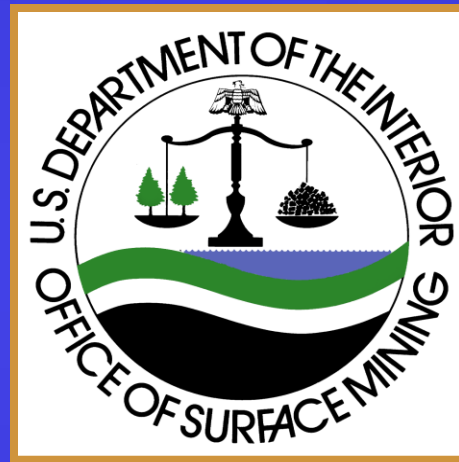


Office of Surface Mining Reclamation & Enforcement (OSM)



National Issues

Regional Issues

State Accomplishments

State Issues

National Issues



Federal Rulemaking

Stream Protection Rule and

Environmental Impact Statement Status

- The preliminary draft rule language and preliminary draft Environmental Impact Statement are currently in review at the Department of the Interior Headquarters.
- There is currently no scheduled date for Federal Register publication.

Coal Combustion Residue

- Proposed Rule (CCB)
- Team is working on revising the rule based on the comments received.

OSM OVERSIGHT

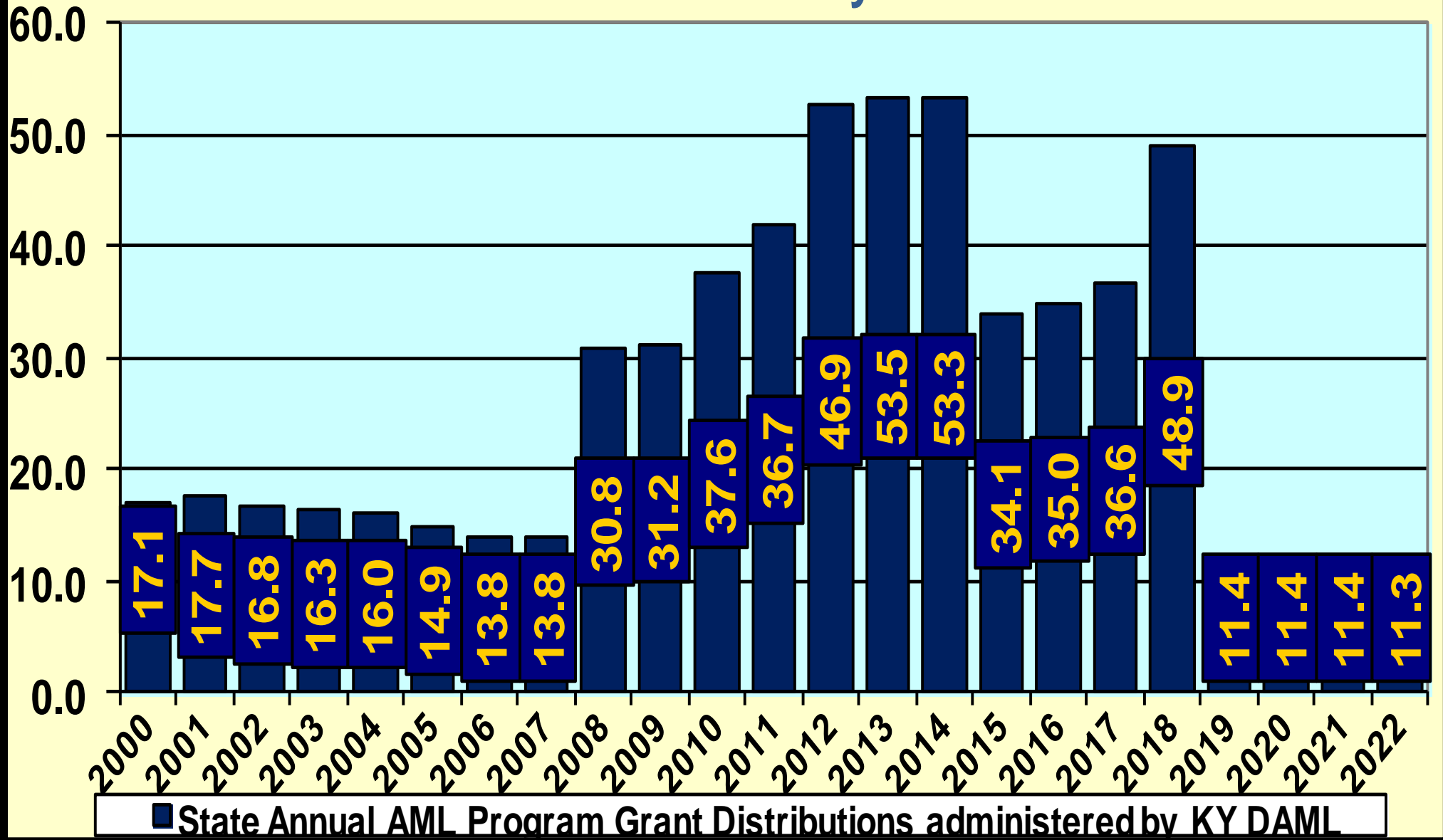
Evaluation Year 2012

- Completed 384 joint complete inspections and 40 independent complete inspections. This is a 6% increase over EY 2011 and a 73% increase over EY 2010.
- Closed out the outstanding Action Plan on AOC.
- Completed Joint Special Studies:
 - Bond Forfeitures (EY 2011)
 - Off-site Impacts
 - Inspection Frequency & Staffing Reports (2)
 - Fill Inventory
 - Enhanced Permit Coordination Study
 - AMD Active Inventory
 - CHIA Special Study-Pigeon Roost
 - AOC-Follow up on Action Plan
- EY 2013 Performance Agreement sent out for comment to industry on March 1, 2012- Signed on May 16, 2012.

Title IV – AML

- Kentucky's distribution from AML fee collections for FY 2011 was **\$46,998,225**.
- President's FY 2011 Budget eliminated AML Federal Emergency Program Funding effective October 1, 2010. Emergency projects are now funded from annual AML fee collection distribution.
- High priority projects are now funded by DAML as of EY 2012. (There were **16** high priority projects completed in FY 2012).

State Annual AML Program Grant Distributions Administered by KY DAML



