive a fair return on all resources extracted or developed on federal lands and waters. Federal lands throughout the Western United States contain vast deposits of valuable energy resources. Revenues from resource development serve as an important source of income for the federal government and must be collected, managed, and accounted for in a fair and accurate manner.

The Department of the Interior bears a fiduciary responsibility to ensure that taxpayers receive a fair return on the extraction and sale of federal coal. The One Big Beautiful Bill Act (OBBBA, P.L. 119-21), and the DFR that implements it, fail to ensure taxpayers a fair return by lowering the royalty rate to not more than 7% for both new and existing leases from July 4, 2025, to September 30, 2034.

Background

The Bureau of Land Management (BLM), within the Department of the Interior (DOI), oversees approximately 570 million acres of federal land containing the federal coal mineral estate and manages the coal leasing program. To facilitate development of taxpayer-owned coal, BLM auctions leases to private companies, which extract the resources and sell them for profit. At the end of FY2023, there were 279 leases in effect, covering 421,903 acres of federal land.[1]

[1] Bureau of Land Management (BLM), "National Coal Statistics," accessed August 2025. https://www.blm.gov/programs/energy-and-minerals/coal/coal-data

U.S. coal production has fallen by more than 50% since its 2008 peak, largely due to the rise of fracking and cheaper natural gas. Federal coal production has also declined, but still represents roughly 43% of nation's annual coal output.[2] From FY2015 through FY2024, 2.8 billion tons of coal were produced on federal lands; 80% came from Campbell County, Wyoming, and 8% from other parts of the Powder River Basin.[3,4]

In return for leasing federal lands for coal development, taxpayers receive revenue through competitive lease bids, a $3-per-acre rent on nonproducing leases, royalties based on the value of coal produced, and other minor fees. From FY2015 through FY2024, the federal coal program generated $5.8 billion for federal and state taxpayers,[5] with revenues shared between the federal treasury and the state where development occurs.[6]

For decades, the federal coal program has been marred by systemic flaws—noncompetitive lease sales, outdated royalty rates, undervaluation of coal, and inadequate bonding requirements. TCS has long reported on the weaknesses of the federal coal leasing system, including our 2013 report *Federal Coal Leasing: Fair Market Value and a Fair Return for Taxpayers* and our 2023 comments urging BLM to examine the return to taxpayers as part of the federal coal leasing program review.

Revenue Losses for Taxpayers From Below Market Royalty Rate

For decades, taxpayers have been shortchanged by coal royalty rates. In 1979, BLM set the rate at the statutory minimum of 12.5% for surface mining and 8% for underground mining. These rates remained unchanged until 2025, when Congress lowered the rate to a maximum of 7% for both new and existing leases from July 4, 2025, to September 30, 2034.

This reduction cuts the royalty rate well below what is charged on non-federal lands and below the rate for other federal energy resources, such as onshore and offshore oil and gas (12.5%–18.75%). The royalty rate reductions will also erode revenues for federal and state taxpayers. In Wyoming, where most federal coal is produced,[7] officials estimate the change will reduce the state's share of federal coal royalties by about $50 million annually, with federal taxpayers losing roughly the same

[2] Average over the last 5 years, 2019-2024. Sources: U.S. Energy Information Administration (EIA), "U.S. Coal Summary Statistics," July 2025. https://www.eia.gov/coal/production/quarterly/ ; Office of Natural Resources Revenue (ONRR), "Office of Natural Resources Revenue Data," accessed August 2025. https://revenuedata.doi.gov/query-data/#

[3] The Powder River Basin consists of the Montana counties of Big Horn, Custer, Powder River, Rosebud, and Treasure and the Wyoming counties of Campbell, Converse, Crook, Johnson, Natrona, Niobrara, Sheridan, and Weston.

[4] ONRR, "Production by Year," Calendar Year Production, 2003-2024, accessed August 2025. https://revenuedata.doi.gov/downloads/production/

[5] ONRR, "Office of Natural Resources Revenue Data," accessed August 2025. https://revenuedata.doi.gov/query-data/#

[6] For coal leases outside of Alaska, Treasury pays approximately 50% of receipts to the State where the leased lands are located. For leases and mineral deposits in Alaska, Treasury pays 90% of the receipts to the State. 40% of the federal share goes into the Reclamation Fund that funds construction and maintenance and operation of water resource projects in most western states.

