



Standard Operating Procedure (SOP)¹ for District Mining Operations
Land Reclamation Financial Guarantees
SOP No. BMP-005
June 6, 2016

SMCRA bonding obligations ensure that surface mining sites are reclaimed which eliminates environmental and safety hazards. Prior to 2001, DEP implemented an alternate bonding system (ABS). Under the ABS, the bond amount for a surface mining site was determined by a per-acre flat rate that was supplemented by a nonrefundable per-acre "Reclamation Fee."

The ABS was discontinued and replaced with the full-cost bonding program. Full-cost bonding guarantees that all surface mining sites will be sufficiently bonded to meet reclamation obligations. The transition from the ABS to the full-cost bonding program was facilitated through the use of financial guarantees known as Conversion Assistance. As part of Conversion Assistance, the General Assembly appropriated \$7 million to DEP through section 213 of the act of June 22, 2001, known as the General Appropriation Act of 2001. Consistent with Pennsylvania's Surface Mining Conservation and Reclamation Act (SMCRA), this appropriation allowed for the use of sum-certain financial guarantees to satisfy the bonding obligations for a surface mining site

The Land Reclamation Financial Guarantee (LRFG) Program was authorized by an amendment to the SMCRA in October 2012 (Act 157). The program is intended to assist surface mining operators in meeting their SMCRA bonding obligations. The special account established to financially assure bonding obligations under this program is funded by a transfer of the remaining Conversion Assistance money in to a special account for the LRFG Program. Funds in the LRFG account are to be used, in part, to underwrite LRFGs.

DEP developed revisions to 25 Pa Code Chapter 86 to implement the provisions of Act 157. The revisions to the regulations were finalized on August 22, 2015. DEP authorized an interim measure to transition from the Conversion Assistance program to the Land Reclamation Financial Guarantee (LRFG) program for the period between April 2013 to March 31, 2016. DEP provided mine operators with the option to apply for LRFGs where, during a permit's bond review, the required bond increased as a result of the increases in the bond rate guidelines or as a result of application of the published escalation factor.

I. Establishment of the LRFG Program

25 Pa. Code Chapter 86.162b establishes a portion of the funds in the LRFG account be used to underwrite LRFGs and the balance of the funds will be held in reserve. The reserve will assure

¹The process and procedures outlined in this Standard Operating Procedure (SOP) are intended to supplement existing requirements. Nothing in the SOP shall affect regulatory requirements. The process, procedures and interpretations herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in this SOP that weigh or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

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availability of funds to cover reclamation liabilities when there is a mine permit bond forfeiture and to underwrite sum-certain financial guarantees under the Bioenergy Crop Bonding authorized by Act 95. DEP has designated \$10 million to underwrite LRFGs [25 Pa Code 86.162b (a)].

Act 157 requires DEP to determine the total amount of financial guarantees that can be supported by the LRFG Account based on loss reserves established by the application of the historical rate of mine operator bond forfeitures under 25 Pa Code 86.181, plus a reasonable margin of safety to protect the account from the risk of forfeiture. DEP has determined a historical rate of bond forfeiture of 8% and 25% as a reasonable margin of safety. The historical rate of bond forfeiture plus the margin of safety results in an adjusted historical rate of bond forfeiture of 10%.

The dollar amount designated in the special account to underwrite LRFGs is divided by the adjusted historical rate of bond forfeiture to determine the maximum amount of the LRFGs to be obligated in the program [25 Pa Code 86.162b (f)(3)]. DEP has designated \$10 million, and applying the adjusted historical rate of bond forfeiture the LRFG Program Limit is \$100 million.

II. LRFG Limits

The LRFG Program has three limits. The Program Limit discussed above is established by the portion of the funds in the LRFG account designated to underwrite LRFGs. The second limit is the Operator Limit. The Operator Limit is the aggregate amount of LRFGs on permits issued to an operator cannot exceed 30% of the designated amount in the LRFG Account [25 Pa Code 86.162b (f)(2)]. The current Operator Limit is \$3 million. The third limit is the Permit Limit. LRFGs for a permit cannot exceed 50% of the required bond amount on that permit.

DEP will review the limits periodically. Any changes to the limits will be published in the *Pennsylvania Bulletin*.

III. Conversion Assistance Financial Guarantees

Existing financial guarantees needed to facilitate the implementation of full-cost bonding (aka conversion assistance financial guarantees), or issued by DEP during the interim measures mentioned above will be converted into a LRFG under the LRFG program. The conversion is automatic with the publication of the final regulation changes. No other actions are required to complete the conversion to the LRFG program.

If the conversion results in a LRFG exceeding the Permit Limit, the LRFG amount does not need to be reduced to an amount below the Permit Limit [25 Pa Code 86.162b (g)(1)]. The permit will not be eligible for additional LRFGs until the total amount of the LRFG for the permit is below the Permit Limit.

Likewise, if the conversion results in an operator exceeding the Operator Limit, the LRFGs for the operator do not need to be reduced to an amount below the Operator Limit. The operator will not be eligible for additional LRFGs until the total amount of the LRFGs for an operator is under the Operator Limit [25 Pa Code 86.162b (g)(2)].