*Future funding projections between 2010-2022 are hypothetical.

Title IV AML Highlights

In addition to the excellent job of reclaiming abandoned mine sites, DAML is involved in other projects greatly beneficial to the public.

- EY 2012 – Completed 16 high priority projects and submitted 80 new projects to OSM.**
- Completed five new projects included domestic waterline projects for 716 new residential customers and 299,426 feet of new waterlines at a cost of \$8,580,620.**
- Over \$92 million has been spent in prior year funding for waterlines providing almost 13,000 households with public water in 24 Kentucky Counties.**
- OSM Completed 229 AML Oversight Inspections on AML projects during EY 2012.**



Regional Issues



Cooperative Agreements

- Extended funding \$64,746 for the "Kentucky Mine Mapping Initiative".
- CHIA Trend Stations – \$119,000 (July 2012)
\$151,048 (September 2011)
- CHIA Study – Pigeon Roost - \$15,000
- April 2011 OSM Youth Initiative Intern - Program— four interns- \$34,000
- April 2012 OSM Youth Initiative – hire interns - \$27,000
- August 2011 – TIPS – GIS improvements-National GeoMine Project - \$216,000
- May 2012 – TIPS - GIS improvements – hire five interns, and equipment - \$192,000
- May 2012 – Civil Penalty Funds – Johnson Floyd - \$218,650

State Accomplishments EY 2012



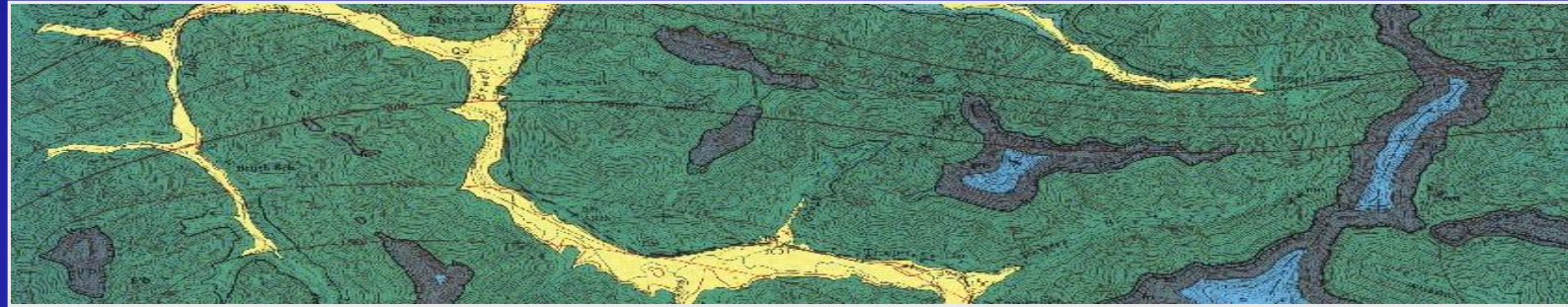
CHIA Enhancement Initiative

- **AD HOC working group composed of DNR, DOW, EPA, COE (Louisville district), Coal Industry, Coal Industry consultant engineer, Kentucky Resources Council, and OSM (technical representative). The first meeting was held May 11, 2009.**
- **Kentucky Resources Council and KFTC filed a Notice of Intent to Sue on May 13, 2009 for alleged failure to perform CHIA that meets State program requirements.**
- **DNR has made significant progress.**

