

733 & ME: THE KENTUCKY RECLAMATION GUARANTY FUND

31st Annual Professional Engineers in Mining Seminar

September 14, 2018



MAY 1, 2012

- Kentucky Energy and Environment Cabinet Receives letter of from OSMRE Director Joe Pizarchik initiating the Part 733 Process (30 CFR Part 733)
- Letter outlined the 4 steps Kentucky had to take.
 - KY had 30 days to respond.



Kentucky's Four Steps

1. “Ensure that all new permits issued will have adequate bond to enable Kentucky to complete the approved reclamation plan to meet statutory and regulatory requirements.”
2. “Re-evaluate and adjust the amount of bond required on existing permitted mines to ensure they will have adequate bond to enable Kentucky to complete the approved reclamation plan to meet statutory and regulatory requirements.”
3. “Ensure that the Kentucky bonding program will be maintained so that the amount of each bond is periodically adjusted as the cost of future reclamation changes to reflect the actual costs of reclamation.”
4. “Ensure that amount of bond on each mining permit is regularly reviewed and adjusted so that Kentucky will have adequate bond to enable Kentucky to complete the approved reclamation plan to meet statutory and regulatory requirements.”



The KRGF Step

“In addition, Kentucky has known of its bonding program deficiencies for quite some time and during this time mine sites without adequate bond to complete the reclamation have been forfeited and will likely continue to be forfeited. I request that you inform me of the steps Kentucky will take to ensure that forfeited sites that do not have sufficient bond will be reclaimed in accordance with the approved reclamation plan to meet statutory and regulatory requirements.”



JUNE 4, 2012

- Secretary Leonard Peters sends the official response letter to Director Pizarchik outlining the following:
 - New Bonding Protocols
 - Establish a Bond Pool (Alternative Bonding System)
 - Timeline for Plan Implementation



March 22, 2013

- KRS 350.500-521 went into law.
- Established the KRGF
- Abolished the Voluntary Bond Pool
- States the KRGF cannot be used for long term treatment of substandard water discharges.



March 23, 2013 to January 28, 2018

- We waited.



January 29, 2018

- Federal Register / Vol. 83, No. 19 Released
- Final Rule Approval, with Exemptions



Federal Register Exemptions

1. We are deferring our decisions on the bi-annual actuarial review provision of H.B. 66 until such time as we are able to evaluate the stability of the KRGF over its first three full years implementation. Following receipt and review of the third actuarial study, we will reconsider our deferral and determine whether to: (1) Approve the bi-annual actuarial study requirement; (2) require that the studies continue to be performed annually; or (3) take other appropriate action.



Federal Register Exemptions

2. We are not approving 405 KAR 10:015 8(7), that allows for posting of a financial performance bond covering a specified period of time and allows a permittee to submit a land reclamation and remediation plan for areas producing substandard drainage in lieu of bond.



Recent Efforts

- March 1, 2018 – Meeting between OSMRE Appalachian Region Director and staff from Lexington Field Office and KY EEC.
- May 30, 2018 – Meeting between KRGF and OSMRE to discuss the LTT methodology.



Changes to the Kentucky Program

- Changing the LTT bond calculation annualized cost multiplier from 20 to 25.
- Remove the land reclamation provision from 405 KAR 10:015.



State of the KRGF

- Current Balance: \$45,981,638.93
- Bond Forfeiture Liability: \$7,556,466.36
- YTD Permits Forfeited: 5
- YTD Permits Receiving Payouts: 6
- YTD Permits Requiring Excess Funds: 1
- Current Former Bond Pool Bond: \$46,995,792