IV. Procedures:

1. Once the District Mining Office (DMO) has determined the amount of bond needed on a coal permit, it will notify the permittee of the bond amount through the bond request letter. If the operator chooses to request assistance through the LRFG Program, they will submit the

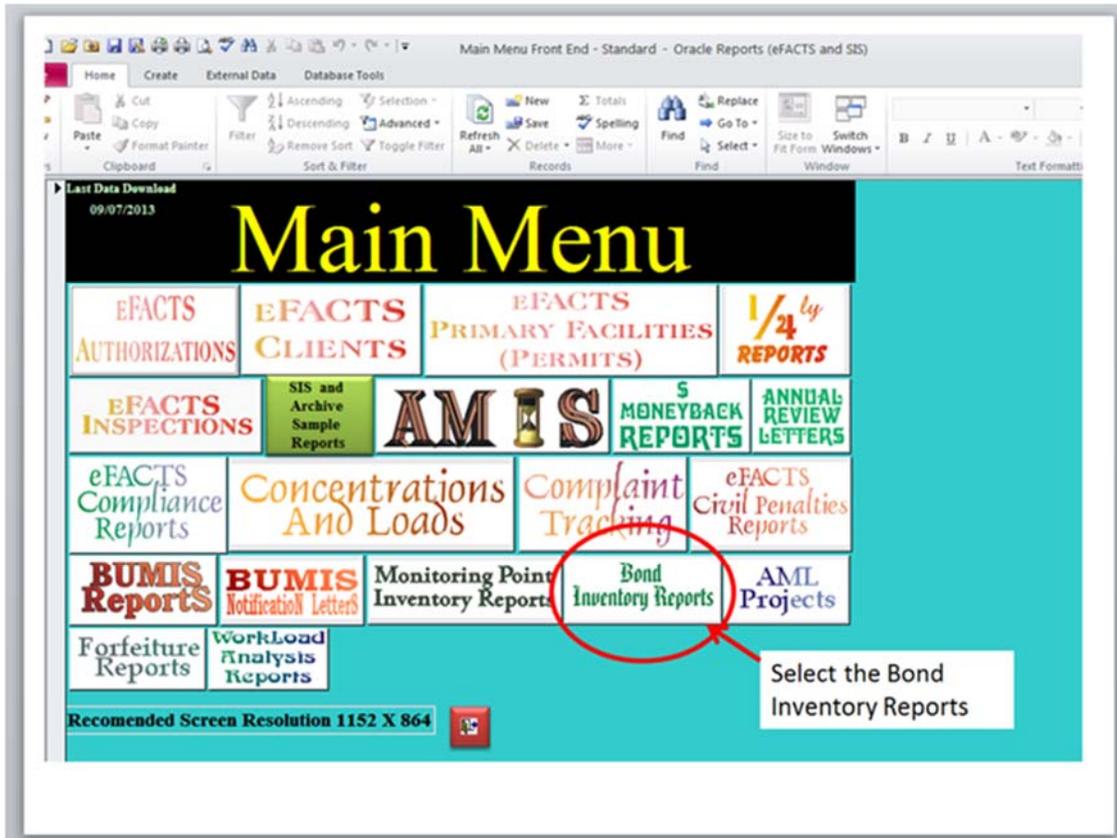
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APPLICATION FOR LAND RECLAMATION FINANCIAL GUARANTEES CHECKLIST (5600-FM-BMP0493). The minimum amount for an LRFG is \$1,000, if the operator needs an amount less than the minimum amount, round up to \$1,000. The application will include [25 Pa Code 86.162b (l)]:

- a. A description of the environmental and safety hazards of the site.
 - b. A description of the coal reserves available on the site.
 - c. A description of any prior denials of surety coverage received by the operator.
 - d. A completed APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE form (5600-FM-BMP0485). The total amount of the LRFG being requested should be included on the form.
 - e. A completed Application Checklist (5600-FM-BMP0493).
2. The permittee's request for assistance must be on the APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE form and state the amount of LRFG being requested and include the initial payment of the annual fee. There should only be one LRFG on a permit. If the operator has an existing LRFG and is requesting additional bond obligation on that permit, the dollar amount on the APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE form should be the total amount including both the current amount and the additional amount requested for the permit. The amount of the LRFG should be rounded up to the nearest \$100. For example, if there is a LRFG on a permit for \$90,000 and the operator requests additional assistance in the amount of \$29,930, the amount on the LRFG agreement form should be \$120,000. The newest agreement will replace the existing agreement on the permit.
 3. If the permit never had an LRFG or if the previous LRFG has been completely released, then a new LRFG would be created. The operator would submit the APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE for the amount of the bond obligation. DMO will assign the LRFG a number. The number would consist of the DMO ICS code followed by the next sequential number for LRFGs and the letters CFG. For example, 5310- 001CFG. When the DMO approves the new or revised LRFG, the approval date is entered on the form. The form should be scanned and emailed to the bonding section at RA-ep-CPBMining@pa.gov.
 4. The annual fee is 1.5% of the amount of the LRFG. The initial payment of the fee may be prorated based on the number of months and part of the month from the date the DMO requested additional bond to the permit's next anniversary day. For example, if the permit anniversary date is April 20 and the DMO request for additional bond is dated December 14, the initial payment of the fee would be 1/12 of the annual fee times 5 months (December 14 to April 14, which is 4 months, plus one month for April 14 to April 20). The DMO will provide the operator with a written notice stating the amount of the initial payment due [(25 Pa Code 86.162b (m)(2))].
 5. The DMO will review the application for LRFG and determine if the operator meets the eligibility requirements per 25 Pa Code 86.162b (k). The eligibility requirements include:
 - a. The mine operator holds a valid coal mining license.
 - b. The criteria for permit approval requirements of 86.37 (a)(8) – (11) and (16) have been met.