CHIA PROGRESS

- July 2010 – Six CHIA Interns - completed 354 watershed characterization templates.
- January 2011 – DNR announced online service that provides public access to vital watershed data. Visit EEC Website at:
<http://minepermits.ky.gov/pages/CHIA.aspx>
- June 2011 –Established trend stations in selected HUC 12 watersheds – Phase I – 64 stations. Expanded to 137 stations in June 2012.
- Sampling began – 2nd quarter of 2011 – completed four quarters (64 stations).
- Interns have entered over 114,634 surface/groundwater monitoring and 93,000 DMR reports into SMIS.
- **Future Needs – Coal industry contributions to match Federal funds.**

Kentucky Mine Mapping and GeoMine



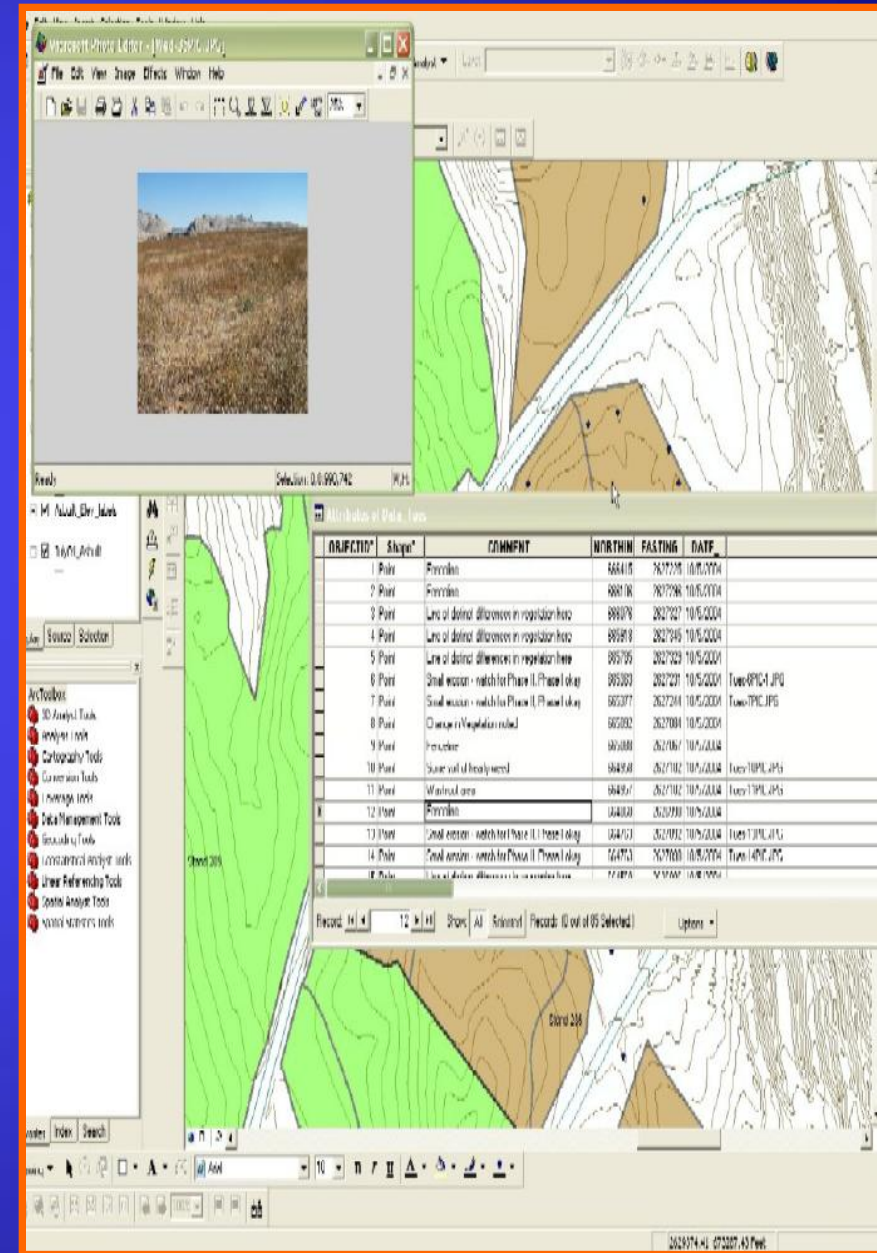
- Over 75,000 downloadable documents available
- Over 35,000 geo-referenced
- Geo-referenced maps include maps of all mines operated since 1948
- Website receives over 400,000 internet queries each month and an average of 13,000 visits every day

<http://minemaps.ky.gov>

<http://www.minepermits.ky.gov>

GIS Improvements

- **OSM Funding** – One intern and one AmeriCorps student work on digitizing historic and recent permits
- **CHIA Impact** – New systems that have reduced data searches from days to minutes
- **GeoMine Project** – Internet accessible GIS database of coal mined in the United States.
- **OSM Funding/TIPS** – In 2011, \$200K was approved for five interns and equipment to digitize permit boundaries, hollowfill locations, impoundments, and AML maps.
- **OSM Funding/TIPS** – 2012 \$192,000 (May 2012)



Shared Commitment



Appalachian Regional Reforestation Initiative (ARRI)

Phase III bond release was granted on 1,845 acres of land planted in trees. This translates to the coal industry adding over 1.25 million established and growing trees to Kentucky lands.



