

Self-Bonding Survey

Interstate Mining Compact Commission

The Interstate Mining Compact Commission (IMCC) is conducting a survey on outstanding obligations related to self-bonding in the states. At the 2014 IMCC Annual Meeting, it was determined that the states would benefit from a better sense of the self-bonded obligations held by companies across state lines. The results of the survey will yield valuable information on total outstanding self-bonded obligations, companies that are heavily self-bonded across state lines, and as a result, will also hopefully identify companies whose outstanding cross-state obligations pose extraordinary risk.

Question 1:	
How do your state's regulations treat self-bonds? (i.e. Are self-bonds allowed by your regulations? Do state regulators have discretion in accepting self-bonds or are they required to be accepted if the company meets financial health standards?)	
Alabama	Alabama regulations allow self-bonding. The permittee must meet certain financial standards as found in Alabama regulation 880X-X-9C.03(7)
Arkansas	The Arkansas self-bonding regulations are basically the same as those found in the federal regulations. We feel that the wording of the self-bonding provisions do allow the regulatory authority discretion in accepting self-bonds.
Colorado	Approval is allowed, but discretionary pending legal/regulatory/financial review.
Illinois	We allow for them, but have discretion to accept.
Indiana	Self-bonds are allowed by statute. The Director may accept self bonds if all criteria are met.
Kansas	We have never promulgated any regulations that would allow Self-bonding at coal mines.
Kentucky	The approved Kentucky Title V SMCRA program does not provide self-bonding.
Louisiana	Self-bonding is allowed by state regulations at the discretion of the Office of Conservation.
Maryland	Not provided for in law or regulation.
Mississippi	Self-bonds are allowed by State regulations. State regulators may accept self-bonds if the applicant or parent company meets all of the listed conditions.
Montana	Self-bonds are not allowed by Montana's regulations
New Mexico	Self-bonds are allowed. The rules state that the Director "may" accept self-bonds/ We interpret that to mean that the Director could potentially

	deny a self-bond application that met all of the required tests outlined in the rules, but the Director would need to have a very good reason for doing so.
North Dakota	Self-bonds are allowed and North Dakota's rules state that the Commission "may accept a self-bond". The Commission also has a longstanding informal policy to allow self-bonds <u>up to 90%</u> of the total bond required. The other 10% of bond must be in the form of a surety and/or collateral bond. The rationale for this is to have some of the required bond amount in a form that should be more readily available to address some immediate needs in the unlikely event of the bonds being forfeited at one of North Dakota's large coal mines. The financial health requirements for permittees and third-party guarantors are the same.
Ohio	Ohio's regulations currently allow for self-bonding. Ohio Administrative Code 1501:13-7-04 details the criteria for the Chief to accept a self-bond from an applicant. The Chief has discretion to refuse to accept self-bond.
Pennsylvania	Self-bonding is authorized under Pennsylvania's statute and regulations. While there is some discretion, the regulations include criteria that if met by the applicant, would qualify them for self-bonding. Note: no company has ever used self-bonding in Pennsylvania. The regulations are available at this link: http://www.pacode.com/secure/data/025/chapter86/s86.159.html
Texas	Self bonds and self bonds with third-party guarantee are allowed by the Texas Coal Mining Regulations (TCMR). The Commission has discretion in accepting a self bond or self bond with third-party guarantee, but has accepted them as long as they meet the financial criteria of the TCMR.
Utah	Self bonds are allowed if a company meets certain financial health standards.
Virginia	Self-bonds were allowed by Virginia regulations until June 30, 2014. The regulations allowed for self bonds if the financial health standard was met and evidence indicating a history of satisfactory continuous operation. The company also had to be a participant in the Virginia reclamation fund pool. The committee appointed as an advisory committee recommended no additional self bonds be accepted and no additional self bonds have been accepted since that time.
West Virginia	<p>Yes self-bonding is allowed by West Virginia Surface Mining Rules at 38CSR2-11.3.d. Yes, the West Virginia Surface Mining Rules at 38CSR2-11.3.d.2 state the Secretary may accept.</p> <p>Self-Bond is defined in the WV rules as "an indemnity agreement in a sum certain payable to the Secretary, executed by the permittee and by each individual and business organization capable of influencing or controlling the investment or financial practices of the permittee by virtue of his authority as an officer or ownership of all or a significant part of the permittee, and</p>

	supported by agreements granting the Secretary a security interest in real or personal property pledged to secure performance by the permittee.”
Wyoming	Our statutes and regulations allow self-bonding. Land Quality Division (LQD) is required to accept a self-bond if the permittee meets our requirements. [W.S. 35-11-418(d), Regulations Coal Chapter 11, Noncoal Chapter 6]. However, LQD cannot accept self-bonds for locatable minerals (bentonite, uranium, for example) if the Bureau of Land Management (BLM) is the surface owner. A BLM owned by the BLM.

Question 2:	
Does your state plan to continue allowing the use of self-bonds?	
Alabama	No entities are currently utilizing self-bonds, but we would accept if a permittee meets the criteria.
Arkansas	Our state law requires that the state regulations can be no more stringent than the federal regulations. As long as self-bonding appears in the federal regulations, we will have to have it as an option as well.
Colorado	Yes as long as companies remain compliant with legal/regulatory/financial criteria.
Illinois	Yes.
Indiana	At this time, Indiana does not have plans to disallow use of self bonds.
Kansas	We have no plans to allow self-bonding at coal mines in the future.
Kentucky	N/A
Louisiana	The Louisiana Office of Conservation has never accepted a self-bond nor does it plan to.
Maryland	N/A
Mississippi	We do not have any self-bonded permits; but do not have any plans to remove that option from the regulations.
Montana	N/A
New Mexico	Yes, we have no plans to amend the regulations regarding self-bonds.
North Dakota	Yes.
Ohio	Ohio is proposing to remove the existing regulations governing accepting self-bonding for coal mining permits.
Pennsylvania	Yes. Note: no company has ever used self-bonding in Pennsylvania

Texas	Yes.
Utah	Yes.
Virginia	No, Self Bonding was removed from Virginia regulations effective July 1, 2014.
West Virginia	Currently there are no plans to remove self-bonding from the West Virginia Surface Mining Rules.
Wyoming	Yes.