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- c. If the operator has previously obtained either reminging financial guarantees (RFG) or LRFGs, the DMO will verify the operator has made timely payments for the RFG and LRFG programs. An operator will be eligible if they have not been cited through a Notice of Violation under 86.165(a) within the previous three years prior to their request for a LRFG [25 Pa Code 86.162b (k)(3)]. If an operator cannot qualify because they have had a NOV within the past 3 years, they cannot use any other method to qualify for LRFGs. The timeliness of the operator's payment history can also be verified using the Oracle reports database.



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Bond Inventory Reports

Office	Permit Status *	Bond Agreement Type *	Bond Agreement Status *	Instrument Type *	Instrument Status *
California	Abandoned	Closure	Active	Anthracite Emergency Bond Loan	Active
Cambridia	Abandoned OG Well	Mine Subsidence	Forfeited	Cash/Check	Approved - Pending Issuance
District Mining	Active	Phased Deposit	Pending	Certificate of Deposit	Forfeited
Greensburg	AML Inventory List	Post Mining Discharge	Released	Common Municipality	Released
Knox	Approved Cessation	Water Loss Coverage		Commonwealth of Pennsylvania	Waived
Mathanman	Bond Forfeited	Water Supply Operatio		Financial Guarantee (Coal & W	
Pottsville	Bond Forfeited-Chemical Treatment			General State Auth/Pub School B	
	Bond Forfeited-Passive Treatment			Highway Bond	
	Bond Forfeiture-Reclaimed			Hospital Development Authority	

Company (Click On Office First) * OR Permit (Click On Office First) * OR Guarantor (Click On Office First) *

These Fields Are Independent Of Office

Company Name (Wild Cards Permitted): OR Permit Number (Wild Cards Permitted): OR Guarantor Name (Wild Cards Permitted):

Export To Excel Clear Selections

Standard Reports **Payment Reports**

Bond Payment Report - Detailed

Financial Guarantee Report

Select Payment Reports Tab and check Financial Guarantee Report box.

Active, Inactive, Not Started, Operative but not Producing, Reclaimed/Chemical Treatment, Reclaimed/Passive Treatment, Stage 2 Approved, Stage 2 Eligible, Stage1/Regraded, Inactive.

Bond Inventory Reports

Office	Permit Status *	Bond Agreement Type *	Bond Agreement Status *	Instrument Type *	Instrument Status *
California	Abandoned	Closure	Active	Financial Guarantee (Coal & W	Active
Cambridia	Abandoned OG Well	Mine Subsidence	Forfeited	General State Auth/Pub School B	Approved - Pending Issuance
District Mining	Active	Phased Deposit	Pending	Highway Bond	Forfeited
Greensburg	AML Inventory List	Post Mining Discharge	Released	Hospital Development Authority	Released
Knox	Approved Cessation	Water Loss Coverage		Industrial Development Authority	Waived
Mathanman	Bond Forfeited	Water Supply Operatio		Land Maintenance Financial Guar	
Pottsville	Bond Forfeited-Chemical Treatment			Land Reclamation Financial Guar	
	Bond Forfeited-Passive Treatment			Letter of Credit	
	Bond Forfeiture-Reclaimed			Parking Authority	

Company (Click On Office First) * OR Permit (Click On Office First) * OR Guarantor (Click On Office First) *

These Fields Are Independent Of Office

Company Name (Wild Cards Permitted): OR Permit Number (Wild Cards Permitted): OR Guarantor Name (Wild Cards Permitted):

Export To Excel Clear Selections

Standard Reports **Payment Reports**

Bond Payment Report - Detailed

Financial Guarantee Report

Enter company name. Use * as wild card. Then click button.

Actively Inspected Includes Permits of the following statuses: Active, Not Started, Operative but not Producing, Reclaimed/Chemical Treatment, Reclaimed/Passive Treatment, Stage 2 Approved, Stage 2 Eligible, Stage1/Regraded, Inactive.

