

Presentation

Advance Royalty Procedures

Coal Advance Royalty

BLM Regulations

43 CFR § 3483.4 Payment of advance royalty in lieu of continued operation.

(a) Advance royalty may only be accepted in lieu of continued operation upon application to and approval by the authorized officer.

Training Note: BLM is the authorized officer that receives and approves the application.

Training Note: A memorandum of Understanding between MMS and BLM provides that MMS will determine the unit value and notify the applicant of total advance royalty due.

(b) However, any request by an operator/lessee for suspension of the continued operation requirement and payment of advance royalty in lieu thereof shall be made no later than 30 days after the beginning of the continued operation year. If an operator/lessee requests authorization to pay advance royalty in lieu of continued operation later than 30 days after the beginning of any continued operation year, the authorized officer may condition acceptance of advance royalty on the payment of a late payment charge on the amount of the advance royalty due. The late payment charge will be calculated in accordance with 30 CFR 218.20.

Training Note: BLM conditions acceptance on the payment of a late payment charge.

(c) For advance royalty purposes, the value of the Federal coal will be calculated in accordance with §3485.2 of this title and this section. When advance royalty is accepted in lieu of continued operation, it shall be paid in an amount equivalent to the production royalty that would be owed on the production of 1 percent of the recoverable coal reserves or the Federal LMU recoverable coal reserves. The advance royalty rate for an LMU shall be deemed to be 8 percent where the Federal LMU recoverable coal reserves contained in the LMU would be recovered by only underground mining operations and 12 1/2 percent where the Federal LMU recoverable coal reserves contained in the LMU would be

recovered only by other mining operations. For LMU's that contain Federal LMU recoverable coal reserves that would be recovered by a combination of underground and other mining methods, the advance royalty rate shall be deemed to be 12 1/2 percent. The unit value of the recoverable coal reserves for determining the advance royalty payment for a Federal lease or LMU shall be:

Training Note: BLM determines the amount on which advance royalty is paid, basing the amount on 1 percent of recoverable coal reserves or the shortfall from that 1 percent.

Training Note: Paragraph (c) above provides guidance on the royalty rate to use, either 8 percent or 12 1/2 percent.

Training Note: MMS determines the unit value using the paragraphs below in sequential order.

(1) The unit value for production royalty purposes of coal produced and sold under the Federal coal lease or LMU during the immediately preceding production royalty payment period; or

Training Note: Production royalty payment periods are inferred in lease terms as a month. Therefore MMS looks for royalty data from the month preceding the first month of the continued operation year in question..

Training Note: MMS looks at royalty data submitted to MMS from the lease or mine first.

(2) Computed at the average unit price at which coal from other Federal leases in the same region was sold during such period, if no coal was produced and sold under the Federal coal lease or LMU during the immediately preceding royalty payment period, or if the authorized officer finds that there is an insufficient number of such sales to determine such value equitably; or

Training Note: If MMS finds no lease or mine royalty data for the immediately preceding month, MMS will look at royalty data submitted to MMS for other leases and or mines in the region during that preceding month.

Training Note: Region is not defined anywhere in these regulations. MMS defines the region geographically.

(3) Determined by the authorized officer, if there were no sales of Federal coal from such region during such period or if the authorized officer finds that there is an insufficient number of such sales to determine such value equitably.

Training Note: If MMS finds no data for the lease or mine, or the region, for preceding months, MMS will devise a methodology to determine the unit value, using perhaps quality coal, or similar market coal, or posted prices, or any other reasonable method.

(d) The aggregate number of years during the period of any Federal coal lease or LMU for which advance royalty may be accepted in lieu of the requirement of continued operation shall not exceed 10. For Federal leases issued prior to August 4, 1976, advance royalty shall not be accepted in lieu of continued operation for more than a total of 10 years following the first lease readjustment after August 4, 1976. Any continued operation year in which any advance royalty is paid shall be deemed a year in which advance royalty is accepted in lieu of continued operation for the purposes of this paragraph. However, if an operator/lessee meets the requirement for continued operation in any continued operation year in which the operator/lessee has paid advance royalty, such year shall not be considered when calculating the maximum number of years for which advance royalty may be accepted for the Federal lease or LMU. The number of years for which advance royalty has been paid under any Federal coal lease prior to its inclusion in an LMU shall not be considered when calculating the maximum number of years for which advance royalty may be accepted for the LMU.