Question 3:	
What mechanism is used to determine if a company is financially health enough to qualify for self-bonding?	
Alabama	The permittee must meet certain financial standards as found in Alabama regulation 880X-X-9C.03(7)
Arkansas	Our mechanism is exactly the same as the federal mechanism.
Colorado	Company financials reviewed pursuant to Statutes/Regulations/appropriate financial practices.
Illinois	Our regulations are the same as OSM's and use the same criteria.
Indiana	See Appendix A.1
Kansas	N/A
Kentucky	N/A
Louisiana	The requirements for a self-bonded company are listed in LAC 43.XV:4305
Maryland	N/A
Mississippi	See Appendix A.2
Montana	N/A
New Mexico	See Appendix A.3
North Dakota	North Dakota uses the same financial tests that are contained in OSM regulations. The most important factor is having a bond rating of "A" or higher from Moody's, Standard and Poor's, or an equivalent rating by any National Recognized Statistical Rating Service (such as Fitch). The requirements for permittees and third-party guarantors are the same.
Ohio	See Appendix A.4
Pennsylvania	Generally, the company must pass a financial test. There are three options

	on how to do this, which are spelled out in the regulations. See Appendix A.5
Texas	See Appendix A.6
Utah	See Appendix A.7
Virginia	A financial statement audited by an independent certified public accountant. The CPA must issue their statement in the form of an unqualified opinion.
West Virginia	The Secretary may accept a self-bond from an applicant for a permit if all of the following conditions are met by the applicant or its parent corporation guarantor: See Appendix A.8
Wyoming	See Appendix A.9

Question 4:	
Does your state have plans to replace any of these bonds?	
Alabama	None are currently in use.
Arkansas	We currently do not have any self-bonds in place.
Colorado	Not at this time, pending ongoing legal, regulatory and financial reviews.
Illinois	No plans to replace them, although one of the three self-bonds (Alcoa) was recently replaced by the company as it no longer qualified.
Indiana	Not at this time.
Kansas	N/A
Kentucky	N/A
Louisiana	N/A
Maryland	N/A
Mississippi	N/A
Montana	N/A
New Mexico	Not as long as the self-bond tests continue to be met by the operators.

North Dakota	No.
Ohio	Ohio does not currently hold any self-bonds.
Pennsylvania	No company has ever used self-bonding in Pennsylvania.
Texas	Not at this time. I would note that the largest company in Texas formerly self-bonded (with third party guarantee) is no longer self-bonded due to a parent of the permittee declaring Chapter 11.
Utah	No.
Virginia	Yes, at a minimum self bond will be replaced as bond reductions are approved. Any existing self bond will be released first with the conventional bonding instrument (surety or collateral bond) remaining for bond coverage.
West Virginia	Not at this time unless they cannot meet self-bonding requirements.
Wyoming	<p>The state requires replacement of a self-bond when the permittee no longer meets the regulatory requirements. The permittee may provide a combination of acceptable bonding instruments to comprise their required bond amount. The original bonding instrument must be submitted. Wyoming accepts:</p> <ul style="list-style-type: none"> A. Cash/checks B. Certificates of Deposit <ul style="list-style-type: none"> 1. Must be payable solely to DEQ/Land Quality Division or DEQ/Land Quality Division and the federal government 2. Must be automatically renewable 3. All 1099's and interest are payable to the purchaser 4. The banking institution must be registered with the FDIC. C. CDARS <ul style="list-style-type: none"> 1. Same as B. above. D. Letters of Credit <ul style="list-style-type: none"> 1. Our forms are required 2. The banking institution must be authorized to transact business and located in the United States. E. Money Markets <ul style="list-style-type: none"> 1. Same as B. above. F. Self-Bonds <ul style="list-style-type: none"> 1. Our forms are required. 2. Must meet the federal and state requirements. Wyoming's requirements are stricter than the federal government. G. Surety Bonds

	<p>1. Our forms are required.</p> <p>H. Treasury Bonds/Bills</p> <p>1. Same as B. above.</p>
--	--

Question 5:	
What percentage of your state's outstanding reclamation bonding is represented by self-bonds?	
Alabama	NONE.
Arkansas	0%
Colorado	Coal: \$117 million self bond (57%), out of \$206 million total bonds. Non Coal: \$30 million self-bond (7%), out of \$460 million total bonds.
Illinois	26%
Indiana	56%
Kansas	0%
Kentucky	N/A
Louisiana	0%
Maryland	None.
Mississippi	0%
Montana	N/A
New Mexico	70%
North Dakota	Self-bonds represent about 69% of the total amount of bonds and these self-bonds cover most of the bond liabilities at the State's two largest mines. Both self-bonds are guaranteed by third-party guarantors and the two companies guaranteeing the bonds have long-term contracts to purchase the coal produced at these mines.
Ohio	Zero percent.
Pennsylvania	0%
Texas	Total current self bonds or self bonds with third-party guarantee are \$304,500,000 which is 19.6% of the total bonds held for coal mines in Texas.
Utah	0% in the Coal Program 1.59% in the Minerals Program

Virginia	9% Self-Bond
West Virginia	25%
Wyoming	Sixty-Three Percent (63%)

Question 6:	
What is the aggregate total of all outstanding obligations related to self-bonding in your state?	
Alabama	NONE.
Arkansas	\$0.00
Colorado	Coal self bond (\$117 million) + Non Coal self bond (\$30 million) + \$147 million self-bond.
Illinois	\$104 Million
Indiana	\$168,345,205
Kansas	N/A
Kentucky	N/A
Louisiana	\$0
Maryland	None.
Mississippi	\$0
Montana	N/A
New Mexico	\$338,439,944
North Dakota	The total self-bonded amount in North Dakota is currently \$175,950,000.
Ohio	Zero dollars.
Pennsylvania	\$0.00
Texas	Total current self bonds or self bonds with third-party guarantee are \$304,500,000 which is 19.6% of the total bonds held for coal mines in Texas.
Utah	0\$ Coal \$6,811,214 in the Minerals Program
Virginia	\$24,964,425

West Virginia	Only one company Alpha Natural Resources Inc. with at maximum limit of \$375,000,000.00, used \$250,611,631.00
Wyoming	\$2,138,201,079

Question 7:	
To the extent possible, please provide the total self-bonded obligation held by each obligor, respectively.	
Alabama	N/A
Arkansas	N/A
Colorado	Coal – Tri-State affiliates = \$91 million (3 mines) Peabody affiliates = \$26 million (5 mines) Non-Coal – Exxon Mobile + \$30 million (1 mine – oil shale)
Illinois	Exxon Mobil - \$17 million Peabody - \$87 million
Indiana	Peabody Midwest Mining, LLC - \$163,513,595 United Minerals Company, LLC - \$4,831,610
Kansas	N/A
Kentucky	N/A
Louisiana	N/A
Maryland	None.
Mississippi	N/A
Montana	N/A
New Mexico	Chevron Corporation, corporate guarantor for Chevron Mining, Inc. - \$48,000, 511 Peabody Investments Corporation, corporate guarantor for Peabody Natural Resources Company - \$290,439,433
North Dakota	Coteau Properties Company has a self-bond on the amount of \$107,100,000 by Basin Electric Power Cooperative. The Falkirk Mining Company currently has a self-bond in the amount of \$68,850,000 that is guaranteed by Great River Energy. (However, we should be soon receiving bond documents to increase this to approximately \$75,000,000.)
Ohio	No self-bonds are held as collateral in Ohio.
Pennsylvania	Not Applicable

Texas	See Appendix B.1
Utah	M0030004 \$286,584.00 M0370001 \$126,172.00 M0350002 \$50,000.00 M0570006 \$1,150,000.00 M0410009 \$122,000.00 M0450017 \$4,766,352.00 M0470010 \$189,306.00 M0470022 \$115,900.00 M0490002 \$4,900.00
Virginia	All Self Bonds in Virginia are held by A & G Coal Corporation, a subsidiary of Southern Coal Corporation.
West Virginia	Only one company Alpha Natural Resources Inc. with at maximum limit of \$375,000,000.00, used \$250,611,631.00. For Dissagregation, See Appendix B.2
Wyoming	See Appendix B.3

