

ARCH COAL INC
Form S-8
September 10, 2013

Registration No. 333-

As filed with the Securities and Exchange Commission on September 10, 2013

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, DC 20549

FORM S-8

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

ARCH COAL, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

43-0921172

(I.R.S. Employer Identification No.)

One CityPlace Drive, Ste. 300

St. Louis, Missouri

(Address of principal executive offices)

63141

(Zip Code)

ARCH COAL, INC. OMNIBUS INCENTIVE PLAN

(Full title of the plan)

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Robert G. Jones

Senior Vice President Law, General Counsel and Secretary

Arch Coal, Inc.

One CityPlace Drive, Ste. 300

St. Louis, Missouri 63141

(Name and address of agent for service)

(314) 994-2700

(Telephone number, including area code, of agent for service)

Copies of all communications to:

Jeffrey W. Acre, Esq.

K&L Gates LLP

K&L Gates Center

210 Sixth Avenue

Pittsburgh, Pennsylvania 15222

(412) 355-6500

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒ x

Accelerated filer ☐ o

Non-accelerated filer ☐ o
(Do not check if a smaller reporting company)

Smaller reporting company ☐ o

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be Registered(1)	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
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Common Stock, par value \$.01 per share	12,900,000	\$	5.39	(2)	\$	64,297,008	(2)	\$	8,771
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(1) This Registration Statement also registers additional securities to be offered or issued upon adjustments or changes made to registered securities by reason of any stock splits, stock dividends or similar transactions as permitted by Rule 416(a) and Rule 416(b) under the Securities Act of 1933, as amended (the Securities Act).

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457 (c) and (h) under the Securities Act on the basis of (a) \$5.39, the weighted average exercise price per share of outstanding options to purchase 2,637,270 shares of the Registrant's Common Stock, and (b) the average of the high and low prices for the Registrant's Common Stock reported on the New York Stock Exchange on September 6, 2013 with respect to 10,262,730 shares of Common Stock reserved for future issuance under the Arch Coal, Inc. Omnibus Incentive Plan.

EXPLANATORY NOTE

This Registration Statement is being filed to register an additional 12,900,000 shares of the common stock, par value \$.01 per share (the Common Stock), of Arch Coal, Inc. (the Registrant) as a result of an increase in the number of shares of Common Stock reserved for issuance under the Arch Coal, Inc. Omnibus Incentive Plan (the Plan). The Plan is an amendment and restatement of the Arch Coal, Inc. 1997 Stock Incentive Plan (the Prior Plan). The prior Registration Statements on Form S-8 filed by the Registrant with the Commission in connection with the Prior Plan on February 6, 2004 (File No. 333-112536), and July 1, 1997 (File No. 333-30565) are hereby incorporated by reference. This incorporation by reference is made pursuant to General Instruction E of Form S-8 regarding the registration of additional securities of the same class as other securities for which there has been filed a Registration Statement on Form S-8 relating to the same employee benefit plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

ITEM 1. PLAN INFORMATION.*

ITEM 2. REGISTRANT INFORMATION AND EMPLOYEE PLAN INFORMATION*

* Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed by the Registrant with the Securities and Exchange Commission (the Commission) are incorporated by reference into this Registration Statement:

1. The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2012;

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2. The Registrant's Quarterly Reports on Form 10-Q for the periods ended March 31 and June 30, 2013;
3. The Registrant's Current Reports on Form 8-K, filed February 26, April 30, July 2, August 12, August 19 and August 27, 2013; and
4. The description of the Registrant's Common Stock contained in the Registration Statement filed by the Registrant under Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including any amendments or reports filed for the purpose of updating such description.

All documents subsequently filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement, but prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered by this Registration Statement have been sold or which deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement; provided, however, that the Registrant is not incorporating by reference any information furnished (but not filed) under Item 2.02 or Item 7.01 of any Current Report on Form 8-K. Each document incorporated by reference into this Registration Statement shall be deemed to be a part of this Registration Statement from the date of filing of such document with the Commission until the information contained therein is superseded or updated by any subsequently filed document that is incorporated by reference into this Registration Statement or by any

document that constitutes part of the prospectus relating to the Plan, each meeting the requirements of Section 10(a) of the Securities Act.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Jon S. Ploetz, Assistant General Counsel and Assistant Secretary of Arch Coal, Inc., has rendered an opinion as to the validity of the shares of common stock being registered hereby. Mr. Ploetz is paid a salary by us and is a participant in various employee benefit plans offered to our employees generally.

ITEM 8. EXHIBITS.

The following exhibits are filed herewith or incorporated by reference as part of this Registration Statement:

4.1 Restated Certificate of Incorporation of Arch Coal, Inc. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on May 5, 2006).

4.2 Arch Coal, Inc. Bylaws, as amended effective as of December 5, 2008 (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on December 10, 2008).

5.1 Opinion of counsel (filed herewith).

23.1 Consent of Ernst & Young LLP, independent registered public accounting firm (filed herewith).

23.2 Consent of counsel (included in the opinion filed as Exhibit 5.1 hereto).

24.1 Power of Attorney (included on the signature page to this Registration Statement).

99.1 Arch Coal, Inc. Omnibus Incentive Plan (incorporated herein by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the period ended March 31, 2013).

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of St. Louis, State of Missouri, on this 10th day of September, 2013.

ARCH COAL, INC.

By: /s/ John W. Eaves
John W. Eaves
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person, whose signature appears below, constitutes and appoints John W. Eaves, John T. Drexler and Robert G. Jones, and each of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the undersigned and in his or her name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this Registration Statement and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, the following persons in the capacities and on the dates indicated have signed this Registration Statement below.

Signature	Capacity	Date
/s/ John W. Eaves John W. Eaves	President and Chief Executive Officer, Director (<i>Principal Executive Officer</i>)	September 10, 2013
/s/ John T. Drexler John T. Drexler	Senior Vice President and Chief Financial Officer (<i>Principal Financial Officer</i>)	September 10, 2013
/s/ John W. Lorson John W. Lorson	Vice President and Chief Accounting Officer (<i>Principal Accounting Officer</i>)	September 10, 2013
/s/ Steven F. Leer Steven F. Leer	Chairman of the Board of Directors	September 10, 2013

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/s/ David D. Freudenthal
David D. Freudenthal

Director

September 10, 2013

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Signature	Capacity	Date
/s/ Patricia F. Godley Patricia F. Godley	Director	September 10, 2013
/s/ Paul T. Hanrahan Paul T. Hanrahan	Director	September 10, 2013
/s/ Douglas H. Hunt Douglas H. Hunt	Director	September 10, 2013
/s/ J. Thomas Jones J. Thomas Jones	Director	September 10, 2013
/s/ George C. Morris III George C. Morris III	Director	September 10, 2013
/s/Theodore D. Sands Theodore D. Sands	Director	September 10, 2013
/s/ Wesley M. Taylor Wesley M. Taylor	Director	September 10, 2013
/s/ Peter I. Wold Peter I. Wold	Director	September 10, 2013

EXHIBIT INDEX

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