

Bureau of Mining and Reclamation
PROCEDURES FOR IMPLEMENTING THE
CONVERSION ASSISTANCE PROGRAM

December 3, 2001

Purpose and Background:

The Conversion Assistance Program provides operators of coal surface mining permits bonded under the alternate bonding system with the additional bond required under the conventional bonding system. This additional bond is called a Land Reclamation Financial Guarantee. This document describes the procedures for implementing this program. This document amends the procedures described in technical guidance 563-2504-001 "Conventional Bonding for Land Reclamation – Coal" as follows:

- Permittees may make annual payments of the fee;
- The initial payment is prorated based on the number of months to the permit's anniversary day;
- The requirement that the permittee provide written documentation that the surety, financial institution and any other person who has an interest in the existing bonds on the permit has consented to the release of the land reclamation financial guarantee before all other bonds on the permit has been deleted;
- Conditions under which the assistance is terminated are identified.

Qualifications:

(a) The Conversion Assistance Program is limited to existing coal surface mining permits, bonded under the alternate bonding system, that will not have completed final backfilling on the permit by June 30, 2002.

(b) The Department has determined that the permit does not have a postmining discharge, except that Subchapter F and G permits are eligible.

Procedures:

1. Once the District Mining Office (DMO) has determined the amount of bond needed under the conventional bonding system, it will notify the permittee of the new bond amount. If the new bond amount is less than the current bond on the permit, the permittee may request a bond adjustment under §86.152. If the new bond is greater than the current bond amount, the notice to the permittee should be in the form of a bond request letter that identifies the amount of bond currently posted for the permit and the amount of additional bond.

If the permit qualifies, the bond request letter should inform the permittee that the permit qualifies for the Conversion Assistance Program and that he has 30 days to apply for a Land

Reclamation Financial Guarantee (LRFG). The letter should specify the amount of the annual fee and the amount of the initial payment of the fee¹. The letter should also include the APPLICATION AND AGREEMENT FOR LAND RECLAMATION FINANCIAL GUARANTEE (see Appendix A).

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. Because the permittee may choose to provide a portion of the additional bond himself, the dollar amounts on the application may differ from those specified in the DMO letter.

3. The annual fee is 1.5% of the amount of bond assistance, i.e., the amount of the LRFG, and is to be submitted to the DMO each year on or before the anniversary of the permit. 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).

4. The DMO will notify the permittee by letter (see Appendix B) that his participation in the program is approved.

5. Conversion assistance is a one-time offer. The LRFG cannot be increased after it is initially approved. The permittee must provide additional bond if subsequent changes to the mining operation increase the permittee's bonding obligation.

6. 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).

7. Fee payments are not refundable and will be deposited into the conversion assistance fund.

Tracking:

Once the request for assistance is approved, the DMO will input the amount of the LRFG in the database located on the Department's local area network, the initial payment and subsequent annual payments. This database is similar to the one used for tracking Remining Financial Guarantees.

The DMO will record the history of the LRFG in the database. The history will include payments received, the date of the payments, and any reductions or releases of the LRFG.

¹ The DMO should base the annual fee and initial payment on the total amount of additional bond that is needed.

The DMO must provide the permittee an annual notice that the annual payment is due on or before the anniversary day. This notice should be sent to the permittee 30 days prior to the anniversary day.

Bond Release:

The LRFG will be reduced or released prior to any other bond on that permit unless the bonds on the permit include Remining Financial Guarantees. In that case the Remining Financial Guarantee will be released first.

Termination of the Land Reclamation Financial Guarantee:

There are three situations that cause the LRFG to terminate:

- The LRFG terminates when it is released through the usual bond release mechanism.
- The LRFG terminates if the permittee submits a replacement bond in an appropriate amount.
- The LRFG terminates if the permittee fails to pay the annual fee within 30 days after the anniversary date of the permit.

If termination is due to nonpayment of the annual fee, the DMO will follow the procedures described in §86.165(a) for failure to maintain adequate bond. These procedures call for a notice of violation giving 15 days to correct the violation, i.e., pay the fee. If the fee is not paid, the LRFG is terminated and the DMO will issue a cessation order for mining on that permit. The LRFG cannot be reinstated at this point and the permittee's only recourse to resume mining is to provide the total bond needed for the permit.

