

# RECLAIMING COAL MINES

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## WHY IT MATTERS

Numerous modern surface coal mines across Southwest Virginia have not been cleaned up due to decades of under enforcement of reclamation requirements, including the requirement to guarantee money is available for clean-up through reclamation bonds. Some mines are functionally abandoned — having neither produced coal nor made appreciable reclamation progress in years. These mines threaten the health of surrounding communities and the environment through water pollution, landslides, and exacerbating flooding. Money from the federal Abandoned Mine Land Fund cannot be used for these mines as it is only available for mines abandoned before the passage of the Surface Mining Control and Reclamation Act, passed in 1977.

Coal production in Virginia has declined 33% in the last decade. Reclamation has stalled at many mines, raising the question of whether adequate regulations are in place to ensure that mined land is properly reclaimed. Stalled reclamation not only results in fewer jobs for miners reclaiming mines but also prevents the land from being put back into productive use. As more coal companies declare bankruptcy, fewer companies remain to take over mines, so the number of companies forfeiting reclamation bonds and deserting their cleanup responsibilities will only increase. The funds available through the Virginia bonding program may fall short of the actual reclamation costs that fall to the Commonwealth.

## CURRENT LANDSCAPE

Virginia has nearly 53,000 acres of current surface mine permits in need of reclamation.<sup>1</sup> Determining whether bonds adequately cover reclamation liability is difficult, due to a lack of data and to uncertainty regarding how many permits will need to be reclaimed using bonds. Virginia Energy does not regularly evaluate reclamation liability at coal mines. Appalachian Voices' 2021 analysis of seven Eastern states, including Virginia, highlighted that the state's bonding program covers only 39-47% of the total reclamation liability.<sup>2</sup> This shortfall primarily stems from inadequately low permit-specific bond amounts, reliance on a pool bond system, and continued use of self-bonds at certain mines.

Under federal and state mandates, coal companies must secure bonds to ensure funds are available for reclamation if they fail to fulfill their obligations. In Virginia, all companies provide a permit-specific bond, usually provided by a third-party surety company, or less commonly through financial or property

collateral. Approximately half of Virginia's permits take part in a state-managed pool bond fund, the Coal Surface Mining Reclamation Fund. Participation in the pool allows for lower permit-specific bonds in exchange for collective coverage. In the event of a permit forfeiture, bond shortfalls are made up from the pool. The pool is not intended to fund reclamation for all participating permits fully.

Historically, Virginia allowed self-bonds, where companies guaranteed bond amounts without cash or collateral, but this practice ceased in 2014. Nonetheless, 20 mine permits still rely on legacy self-bonds, with 19 participating in the pool bond system. Many of these mines have been inactive for years.<sup>3</sup> According to Virginia Energy estimates, the forfeiture of the three most costly self-bonded mines would bankrupt the pool bond.

These challenges are compounded by the consolidation of bonds among a smaller number of surety companies, notably Indemnity National Insurance Company (INIC). As of 2022, INIC covered 45% of all bonds in Virginia. Other states also have many bonds covered by INIC.<sup>4</sup> Many states may be vulnerable if companies with bonds predominantly through INIC were to face bankruptcy.



Canepatch surface mine stopped producing coal in 2017. The company began producing coal again in 2023 after pressure from community groups to get the mine reclaimed expeditiously.

Photo provided by Appalachian Vocies

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## OPPORTUNITIES

Virginia can take active steps to require timely reclamation from coal companies and ensure funding for reclamation if coal companies fail to complete reclamation. Completing the cleanup will improve health and safety for nearby communities and put miners back to work.

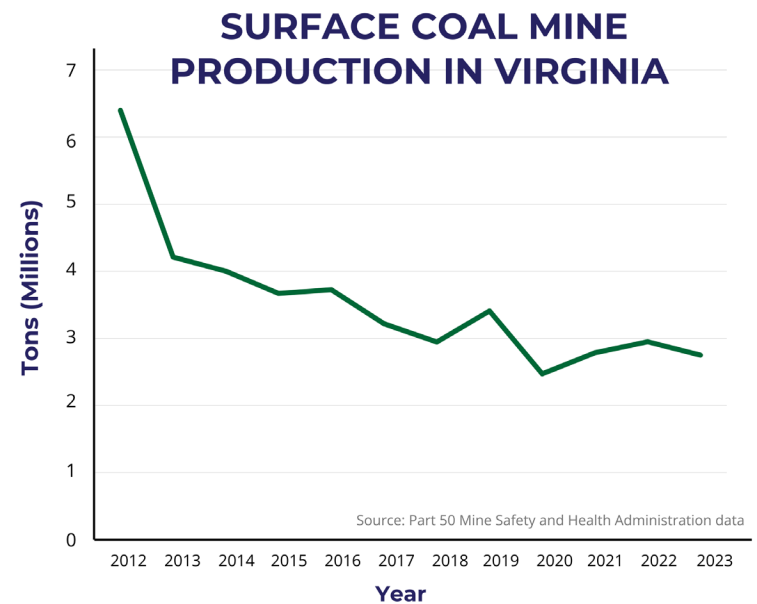
Successful mine reclamation relies on clear standards for reclamation timelines and adequate reclamation bonding so that Virginia Energy can take action when mines are not reclaimed. While the law requires reclamation to happen concurrently with coal removal, exceptions are made to these requirements frequently. Regulations should be put in place to limit how long and how often mine permits can be idled and strengthen reclamation timeline requirements.

The bond system should be overhauled to ensure that each mine permit is adequately bonded. This should include ensuring the pool bond does not create more risk than a traditional bonding system. The Joint Legislative Audit and Review Commission should review the adequacy of Virginia's coal bonding system, including the solvency of the Coal Surface Mining Reclamation Fund, and produce a public report.

The remaining self-bonds should be replaced by full-cost bonds. Where coal companies are unable or unwilling to provide adequate bonding or complete reclamation within 3 years, the Commonwealth

should revoke their permits and ensure the company and its affiliates are no longer eligible for new permits.

Virginia Energy should improve transparency and public access to information regarding bonding amounts and how they are calculated, mining permit details, environmental compliance, and reclamation progress. Only some of this information is currently available but is cumbersome to access and understand. Virginia Energy should strive to make mining data user-friendly and accessible online.



## TOP TAKEAWAYS

Virginia has nearly 53,000 acres of land on current surface mine permits in need of reclamation.

Completing coal mine cleanup will improve health and safety for nearby communities, restore land productivity, and create jobs for miners.

As more coal companies declare bankruptcy, the system in place to ensure the Commonwealth has adequate funding for cleanup at unreclaimed coal mines may be inadequate to cover the full cost.

## ENDNOTES

1. "Repairing the Damage: The cost of delaying reclamation at modern era mines," Appalachian Voices, (2021) [https://appvoices.org/resources/RepairingTheDamage\\_ReclamationAtModernMines.pdf](https://appvoices.org/resources/RepairingTheDamage_ReclamationAtModernMines.pdf).
2. Ibid.
3. Southern Appalachian Mountain Stewards, Appalachian Voices, and Sierra Club v. A&G Coal Corporation, Case 2:23-cv-00002-JPJ-PMS, Doc. 1, Complaint for Declaratory and Injunctive Relief, 2023 <https://appvoices.org/images/uploads/2023/01/AandG-Complaint.pdf>.
4. Kaufman, Leslie and Will Wade, "The tiny insurance company standing between taxpayers and a costly coal industry bailout," Bloomberg, (November 8, 2022), <https://www.bloomberg.com/news/features/2022-11-08/the-tiny-insurance-company-standing-between-taxpayers-and-a-costly-coal-industry-bailout>.