(e) The dollar amount of any production royalty for a Federal coal lease or LMU owed for any continued operation year during or subsequent to the continued operation year in which advance royalty is paid, shall be reduced (but not below zero) by the dollar amount of any advance royalty paid under that Federal lease or LMU to the extent that such advance royalty has not been used to reduce production royalty for a prior year.

Training Note: To recoup advance royalty, use the Other Obligations page of the Production and Royalty Report.

(f) No advance royalty paid during the initial 20-year term of a Federal coal lease or LMU shall be used to reduce a production royalty pursuant to paragraph (e) of this section after the 20th year of the Federal coal lease or LMU. For purposes of this paragraph, the initial 20-year term of a Federal lease shall commence on the effective date of the Federal lease

for all Federal leases issued after August 4, 1976; on the effective date of the first lease readjustment after August 4, 1976, for all Federal leases issued prior to August 4, 1976; and on the effective date of LMU approval for all LMU's. Any advance royalty paid on a Federal lease prior to its inclusion in an LMU shall be credited to the LMU and shall be considered to have been paid on the date of LMU approval for the purposes of this paragraph, provided that the Federal lease has been included in an LMU within the initial 20-year term of the Federal lease as determined in this paragraph and to the extent that the advance royalty has not already been credited against production royalty on the Federal lease.

(g) If an operator/lessee fails to make an approved advance royalty payment in any continued operation year, the authorized officer shall inform the operator/lessee in writing that the operator/lessee is in violation of the continued operation requirement. If the operator/lessee then fails to comply with 30 CFR 218.200, the Federal lease or LMU shall be subject to cancellation pursuant to §3483.2 of this title.

[47 FR 33179, July 30, 1982; 47 FR 53366, Nov. 26, 1982. Redesignated at 48 FR 41589, Sept. 16, 1983]



Coal Advance Royalty BLM Regulations

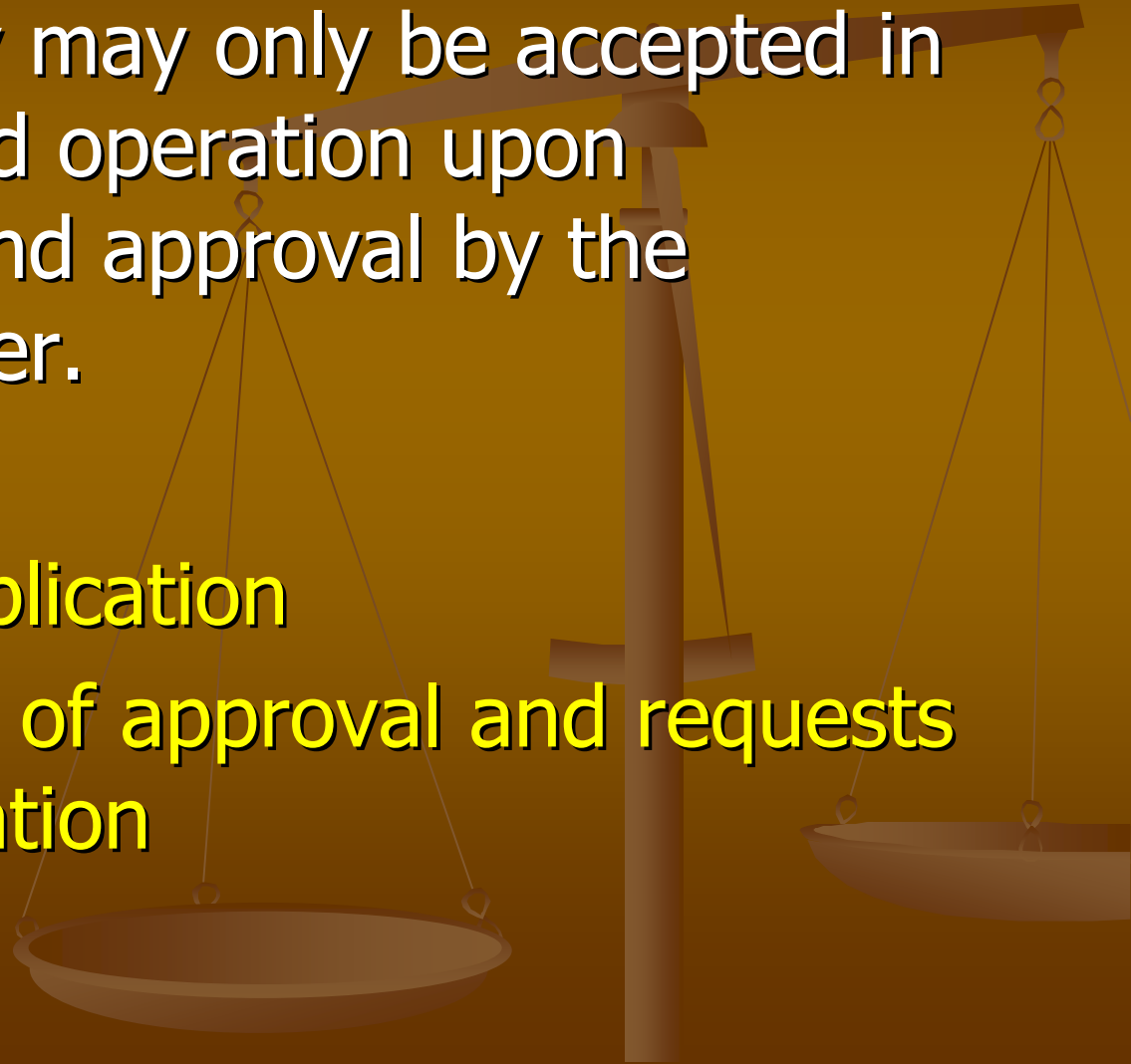
43 CFR § 3483.4 Payment of advance
royalty in lieu of continued operation