Reported On: 06/09/2013

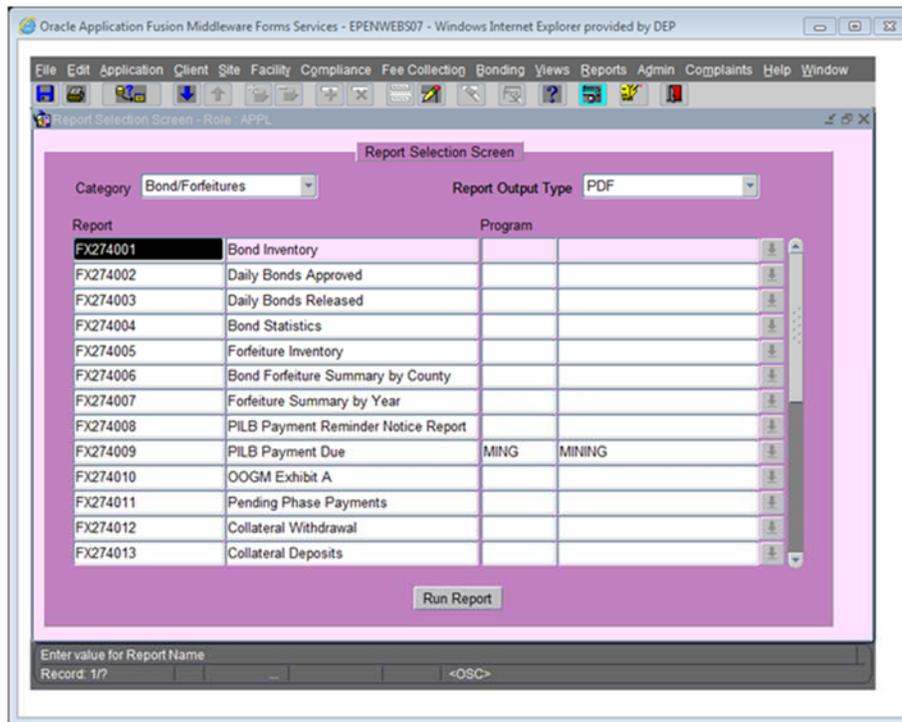
Payment History Report

Office: [REDACTED]					
Permit Information					
[REDACTED]				Stage1/Regraded	
Instrument Information					
Financial Guarantee (Coal & Waste)				Active	
DEP FINANCIAL GUARANTEE COAL & WASTE					
	Date Due	Amount Due	Date Paid	Amount Paid	Days Past Due
	02/19/2009	\$500.00	01/21/2009	\$500.00	
	02/19/2010	\$498.30	10/27/2009	\$498.30	
	02/19/2011	\$498.30	07/19/2011	\$498.30	-150
	02/19/2012	\$498.30	07/30/2012	\$498.30	-162
	02/19/2013	\$498.30	04/26/2013	\$498.30	-66

The report lists the payments for each year. There is a page for each FG. If the information is in black the payment was on time. If the information is in orange, the payment was late and the number of days it was late is in the last column. If the information is red, the payment has not been made.

- d. If the operator has not previously obtained a RFG or LRFG the operator will demonstrate that they meet the operator eligibility requirements per 25 Pa Code 86.162b (k)(4). The operator eligibility requirements include:
 - i. The operator has had a coal mining license for at least 5 years.
 - ii. The operator would be able to obtain a surety bond. This could include:
 - (1) A surety bond for a portion of the remaining bond obligation for the permit.
 - (2) A letter of acceptance from a surety company licensed to do business in this Commonwealth and writes bonds for the reclamation of mine sites. The acceptance letter must indicate the complete name and address of the surety company and state that the surety company would write the bond.
- 6. The DMO will also consider the environmental hazards, safety hazards and coal reserves available on the site.
- 7. The operator may not substitute LRFGs for existing collateral or surety bonds [25 Pa Code 86.162b (m)(5)].
- 8. LRFGs cannot be transferred to another operator. If a permit that is bonded in part by LRFGs is transferred to another operator, the new operator will need to apply for a LRFG and meet the eligibility requirements. A new bond agreement will be created in the eFACTS for the new operator.
- 9. The DMO will verify the amount of the LRFG does not exceed the Permit Limit or Operator Limit. The operator limit can be verified using the eFACTS bond inventory report.

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Submit Query Reset

Bond Inventory Report

Program % - All Programs

Bond Agreement Type % - All

Bond Agreement Status % - All

Bond ICS Code % - All Ics Organizations

Bond Entity Category %

Bond Entity Aka/Other Id %

Bond Entity Type %

Bond Entity Kind % - All

Bond Entity Status %

Bond Owner/Operator Client Id 27259

Instrument Type LRFG - Land Reclamation Financial Guarantee

Instrument Active Status Ind Y

Instrument Status % - All

Financial Guarantor AKA %

Pre-Primacy Ind %

Maturity Date (Range) To

NOTE: All date formats must be (MM/DD/YYYY).

Enter the operator's Client ID and the Instrument Type of LRFG

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Convert Select

Bond Inventory Report

Report Printed: 05/18/2015 11:36 am Page 2 of 2

Entity Category: PF Entity Id: 467461 AKA/Other Id: 54860107 Name: READING ANTHRACITE
 Type: CMO Kind: CRR Status: ACTIV

Bond Agreement Id: 7627 Type: CLOSR Status: Active

Bond Agreement Amount: \$116,435.22 Sum of Active Instruments: \$13,786.74

ICS Code: 5310 - EP DMO Pottsville Distr Mng Off

CLB Instrument: 4810-125-CFG Type: Land Reclamation Financi Status: Active

Orig Amt: \$13,786.74 Curr Amt: \$13,786.74 Release Date: Exec Date: 01/06/2015

Financial Guarantor AKA: INS55557 Name: DEP LAND RECLAMATION FINANCIAL GUARANTEE

Summary for Client AKA:

	Total #	Amount Outstanding
All Active Bonds	3	\$2,379,000.86
Active Surety	0	\$0.00
Active Collateral	0	\$0.00
Active Other	0	\$0.00