APPENDIX A
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF MINING AND RECLAMATION

APPLICATION AND AGREEMENT
FOR
LAND RECLAMATION FINANCIAL
GUARANTEE

To be completed by Permittee:

- (1) Name of Permittee:
- (2) License Number:
- (3) Permit Number:
- (4) County:
- (5) Township:

To be completed by Department of Environmental Protection:
Anniversary Date of Permit: _____
Amount of Land Reclamation Financial Guarantee: _____
Annual Fee: _____
Initial Fee: _____
Date(s), Amount(s) of Releases, adjusted annual fee: _____

We, _____ ("Permittee"),
(Name of Permittee)

- (1) a Corporation, incorporated under the laws in the State of _____, or
(Name of State)
- (2) a(n) _____,
(Limited/General Partnership, Registered Fictitious Name Business or Individual)

with its principal place of business at _____,
(Permittee Address)

conduct mining operations on the surface coal mining permit identified above. In order to provide the additional bond necessary to satisfy the requirement for conventional bonding on this permit, we, the Permittee, request a Land Reclamation Financial Guarantee in the amount of \$_____.

1. **Conditions of Assistance.** We, the Permittee, agree to the following:
 - (a) Submittal of an annual report verifying the extent of the various components of the operational area;
 - (b) Payment of the nonrefundable annual fee on or before the anniversary date of this permit;
 - (c) Replacement of this Land Reclamation Financial Guarantee upon the occurrence of a postmining discharge on or hydrologically connected to this permit.
2. **Amount and Duration of Land Reclamation Financial Guarantee.** Liability upon this Land Reclamation Financial Guarantee shall be for the amount specified herein, and that amount shall become

a part of the total bond for this permit, such liability shall apply to that acreage for the permit, including any and all prior or subsequent authorizations and permit renewals to mine or otherwise operate under that permit. Liability upon this Land Reclamation Financial Guarantee shall continue for the duration of mining activity, including its reclamation as provided in the law, the regulations and the conditions of the permit, at the operation conducted hereunder and for a period of five (5) years thereafter, unless released in whole or in part by the Department prior thereto, as provided by the Law. The amount of this Land Reclamation Financial Guarantee cannot be increased.

3. **Additional Bond.** This Land Reclamation Financial Guarantee is submitted pursuant to Mining Permit No. _____, originally issued on _____ . This Land Reclamation Financial Guarantee assumes and covers any and all liability and obligations accrued and to be accrued under the Law from the above permit issuance date until such time as the Department shall release, in writing, the bond and this Land Reclamation Financial Guarantee of such liability and obligations. This Land Reclamation Financial Guarantee is an additional bond, supplementing all other bonds posted or to be posted for the permit.

7. **Transfer of Permit.** This Land Reclamation Financial Guarantee is not transferable to subsequent permittees.

8. **Bond Release.** This Land Reclamation Financial Guarantee shall be the first bond released from this permit.

9. **Termination.** This agreement and Land Reclamation Financial Guarantee shall terminate (a) upon the release of the entire amount of the Land Reclamation Financial Guarantee or (b) upon the Permittee replacing the Land Reclamation Financial Guarantee with an appropriate bond, or (c) upon the failure of the Permittee to pay the annual fee within 30 days after the anniversary date of the permit. In the event the Permittee fails to make timely payment of the annual fee, the Permittee must immediately provide the appropriate additional bond or the Department will take appropriate enforcement actions, including cessation of operations, for failure to maintain adequate bond.

IN WITNESS WHEREOF, We, the Permittee, set their hands and seals, intending to be legally bound hereby, as of the _____ day of _____, 200 ____.

PERMITTEE:

(Print Permittee Name)

By: _____
(Signature of Permittee or Responsible Official and Title)

APPENDIX B.
Land Reclamation Financial Guarantee Notification Letter

NAME OF PERMITTEE

STREET

CITY, PA ZIPCODE

RE: LAND RECLAMATION FINANCIAL GUARANTEE

SMP #

TOWNSHIP

COUNTY

Gentlemen:

Your application for participation in the Conversion Assistance Program for the permit listed above and your initial fee payment of **(\$ numerical amount)** have been reviewed and approved.

The total amount of Land Reclamation Financial Guarantee is **(\$ numerical amount)**. The annual fee payment is **(\$ numerical amount)**, based upon 1.5% of the additional bond needed to convert this permit to conventional bonding. This annual fee will be adjusted to reflect any decrease or release of your Land Reclamation Financial Guarantee, however, any payments that have been made are NOT refundable, in whole or in part.

The obligation covered by the land reclamation financial guarantee will be reduced or released prior to any other bond submitted to cover the reclamation obligations on the above referenced permit. Should you have any questions, please contact me at the above referenced number.

Sincerely,

Chief,

Permit Section

District Office

cc: each DMO

Division of Certification, Licensing and Bonding