

**224.40-650 Bond of operator -- Release -- Forfeiture to solid waste disposal site restoration fund -- Amendment of permit -- Successor operator -- Reclamation by intergovernmental cooperation.**

- (1) Before the cabinet may issue a permit to operate a solid waste disposal facility, the operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in a sum to be determined by the cabinet on the recommendation of the secretary of each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars (\$10,000) per site, conditioned upon the faithful performance of the requirements in this chapter and of the rules and administrative regulations of the cabinet to insure satisfactory closure of the facility. The cabinet may accept liquid or semi-liquid assets deposited in an escrow account for the operating life of the landfill plus not less than two (2) additional years as an alternative guarantee of adequate financial responsibility for closure of the facility. The cabinet may accept other satisfactory financial assurance as adequate financial responsibility for a waste site or facility which is generated exclusively by a solid waste generator on property owned by the solid waste generator for the purpose of accepting industrial solid waste exclusively from the solid waste generator.
- (2) An operator may at any time during the term of the permit apply to the cabinet for an amendment of the permit so as to increase or reduce the acreage affected by it. The operator shall file an application and map in the same form and with the same content as required for an original application under this chapter and shall pay a basic fee set by administrative regulation bearing a reasonable relationship to the cost of processing the permit application and shall file with the cabinet a supplemental bond for each acre or fraction of an acre of the increase approved. If the cabinet approved a reduction in the acreage covered by the original or supplemental permit, it shall release the bond for each acre reduced but in no case shall the bond for the site be reduced below ten thousand dollars (\$10,000).
- (3) When the facility has been filled, covered, graded, seeded, and revegetated according to regulations promulgated by the cabinet and approved by the cabinet the secretary shall release the bond or other guarantee of financial responsibility that has been provided to the cabinet. However, the bond or other guarantee of financial responsibility shall not be released earlier than two (2) years from the date of the last placement of waste at the facility. If such closure requirements are not accomplished by the operator of the facility, the cabinet shall forfeit the bond or demand release of the moneys held to guarantee financial responsibility.
- (4) All funds from the forfeiture of bonds or other sureties required pursuant to this section shall be placed in the State Treasury and credited to a special trust and agency account which shall not lapse. Such account shall be known as the "Solid Waste Disposal Site Restoration Fund" and moneys placed in the fund shall be used for the proper closure of solid waste disposal facilities and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided.
- (5) No operator or person shall be eligible to receive another permit to operate a solid

waste management facility who has forfeited any bond or other surety provided pursuant to this section, unless the land for which the bond or other surety was forfeited has been reclaimed without cost to the state, or the operator or person has paid such sum as the cabinet finds is adequate to reclaim such lands.

- (6) Where one (1) operator succeeds another at any solid waste disposal facility prior to final closure, either by sale, assignment, lease, or otherwise, the cabinet may release the first operator from all liability under this section, provided that the successor operator meets the requirements of this section and assumes, as part of his obligation under this chapter, all liability for the reclamation and final closure of the area of land affected by the former operation.
- (7) In the reclamation of land affected by incomplete or improper closure of a solid waste disposal facility for which it has the funds available, the cabinet may avail itself of any services which may be provided by other state agencies or by agencies of the federal government, and may compensate them for such services. The cabinet may cause the reclamation work to be done by its own employees, by employees of other governmental agencies, or through contracts with qualified persons.
- (8) The cabinet may also receive any federal funds, state funds or any other funds for the closure of solid waste disposal facilities.
- (9) The cabinet, any other agency, and any person under a contract with the cabinet pursuant to this section shall have the right of access to the land affected to carry out such reclamation.
- (10) No city, county, urban-county government or agency of a city, county, or urban-county government, or taxing district, or other political subdivision of the Commonwealth shall be required to file any surety bond with the cabinet pursuant to this section for the operation of a solid waste disposal facility by such city, county, urban-county government, or agency thereof, or taxing district, or any other political subdivision of the Commonwealth.

**Effective:** February 26, 1991

**History:** Amended 1991 (1st Extra. Sess.) Ky. Acts ch. 12, sec. 36, effective February 26, 1991. -- Amended 1986 Ky. Acts ch. 199, sec. 1, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 284, sec. 8, effective July 15, 1980.

**Formerly codified as** KRS 224.846, and also previously codified as KRS 224.884.