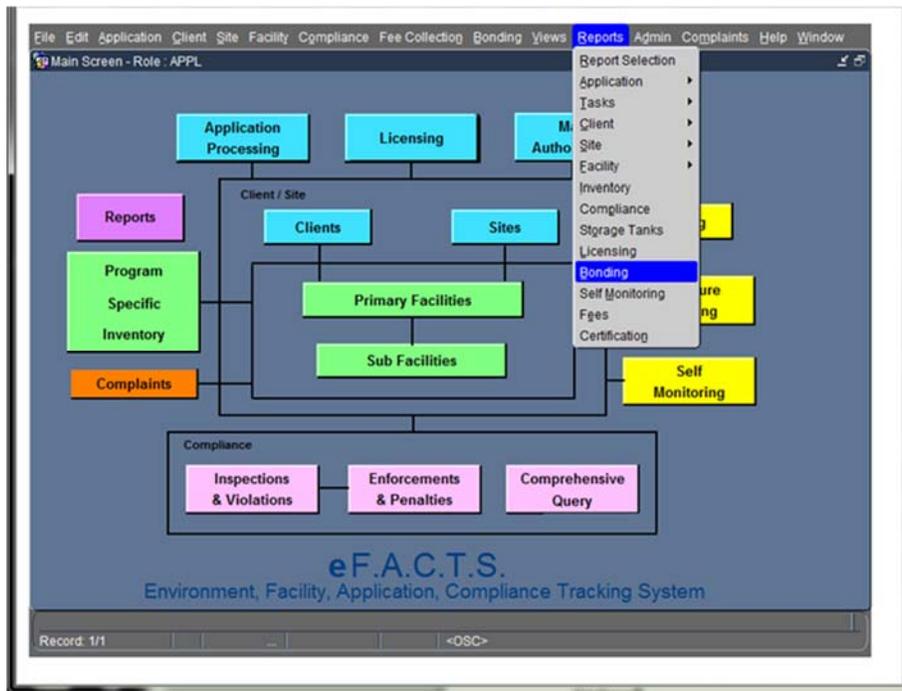
The last page of the report provides the total for all LRFG's for that operator.

- When the DMO approves the LRFG and the operator has made their initial payment the DMO will assign the LRFG a number. The number would consist of the DMO ICS code followed by the next sequential number for LRFGs and the letters CFG. For example, 5310- 001CFG. The DMO will put the LRFG number and date approved on the APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE and submit it to the bonding section by scanning and emailing the form to the bonding section email account.

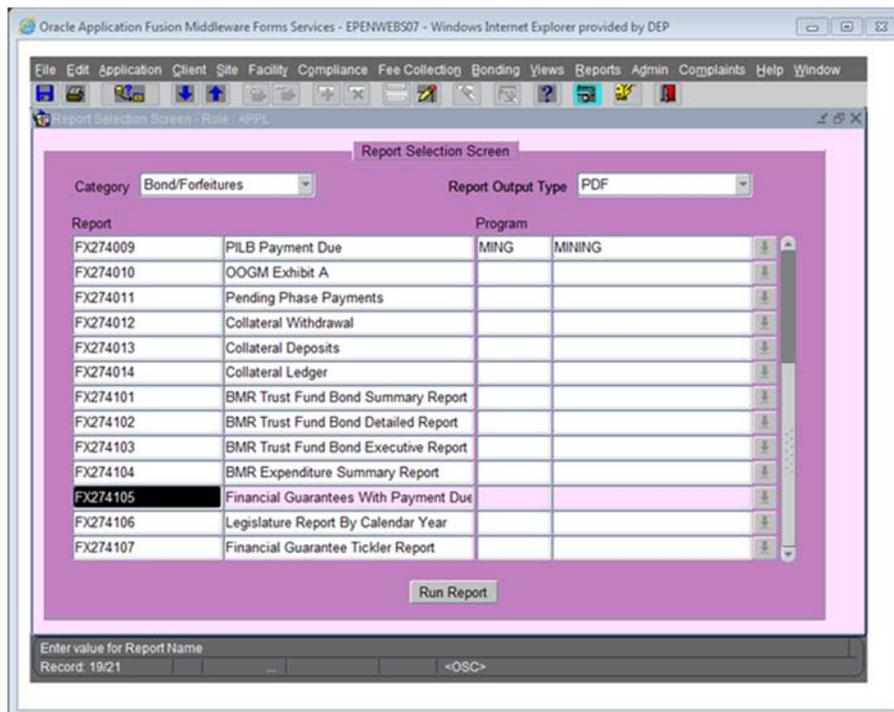
V. Payments

The annual fee is 1.5% of the amount of the LRFG. Payments shall be made prior to the permit anniversary date. Subsequent annual payments due and the due date are automatically generated in eFACTS 90 days prior to the due date. The DMO will remind the operator in writing of the date due and amount of the payment. Fee payments are not refundable (25 Pa Code 86.162b (m)(4)) and are deposited into the LRFG Account. The payment due report can be obtained by logging into eFACTS and click the Reports and Bonding tabs.

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Then choose the Financial Guarantees with Payment Due report and click Run Report.



You can specify with district office you want the report for from the drop-down menu. The report has a section on Land Reclamation Financial Guarantees. Below is an example of the report.