-end survey-

Contact Information		
State	Name/ Title of person completing survey	Phone #
Alabama	Carla D. Lightsey	(205) 221-4130
Arkansas	James F. Stephens	(501) 682-0807
Colorado	David Berry	(303) 866-3567 x 8106
Illinois	Dean Spindler, Bond Release Manager	(217) 785-5195
Indiana	Steve Weinzapfel, Director	(812) 665-2207
Kansas	Murray J. Balk, Chief	(620) 231-8350
Kentucky	Steve Hohmann, Commissioner	(502) 564-6940
Louisiana	Judi Stoute, Geologist	(225) 342-5515
Maryland	Ed Larrimore, Mining Program Manager	(410) 537-3557
Mississippi	Stan Thieling	(601) 961-5519
Montana	Ed Coleman	(406) 444-4973
New Mexico	Dave Clark	(505) 476-3416
North Dakota	Jim Deutsch – Director, Reclamation Division	(701) 328-2251
Ohio	Susan Grant, Administrator Office 2	(614) 265-6773
Pennsylvania	Bill Allen, Chief, Division of Compliance, Bureau of Mining Programs	(717)-783-9580
Texas	John Caudle	(512) 463-6901
Utah	Dana Dean, Associate Director	(801) 538-5320
Virginia	Greg Baker	(276) 523-8160

West Virginia	Lewis Halstead, Deputy Director Charles Sturey, Assistant Director	(304) 926-0499 ext 1525 (304) 926-0499 ext 1526
Wyoming	Deanna Hill, Bonding Analyst DEQ, Land Quality Division	(307) 777-6910

Appendix A- State Regulations on Acceptance of Self-Bond (survey question 3)

A.1 – Indiana:

The mechanism includes:

- The applicant has a current rating for their most recent bond issuance of “A” or higher; or
- The applicant has a tangible net worth of \$10,000,000, a ratio of total liabilities to net worth of not more than 2.5:1, and a ratio of current assets to current liabilities of at least 1.2:1. The ratio requirements must be met for the year immediately preceding application and must be documented for the four years preceding the application; or
- The applicant has fixed assets in the US that total \$20,000,000, a ratio of total liabilities to net worth of 2.5:1, and a ratio of current assets to current liabilities of 1.2:1. The ratio requirements must be met for the year immediately preceding application and must be documented for the four years preceding the application.
- The applicant must submit financial statements for the most recently completed fiscal year with a report by an independent CPA;
- The applicant must submit unaudited financial statements for completed quarters in the current fiscal year and comparative financial data from a five year period;
- The applicant must submit a statement listing:
 - o liens against assets in the US for amounts more than 2% of net worth;
 - o Every action pending against the applicant;
 - o Every judgment rendered against the applicant within the last seven years that remains unsatisfied and is for more than 2% of the applicants net worth;

A.2 – Mississippi

§ 4305. Self-bonding

- (a) The Permit Board may accept a self-bond from an applicant for a permit if all of the following conditions are met by the applicant or its parent corporation guarantor:
- (1) The applicant designates with the Mississippi Secretary of State a suitable agent to receive service of process in the state of Mississippi.
 - (2) The applicant has been in continuous operation as a business entity for a period of not less than five years. Continuous operation shall mean that business was conducted over a period of five years immediately preceding the time of application.
 - (A) The Permit Board may allow a joint venture or syndicate with less than five years of continuous operation to qualify under this requirement, if each member of the joint venture or syndicate has been in continuous operation for at least five years immediately preceding the time of application.
 - (B) When calculating the period of continuous operation, the Permit Board may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed surface coal mining and reclamation operations.
 - (3) The applicant submits financial information in sufficient detail to show that the applicant meets one of the following criteria:
 - (A) the applicant has a current rating for its most recent bond issuance of "A" or higher as

issued by either Moody's Investor Service or Standard and Poor's Corporation;

- (B) the applicant has a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater; or
 - (C) the applicant's fixed assets in the United States total at least \$20 million, and the applicant has a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater.
- (4) The applicant submits:
- (A) financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;
 - (B) unaudited financial statements for completed quarters in the current fiscal year; and
 - (C) additional unaudited information as requested by the Department.
- (b) The Permit Board may accept a written guarantee for an applicant's self-bond from a parent corporation guarantor, if the guarantor meets the conditions of § 4305(a)(1)-(4) as if it were the applicant. Such a written guarantee shall be referred to as a "corporate guarantee". The terms of the corporate guarantee shall provide for the following:
- (1) if the applicants fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the Commission sufficient to complete the reclamation plan, but not to exceed the bond amount;
 - (2) the corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the Department at least 90 days in advance of the cancellation date, and the Permit Board accepts the cancellation;
 - (3) the cancellation may be accepted by the Permit Board if the applicant obtains suitable replacement bond before the cancellation date or if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed;
 - (4) the Permit Board may accept a written guarantee for an applicant's self-bond from any corporate guarantor, whenever the applicant meets the conditions of § 4305(a)(1)-(2) and (4), and the guarantor meets the conditions of § 4305(a)(1)-(4). Such a written guarantee shall be referred to as a "non-parent corporate guarantee." The terms of this guarantee shall provide for compliance with the conditions of § 4305(b)(1)-(4). The Department or Permit Board may require the applicant to submit any information specified in § 4305(a)(3) in order to determine the financial capabilities of the applicant.
- (c) For the Permit Board to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations shall not exceed 25 percent of the applicant's tangible net worth in the United States. For the Permit Board to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25 percent of the guarantor's tangible net worth in the United States. For the Permit Board to accept a non-parent corporate guarantee, the total amount of the non-parent corporate guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

- (d) If the Permit Board accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the following requirements.
- (1) The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the parent corporation guarantor, and shall bind each jointly and severally.
 - (2) Corporations applying for a self-bond, and parent and non-parent corporations guaranteeing an applicant's self-bond, shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the of Department along with an affidavit certifying that such an agreement is valid under all applicable federal and state laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.
 - (3) If the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant.
 - (4) Pursuant to Rule 47, the applicant, parent or non-parent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the Commission an amount necessary to complete the approved reclamation plan, not to exceed the bond amount. If permitted under state law, the indemnity agreement when under forfeiture shall operate as a judgment against those parties liable under the indemnity agreement.
- (e) The Department may require self-bonded applicants, parent and non-parent corporate guarantors to submit an update of the information required under § 4305(a)(3) and (4) within 90 days after the close of each fiscal year following the issuance of the self-bond or corporate guarantee.
- (f) If at any time during the period when a self-bond is posted, the financial conditions of the applicant, parent or non-parent corporate guarantor change so that the criteria of § 4305(a)(3) and (c) are not satisfied, the permittee shall notify the Department immediately and shall within 90 days post an alternate form of bond in the same amount as the self-bond. Should the permittee fail to post an adequate substitute bond, the provisions of § 4303(e)(6) shall apply.

