



Illinois Department of Natural Resources

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Bruce Rauner, Governor
Wayne A. Rosenthal, Director

Operator Memorandum 2016-05

To: All Coal Mine Operators/Consultants

From: Scott K. Fowler, Supervisor
Land Reclamation Division

A handwritten signature in black ink, appearing to read "S. K. Fowler".

Date: October 28, 2016

RE: Self-Bond

The purpose of this memorandum is to clarify, for coal mine operators and consultants, the State of Illinois's policy on self-bonding. The Illinois Department of Natural Resources is vested with the full power and authority to carry out and administer the provisions of the Illinois Surface Coal Mining Land Conservation and Reclamation Act, 225 ILCS 720, and to act as the regulatory authority for the State of Illinois under the federal Surface Mining Control and Reclamation Act of 1977.

The Department is, thus, charged with accomplishing the policy objectives of the State Act. These policies are:

1. To provide for the conservation and reclamation of lands affected by surface and underground coal mining in order to restore them to optimum future productive use and to provide for their return to productive use;
2. To assure that the coal supply essential to the Nation's and State's energy requirements, and to their economic well-being is provided; and
3. To strike a balance between protection of the environment and agricultural productivity, and the Nation's need for coal as a source of energy.

Performance Bonds

An applicant seeking permission to conduct surface coal mining and reclamation operations in the State of Illinois must provide sufficient performance bond to ensure that reclamation of lands affected by coal mining are restored for productive use. Both federal and state laws allow an applicant to submit bond in the form of surety bond, collateral bond, or self-bond.

With respect to self-bond, an applicant must meet certain financial criteria and execute an indemnity agreement contractually binding the applicant to complete the approved reclamation plan for the lands in default or to pay to the Department an amount necessary to complete the approved reclamation plan. Even if an applicant qualifies, the law vests authority with the Department to exercise discretion as to whether allowing an applicant to self-bond is in the best interests of the State of Illinois.

In sum, and without exception, whether to permit an applicant to self-bond is within the sole discretion of the Department as it discharges its constitutional and statutory responsibility for administering the subject state and federal law.