43 CFR § 3483.4 (a)

- Advance royalty may only be accepted in lieu of continued operation upon application to and approval by the authorized officer.

BLM approves application

BLM notifies MMS of approval and requests value determination





August 11, 1997 Memorandum issued from
the Associate Director for Royalty
Management to BLM State Directors

Standardized procedures and
responsibilities of BLM and MMS as laid out
in the Tripartite MOU



Tripartite MOU Regarding Working Relationships Affecting Mineral Lease Activities

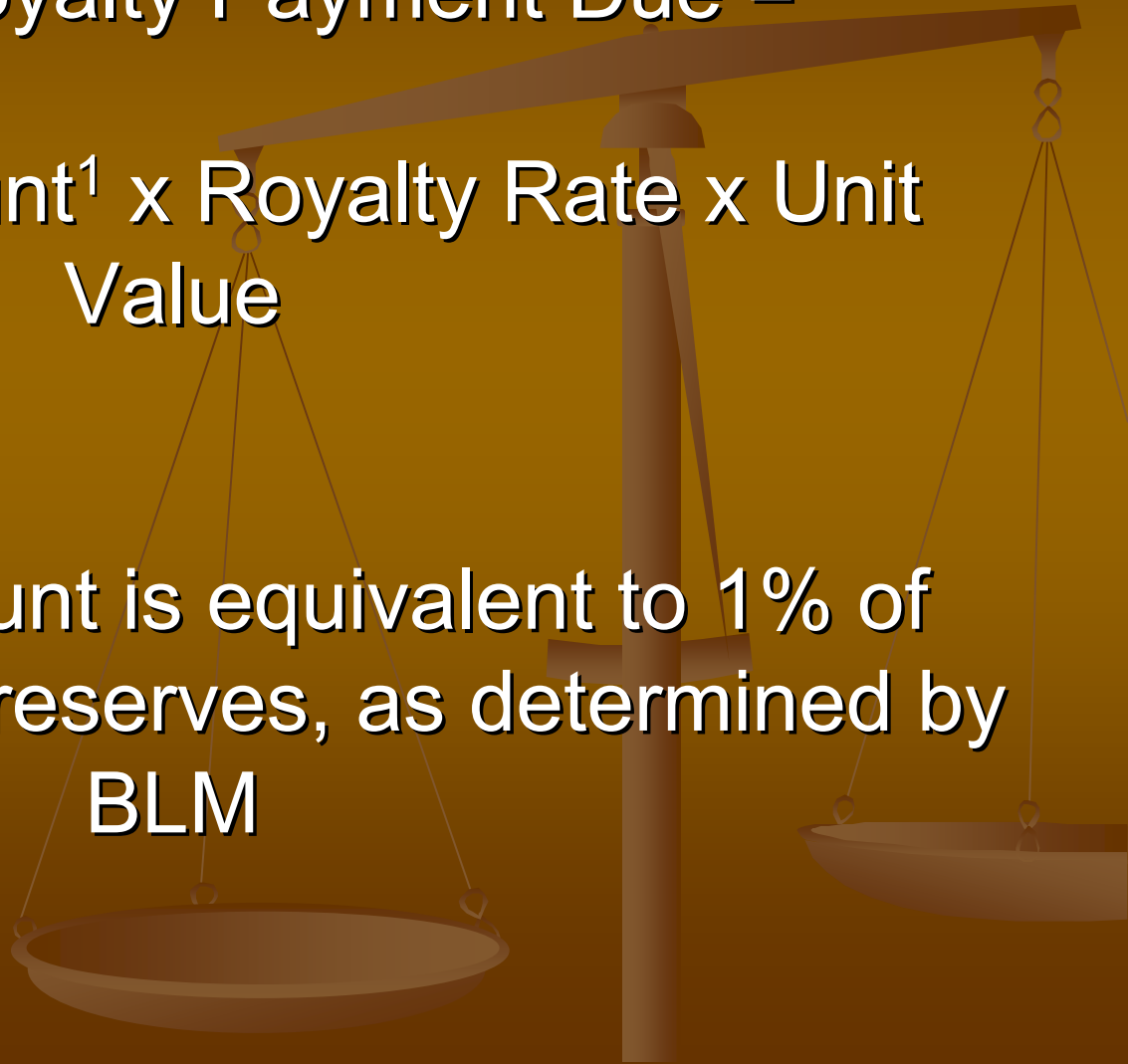
BLM approves request.