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Total Instruments		8		Total Current Amount		\$291,696.00	
Instrument Type: LRFG Land Reclamation Financial Guarantee							
Operator	Permit Number	CLB Instrument #	Status	Original Amount	Released Amount	Current Amount	
FISHER MINING COMPANY	41940101	482080CFG	ACTV	\$134,100.00	\$0.00	\$134,100.00	
		Date Payment Due	Date Letter Sent	Total Amount Due			
		09/26/2015	06/01/2009	\$2,011.50			
Operator	Permit Number	CLB Instrument #	Status	Original Amount	Released Amount	Current Amount	
JUNIOR COAL CONTR INC	17860144	4820313CFG	ACTV	\$70,641.00	\$0.00	\$70,641.00	
		Date Payment Due	Date Letter Sent	Total Amount Due			
		09/22/2015		\$1,059.62			
Report Printed: 06/25/2015 11:51 am Financial Guarantees with Payment Due Page 2 of 2							
Operator	Permit Number	CLB Instrument #	Status	Original Amount	Released Amount	Current Amount	
JUNIOR COAL CONTR INC	17930103	482031CFG	ACTV	\$11,080.00	\$0.00	\$11,080.00	
		Date Payment Due	Date Letter Sent	Total Amount Due			
		09/01/2015	06/01/2009	\$166.20			
Operator	Permit Number	CLB Instrument #	Status	Original Amount	Released Amount	Current Amount	
JUNIOR COAL CONTR INC	17980117	482012CFG	ACTV	\$36,793.00	\$0.00	\$36,793.00	
		Date Payment Due	Date Letter Sent	Total Amount Due			
		09/20/2015	06/01/2009	\$551.90			
Operator	Permit Number	CLB Instrument #	Status	Original Amount	Released Amount	Current Amount	

If an operator fails to make the required payment by the due date, the DMO will issue a Notice of Violation requiring the mine operator to submit the payment within 15 days. If the payment still is not paid, the operator could be subject to further enforcement actions up to and including a cessation order and termination of the LRFG. The operator would need to provide either collateral or surety bonds for the total bond liability on the permit if the LRFG is terminated [25 Pa Code 86.165].

The annual fee will be proportionally reduced as the amount of the LRFG is reduced or released in accordance with §§86.170-86.172 (relating to scope; procedures for seeking release of bond; and criteria for release of bond).

VI. Forfeitures

Upon declaration of forfeiture, the Department will declare forfeit the specified amount of the LRFG for the permit in the LRFG Account, in addition to other bonds posted by the operator to cover the reclamation obligation on the permit. The costs associated with completing the reclamation on the permit paid by the LRFG Account should be coded to the fund 020-60349.

VII. Program Suspension

The Department may suspend the issuance of LRFG's when the number of participating permits declared forfeit equals the number of permits participating in the LRFG program multiplied by the historical rate of mine operator forfeiture plus a margin of safety. The initial historical rate of bond

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forfeiture is 8% and the margin of safety is 25% which results in an adjusted rate of 10%. The program could be suspended for example if there are 130 permits participating in the program and 13 of those permits are declared forfeit. If the program is suspended a notice will be published in the *Pa Bulletin*.

The Department may discontinue the LRFG program if 25% or more of the outstanding bond obligation for all LRFGs is declared forfeit. A notice in the *Pa Bulletin* will be published if the program is discontinued.

VIII. eFACTS

LRFGs are recorded in the bonding database in eFACTS. The bonding record is linked to the Transaction ledger that tracks the payments of the annual fee. There are two possible scenarios for LRFG's. A new LRFG will be created because the permit never had a LRFG or the existing LRFG has been released. In this case, the Bonding Section will create a new Instrument for the amount of the LRFG. The initial payment will be entered into the Fee Collection in the same way we currently add the payments for a new Remining Financial Guarantee.

The second scenario is where there is an existing active LRFG on a permit and the operator wants to increase the amount of the LRFG. There are two aspects that will need to be adjusted. The current amount of the LRFG would need to be increased on the bond agreement screen. The Bonding Section will increase amount of the LRFG when they receive the approved APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE form from the DMO.

The screenshot displays the Oracle Application Fusion Middleware Forms Services interface for a Financial Guarantee record. The record details include:

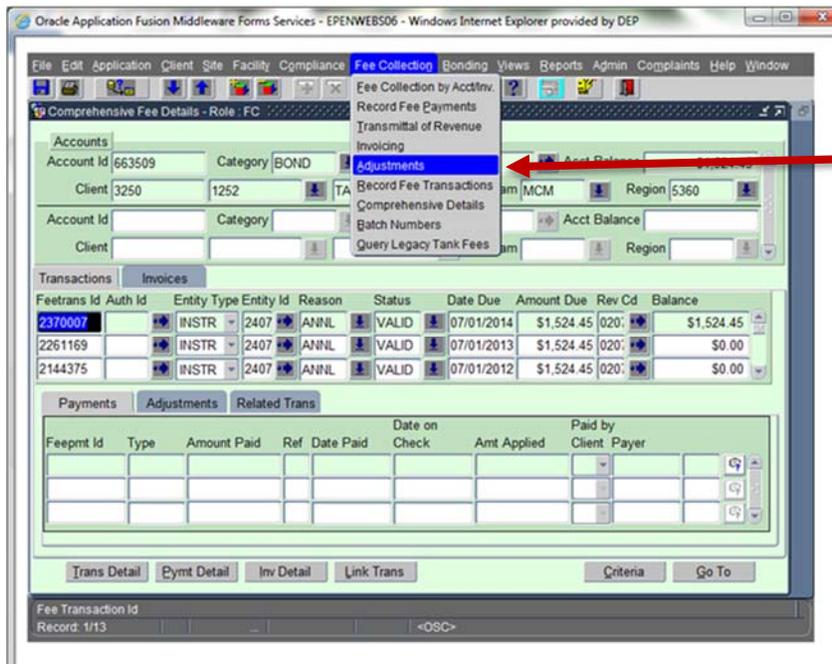
- Agreement Id: 1667
- Sum of Active Instruments: 168
- Bonded Entity: Cat PF, Entity 168
- Original Amount: 101,630.00
- Current Amount: 200,000.00
- Financial Guarantor: 160258, INS5557, DEP LAND RECLAMATION FINANCIAL C
- Execution Date: 08/05/2002
- Date Approved: 08/05/2002
- Letter Sent Date: [Redacted]

