

Interior Department recommends states move away from self-bonding

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The Department of the Interior's (DOI) Office of Surface Mining Reclamation and Enforcement (OSMRE) has issued guidance suggesting that states move away from accepting self-bonding, where companies use their current financial health as collateral to guarantee reclamation of lands disturbed by coal mining.

Under the Surface Mining Control and Reclamation Act, coal companies are required to reclaim or restore mined land after they are finished with production. Many companies choose to comply with this regulation through unsecured or non-collateralized self-bonds. Self-bonding is most prevalent in Colorado, North Dakota, Indiana, Wyoming, and Texas where more than half of potential clean-up costs are self-bonded.

Though federal regulations require that companies pass a financial strength test to qualify for self-bonding, some companies may be approved in spite of questionable financial status. For example, Wyoming re-approved Arch Coal to self-bond in September 2015, but the company filed for bankruptcy four months later. Today, three companies in Chapter 11 reconstructing, Peabody Energy Corp., Arch Coal Inc., and Alpha Natural Resources Inc., hold roughly two-thirds of the nation's \$3.8 billion in self-bonds. The coal industry has pushed back against the efforts, citing that states have already begun to explore the problem, in conjunction with OSMRE, and that rulemaking before those investigations are complete would be "premature." Emily Fisher, vice president, legal at Edison Electric Institute, argued that modifying self-bonding requirements would reduce coal supply for electricity generation.

Hesitation among states and industry to end self-bonding persists due to fear that additional expenses could put coal companies out of business, bringing mining and ongoing reclamation activities to a halt and negatively impacting communities reliant on coal revenue.

Sources: Bloomberg BNA, E&E News, Institute for Policy Integrity, National Public Radio, Office of Surface Mining and Reclamation and Enforcement, Reuters, United States Courts, United States Security and Exchange Commission

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