In 2011, there were 34 permitting actions committed to RAM #124 or FRA containing 10,291 acres providing the establishment of 7 million seedlings.



Kids Trees and Bees Planting For the Future



2012 Arbor Day

Premier Elkhorn Coal Company/TECO

Virgie, Kentucky

April 17, 2012

The event highlighted the environmental benefits of planting forests throughout Appalachia. Students planted native hardwoods such as the American chestnut, northern red oak, hickory, and chestnut oak as well as had the opportunity to visit the newly established bee yard on the mine site.



Premier Elkhorn Coal Company Received the ARRI Reforestation State Award for 2011 “Excellence in Reforestation”

Premier’s Letcher County surface mining operation, permit #867-0390, was the recipient of the 2011 KY ARRI Award for “Excellence in Reforestation.” This more than 590 acre surface mine began in 1998 and has received final bond releases on all but two of its sixteen increments. Premier has planted over 300,000 trees and shrubs at this Letcher County, Kentucky mine site.



*Premier Elkhorn Coal Company's Joe's Branch Mine Letcher County
KYDNR State ARRI Award 2011*

ARRI Volunteer Tree Planting Events

March 23-25, 2012 - Boy Scouts of America
Fishtrap Lake Watershed Tree Planting Project
Celebrating 'The Year of Kentucky's Forest' and
The Kentucky Division of Forestry's 100th Anniversary





State Issues



DNR Budget

- Kentucky's biennium budget (FY 2013 and FY 2014) may have negative impacts on DNR's Kentucky Regulatory programs
- Kentucky was awarded \$12,431,861 for FY 2011. This was 1.87 million less than DNR estimated as a result of the inability to match Federal funds.
- Kentucky initiated the de-obligation of \$650,000 from the FY 2011 A&E grant.

DNR Staffing

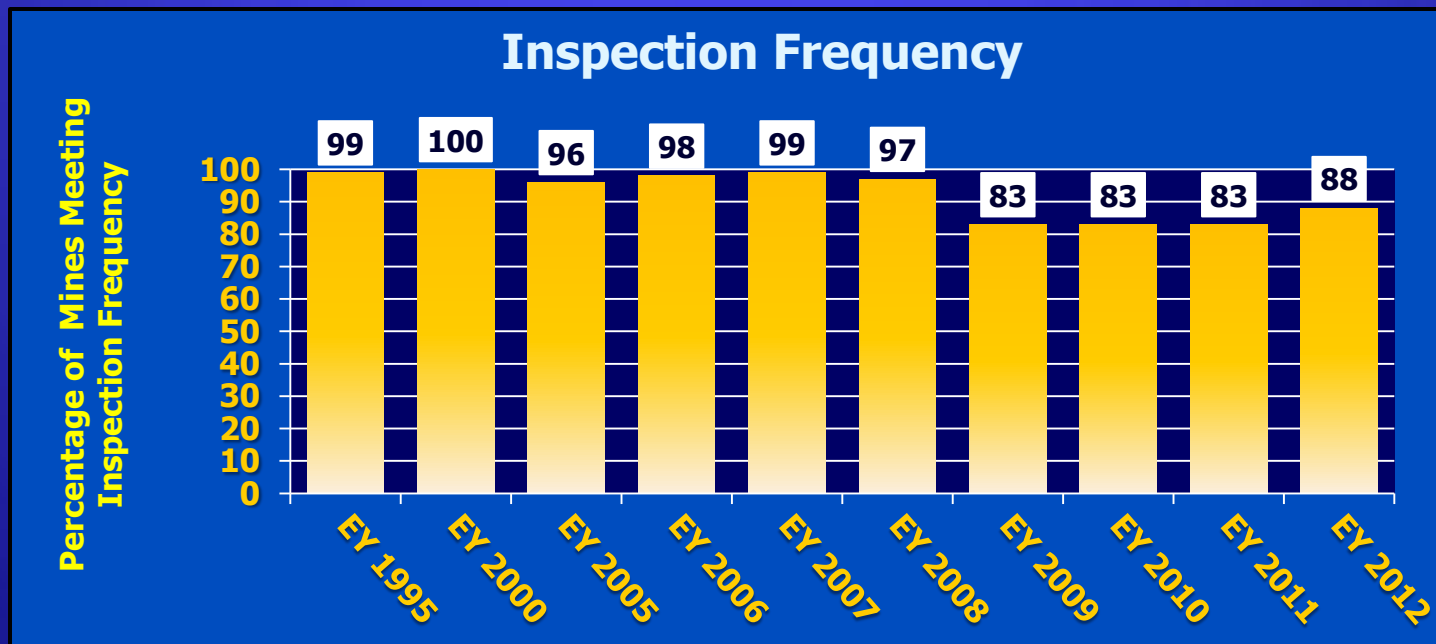
- FY 2011 Grant (awarded by September 1st), supports 301 FTE's.
- DNR Budgeted Cap – 265 (17 reduction from last year).
- HB 283 increased permit fees to fund **additional** DNR personnel (CHIA/FPOP).

