

Environmental Groups Fabricate a Problem to Justify an Agenda

SELF-BONDING

Environmental groups have petitioned the Office of Surface Mining Reclamation and Enforcement (OSMRE) to initiate a rulemaking that would bar coal companies with a bankruptcy event in their past, and their subsidiaries, from using self-bonding to ensure the restoration of mined land after operations are complete. In response, OSM has advised states not to accept self-bonding until market conditions are improved, and has initiated the rulemaking process to reexamine regulations on self-bonding for coal operators.



**The problem they are trying to address? There is none.
No coal company has tried to walk away from its reclamation commitments during or due to bankruptcy.**

These actions are a blatant attempt to further impair an industry that has been battered by the current regulatory and market environment. To take such action would **conflict with the Surface Mining Control and Reclamation Act (SMCRA), disregard states' authority and violate federal bankruptcy law.**

- Self-bonding is one of several methods authorized by SMCRA that coal mining operators can use to demonstrate compliance with the act's reclamation bonding requirements.
- States are tasked with ensuring adequate financial assurance to cover reclamation obligations, including allowing authorization of self-bonds under minimum federal standards, imposing additional requirements, or prohibiting their use altogether.
- Bankruptcy law forbids discrimination based on bankruptcy status. Section 525 of the U.S. Bankruptcy Code prohibits governmental units from discriminating against bankruptcy debtors

The mining industry has a successful track record in effectively fulfilling its reclamation commitments. These efforts continue, notwithstanding the financial challenges posed by regulatory policies intended to cripple the industry. The federal law requiring reclamation plans and procedures was passed in 1977 to address legacy defaults from earlier decades. Today's operators that self-bond meet their reclamation obligations and companies, including those that have experienced a bankruptcy, have been recognized by the Department of the Interior for outstanding reclamation activities.

In addition to prevailing reclamation practice, the coal industry has contributed more than \$10 billion to a federal fund dedicated to restoring lands from the prior era.