A.3 – New Mexico

19.8.14.1410 SELF-BONDING:

- A. The director may accept a self-bond from an applicant for a permit if all of the following conditions are met by the applicant, or its parent corporation guarantor:
- (1) the applicant designates a suitable agent to receive service of process in the state.
 - (2) the applicant has been in continuous operation as a business entity for a period of not less than 5 years. Continuous operation shall mean that business was conducted over a period of 5 years immediately preceding the time of application.
 - (a) The director may allow a joint venture or syndicate with less than 5 years of continuous operation to qualify under this requirement, if each member of the joint venture or syndicate has been in continuous operation for at least 5 years immediately preceding the time of application.
 - (b) When calculating the period of continuous operation, the director may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed surface coal mining and reclamation operations.
 - (3) The applicant submits financial information in sufficient detail to show that the applicant meets one of the following criteria:

(a) the applicant has a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's investor service or Standard and Poor's corporation;

(b) the applicant has a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater; or

(c) the applicant's fixed assets in the United States total at least \$20 million, and the applicant has a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater.

(4) The applicant submits:

(a) financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;

(b) unaudited financial statements for completed quarters in the current fiscal year; and

(c) additional unaudited information as requested by the director.

B. The director may accept a written guarantee for an applicant's self-bond from a parent corporation guarantor, if the guarantor meets the conditions of Paragraphs (1) through (4) of Subsection A of 19.8.14.1410 NMAC as if it were the applicant. Such a written guarantee shall be referred to as a "corporate guarantee." The terms of the corporate guarantee shall provide for the following:

(1) if the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the state of New Mexico sufficient to complete the reclamation plan, but not to exceed the bond amount;

(2) the corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the director at least 90 days in advance of the cancellation date, and the director accepts the cancellation;

(3) the cancellation may be accepted by the director if the applicant obtains suitable replacement bond before the cancellation date or if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed.

C. For the director to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations shall not exceed 25 percent of the applicant's tangible net worth in the United States. For the director to accept a corporate guarantee, the total amount of the corporate guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

D. If the director accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

(1) the indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the corporate guarantor, and shall bind each jointly and severally;

(2) corporations applying for a self-bond, and parent and non-parent corporations guaranteeing an applicant's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations; a copy of such authorization shall be provided to the director along with an affidavit certifying that such an agreement is valid under all applicable federal and state laws; in addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement;

(3) if the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant;

(4) pursuant to 19.8.14.1413 NMAC, the applicant or corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the state of New Mexico an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.

E. The director may require self-bonded applicants and corporate guarantors to submit an update of the information required under Paragraphs (3) and (4) of Subsection A of 19.8.14.1410 NMAC within 90 days after the close of each fiscal year following the issuance of the self-bond or corporate guarantee.

F. If at any time during the period when a self-bond is posted, the financial conditions of the applicant or the corporate guarantor change so that the criteria of Paragraph (3) of Subsection A of 19.8.14.1410 NMAC and Subsection C of 19.8.14.1410 NMAC are not satisfied, the permittee shall notify the director immediately and shall within 90 days post an alternate form of bond in the same amount as the self-bond. Should the permittee fail to post an adequate substitute bond, the provisions of Subsection E of 19.8.14.1406 NMAC shall apply.

A.4 – Ohio

OAC 1501:13-7-04 Self-bonding.

(A) Definitions for the purposes of this rule only:

(1) "Current assets" means cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one year or within the normal operating cycle of the business. (2) "Current liabilities" means obligations which are reasonably expected to be paid or liquidated within one year or within the normal operating cycle of the business.

(3) "Fixed assets" means plants and equipment, but does not include land or coal in place.

(4) "Liabilities" means obligations to transfer assets or provide services to other entities in the future as a result of past transactions.

(5) "Net worth" means total assets minus total liabilities and is equivalent to owners' equity.

(6) "Parent corporation" means a corporation which owns or controls the applicant.

(7) "Tangible net worth" means net worth minus intangibles such as goodwill and rights to patents or royalties.

(B) If the performance security is a bond, the chief may accept a self-bond from an applicant for a permit if all of the following conditions are met by the applicant or its parent corporation guarantor:

(1) The applicant designates a suitable agent to receive service of process in the state where the proposed coal mining operation is to be conducted.

(2) The applicant has been in continuous operation as a business entity for a period of not less than five years. "Continuous operation" shall mean that business was conducted over a period of five years immediately preceding the time of application.

(a) The chief may allow a joint venture or syndicate with less than five years of continuous operation to qualify under this requirement, if each member of the joint venture or syndicate has been in continuous operation for at least five years immediately preceding the time of application.

(b) When calculating the period of continuous operation, the chief may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed coal mining and reclamation operations.

(3) The applicant submits financial information in sufficient detail to show that the applicant meets one of the following criteria:

(a) The applicant has a current rating for its most recent bond issuance of "A" or higher as issued by either "Moody's Investor Service" or "Standard and Poor's Corporation";

(b) The applicant has a tangible net worth of at least ten million dollars, a ratio of total liabilities to net worth of two and one-half times or less, and a ratio of current assets to current liabilities of one and one-fifth times or greater; or

(c) The applicant's fixed assets in the United States total at least twenty million dollars, and the applicant has a ratio of total liabilities to net worth of two and one-half times or less, and a ratio of current assets to current liabilities of one and one-fifth times or greater.

(4) The applicant submits:

(a) Financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;

(b) Unaudited financial statements for completed quarters in the current fiscal year; and

(c) Additional unaudited information as requested by the chief.

(C) The chief may accept a written guarantee for an applicant's self-bond from a parent corporation guarantor, if the guarantor meets the conditions of paragraph (B) of this rule as if it were the applicant. Such a written guarantee shall be referred to as a "corporate guarantee." The terms of the corporate guarantee shall provide for the following:

(1) If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the chief sufficient to complete the reclamation plan, but not to exceed the performance security amount required under rule [1501:13-7-02](#) of the Administrative Code.

(2) The corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the chief at least ninety days in advance of the cancellation date, and the chief accepts the cancellation.

(3) The cancellation may be accepted by the chief if the applicant obtains suitable replacement performance security before the cancellation date or if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed.

(D) The chief may accept a written guarantee for an applicant's self-bond from any corporate guarantor, whenever the applicant meets the conditions of paragraphs (B)(1), (B)(2) and (B)(4) of this rule, and the guarantor meets the conditions of paragraphs (B)(1) to (B)(4) of this rule. Such a written guarantee shall be referred to as a "non-parent corporate guarantee." The terms of this guarantee shall provide for compliance with the conditions of paragraph (C) of this rule. The chief may require the applicant to submit any information specified in paragraph (B)(3) of this rule in order to determine the financial capabilities of the applicant.

(E) For the chief to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for coal mining and reclamation operations shall not exceed twenty-five per cent of the applicant's tangible net worth in the United States. For the chief to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self-bonds and guaranteed self-bonds for coal mining and reclamation operations shall not exceed twenty-five per cent of the guarantor's tangible net worth in the United States. For the chief to accept a non-parent corporate guarantee, the total amount of the non-parent corporate guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed twenty-five per cent of the guarantor's tangible net worth in the United States.

(F) If the chief accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

(1) The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the parent corporation guarantor, and shall bind each jointly and severally.

(2) A corporation applying for a self-bond, and a parent or non-parent corporation guaranteeing an applicant's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporation. A copy of such authorization shall be provided to the chief along with an affidavit certifying that such an agreement is valid under all applicable federal and state laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.