MMS determines unit value and notifies applicant of advance royalty payment due.

Advance Royalty Payment Due =

Tonnage Amount¹ x Royalty Rate x Unit
Value

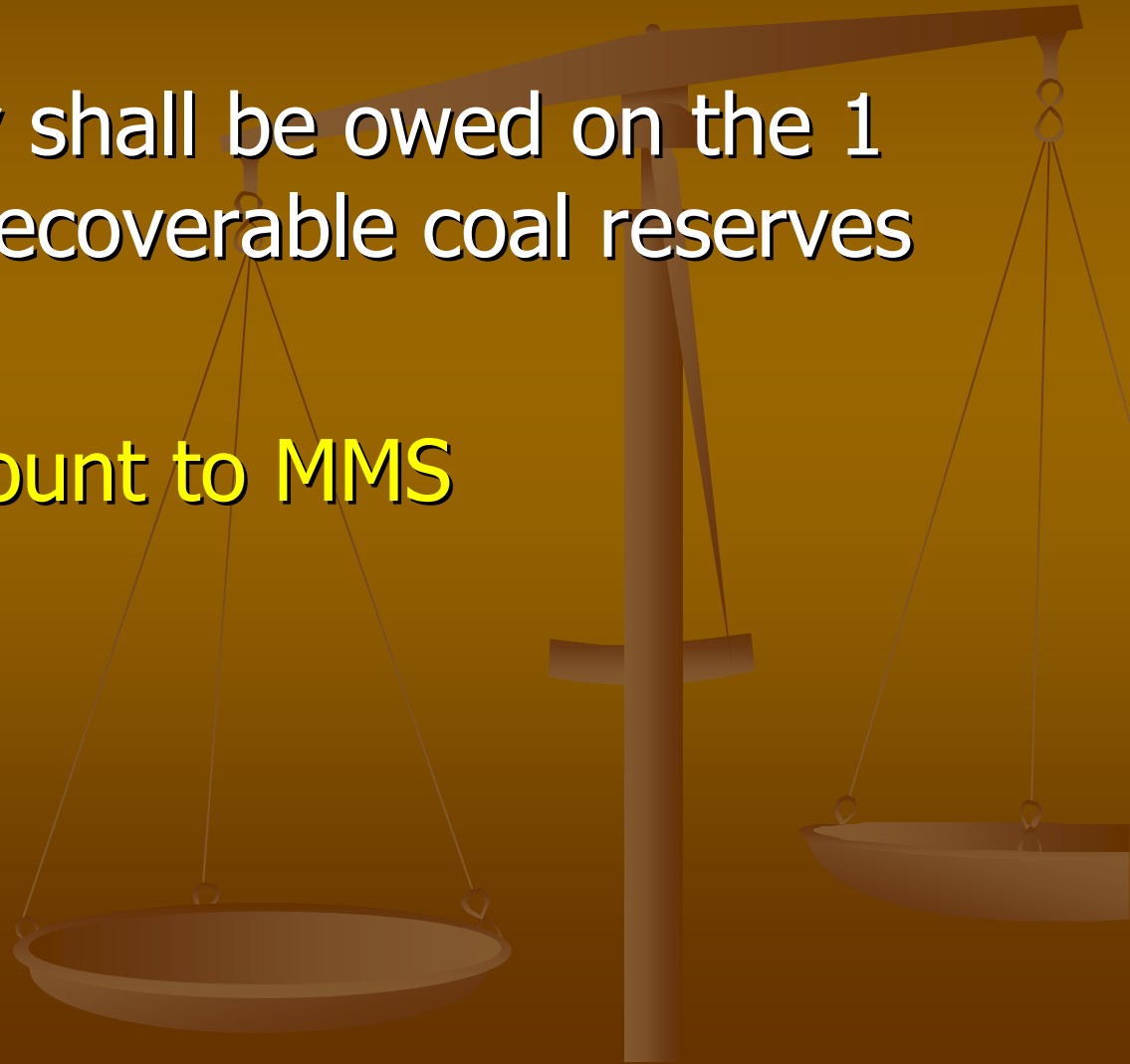
¹Tonnage Amount is equivalent to 1% of
recoverable coal reserves, as determined by
BLM