The 'FG Payment Details' table is as follows:

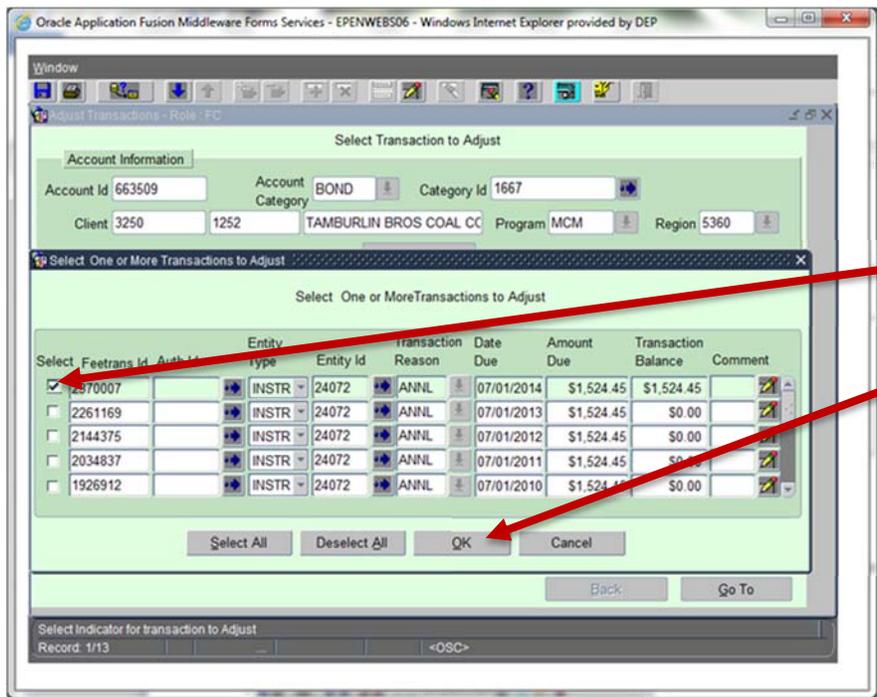
Trans Date	Amt Due	Balance	Date Due	Date Paid	Reason	Prepared E
04/01/2013	\$1,524.45	\$ 0.00	07/01/2013	07/15/2013	ANNL	MYERS F
04/01/2012	\$1,524.45	\$ 0.00	07/01/2012	07/30/2012	ANNL	MYERS F
04/01/2011	\$1,524.45	\$ 0.00	07/01/2011	08/02/2011	ANNL	MYERS F
04/01/2010	\$1,524.45	\$ 0.00	07/01/2010	07/06/2010	ANNL	MYERS F
08/19/2009	\$1,524.45	\$ 0.00	07/01/2009	07/07/2009	ANNL	BATCH U

The second aspect that needs to be adjusted is the fee payment. The DMO can input the payment of the additional fees into the Fee Collection section. If the additional LRFG is occurring at the permit renewal, there is probably a payment due on the existing LRFG. The amount of the payment can be increased using the Adjustments under the Fee Collection tab.

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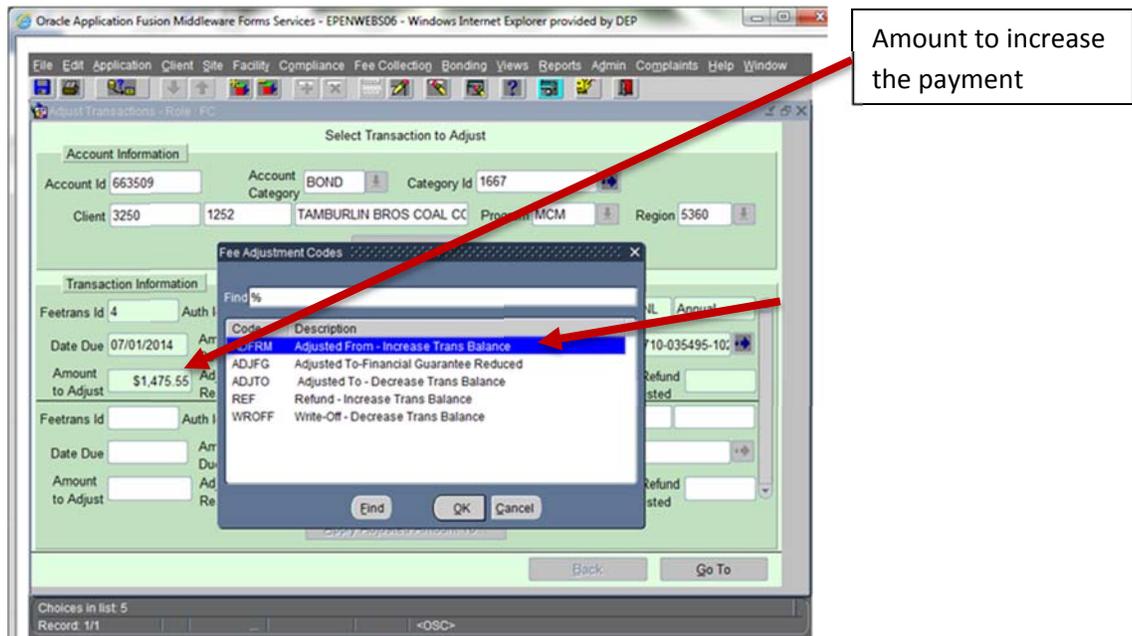