(3) A limited liability company shall submit an indemnity agreement signed by at least one member who is authorized to bind the company. A copy of such authorization shall be provided to the chief along with an affidavit certifying that such an agreement is valid under all applicable federal and state laws.

(4) A partnership, joint venture or syndicate shall submit an indemnity agreement that binds each partner or party who has a beneficial interest, directly or indirectly, in the applicant.

(5) Pursuant to rule [1501:13-7-06](#) of the Administrative Code, the applicant or parent or non-parent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the chief an amount necessary to complete the approved reclamation plan, not to exceed the performance security amount required under rule [1501:13-7-02](#) of the Administrative Code. The indemnity agreement shall be confessed to judgment to the amount of the bond as provided in section [2323.13](#) of the Revised Code.

(G) The chief may require self-bonded applicants and parent and non-parent corporate guarantors to submit an update of the information required under paragraphs (B)(3) and (B)(4) of this rule within ninety days after the close of each fiscal year following the issuance of the self-bond or corporate guarantee.

(H) If at any time during the period when a self-bond is provided, the financial conditions of the applicant or parent or non-parent corporate guarantor change so that the criteria of paragraphs (B)(3) and (D) of this rule are not satisfied, the permittee shall notify the chief immediately and shall within ninety days provide an alternate form of performance security in the same amount as the self-bond. Should the permittee fail to provide an adequate substitute performance security pursuant to rule [1501:13-7-03](#) of the Administrative Code, then the permittee or operator shall cease coal extraction and shall immediately begin to conduct reclamation operations in accordance to the reclamation plan. Mining operations shall not resume until the chief has determined that an acceptable performance security has been provided.

Effective: 04/30/2009

R.C. [119.032](#) review dates: 02/06/2009 and 04/20/2014

Promulgated Under: [119.03](#)

Statutory Authority: [1513.02](#)

Rule Amplifies: [1513.08](#)

Prior Effective Dates: 5/18/81, 10/27/82, 10/1/88, 12/27/90

A.5 – Pennsylvania

from section 86.159 (f))

(f) The applicant shall satisfy one of the following financial tests in paragraph (1), (2) or (3):

(1) The applicant satisfies the following requirements:

(i) A current rating for its most recent bond issuance of either: AAA, AA or A as issued by Standard and Poor's Corporation; or Aaa, Aa or A as issued by Moody's Investor Services. The ratings may not have been assigned as a result of the bond issue being independently insured.

(ii) Tangible net worth at least six times the total amount of outstanding and proposed self-bonds for coal mining activities in this Commonwealth.

(iii) Assets in the United States amounting to at least 90% of total assets.

(2) The applicant satisfies the following requirements:

(i) Tangible net worth of at least \$10 million.

(ii) A ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater.

(iii) Tangible net worth at least six times the total amount of outstanding and proposed self-bonds for coal mining activities in this Commonwealth.

(iv) Assets in the United States amounting to at least 90% of total assets.

(3) The applicant satisfies the following requirements:

(i) Possesses fixed assets in the United States of at least \$20 million.

(ii) Has a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater.

(iii) Has tangible net worth at least six times the total amount of outstanding and proposed self-bonds for coal mining activities in this Commonwealth.

(iv) Has assets in the United States amounting to at least 90% of total assets.

A.6 – Texas

16 Texas Administrative Code §12.309(j)

(j) Self-bonding.

(1) **Definitions.** For the purposes of this subsection only:

(A) **Current assets-** Cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one year or within the normal operating cycle of the business.

(B) **Current liabilities-** Obligations which are reasonably expected to be paid or liquidated within one year or within the normal operating cycle of the business.

(C) **Fixed assets-** Plants and equipment, but does not include land or coal in place.

(D) **Governmental entity-** Municipal corporation, political subdivision, or public agency of the State of Texas.

(E) **Liabilities-** Obligations to transfer assets or provide services to other entities in the future as a result of past transactions.

(F) **Net worth-** Total assets minus total liabilities and is equivalent to owner's equity.

(G) **Self-bond-** An indemnity agreement in a sum certain executed by a qualified applicant, or by an applicant and its qualified third-party guarantor, and made payable to the Commission, with or without separate surety.

(H) **SIC code-** The standard industrial classification used by Dun and Bradstreet Corporation to identify various industry groups such as electric utility companies. Data identified by SIC code are to be the current data for the last annual period compiled and reported by Dun and Bradstreet Corporation.

(I) **Tangible net worth-** Net worth minus intangibles such as goodwill and rights to patents or royalties.

(2) **Requirements for a business and governmental entities.** The Commission may accept a self bond from an applicant that is a business or governmental entity if all of the following conditions are met by the applicant:

(A) the applicant designates a suitable agent to receive service of process in this state;

(B) the applicant has been in continuous operation for a period of not less than 5 years immediately preceding the date of application and has not been subject to bankruptcy proceedings during that time.

(i) The Commission may allow a joint venture or syndicate with less than 5 years of continuous operation to qualify under this requirement, if each member of the joint venture or syndicate has been in continuous operation for at least 5 years immediately preceding the date of application.

(ii) When calculating the period of continuous operation, the Commission may exclude past periods of interruption of the operation of the entity that were beyond the applicant's control and do not affect the applicant's likelihood of remaining in business during the proposed surface coal mining and reclamation operations;

(C) the applicant submits financial information in sufficient detail to show that the applicant meets one or more of the following criteria:

(i) the applicant has a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporation;

(ii) the application has a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater; or

(iii) the applicant's fixed assets in the United States total at least \$20 million, and the applicant has a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater; or

(iv) the applicant has an investment-grade rating for its most recent bond issuance of "Baa3" or higher from Moody's Investor Service and "BBB-" or higher from Standard and Poor's Corporation, and meets the requirements of either subclause (I) or subclause (II) of this clause. If the applicant or the guarantor of a self-bond receives an investment rating or notification of an investment rating by Moody's Investor Service or Standard and Poor's Corporation of any of its bonds lower than the rating included in the application as a bond approval criterion existing at time of Commission approval of its application for self-bonding, the guarantor and permittee receiving such rating shall promptly notify the Commission, which shall immediately hold a hearing to consider and determine the adequacy of the guarantor's self-bond. The limitation contained in

subclause (II)(-c-) of this clause applies only to applicants or guarantors qualifying pursuant to subclause (II) of this clause, and does not affect the limitation set out in paragraph (4)(A) of this subsection for applicants or guarantors seeking acceptance of a self-bond pursuant to clauses (i)-(iii) or (iv)(I) of this subparagraph.

(I) The applicant:

(-a-) has a tangible net worth of at least \$10 million and fixed assets in the United States totaling at least \$20 million; and

(-b-) has a ratio of total liabilities to net worth of 2.5 or less; or a ratio of total liabilities to net worth that is equal to or less than the industry median reported by Dun and Bradstreet Corporation for the applicant's primary SIC code; and

(-c-) has a ratio of current assets to current liabilities that is equal to or greater than the industry median reported by Dun and Bradstreet Corporation for the applicant's primary SIC code; or the applicant has a current credit rating of "4A2" or higher from Dun and Bradstreet Corporation; or

(II) The applicant:

(-a-) has a net worth of at least \$100 million and fixed assets in the United States totaling at least \$200 million; and

(-b-) has issued and currently has outstanding securities pursuant to the provisions of the Securities Act of 1933 and is subject to the periodic financial reporting requirements established by the Securities and Exchange Act of 1934; and

(-c-) has a total amount of outstanding and proposed self-bonds for surface coal mining and reclamation operations not exceeding 16 2/3 percent of the applicant's net worth in the United States; and

(D) the applicant submits:

(i) financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;

(ii) unaudited financial statements for completed quarters in the current fiscal year; and

(iii) additional information as may be requested by the Commission.