43 CFR § 3483.4 (c)

- Advance royalty shall be owed on the 1 percent of the recoverable coal reserves

BLM provides amount to MMS



Advance royalty rate shall be 8 percent for coal recovered by underground mining operations

12 ½ percent coal recovered by other mining operations

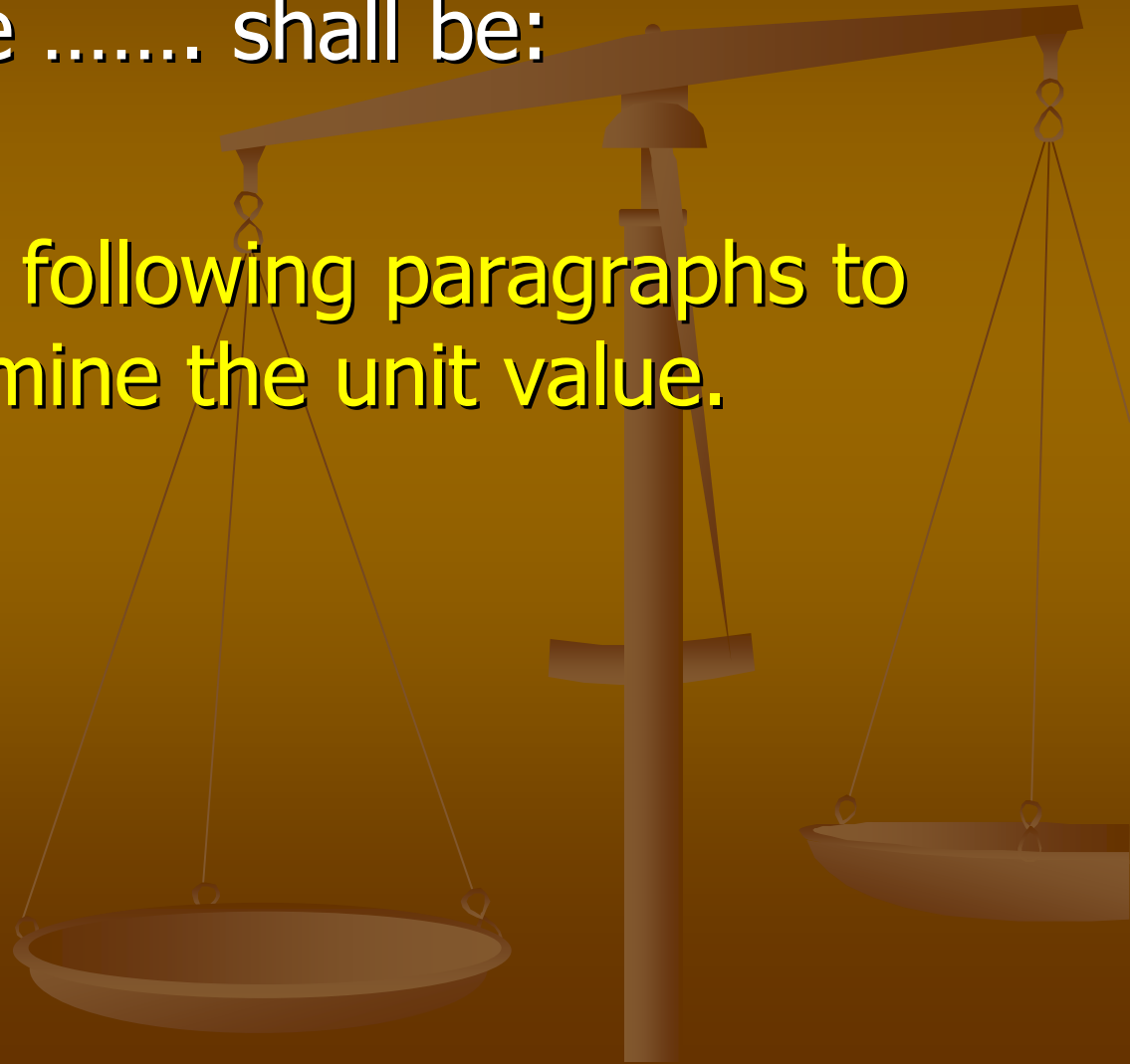
MMS uses the appropriate royalty rate




