OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION

POLICY/PROCEDURE DIRECTIVE

Bonding 90-1

Subject: Bond forfeiture collection procedures

Effective: August 15, 1990

Purpose: To describe procedures and time frames to be followed to collect bond subsequent to bond forfeiture order issuance.

1. Collection of Cash bond, Certificates of Deposit and Letters of Credit

Pursuant to OAC rule 1501:13-7-06(D)(3), if a bond forfeiture order (BFO) is issued to a permit bonded by cash bond, Certificate of Deposit (CD), or Letter of Credit (LOC), the cash, CD's and LOC funds become the property of the State or will be drawn upon immediately if the permittee does not appeal the BFO within 30 days of receipt of the BFO. Bond collection shall be pursued in the following manner:

1) Within 7 days after the end of the 30-day BFO appeal period, the I & E manager will send written notice to the bonding supervisor to proceed with collection and/or redemption of the cash, CD or LOC, and to the engineering manager that design can begin on a forfeiture project.

2) The bonding supervisor will, within 10 days of receipt of the above written notice of the end of the appeal period, initiate actions necessary to redeem the cash bond, CD's or LOC's. In addition, the bonding supervisor will, after consultation with the AML section, assign a project number to the forfeiture.

3) If, within 30 days of receipt of the written notice to proceed with collection and/or redemption of the cash, CD, or LOC from the I & E manager, redemption or collection efforts fail (i.e. the money has not been received), the bonding supervisor shall send written notice to the I & E manager, informing him that such efforts have failed.

4) On a monthly basis, the I & E manager will cause a delinquent claim to be filed for the amount of the cash, CD, or LOC with the Division's Assistant Attorney

General assigned to collection cases.

5) Upon receipt of the cash, CD or LOC monies, the bonding supervisor will immediately deposit the monies in the appropriate forfeiture rotary account and send a copy of the revenue transmittal to the Fiscal manager.

II. Collection of Surety Bonds

Pursuant to OAC rule 1501:13-7-06(F) if a BFO is issued to a permit bonded by surety, and the permittee does not appeal the BFO within 30 days, bond collection shall be pursued in the following manner:

1) Within 70 days of receipt of the BFO by the surety, the I & E manager shall terminate the rights of the surety to perform the reclamation by issuance of a Chief's Order terminating the surety's right to reclaim (Termination Order) if the surety fails within 60 days of receipt of the BFO to:

   a) Notify the Chief within 60 days that it will or will not perform the reclamation; or

   b) Submit a reclamation timetable at the same time it notifies the Chief that it will perform the reclamation.

2) Within 7 days after the end of the 30-day appeal period for the Termination Order the I & E manager shall send written notice to the bonding supervisor to proceed with collection of the surety bond. The I & E manager will also send written notice to the Engineering manager within 7 days after the end of the 30-day appeal period for the Termination Order of the end of the Termination Order appeal period so that design can begin.

3) The bonding supervisor will, within 10 days of receipt of written notice of the end of the Termination Order appeal period, initiate a demand for payment to the surety company by certified mail specifying that payment is due within 30 days of receipt. In addition, upon receipt of the above written notice, the bonding supervisor will, after consultation with the AML section, assign a project number to the forfeiture.

4) Upon receipt of the bond monies submitted in response to the demand for payment, the bonding supervisor will immediately deposit the monies in the appropriate AML forfeiture account, and send a copy of the revenue transmittal to the Fiscal manager.

5) Within 7 days after the end of the 30-day period specified for surety payment, if payment has not been received, the Bonding supervisor shall send written notice to the I & E Manager, informing him that payment has not been received.

6) On a monthly basis, the I & E manager will cause a delinquent claim to be filed for the demanded amount with the Division's Assistant Attorney General assigned to collection cases. Upon receipt of any monies received pursuant to the delinquent claims, the bonding supervisor will immediately deposit the monies in the appropriate forfeiture rotary account.

If a permit is bonded by a combination of bond (e.g. surety and cash) then the procedures and time frames for collection of surety bond will apply.

In all cases, within 5 days of the deposit of bond monies in the appropriate forfeiture account, the bonding supervisor will prepare and distribute copies of the payment received for the forfeited permit to the I & E manager and the appropriate District office.

On a monthly basis (by the 7th of each month) the I & E manager will be responsible for providing the Chief with a tracking form, identifying the status of all forfeitures pursuant to the above procedures.

Gordon L. Hufford

Gordon L. Hufford, Manager
Inspection and Enforcement

GLH/sz/tp