

Surface Mining Reclamation and Enforcement, Interior

§ 870.13

for sale, transfer, or use, including the products of in situ mining.

(b) The fee shall be determined by the weight and value at the time of initial bona fide sale, transfer of ownership, or use by the operator.

(1) The initial bona fide sale, transfer of ownership, or use shall be determined by the first transaction or use of the coal by the operator immediately after it is severed, or removed from a reclaimed coal refuse deposit.

(2) The value of the coal shall be determined F.O.B. mine.

(3) The weight of each ton shall be determined by the actual gross weight of the coal.

(i) Impurities that have not been removed prior to the time of initial bona fide sale, transfer of ownership, or use by the operator, excluding excess moisture for which a reduction has been taken pursuant to §870.18, shall not be deducted from the gross weight.

(ii) Operators selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction.

(iii) Insufficient records shall subject the operator to fees based on raw tonnage data.

(c) If the operator combines surface mined coal, including reclaimed coal, with underground mined coal before the coal is weighed for fee purposes, the higher reclamation fee shall apply, unless the operator can substantiate the amount of coal produced by surface mining by acceptable engineering calculations or other reports which the Director may require.

(d) The reclamation fee shall be paid after the end of each calendar quarter

beginning with the calendar quarter starting October 1, 1977.

[47 FR 28593, June 30, 1982, as amended at 53 FR 19726, May 27, 1988; 59 FR 28169, May 31, 1994; 69 FR 56130, Sept. 17, 2004]

§ 870.13 Fee rates.

(a) *Fees for coal produced for sale, transfer, or use through September 30, 2007—(1) Surface mining fees.* The fee for anthracite, bituminous, and subbituminous coal, including reclaimed coal, is 35 cents per ton unless the value of such coal is less than \$3.50 per ton, in which case the fee is 10 percent of the value.

(2) *Underground mining fees.* The fee for anthracite, bituminous, and subbituminous coal is 15 cents per ton unless the value of such coal is less than \$1.50 per ton, in which case the fee is 10 percent of the value.

(3) *Surface and underground mining fees for lignite coal.* The fee for lignite coal is 10 cents per ton unless the value of such coal is less than \$5.00 per ton, in which case the fee charged is 2 percent of the value.

(4) *In situ coal mining fees.* The fee for in situ mined coal, except lignite coal, is 15 cents per ton based on Btu's per ton in place equated to the gas produced at the site as certified through analysis by an independent laboratory. The fee for in situ mined lignite is 10 cents per ton based on the Btu's per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

(b) *Fees for coal produced for sale, transfer, or use from October 1, 2007, through September 30, 2012.* Fees for coal produced for sale, transfer, or use from October 1, 2007, through September 30, 2012, are shown in the following table:

Type of fee	Type of coal	Amount of fee
(1) Surface mining fee	Anthracite, bituminous, and subbituminous, including reclaimed.	(i) If value of coal is \$3.15 per ton or more, fee is 31.5 cents per ton. (ii) If value of coal is less than \$3.15 per ton, fee is 10 percent of the value.
(2) Underground mining fee	Anthracite, bituminous, and subbituminous.	(i) If value of coal is \$1.35 per ton or more, fee is 13.5 cents per ton. (ii) If value of coal is less than \$1.35 per ton, fee is 10 percent of the value.
(3) Surface and underground mining fee.	Lignite	(i) If value of coal is \$4.50 per ton or more, fee is 9 cents per ton. (ii) If value of coal is less than \$4.50 per ton, fee is 2 percent of the value.

§ 870.14

30 CFR Ch. VII (7–1–11 Edition)

Type of fee	Type of coal	Amount of fee
(4) In situ coal mining fee	All types other than lignite	13.5 cents per ton based on Btu's per ton in place equated to the gas produced at the site as certified through analysis by an independent laboratory.
(5) In situ coal mining fee	Lignite	9 cents per ton based on the Btu's per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

(c) Fees for coal produced for sale, transfer, or use from October 1, 2012, through September 30, 2021. The fees for coal produced for sale, transfer, or use

from October 1, 2012, through September 30, 2021, are shown in the following table:

Type of fee	Type of coal	Amount of fee
(1) Surface mining fee	Anthracite, bituminous, and subbituminous, including reclaimed coal.	(i) If value of coal is \$2.80 per ton or more, fee is 28 cents per ton. (ii) If value of coal is less than \$2.80 per ton, fee is 10 percent of the value.
(2) Underground mining fee	Anthracite, bituminous, and subbituminous.	(i) If value of coal is \$1.20 per ton or more, fee is 12 cents per ton. (ii) If value of coal is less than \$1.20 per ton, fee is 10 percent of the value.
(3) Surface and underground mining fee.	Lignite	(i) If value of coal is \$4.00 per ton or more, fee is 8 cents per ton. (ii) If value of coal is less than \$4.00 per ton, fee is 2 percent of the value.
(4) In situ coal mining fee	All types other than lignite	12 cents per ton based on Btu's per ton in place equated to the gas produced at the site as certified through analysis by an independent laboratory.
(5) In situ coal mining fee	Lignite	8 cents per ton based on the Btu's per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

[47 FR 28593, June 30, 1982, as amended at 69 FR 56130, Sept. 17, 2004; 73 FR 67631, Nov. 14, 2008]

§ 870.14 Determination of percentage-based fees.

(a) If you pay a fee based on a percentage of the value of coal, you must include documentation supporting the claimed coal value with your fee payment and production report. We may review this information and any additional documentation we may require, including examination of your books and records. We may accept the valuation you claim, or we may determine another value of the coal.

(b) If we determine that a higher fee must be paid, you must pay the additional fee together with interest computed under § 870.21.

[73 FR 67632, Nov. 14, 2008]

§ 870.15 Reclamation fee payment.

(a) You must pay the reclamation fee based on calendar quarter tonnage no

later than 30 days after the end of each calendar quarter.

(b) Along with any fee payment due, you must submit to us a completed Coal Sales and Reclamation Fee Report (OSM-1 Form). You can file the OSM-1 Form either in paper format or in electronic format as specified in § 870.17. On the OSM-1 Form, you must report:

(1) The tonnage of coal sold, used, or transferred;

(2) The name and address of any person or entity who is the owner of 10 percent or more of the mineral estate for a given permit; and

(3) The name and address of any person or entity who purchases 10 percent or more of the production from a given permit, during the applicable quarter.

(c) If no single mineral owner or purchaser meets the 10 percent criterion in paragraphs (b)(2) and (b)(3) of this section, then you must report the name and address of the largest single mineral owner and purchaser. If several persons have successively transferred