Vacancies

- 01/01/2009 (36-DMRE, 28-DMP) 64 total
- 07/01/2010 (7-DMRE, 4-DMP) 11 total
- 07/01/2011 (14-DMRE, 6-DMP) 20 total
- 07/01/2011 (0-DMRE, 3-DMP) 3 total positions removed due to reduced ceiling.

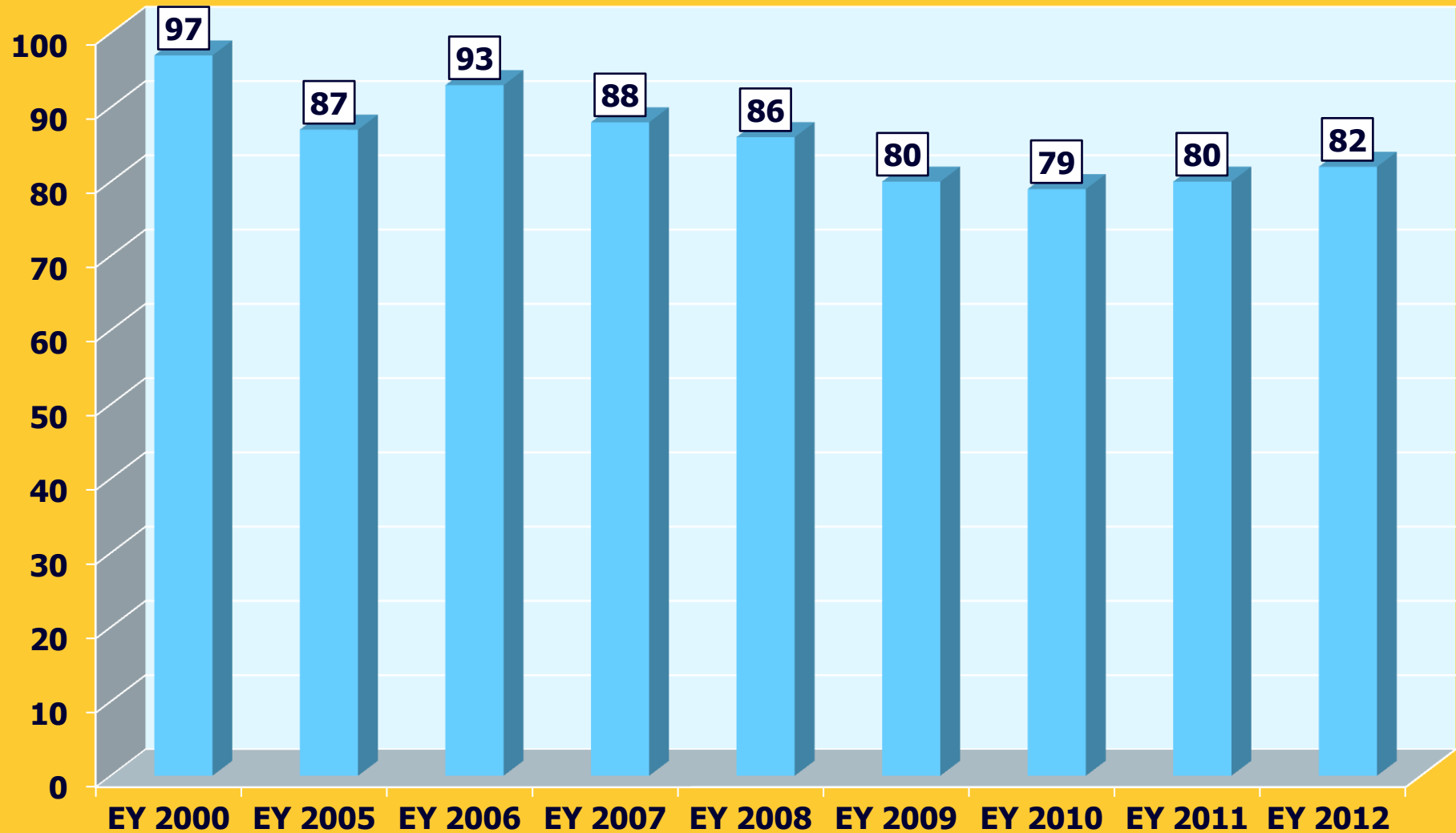
DNR Inspection Staffing

- In a Federal Register, OSM and DNR agreed that Kentucky's inspection staffing level should not exceed one inspector per 24 inspectable units.
- As of July 2011 DNR had one inspector per 26 inspectable units.
- As of July 2012 DNR had one inspector per 27 inspectable units.
- Inspection frequency has fallen in response to vacancies and recently hired inspectors.