[7] In 2023, 90% of federal coal was produced in Wyoming. Source: ONRR, "Production by Year," Calendar Year Production, 2003-2024, accessed August 2025. https://revenuedata.doi.gov/downloads/production/

amount.[8] Over nine years, that translates into hundreds of millions of dollars in lost public revenue.

Opportunities to Better Protect Taxpayers

The DFR asserts that this rule is "noncontroversial" and involves "no agency discretion." Yet the fiscal stakes—billions in forgone revenue—are anything but noncontroversial. BLM's reliance on a direct final rule format deprives taxpayers of the full notice-and-comment process Congress envisioned under the Administrative Procedure Act. The fiscal and policy implications warrant fuller review.

Even if the Department lacks discretion on the statutory royalty rate, it has ample authority to reform other aspects of the coal program to protect taxpayers. Specifically, BLM should:

- **Reform Lease-by-Application ("LBA") to Ensure Competition.** Under the LBA system, BLM allows coal companies to play a large role in delineating tracts for leasing — a process that typically results in tracts that do not generate competitive bids. BLM should evaluate whether lease by application sales contribute to obtaining fair market value for federal coal and if another bidding system would increase competition or bid amounts.
- **Evaluate Current Lease Modification Process**. The Mineral Leasing Act (MLA) allows the Secretary to modify an existing lease to avoid "bypass" coal—stranded coal formations that don't offer sufficient quantity to be sold competitively on their own. BLM should evaluate whether the current amount of acreage that can be added to an existing lease by a lease modification—960 acres—contributes to obtaining fair market value for federal coal and if modifying the maximum acreage would increase competition or bid amounts.
- **Bring Transparency to Fair Market Value (FMV)**. The data and methods the BLM uses to determine FMV are not publicly available, and sealed bidding makes the process opaque—conditions that can reduce revenue for taxpayers. Because final FMV figures can be used as comparables for valuing new tracts, low estimates can lock taxpayers into chronically undervalued leases. BLM should make fair market value appraisals and methodologies public, opening them to public review and comment.
- **Ensure Fair Market Coal Valuation in Captive Sales**: When coal is sold between affiliated companies—so-called "non-arm's-length transaction" or "captive sales"—lessees must establish value by considering "[p]rice, time of execution, duration, market or markets served, terms, quality of coal, quantity, and such other factors as may be appropriate to reflect the value of the coal."[9] In recent years, concerns have grown that coal companies manipulate captive sales to minimize royalties owed to the Office of Natural Resources Revenue. BLM must ensure royalty payments are not based on artificially low domestic transfer price when the same coal is later sold abroad for a much higher price.

[8] Consensus Revenue Estimating Group, "July 2025 Revenue Update," July 2025. http://eadiv.state.wy.us/creg/Revenue_Update_July2025.pdf
[9] 30 CFR §1206.257(c)(2)(i).

- **Review and Update Reclamation Bonding to Protect Taxpayers**: A wave of coal company bankruptcies has exposed weaknesses in federal reclamation bonding requirements—particularly for self-bonding. The Government Accountability Office found that the Office of Surface Mining Reclamation and Enforcement and states struggle to determine whether operators are financially healthy enough to qualify for self-bonding, and to replace existing self-bonds when companies fail. [10] BLM must review its bonding regulations and practices to ensure current arrangements will adequately cover reclamation costs, update cost estimates to reflect today's development expenses, and require that companies hold sufficient assets to cover all un-reclaimed leases.

Conclusion

The Interior Department must modernize coal leasing policies to reflect today's energy markets and protect taxpayers. While OBBBA requires a maximum 7% royalty through 2034, DOI has both the authority and responsibility to strengthen other aspects of the program. At a minimum, DOI should not allow the statutory royalty cut to compound longstanding structural flaws that have shortchanged taxpayers for decades.

Thank you for your attention to this matter. We look forward to working together to improve the leasing and development of America's coal resources.

Sincerely,
Taxpayers for Common Sense

[10] Government Accountability Office, Coal Mine Reclamation: Federal and State Agencies Face Challenges in Managing Billions in Financial Assurances," March 2018. https://www.gao.gov/assets/gao-18-305.pdf