

405 KAR 30:080. Bond forfeiture.

RELATES TO: KRS 350.600

STATUTORY AUTHORITY: KRS 151.125, 224.033, 350.028, 350.050, 350.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.600 requires the Environmental and Public Protection Cabinet to develop administrative regulations for oil shale operations to minimize and prevent their adverse effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth the procedures and criteria by which a bond may be forfeited to the cabinet.

Section 1. General. The cabinet may forfeit any bond held by it upon failure of the principal to perform.

Section 2. Procedures. In the event forfeiture of the bond is required by Section 3 of this administrative regulation, the cabinet shall:

(1) Send written notification by certified mail, return receipt requested, to the permittee and the surety on the bond, of the cabinet's determination to initiate forfeiture of the bond and the reasons for the forfeiture, including the amount proposed to be forfeited.

(2) Advise the permittee and those responsible on the bond of their right to a hearing.

Section 3. Criteria for Forfeiture. (1) The cabinet shall have the authority to forfeit a bond if:

(a) The cabinet finds that the oil shale operations have not been conducted in accordance with all applicable statutes and administrative regulations or the conditions of the permit or the reclamation plan within the time required by the statutes or administrative regulations; or

(b) The cabinet finds that the permit for the area under bond should be revoked; or

(c) The cabinet finds that the permittee or surety, or the party responsible on the bond, has failed to comply with a compliance schedule. The cabinet may withhold forfeiture if the permittee or the party responsible on the bond agrees to a compliance schedule to correct the violations of the permit or bond conditions; or

(d) For such other good cause as the cabinet determines is sufficient.

(2) The cabinet shall forfeit the entire amount of the bond and deposit the forfeited amount in an appropriate account for use in the payment of all costs associated with the conduct of reclamation, restoration or abatement activities by the cabinet on the permit area to which the forfeited bond applies. (8 Ky.R. 96; eff. 3-1-1982; TAm eff. 8-9-2007; Crt eff. 7-3-2018.)