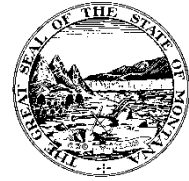




**Mike Kadas**  
Director

# Montana Department of Revenue



**Steve Bullock**  
Governor

## Memorandum

To: Director Kadas

From: Rose Bender

Date: September 1, 2017

Subject: Small Business Impact Statement re. MAR 42-2-982, Coal Valuation

The proposed New Rule I states that the department may examine records of coal companies and related parties to determine the price of coal. This is not expected to impact small businesses, as affected producers are not what the department would consider small businesses and this rule adoption is not expected to change the department's current practices.

The proposed amendments to ARM 42.25.501 are intended to more clearly define terms pertaining to the determination of the market value of coal. In this section, the definition of "agreement not at arm's length" is replaced with "arm's-length transaction", some unnecessary definitions are removed and others reworded, and definitions are added for impute, related parties, and related-party transaction. None of these changes are expected to impact small businesses as the producers affected are not what the department would consider small businesses. The new definitions in the rules may result in a coal producer, (not considered a small business) reporting an arms-length price for the coal fair market value, possibly changing their tax liability.

The proposed amendments to ARM 42.25.502 remove an outdated reference and improve formatting. None of these changes are expected to impact small businesses, as there are no changes proposed to the department's current practices.

The proposed amendments to ARM 42.25.511 clarify language and provide further guidance to taxpayers regarding contract sales price. The proposed elimination of (2) would remove the ability of an operator to deduct production taxes paid in a future year, if the amount they deducted in the current year was not the correct final amount. This is not expected to impact producers as the calculators will allow them to deduct the current amount of production taxes in the current year.

The proposed amendments to ARM 42.25.512 clarify valuation methods that may be used by the department to impute the value of coal and replace an existing definition with the definition in MCA. These changes are not expected to change the department's current practices or impact small businesses.

The proposed amendments to ARM 42.25.514 adds a reference to 15-38-109, MCA. This change is not expected to change any departmental practices or impact small businesses.

The proposed amendments to ARM 42.25.1701 are intended to more clearly define terms pertaining to the determination of the market value of coal. In this section, the definition of "agreement not at arm's length" is replaced with "arm's-length transaction", some unnecessary definitions are removed and others reworded, and definitions are added for impute, related parties, and related-party transaction. None of these changes are expected to impact small businesses as the producers affected are not what the department would consider small businesses. The new definitions in the rules may result in a coal producer (not considered a small business) reporting an arms-length price for the coal fair market value, possibly changing their tax liability.

The proposed amendment of ARM 42.25.1707 clarifies language and provides further guidance to taxpayers regarding contract sales price. The proposed elimination of (2) would remove the ability of an operator to deduct production taxes paid in a future year, if the amount they deducted in the current year was not the correct final amount. This is not expected to impact producers as the calculators will allow them to deduct the current amount of production taxes in the current year.

The proposed amendment of ARM 42.25.1708 clarifies valuation methods that may be used by the department to impute the value of coal, and replaces an existing definition to the reference to the definition in MCA. These changes are not expected to change the department's current practices, nor impact small businesses

The proposed elimination of ARM 42.25.515 and ARM 42.25.1706 are removed because of redundancy with other sections of the ARM and MCA. No impacts are expected to small businesses.