

350.131 Use of forfeited reclamation bond funds -- Contract to reclaim overlapped disturbed area for which bond has been forfeited and collected.

- (1) When a bond for an interim or preinterim program permit was forfeited prior to July 15, 1988, by the cabinet, and the entire forfeited amount is not necessary to establish proper drainage and revegetation on the permit area for which it was submitted, the cabinet may use any remaining funds to supplement reclamation of other forfeited or released permit areas, if the other permit areas endanger public health and safety.
- (2) When the bond for an interim or permanent program permit is forfeited by the cabinet, and the entire forfeited amount is more than the amount necessary to complete reclamation, the unused funds less any interest that has accrued shall be returned to the party from whom they were collected, subject to the cabinet's right to attach or set off the proceeds under other state laws.
- (3) Notwithstanding any other provisions of this chapter or the provisions of KRS Chapter 45A, when the bond, other than a surety bond or bond secured by a letter of credit, for an interim or permanent program permit is forfeited and collected by the cabinet, and a person subsequently applies for a permit overlapping all or part of the disturbed area of the permit area for which the bond is forfeited, the cabinet may negotiate and enter into a contract with the applicant to reclaim the disturbed area overlapped in exchange for all or part of the forfeited bond funds held by the cabinet, if requested by the applicant. If the applicant proposes to overlap only a part of the disturbed area the cabinet may enter into a contract with the applicant to reclaim the overlapped part of the disturbed area if the cabinet has retained a portion of the forfeited bond that is sufficient for the cabinet to reclaim the part of the disturbed area that is not overlapped. Any applicant under this subsection shall not be eligible for the benefits available under this subsection if the applicant has any ownership or control connection with the permittee or operator with respect to which the bond was forfeited. The amount of forfeited bond funds the cabinet may pay to the applicant shall be determined by the cabinet based upon the estimated cost for the cabinet to reclaim the disturbed area overlapped to the reclamation standards applicable to the original permit, but not to exceed the forfeited bond amount collected and held by the cabinet. Payments under this subsection shall be made only after release of the bond pursuant to KRS 350.093(4)(a) for those areas of the overlapping permit that are covered by the contract. If the applicant obtains a permanent program permit overlapping a forfeited interim permit, any disturbances created in connection with the overlapping permit on areas that were disturbed under the forfeited interim permit may be covered by a contract under this subsection and shall be reclaimed to permanent program standards. Areas where coal is not removed under the overlapping permit and the disturbances are for reclamation of the interim permit only shall be reclaimed to interim program standards. If the applicant obtains a permanent program permit overlapping a forfeited interim permit, any disturbances created in connection with the overlapping permit on areas that were not disturbed under the forfeited interim permit shall not be covered by a contract under this subsection and shall be

reclaimed to permanent program standards. Nothing in this subsection shall be construed to exempt a person from the permitting, bonding, and reclamation requirements imposed in this chapter or to infringe upon the right of any surety to reclaim any permit or increment thereof to avoid bond forfeiture.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 222, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 323, sec. 1, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 294, sec. 4, effective July 15, 1988. -- Created 1986 Ky. Acts ch. 451, sec. 1, effective July 15, 1986.