

**224.10-285 Decommissioning plan procedures if not implemented timely --
Administrative regulations -- Fund -- Independent review.**

- (1) If the owner of a merchant electric generating facility fails to complete the decommissioning plan within eighteen (18) months of the date that the facility ceases to produce electricity for sale and the secretary has not extended the deadline, the cabinet shall draw upon the decommissioning bond and implement the decommissioning plan.
- (2) Within ninety (90) days of June 29, 2023, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish the monitoring and enforcement requirements for the obligations set forth in KRS 278.710(3), (4), (5), (7), (8), (9), and (10) and KRS 224.10-100(30) and (31). The cabinet shall establish a fee structure covering the entire useful life of a merchant electric generating facility to be charged to each facility for which the cabinet has monitoring and enforcement responsibilities. The fees collected shall be deposited in the restricted fund established in subsection (3) of this section.
- (3)
 - (a) There is hereby established in the State Treasury a restricted fund to be known as the merchant electric generating facility monitoring and enforcement fund, which shall be administered by the cabinet and shall consist of the fees collected under subsection (2) of this section and any moneys collected pursuant to enforcement actions taken by the cabinet in the course of performing its monitoring and enforcement responsibilities for merchant electric generating facilities.
 - (b) Amounts deposited in the fund shall only be used to defray the costs of the cabinet's monitoring and enforcement responsibilities for merchant electric generating facilities and for no other purpose.
 - (c) Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse, but shall be carried forward into the next fiscal year.
 - (d) Any interest earnings of the fund shall become part of the fund and shall not lapse.
 - (e) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this subsection and shall not be appropriated or transferred by the General Assembly for any other purposes.
- (4) In carrying out its decommissioning plan and bond adequacy review under KRS 278.710(8), the cabinet shall have the authority to hire a consulting independent licensed engineer to review the secured decommissioning bond or similar security instrument and decommissioning plan and provide recommendations concerning the adequacy of the security instrument to cover actual costs. The cabinet may direct the independent licensed engineer to prepare an assessment report. Any expenses or fees incurred by the cabinet's hiring of the independent licensed engineer shall be paid by the owner-operator of the merchant electric generating facility.

Effective: June 29, 2023

History: Created 2023 Ky. Acts ch. 140, sec. 9, effective June 29, 2023.