43 CFR § 3483.4 (c)

- The unit value shall be:

MMS uses the following paragraphs to determine the unit value.





(1) The unit value of produced and sold from the Federal coal lease or LMU during the immediately preceding payment period; or

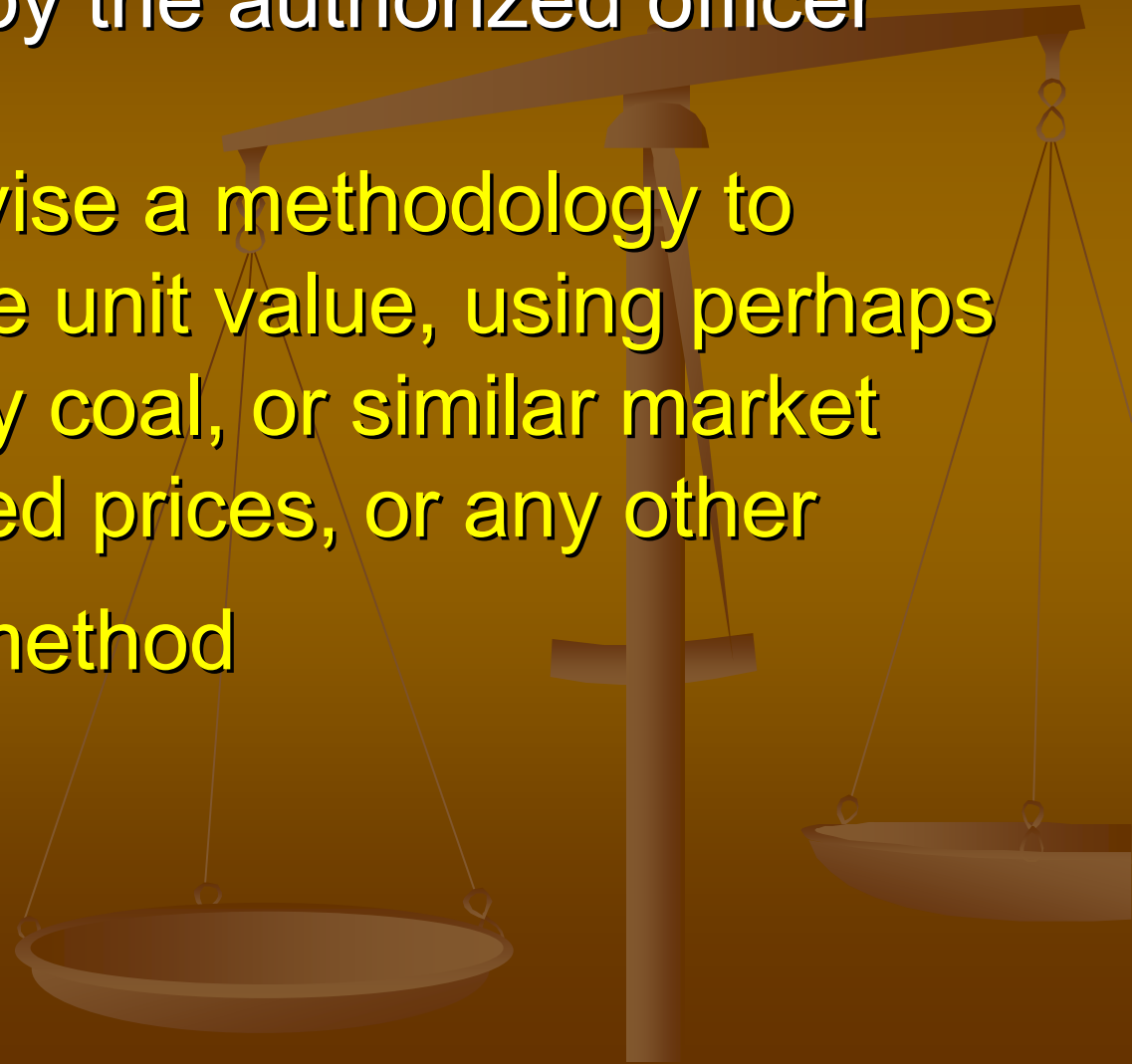
Payment period is defined in the lease term for royalty and is normally a month.

