# BONDING SUMMARY

## § 86.145. Department responsibilities.

(c) The Department will establish bonding amount rate guidelines based on the estimated cost to the Department for completing the reclamation requirements of the permittee under the law, the regulations and the conditions of the permit considering the factors listed in § 86.149(b) (relating to determination of bond amount). The guidelines shall be reviewed and, if necessary, revised by the Department annually to reflect the current cost of reclamation to the Department. The Department may consider fees, fines or other sources of money paid by the permittee and dedicated for reclamation of defaulted permit areas in determining bonding guidelines.

## § 86.149. Determination of bond amount.

(a) The standard applied by the Department in determining the amount of bond will be the estimated cost to the Department if it had to complete the reclamation, restoration and abatement work required under the acts, regulations thereunder and the conditions of the permit. The Department may establish bonding rate guidelines which utilize the factors in § 86.145(c) (relating to Department responsibilities).

(b) This amount will be based on, but not limited to, the following:

(1) The estimated costs submitted by the permittee in accordance with § 87.68, § 88.96, § 88.492, § 89.71 or § 90.33.

(2) Reclamation costs for surface mines related to the specific size and geometry of the proposed mining operation, the topography and geology of the permit area, the potential for water pollution or hydrologic disturbances, the availability of topsoil and the proposed land use.

(3) The costs related to distinct differences in mining methods and reclamation standards for bituminous surface mines, anthracite surface mines and underground mines.

- For years the State calculated the bond rates based upon the average of the three lowest bids for all jobs that were bid in that year. This set bond rates, not at the cost to the Department but, at a higher cost than the Department was even contracting to have reclamation conducted. We were able to convince the Department that this calculation was in error in 2019 and DEP agreed to only use the accepted/lowest bid to calculate the bonds. Operators still paid higher costs than they should have for years that they never recovered.

The Department uses the Consumer Price Index for All Urban Consumers – Northeast. This CPI has increased from 259.538 ending 2017 to 324.397 ending 2025, an increase of 25.0%. The major bond rate components have increased from 2018 to 2025 as follows:

Grading up to 500 feet: $0.85/cu.yd. to $1.50/cu.yd. = 76.5%
Grading Haul over 500 feet: $1.55/cu.yd. to $3.25/cu.yd. = 109.7%
Selective Grading: $1700/acre to $2750/acre = 61.8%
Revegetation: $2000/acre to $3600/acre = 80.0%

Tree Planting: $0.75 each to $1.50 each = 100.0%
The increase in the bond rates is not commensurate with the increase in the CPI, costs of goods and services in general, or the costs of the operators to conduct the reclamation. Since Covid, there are significantly less companies bidding to perform reclamation under the Bond Forfeiture program. The companies that are still in the business are likely bidding at much higher profit margins than in the past because there's so much less competition and more work than can be performed by the companies still bidding.

Prevailing wage for 29 County Heavy Equipment Operators
Majority fall under Operators Class 2 – 2026 prevailing wage = $44.34 + $31.25 = $75.59/hour wages + benefits.
Blaschak Union Contract 2026 wages + benefits = $54.00/hour for dozer, excavator, and front-end-loader operators, $54.85/hour for mechanics, welders, and drillers.
Prevailing wage is 37.8% higher than the negotiated UMW wage (including benefits).

Since revising the permitting process to stop the Annual Bond Review and adjust the bonds at every 2.5 years with the mid-term review or 5 years with the SMP renewal, the CPI adjustment is added to the estimated current bond amount. This is based upon the last 5 years and is currently 4.17%, which adds 20% to the total bond amount. This bond must be posted up front, though the rates only increase year to year. If the rates actually stay even or potentially decline, the operators do not get a reduction in bonds, nor do we have any way to recover on the cost of having been overbonded.

Since 1978, over 236,000 acres of abandoned mine lands have been reclaimed under the AMLR Program, which is paid for by a tax against the coal mining industry that no other industry in America is subject to. "The total cumulative area reclaimed from mining activities in the United States from 1975 to 2025 is estimated to be around 2.7 million acres." This from the PA DEP Reclamation and Remining Incentives Report.

It may be that not a single issue that is addressed here can be improved without a change to regulation. We must look at every option to make bonding more fair and equitable. Bonding amounts are reaching levels that are driving out bonding companies, reducing operator's options, and putting coal operators at a huge financial disadvantage against competition in every market. The bonding required for mining operations has increased exponentially compared to our costs to reclaim through remining. Everything involved with the bond calculations is based upon the results of a small percentage of mine operators not meeting their obligations. This punishes all of the operators who do. Legacy operators who have been and continue to complete operations and reclamation that includes many abandoned mine land features should not be punished in ways that get progressively worse and make continued operation more difficult.