Select the current transaction to adjust:

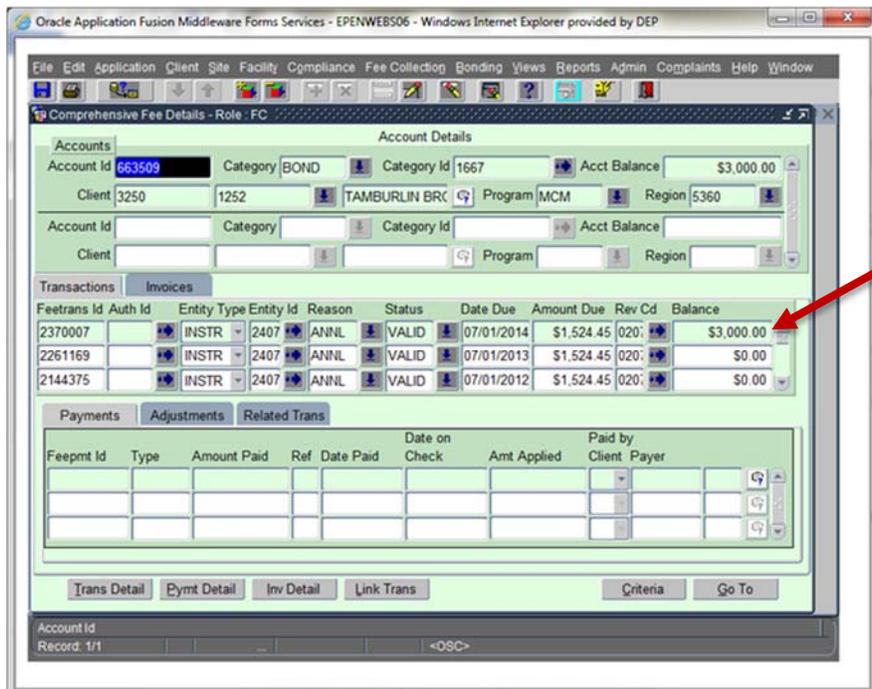


Enter the additional payment due by taking the difference between the new amount of the LRFG and subtracting the previous amount of the LRFG. That difference is then multiplied by 1.5%. Select ADFRM to increase the amount.

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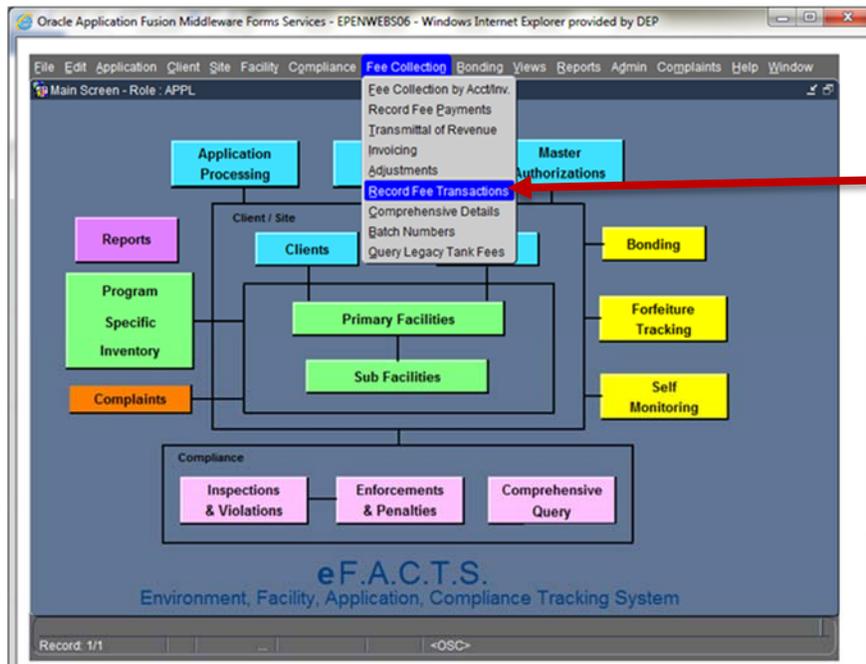
Add a comment into the comment section explaining why the payment was adjusted. Click save, and the payment is now adjusted for the new amount.



You can now add in the payment for the new amount.

If a payment isn't due you can add a Transaction for the additional amount of the payment due.

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Future payments will be calculated automatically in eFACTS using the current amount of the LRFG.