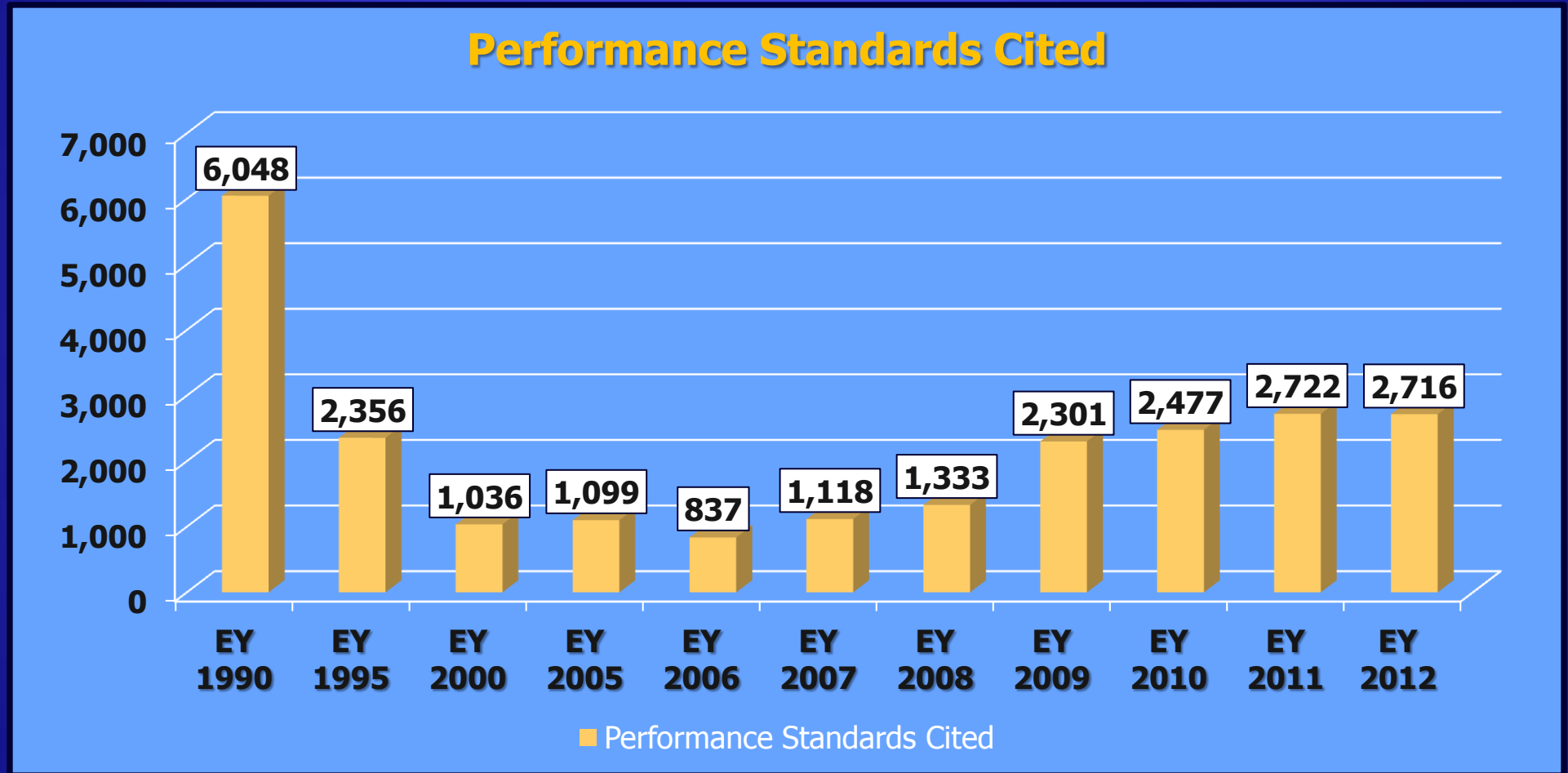


Off-Site Impacts

Percent of Mine Permits Free From Off-site Impacts



Kentucky Performance Standards Cited

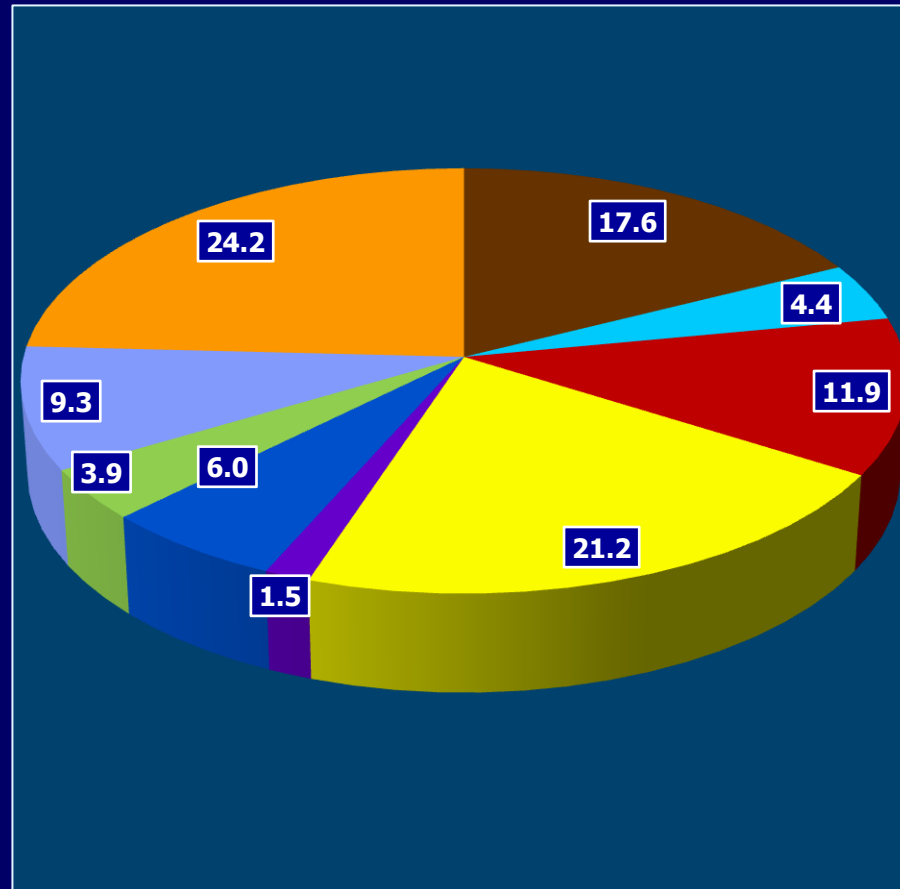


