

OSMRE Self-Bonding Fact Sheet

- In 2014, Office of Surface Mining Reclamation and Enforcement (OSMRE) in conjunction with the State Regulatory Authorities (SRA) and the Interstate Mining Compact Commission (IMCC) began exploring concerns related to the efficacy of self-bonding practices and procedures authorized under the Surface Mining Control and Reclamation Act (SMCRA), Federal regulations, and State statutes and regulations. This issue was the subject of discussion at IMCC's April 2014 Annual Meeting.
- IMCC agreed to survey its member states about the nature and extent of self-bonding obligations currently existing within the states, given the increasing sensitivity to the use of this bonding mechanism. Through the summer and fall of 2014, IMCC collected data from its member states requesting information on their self-bonding regulations, companies currently holding self-bonds, the amounts of self-bonds held by each company, and the amounts of self-bonds held in total in the state.
- On a parallel track, OSMRE, along with the Office of the Solicitor, hosted a Financial Assurance/Bankruptcy Workshop in conjunction with the Conference of Government Mining Attorneys in September of 2014. This workshop focused, in part, upon the issues associated with the acceptance of self-bonds for reclamation purposes. The workshop was attended by various program and legal staff from multiple States.
- OSMRE is reestablishing a Bonding Team that will include Solicitor office staff and will focus on a host of issues related to financial assurance, including dealing with bankruptcies as well as best financial practices to assure the availability of funds in the event of bond forfeiture. One such practice is making sure that self-bonded entities are sound. For example, identifying companies with large self-bonded obligations across state lines. These companies can present problems for any individual SRA, as States are generally not privy to a company's obligations outside their own state. The Team will work internally on OSMRE procedures as well as externally with the IMCC on identifying best practices. .
- The pertinent Regulatory Authority (OSMRE for Federal Programs or States), evaluate qualifications for self-bonding on a regular basis—normally annually. OSMRE also periodically reviews self-bonding as a topic in the oversight process.
- In response to the recent inquiries, OSMRE has reviewed and is currently reviewing States' self-bond eligibility determinations to ensure that the determinations are in compliance with State and Federal requirements. A review of Colorado's self-bond determinations has been initiated, and other State reviews are planned in the near future.
- OSMRE reviewed the aggregate self-bond amounts for Peabody's mines in the West and Nationally. The self-bond guarantor is Peabody Investments Corporation, and they meet requirements for self-bonding.

- OSMRE reviewed the aggregate self-bond amounts for Arch Coal's mines in the West and Nationally. Our review indicates that Arch Coal mines only self-bond in Wyoming. The self-bond guarantor is Arch Western Resources, LLC, and they meet requirements for self-bonding.
- While it may be true that both Peabody Energy Company and Arch Coal, Inc. do not meet the requirements for self-bonding, they are not the guarantors for their mines' self-bonds. There are subsidiary companies in both instances that do meet the requirements for self-bonds, and are the guarantors. This practice is in full compliance with Federal and State laws.
- OSMRE is keenly interested in self-bonding practices and any linkages between parent companies and their subsidiaries that may have a bearing on self-bonding including any bankruptcy ramifications if a parent company were to fail.