(2) the average unit price at which coal for other Federal leases in the same region was sold during such period,

Region is not defined. MMS defines the region.

(3) Determined by the authorized officer

MMS will devise a methodology to determine the unit value, using perhaps similar quality coal, or similar market coal, or posted prices, or any other reasonable method

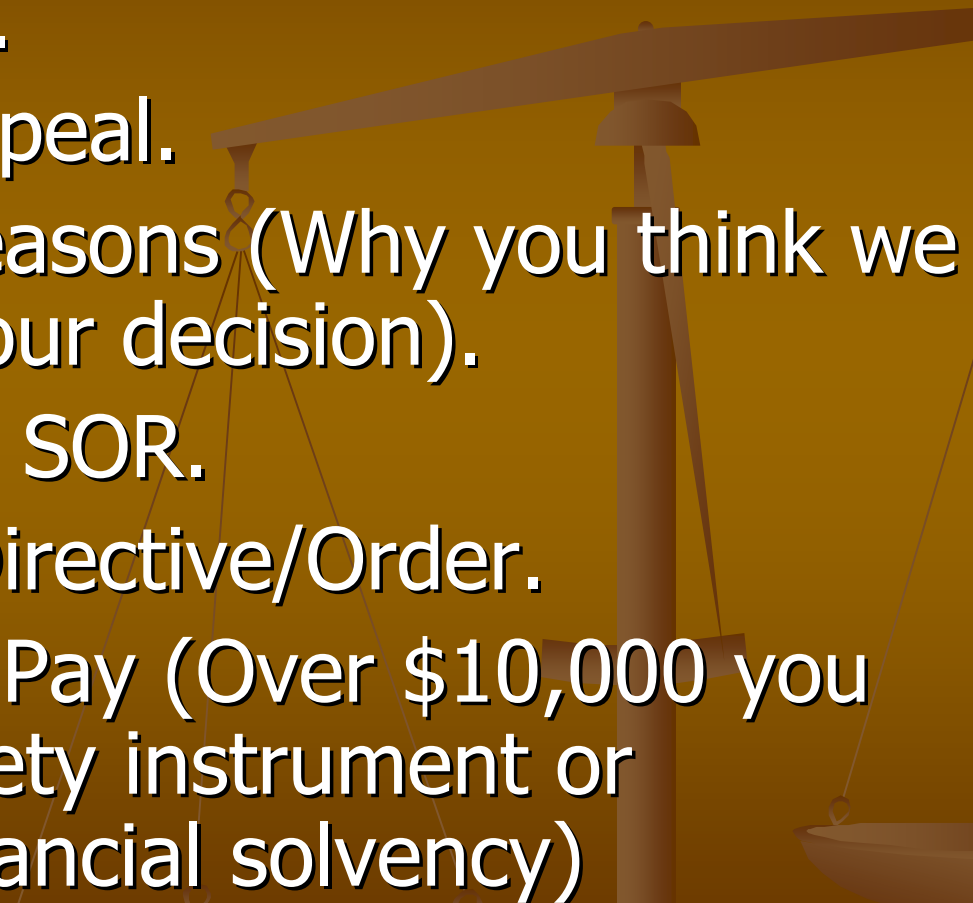


Orders to Pay Advance Royalty



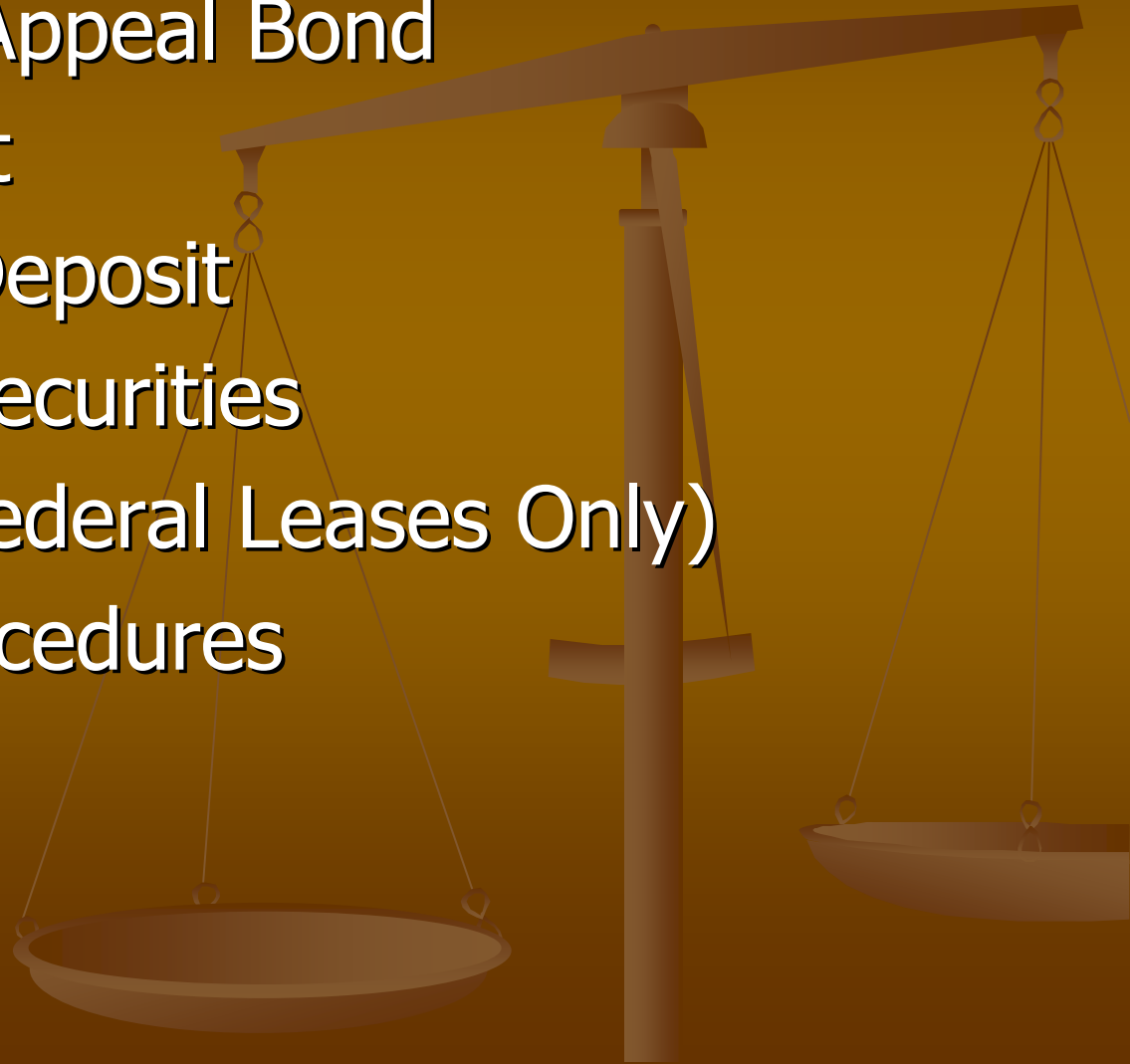
- Notifies reporter of:
 - Advance royalty due
 - Due date
 - No P&R necessary (However to recoup you do use the P&R)
- Enclosures
 - Appeals Procedures
 - Bonding procedures

Appeal Enclosure:

- When to appeal.
 - Where to file appeal.
 - Statement of Reasons (Why you think we should reverse our decision).
 - Extension to file SOR.
 - Suspension of Directive/Order.
 - Requirement to Pay (Over \$10,000 you must post a surety instrument or demonstrate financial solvency)
- 

Bonding and Surety Enclosure

- Administrative Appeal Bond
- Letters of Credit
- Certificates of Deposit
- U.S. Treasury Securities
- Self Bonding (Federal Leases Only)
- Draw Down Procedures



To Recoup Advance Royalty

- Use the Production and Royalty Report Other Obligations page.
- Recoupments cannot exceed production royalty.

