



Panoramic image of mountaintop removal mining, West Virginia. [Dennis Dimick/Flickr](#), CC BY-NC-ND

Coal Mine Reclamation Bonding In West Virginia

West Virginia requires all coal companies to participate in a bond pool, and also allows self-bonding.

The West Virginia bond pool system involves two separate portions. Each mine operator must post a site-specific “penal bond” which is limited to a per-acre bond of between \$1,000 and \$5,000. Mine operators may self-bond this portion of their reclamation bonding obligations. Companies must also pay into a bond pool, which is intended to cover the full cost of reclamation in the event of permit forfeiture. The bond pool is financed through a tax imposed on each ton of coal mined. The current tax is 27.9 cents per ton, with 12.9 cents dedicated to the Special Reclamation Fund and 15 cents to the Water Trust Fund.

Bonds are often inadequate for reclamation and the bond pool is insufficient in the face of widespread bankruptcy.

Bonds are based only on area, and are therefore not tied directly to the real cost of reclamation for a specific permitted site. The dangers and inadequacies of self-bonding practices for coal companies were exposed in late 2015 due to coal company bankruptcies. Alpha Natural Resources, which filed for bankruptcy that year, held \$244 million in self bonded permits in the state. After filing Chapter 11 bankruptcy, the company told the West Virginia Department of Environmental Protection that it may not have the funds necessary for reclamation. The state currently relies on a flawed electronic database to determine financial viability for Special Reclamation Fund. The Special Reclamation Fund Advisory Council recently determined that the Fund was adequate, but the council did not consider widespread bankruptcies or long-term water pollution treatment.

West Virginia should discontinue the use of self-bonding, transition mines to full cost bonding, and improve ways in which bond amounts are determined.

The deficiency of the Special Reclamation Water Treatment Fund is a major problem. West Virginia and the Office of Surface Mining Reclamation and Enforcement must require actuaries that consider the cost of perpetual long-term water treatment liabilities as well as recent, historic, and projected economic conditions of the coal industry. The state code needs to change so that self-bonding is no longer allowed. This will ensure real financial solvency for the fund and the bonding program as a whole. Full cost bonding would provide the best mechanism for ensuring that the true cost reclamation is covered.