(3) **Requirements for a third-party guarantee.** The Commission may accept a self-bond from an applicant and the applicant's qualified third-party guarantor if the guarantor meets the conditions of paragraph (2)(A), (B), (C) and (D) of this subsection as if it were the applicant and the applicant meets the conditions of paragraph (2)(A), (B) and (D) of this subsection. Such a written guarantee shall be referred to as a "third-party guarantee." The terms of the third-party guarantee shall provide for the following:

(A) if the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the Commission sufficient to complete the reclamation plan, but not to exceed the bond amount;

(B) the third-party guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the Commission at least 90 days in advance of the cancellation date, and the Commission accepts the cancellation; and

(C) the cancellation may be accepted by the Commission if the applicant obtains suitable replacement bonding in accordance with §12.310 of this title (relating to Replacement of Bonds) before the cancellation date or if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed.

(4) **Limitations.**

(A) For the Commission to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations shall not exceed 25 percent of the applicant's tangible net worth in the United States.

(B) For the Commission to accept a third-party guarantee, the total amount of the guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

(5) **Indemnity agreement.** If the Commission accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

(A) the indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the third-party guarantor, and shall bind each jointly and severally;

(B) applicants applying for a self-bond and third-parties guaranteeing an applicant's self-bond shall submit an indemnity agreement signed by two officers who are authorized to bind the applicant and third-party guarantor. A copy of such authorization shall be provided to the Commission with an affidavit certifying that such an agreement is valid under all applicable State and Federal laws. Whenever the applicant or third-party guarantor is a corporation, each respective corporation shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement;

(C) if the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant;

(D) pursuant to §12.314 of this title (relating to Forfeiture of Bonds), the applicant or third-party guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the Commission an amount necessary to complete the approved reclamation plan, not to exceed the bond amount; and

(E) when under forfeiture and when necessary to enforce the provisions of the Act and these Regulations, the indemnity agreement shall be referred by the Commission to the Attorney General to obtain a judgment as provided by law.

(6) **Current financial information.** An applicant that is self-bonded under this section shall submit to the Commission an update of the information required under paragraph (2)(C) and (D) of this subsection within 90 days after the close of each fiscal year following the issuance of the self-bond or corporate guarantee. When a self-bond is guaranteed by a third-party guarantor, both the applicant and its third-party guarantor shall comply with this paragraph.

(7) **Substitute bonding.** If at any time during the period when a self-bond is in effect, the financial conditions of the applicant or the third-party guarantor change so that the criteria of paragraph (2)(C) and (D) of this subsection are not satisfied, the permittee shall notify the Commission immediately and shall submit an alternate form of bond in the same amount as the self-bond. It is the intent of the Commission that substitute bonds under this paragraph be timely filed in order that they may be reviewed and acted upon by the

Commission within a reasonable time, not to exceed 90 days, from the date of notification. Should the permittee fail to post an adequate substitute bond as required by this paragraph, the permittee shall cease coal extraction and shall immediately begin to conduct reclamation operations in accordance with the reclamation plan. Mining operations shall not resume until the Commission has determined that an acceptable bond has been posted.

A.7 – Utah

860.322. The applicant has been in continuous operation as a business entity for a period of not less than five years. Continuous operation will mean that business was conducted over a period of five years immediately preceding the time of application:

860.322.1. The Division may allow a joint venture or syndicate with less than five years of continuous operation to qualify under this requirement if each member of the joint venture or syndicate has been in continuous operation for at least five years immediately preceding the time of application;

860.322.2. When calculating the period of continuous operation, the Division may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed coal mining and reclamation operations;

860.323. The applicant submits financial information in sufficient detail to show that the applicant meets one of the following criteria:

860.323.1. The applicant has a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporation;

860.323.2. The applicant has a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater; or

860.323.3. The applicant's fixed assets in the United States total at least \$20 million and the applicant has a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater; and

860.324. The applicant submits:

860.324.1. Financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;

860.324.2. Unaudited financial statements for completed quarters in the current fiscal year;

860.324.3. Additional unaudited information as requested by the Division; and

860.324.4. Annual reports for the five years immediately preceding the time of application.

860.330. The Division may accept a written guarantee for an applicant's self bond from a parent corporation guarantor, if the guarantor meets the conditions of R645-301-860.321 through R645-301-860.324 as if it were the applicant. Such a written guarantee will be referred to as a "corporate guarantee." The terms of the corporate guarantee will provide for the following:

860.331. If the applicant fails to complete the reclamation plan, the guarantor will do so or the guarantor will be liable under the indemnity agreement to provide funds to the Division sufficient to complete the reclamation plan, but not to exceed the bond amount;

860.332. The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the Division at least 90 days in advance of the cancellation date, and the Division accepts the cancellation; and

860.333. The cancellation may be accepted by the Division if the applicant obtains a suitable replacement bond before the cancellation date or if the lands for which the self bond, or portion thereof, was accepted have not been disturbed.

860.340. The Division may accept a written guarantee for an applicant's self bond from any corporate guarantor, whenever the applicant meets the conditions of R645-301-860.321, R645-301-860.322, and R645-301-860.324 and the guarantor meets the conditions of R645-301-860.321 through R645-301-860.324 as if it were the applicant.

Such a written guarantee will be referred to as a "nonparent corporate guarantee." The terms of this guarantee will provide for compliance with the conditions of R645-301-860.331 through R645-301-860.333. The Division may require the applicant to submit any information specified in R645-301-860-323 in order to determine the financial capabilities of the applicant.

860.350. For the Division to accept an applicant's self bond, the total amount of the outstanding and proposed self bonds of the applicant for coal mining and reclamation operations will not exceed 25 percent of the applicant's tangible net worth in the United States. For the Division to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self bonds and guaranteed self bonds for surface coal mining and reclamation operations will not exceed 25 percent of the guarantor's tangible net worth in the United States. For the Division to accept a nonparent corporate guarantee, the total amount of the nonparent corporate guarantor's present and proposed self bonds and guaranteed self bonds will not exceed 25 percent of the guarantor's tangible net worth in the United States.

860.360. If the Division accepts an applicant's self bond, an indemnity agreement will be submitted subject to the following requirements:

860.361. The indemnity agreement will be executed by all persons and parties who are to be bound by it, including the parent corporation guarantor, and will bind each jointly and severally;

860.362. Corporations applying for a self bond, and parent and nonparent corporations guaranteeing an applicant's self bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the Division along with an affidavit certifying that such an agreement is valid under all applicable federal and Utah laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self bond and execute the indemnity agreement.