Highest Since 1995

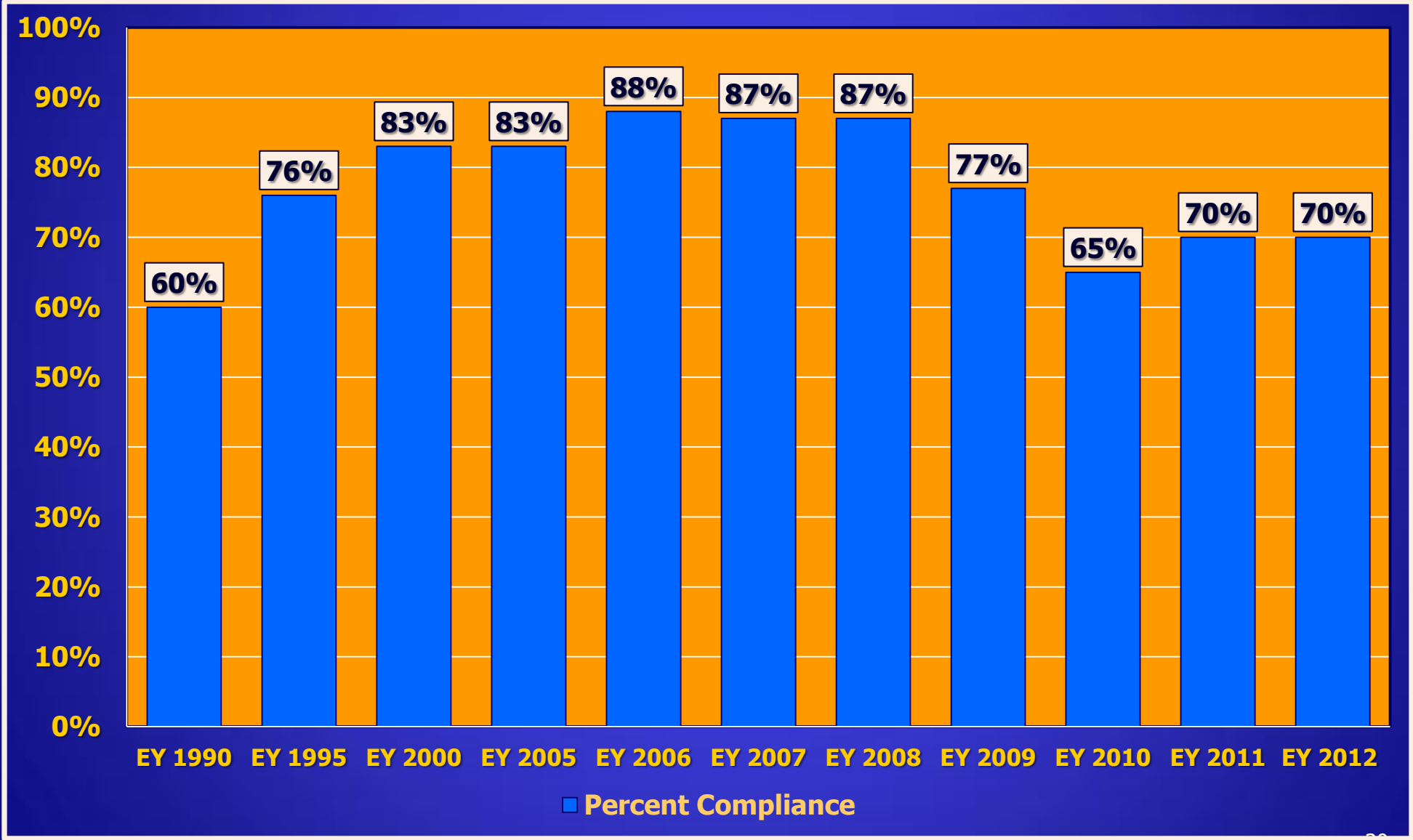
In EY 2012, DNR cited 2,716 performance standards in 1,331 non-compliances. Breakdown on type of performance standards is:

