

Reclamation Advisory Memorandum

RAM # 162

Kentucky Energy and Environment Cabinet

Department for Natural Resources

From: Steve Hohmann, Commissioner

Date: August 20, 2015

Subject: Payment of Kentucky Reclamation Guaranty Fund Fees Associated With Permit Transfers

Introduction

The Kentucky Reclamation Guaranty Fund (KRGF) was established on July 1, 2013, by House Bill 66, codified at KRS Chapter 350.500 - KRS Chapter 350.521. The KRGF is a mandatory reclamation account intended to cover the excess costs of reclamation for forfeited coal mining operations when the permit specific bond is insufficient for the Commonwealth to complete reclamation.

Effective September 1, 2015, the Energy and Environment Cabinet will begin collecting delinquent fees owed to the KRGF when the fees are associated with permit transfer. After a review of the language provided in KRS 350.135(1) and 405 KAR 8:010 Section 22(7), which states "all rights and liabilities pursuant to the original permit shall pass to the successor upon reissuance of the permit", the Cabinet has determined KRGF fees are included in those "liabilities".

This RAM provides guidance regarding the process by which the Cabinet will collect the fees. The collection of KRGF fees by this process will include those successor applications currently in review by the Division of Mine Permits that have not proceeded to issuance as of the effective date of this RAM.

Transfers of Dormant and Non-Production Permits

For those permits which are classified as 'Dormant' and 'Non-production' at the time of approval of the successor permit application, the Division of Mine Permits (DMP), of the Department for Natural Resources (DNR), will require submittal of the delinquent fee payment to the Office of the Reclamation Guaranty Fund (ORGF) as part of the TAC process prior to approval of the successor application.

The payments shall be accompanied by the submittal of forms RGF-1, Parts 1 and 2.

Transfers of Coal Production Permits

For those permits classified as 'Surface', 'Underground' and 'Combination', the DMP will place a standard condition on the successor permit requiring the timely payment of any outstanding production fees, upon notification by the ORGF that the outstanding payments are due.

The ORGF routinely classifies and invoices successor permits for future KRGF fees. Prospectively from the effective date of this RAM, the invoices will also include those production fees for which the prior permittee was in arrears, and are subsequently required to be paid by the successor. As above, submittal of forms RGF-1, Parts 1 and 2 will be required.

If you have any questions regarding the information contained in this RAM, please contact the Director, Division of Mine Permits, # 2 Hudson Hollow, Frankfort, Ky. 40601 or call (502) 564-2320. You may also contact the Executive Director, Office of the Reclamation Guaranty Fund to discuss any issues relating to specific fees.

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