860.363. If the applicant is a partnership, joint venture or syndicate, the agreement will bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant;

860.364. Pursuant to R645-301-880.900, the applicant, parent or nonparent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the Division an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.

860.365. The indemnity agreement when under forfeiture will operate as a judgment against those parties liable under the indemnity agreement.

860.370. The Division may require self-bonded applicants, parent and nonparent corporate guarantors to submit an update of the information required under R645-301-860.323 and R645-301-860-324 within 90 days after the close of each fiscal year following the issuance of the self bond or corporate guarantee.

860.380. If at any time during the period when a self bond is posted, the financial conditions of the applicant, parent, or nonparent corporate guarantor change so that the criteria of R645-301-860.323 and R645-301-860.340 are not satisfied, the permittee will notify the Division immediately and will within 90 days post an alternate form of bond in the same amount as the self bond. Should the permittee fail to post an adequate substitute bond, the provisions of R645- 301-840.500 will apply.

A.8- West Virginia

-The applicant designates a suitable agent to receive service of process in the state where the proposed surface coal mining operation is to be conducted.

-The applicant has been in continuous operation as a business entity for a period of not less than five (5) years.

-The applicant submits financial information in sufficient detail to show that the applicant meets one of the following criteria:

1. The applicant has a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporation;

2. The applicant has a tangible net worth of at least ten (10) million dollars, a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater; or
3. The applicant's fixed assets in the United State total at least twenty (20) million dollars, and the applicant has a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater.

The applicant submits:

1. Financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;
2. Unaudited financial statements for completed quarters in the current fiscal year; and
3. Additional unaudited information as requested by the Secretary.

See this link for the remainder of the rules on self bonding:

<http://www.dep.wv.gov/dmr/codes/Documents/1.%2038%20CSR%202%20Revised%2006-05-2012.pdf>

A.9 - Wyoming

The applicant must meet the regulatory requirements of W.S. 35-11-418(d) and Regulations Coal Chapter 11 and Noncoal Chapter 6. In brief these are:

- A. Five years of financial statements audited by an independent Certified Public Accountant.
- B. Financial information in sufficient detail to show the applicant meets one of the following criteria:
 1. Bond rating for the past five years of "A" or higher as issued by Moody's Investor Service or Standard and Poor's Corporation.
 2. Tangible net worth of at least \$10 million, and a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater. Proposed self-bonds must be added to the current or total liabilities.
 3. Fixed assets in the United States of least \$20 million, and a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater. Proposed self-bonds must be added to the current or total liabilities.
- C. A listing of any notices issued by the Securities and Exchange commission or proceedings initiated by any party alleging a failure to comply with any public disclosure or reporting requirements under the securities laws of the United States.
- D. A Wyoming registered agent for service of process.

Appendix B – Self Bonded Amounts by Company (survey question 7)

B.1 – Texas

TWCC	32F	Jewett	03/22/2011 (self w/ 3rd party)	\$57,500,000
	47A	Jewett E/F	3/22/2011 (self w/3rd party)	\$18,500,000
The Sabine Mining Co.	33H	S. Hallsville	8/14/2007 (self w/3rd party)	\$65,000,000
			05/08/12 (self w/3rd party)	\$10,000,000
	55	Rusk	7/26/2011 (self w/3rd party) 05/08/12 (self w/3rd party)	\$35,000,000 \$5,000,000
San Miguel Electric Coop., Inc.	11G	San Miguel	3/22/11 (self)	\$70,000,000
	52A	San Miguel C Area	3/22/11 (self)	\$30,000,000
TMPA	26D		05/22/2014 (self)	\$13,500,000

Total

\$304,500,000

B.2 – West Virginia

ALPHA NATURAL RESOURCES

<u>Name</u>	<u>Bond Amount</u>	<u>Under Agreement</u>	<u>Balance</u>
Alex	\$38,000,000.00	\$37,724,304.00	\$275,696.00
Aracoma	\$9,000,000.00	\$6,031,880.00	\$2,968,120.00
Bandmill	\$5,000,000.00	\$3,173,040.00	\$1,826,960.00
Big Bear	\$500,000.00	\$485,360.00	\$14,640.00
Brooks Run Mining Company	\$15,000,000.00	\$10,905,845.00	\$4,094,155.00
Clear Fork	\$2,000,000.00	\$978,720.00	\$1,021,280.00
Cobra Natural Resources	\$9,000,000.00	\$6,095,464.00	\$2,904,536.00
Delbarton	\$5,000,000.00	\$865,180.00	\$4,134,820.00
Eagle Energy	\$2,000,000.00	\$1,183,560.00	\$816,440.00
Elk Run	\$30,000,000.00	\$25,080,363.00	\$4,919,637.00
Goals Coal	\$2,000,000.00	\$701,320.00	\$1,298,680.00
Green Valley	\$3,000,000.00	\$2,980,380.00	\$19,620.00
Grey Energy	\$9,000,000.00	\$7,146,162.00	\$1,853,838.00
Herndon Processing	\$1,500,000.00	\$710,080.00	\$789,920.00
Highland	\$7,000,000.00	\$6,289,740.00	\$710,260.00
Independence	\$39,000,000.00	\$38,471,280.00	\$528,720.00
Jacks Branch	\$17,000,000.00	\$10,739,992.00	\$6,260,008.00
Kanawha	\$20,000,000.00	\$13,848,367.00	\$6,151,633.00
Kepler Processing	\$3,000,000.00	\$1,268,240.00	\$1,731,760.00
Kingston Resources	\$3,500,000.00	\$1,960,944.00	\$1,539,056.00
Kingwood Mining Company	\$5,500,000.00	\$4,216,800.00	\$1,283,200.00
Litwar Processing	\$3,000,000.00	\$704,760.00	\$2,295,240.00
Marfork	\$9,000,000.00	\$5,197,500.00	\$3,802,500.00
Neweagle Mining	\$1,000,000.00	\$-	\$1,000,000.00
Omar	\$1,500,000.00	\$507,600.00	\$992,400.00
Paynter Branch Mining	\$13,000,000.00	\$7,581,680.00	\$5,418,320.00
Peerless	\$10,000,000.00	\$7,110,520.00	\$2,889,480.00
Performance	\$3,000,000.00	\$1,342,620.00	\$1,657,380.00
Pioneer Fuel Corp.	\$22,000,000.00	\$16,668,240.00	\$5,331,760.00
Pioneer Mining	\$4,000,000.00	\$1,622,414.00	\$2,377,586.00
Power Mountain	\$2,500,000.00	\$499,120.00	\$2,000,880.00
Premium Energy	\$16,000,000.00	\$12,654,000.00	\$3,346,000.00
Rawl	\$2,000,000.00	\$1,380,466.00	\$619,534.00
Riverside Energy	\$3,500,000.00	\$1,730,132.00	\$1,769,868.00
Road Fork Dev.	\$4,000,000.00	\$1,089,640.00	\$2,910,360.00
Rockspring Development	\$5,000,000.00	\$2,970,020.00	\$2,029,980.00
Rum Creek	\$1,000,000.00	\$64,168.00	\$935,832.00
Spartan	\$1,000,000.00	\$803,530.00	\$196,470.00
Stirratt	\$1,000,000.00	\$540,800.00	\$459,200.00
Twin Star Mining	\$3,000,000.00	\$763,040.00	\$2,236,960.00
White Flame Energy	<u>\$17,000,000.00</u>	<u>\$6,574,360.00</u>	<u>\$10,425,640.00</u>
	\$348,500,000.00	\$250,661,631.00	\$97,838,369.00
Future Use	\$26,500,000.00		\$26,500,000.00
Grand Total	\$375,000,000.00		\$124,338,369.00