Percentage of Total Performance Standards

- General Provisions
- Backfilling & Grading
- Sedimentation Control
- Water Quality
- Use of Explosives/Flyrock
- Effluent Limits
- Method of Operations
- Off Permit
- Other



OSM's Industry Compliance



Industry Compliance 2011

- Percent of OSM Random Inspections 424 with NO observed violations - 384 comprehensive and 40 independent comprehensive
- 298 of 424 (70%) were in full compliance
- 461 violations were observed on 126 sites in violation
- Most cited performance standards were hydrologic balance, permit administration, and backfilling and grading
- 31% of violations extended beyond permit boundary

Lowest rate of industry compliance since the 1990's

Threatened and Endangered Species



During CY 2011, KYDNR in coordination with the USFWS, developed 29 Indiana bat Protection and Enhancement Plans (PEP). These 29 PEP's required the restoration of 2,388 acres of forest.



FLYROCK



SUMMARY OF FLYROCK EVENTS

EY 2006	7	Two homes damaged.
EY 2007	12	Three homes, an MSHA Office & one public vehicle damaged.
EY 2008	16	One fatality, one injured employee, one home, and one vehicle damaged
EY 2009	19	Damages to one bridge, one house, three vehicles, cemetery fence, power sub-station, homes evacuated, & rock thrown on to two public roads.
EY 2010	12	Damage to three homes and various property.
EY 2011	5	Damage to three homes and property.
EY 2012	3	One rock thrown through roof of residence.

What If...



Insulation and debris that came through the roof inside the home. Thankfully, children were playing in the kitchen area. The bear was in the corner against the wall between the two occupied rooms...



Zero Tolerance!

Bonding Adequacy

- OSM named Bonding Adequacy as a National Priority Review for EY 2010 along with AOC.
- OSM completes bond forfeiture studies every EY. Since 2007 with reclamation estimates confirmed by DAML cost estimates.
- OSM has reviewed 81 bond forfeitures with 63 sites having insufficient bonds to complete reclamation to the standards of the approved permit.
- Secretary EEC formed a diverse bonding workgroup composed of coal industry, environmental groups, and government personnel. Similar to bond workgroup in 1993. Workgroup agreed on revised protocol called “givens”.
- Current Status – OSM issued Part 733 letter – May 1, 2012.

January 4, 2011

- Final OSM report issued found performance bonds were insufficient

February 3, 2011

- Action Plan signed on detailing steps necessary to resolve issue

January 17, 2012

- OSM letter with bond team report. The team reported that the revised protocols were an improvement but were not sufficient in all cases

February 9, 2012

- Kentucky proposed path forward with "givens" and proposed bond pool

May 1, 2012

- OSM issues '733" letter

May 4, 2012

- Governor signs emergency regulations implementing "givens"

June 4, 2012

- Secretary responded to '733' letter identifying proposed corrective actions and providing a timetable to remedy bonding issue

August 8, 2012

- Informal Conference Meeting – Lexington, Kentucky
- Purpose: Review Kentucky's progress/timetable for resolution

Interagency Coordination

- Participants – EPA (Region IV), COE (Louisville and Nashville), KY DNR, KYDFW, USFWS, USGS, KY Geological Survey, and OSM LFO.
- Purpose of the Meetings – Coordination and communication between agencies on issuing permits under SMCRA and Section 404 of the CWA for excess spoil fills at surface coal mining operations.
- Still pushing FPOP with EPA.
- 401 mitigation – Increase funding for watershed restoration.
- Local Interagency Coordination Agreement (LICA) signed June 20, 2012, (permit coordination).

Development of Guidance Document

“ Kentucky Pre-Application Coordination Process for Coal Facilities”

- Reduce cumulative review time
- Eliminate unnecessary re-design and repeat review
- Consolidate pre-permitting sampling and analysis
- Identify critical resources or other features that will impact mine plans
- Obtain USACE jurisdictional determination prior to SMCRA application for FPOP
- Assure consistency of information provided to all agencies

Looking Ahead





- Bonding Adequacy Resolution

- Monitor Budget and Staffing

- CHIA Improvements

- CHIA Trend Data Stations/**Industry Contribution**

- GIS Improvements/GeoMine Participation



- Interagency Permit Coordination

- EPA and COE - 402/404 Issues

- Experimental Practice - Dr. Richard Warner's Concept

- Continue Good Work on Flyrock

- Electronic Permitting **GREAT JOB!**

- ARRI – Implement FRA Techniques where possible



Another problem caused by deforestation

Any Questions?

