



Department of Environmental Quality

Wyoming Department of Environmental Quality Reclamation Process Report

Minerals Business and Economic Development Committee

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SMCRA (OSMRE) Relationship

- The State of Wyoming received primacy from the Department of Interior, Office of Surface Mining Reclamation and Enforcement to regulate the coal industry on November 26, 1980.
 - The program became effective on February 18, 1982
 - Since 1982, there have been fourteen formal amendments made to the program. Thirteen are currently approved, one pending, and three to be submitted within the next fiscal year.
 - The program primacy includes a federal funding component that currently funds 46% of Land Quality operations



Bonding Purpose and Structure

- Financial Assurance (FA) is in place to ensure reclamation of mine sites in the event of forfeiture.
- This applies to both coal and non-coal solid mineral mine operations within the state
- LQD developed the FA calculations guidelines in 1995 and 1996 to provide a consistent methodology for calculating the bonding liability requirements
- Guidelines 12 and 12A have been updated and refined since their inception on an annual basis
- These annual updates include key items such as inflation, diesel, explosives, etc.
- The calculation is based on a third party contractor completing the reclamation
- The calculation is based on the current disturbance, plus the projected next years disturbance, plus line item contingencies/overhead, and a 5% unknown contingency based on the total bond cost.
- The calculations have been evaluated by third party review for accuracy
- ***WDEQ is confident that these calculations represent a fair and accurate annual estimate of the required reclamation liability in the event of forfeiture***



Bonding Rules and Regulations

- LQD originally established its coal Financial Assurance (FA) program in 1982 and that included the use of the self bond instrument.
- These FA rules have had two revision, one small update in 1982 and the current 2019 rule revision signed by the Governor on May 3, 2019.
- Self bonding came into the marketplace in 1982 through the federal program, and was instituted because of an inability at the time of surety markets to supply products to the quickly expanding industry and large scale surface coal operations in the west.



Bonding Rules and Regulations

- **The principal 2019 changes to the bonding rules include:**
 - Self bonding only at the ultimate parent level.
 - The use of credit ratings in place of on balance sheet ratios for self bonds
 - A cap on the maximum amount of self bond such that there are more immediate and accessible cash resources in the event of a forfeiture for the protection of physical assets, this non-self bond component also adds diversity to the bonding portfolio (reducing risk)
 - The creation of three tiers of self bond 75%, 70% and 50% based on credit rating risk
 - The creation of a trust to hold digital issued government securities and security trust options
 - The elimination of the use of personal property collateral (equipment), it was determined through experience that the cost of using personal property exceeded the cost of alternate financial assurance instruments and was uneconomical
 - The elimination of stand by (unfunded) letters of credit



Bankruptcies / Differences

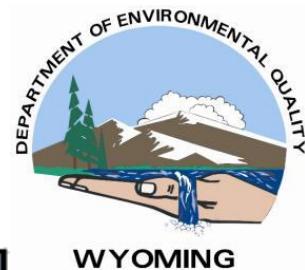


There have been six coal bankruptcies since 2015

- 2015 Alpha Natural Resources Chapter 11 (Eagle Butte and Belle Ayr mines)
Bankruptcy resulted in WY operations sold to Contura and then to Blackjewel (self bond moved to surety)
- 2016 Arch Coal Chapter 11 (Black Thunder, Coal Creek, Carbon Basin, Seminoe II)
Bankruptcy resulted in WY operations retained by Arch (self bond moved to surety bond)
- 2016 Peabody Coal Company Chapter 11 (NARM, Caballo Rojo, Rawhide, Shoshone No. 1)
Bankruptcy resulted in WY operations retained by Peabody (self bond moved to surety bond)
- 2018 Westmoreland Chapter 11 (Kemmerer mine, and Haystack mines)
Bankruptcy resulted in WY operations sold to creditor group (surety bonded remained surety bonded)
- 2019 Cloud Peak Energy Chapter 11 (Antelope Coal, Cordero Rojo, Youngs Creek mines)
Bankruptcy resulted in WY operations sold (surety bonded future bond To Be Determined)
- 2019 Blackjewel Chapter 11/liquidation: (Eagle Butte and Belle Ayr mines)
Bankruptcy resulted in WY operations returned/sold to Contura (surety and land collateral bonded remained surety and land collateral bonded)



Coal and Non Coal Bonds Held by Instrument August 8, 2019



Bonds per Bond Type				
Bond Type	# of Bonds	Bond Amount	% of Bonds	
CDARS*	0	-	0.00%	
Certificate of Deposit	295	2,672,760.33	0.09%	
Check/Cash	117	3,082,682.69	0.10%	
Joint Custody Receipt	6	3,152,730.00	0.11%	
Letter of Credit	138	77,372,794.68	2.60%	
Money Market	0	-	0.00%	
Self Bond	23	401,780,680.40	13.51%	
Surety Bond	365	2,484,512,858.50	83.57%	
Treasury Bill	1	446,000.00	0.02%	
Total	945	\$2,973,020,506.60	100.00%	

Self Bonds for Coal & Non Coal				
Mineral	# of Bonds	Bond Amount	% of Bonds	
Coal	5	297,105,324.40	73.95%	
Non Coal	18	104,675,356.00	26.05%	
Total	23	\$401,780,680.40	100.00%	

Note *CDARS are Certificate of Deposit Account Registry Service FDIC Insurance on multimillion dollar CD deposits that earn rates comparable to treasuries

Note: Prior to coal bankruptcies (2015) Self Bond held in coal was \$2,067,305,600.00



Active Coal Mine Operations and Reclamation Status



- There are 25 surface operations, 1 underground operation and 1 DOE reclamation inspectable coal operations in Wyoming January 1, 2019
- Coal operations disturbance to date: 184,488 acres
- Coal acres in long term support facilities: 37,835 acres (21%)
- Coal acres in mine operations/reclamation: **146,653** acres (79%)
- Coal acres in active mine operations: 39,689 acres (22%)
- Total acres in reclamation phases, Area, I, II, III: **106,964** acres (73%)
- 2018 FY Area backfilling and grading: 3,395 acres (3%)
- 2018 FY Phase I (topsoil): 37,583 acres (35%)
- 2018 FY Phase II (topsoiled, seeded, stable): 47,495 acres (44%)
(41,795 (88%) of Phase 2 have been seeded for >10 years)
(31,533 (66%) of Phase 2 are back in agricultural production)
- 2018 FY Phase III/TOJ (Final bond release/TOJ): **18,491** acres (17%)
(50,024 (46%) of Phase 2, 3 and TOJ acres are back in agricultural production)



Questions