B.3 Wyoming

Permit Number	Company Name	Bond Type	Bond Number	Approval Date	Bonder	Bond Amount
PT0214	ALPHA COAL WEST INC	Self Bond	SBC128	3/31/2010	ALPHA NATURAL RESOURCES INC	174,286,000.00
PT0428	ALPHA COAL WEST INC	Self Bond	SBC131	3/31/2010	ALPHA NATURAL RESOURCES INC	208,079,000.00
PT0233	THUNDER BASIN COAL CO LLC	Self Bond	SBC148	8/20/2012	ARCH WESTERN RESOURCES LLC	329,317,000.00
PT0331	ARCH OF WY LLC	Self Bond	SBC143	9/19/2012	ARCH WESTERN RESOURCES LLC	16,185,500.00
PT0334	ENERGY DEVELOPMENT CO	Self Bond	SBC146	9/19/2012	ARCH WESTERN RESOURCES LLC	2,800,000.00
PT0377	ARCH OF WY LLC	Self Bond	SBC144	9/19/2012	ARCH WESTERN RESOURCES LLC	8,940,000.00
PT0483	THUNDER BASIN COAL CO LLC	Self Bond	SBC149	9/19/2012	ARCH WESTERN RESOURCES LLC	56,732,000.00
PT0676	THUNDER BASIN COAL CO LLC	Self Bond	SBC150	9/19/2012	ARCH WESTERN RESOURCES LLC	88,000.00
PT0730	ARCH OF WY LLC	Self Bond	SBC145	9/19/2012	ARCH WESTERN RESOURCES LLC	3,285,000.00
PT0599	WESTERN FUELS WY INC	Self Bond	SBC116	11/7/2006	BASIN ELECTRIC POWER COOP	18,300,000.00
PT0248	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC065	5/12/1995	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	5,697,000.00

799,712,500.00

18,300,000.00

PT0268	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC066	5/9/1995	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	120,000.00	
PT0281	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC067	6/10/1994	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	3,836,600.00	
PT0339	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC068	5/9/1995	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	735,356.00	
PT0585	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC070	5/24/1994	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	622,400.00	
PT0621	AMERICAN COLLOID CO	Self Bond	SBNC086	6/25/1998	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	278,000.00	
PT0685	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC090	5/2/2001	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	246,000.00	
PT0745	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	Self Bond	SBNC118	3/26/2007	BLACK HILLS BENTONITE A LIMITED LIABILITY COMPANY	1,742,000.00	<u>13,277,356.00</u>
PT0497	CHEVRON MINING INC	Self Bond	SBC088	7/21/1999	CHEVRON CORP	10,000.00	<u>10,000.00</u>
PT0237	CORDERO MINING LLC	Self Bond	SBC154	6/4/2014	CLOUD PEAK ENERGY INC	100,000,000.00	<u>100,000,000.00</u>
PT0218	EXXON MOBIL CORP	Self Bond	SBNC055	9/18/1991	EXXON MOBIL CORP	2,000,000.00	<u>2,000,000.00</u>
PT0335	F M C WY CORP	Self Bond	SBNC151	4/26/2013	F M C CORP	44,886,000.00	
PT0454	F M C WY CORP	Self Bond	SBNC152	4/26/2013	F M C CORP	26,880,000.00	
PT0554	F M C WY CORP	Self Bond	SBNC153	4/26/2013	F M C CORP	878,400.00	<u>72,644,400.00</u>
PT0464	TATA CHEMICALS (SODA ASH)	Self Bond	SBNC091	4/4/2002	GENERAL CHEMICAL (SODA ASH)	21,000,000.00	<u>21,000,000.00</u>

	PARTNERS				PARTNERS		
PT0246	BENTONITE PERFORMANCE MINERALS LLC	Self Bond	SBNC126	11/30/2009	HALLIBURTON CO	10,500,000.00	
PT0267	BENTONITE PERFORMANCE MINERALS LLC	Self Bond	SBNC132	4/13/2010	HALLIBURTON CO	10,500,000.00	
PT0278	M-I LLC	Self Bond	SBNC127	11/30/2009	HALLIBURTON CO	500,000.00	
PT0321	WYO-BEN INC	Self Bond	SBNC136	4/13/2010	HALLIBURTON CO	300,000.00	
PT0322	AMERICAN COLLOID CO	Self Bond	SBNC133	4/13/2010	HALLIBURTON CO	50,000.00	
PT0620	AMERICAN COLLOID CO	Self Bond	SBNC134	4/13/2010	HALLIBURTON CO	50,000.00	
PT0622	AMERICAN COLLOID CO	Self Bond	SBNC135	4/13/2010	HALLIBURTON CO	300,000.00	<u>22,200,000.00</u>
PT0338	BRIDGER COAL CO	Self Bond	SBC064	6/15/1993	ID POWER CO	73,675,166.67	<u>73,675,166.67</u>
PT0257	O C I WY LP	Self Bond	SBNC107	11/24/2003	OCI WY LP	33,875,000.00	<u>33,875,000.00</u>
PT0338	BRIDGER COAL CO	Self Bond	SBC063	6/15/1993	PACIFICORP	147,350,333.33	
PT0291	GLENROCK COAL CO	Self Bond	SBC042	12/23/1988	PACIFICORP	1,646,000.00	<u>148,996,333.33</u>
PT0240	PEABODY CABALLO MINING LLC	Self Bond	SBC141	8/5/2011	PEABODY INVESTMENTS CORP	100,596,000.00	
PT0433	PEABODY CABALLO MINING LLC	Self Bond	SBC142	8/4/2011	PEABODY INVESTMENTS CORP	238,594,000.00	
PT0477	SHOSHONE COAL CORP	Self Bond	SBC129	3/26/2010	PEABODY INVESTMENTS CORP	2,676,323.00	
PT0569	PEABODY POWDER RIVER MINING LLC	Self Bond	SBC140	8/4/2011	PEABODY INVESTMENTS CORP	392,477,000.00	
PT0764	PEABODY SCHOOL CREEK MINING LLC	Self Bond	SBC143	8/4/2011	PEABODY INVESTMENTS CORP	55,936,000.00	<u>790,279,323.00</u>
PT0264	ROCKY MOUNTAIN COAL CO LLC	Self Bond	SBC125	9/12/2008	SOLVAY AMERICA INC	2,410,000.00	
PT0495	SOLVAY SODA ASH JOINT VENTURE	Self Bond	SBNC119	3/23/2007	SOLVAY AMERICA INC	21,521,000.00	<u>23,931,000.00</u>

PT0599	WESTERN FUELS WY INC	Self Bond	SBC117	11/7/2006	TRI STATE GENERATION & TRANSMISSION ASSOC INC	18,300,000.00	<u>18,300,000.00</u>
TOTAL						<u>\$2,138,201,079</u>	