

**WAC 332-18-130 Bank letters of credit.** The performance security required by RCW 78.44.087 may be in the form of a bank letter of credit.

(1) The department will accept a bank letter of credit under RCW 78.44.087 only if the letter of credit is established in an amount equal to the estimated cost of completing reclamation according to the approved reclamation plan or minimum reclamation standards and related administrative overhead for the area to be surface mined during the next thirty-six month period and any previously disturbed areas for which a reclamation permit has been issued and on which the reclamation has not been satisfactorily completed and approved.

(2) If the letter of credit is issued by a bank that has an office within the state of Washington, the department may accept the letter of credit if it:

(a) Is issued by a bank that is financially sound and is authorized to do business in the state of Washington;

(b) Does not state that it is subject to the uniform customs and practice for documentary credits; and

(c) Is in the form described in subsection (4) of this section.

(3) If the letter of credit is issued by a bank that does not have an office within the state of Washington, the department may accept the letter of credit if it:

(a) Is in the form described in subsection (4) of this section; and

(b) Is accompanied by a letter of confirmation that:

(i) Is issued by a bank that is financially sound, that is authorized to do business in the state of Washington, and that has an office within the state of Washington;

(ii) States that the confirming bank will honor the letter of credit; and

(iii) States that the letter of confirmation is subject to the Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400.

(4) Unless the department determines that a different form is desirable or required, any letter of credit filed with the department under RCW 78.44.087 shall:

(a) Be in writing;

(b) Be signed by the issuer;

(c) Conspicuously state that it is a letter of credit and is issued on behalf of the person whose performance it is intended to secure;

(d) Identify the reclamation permit number to which it pertains;

(e) Identify the department of natural resources, state of Washington, as the sole beneficiary;

(f) State that it is irrevocable;

(g) State the date upon which it will expire and provide that the expiration date will be automatically extended for one year from that date or any future expiration date unless, no later than sixty days before any expiration date, the issuing bank notifies the department in writing by registered mail of the bank's election not to renew; and shall

(h) Expressly provide that any draft or demand for payment must be accompanied by the department's signed statement that the person whose performance the credit is intended to secure is in default of the obligations imposed by chapter 78.44 RCW.

[Statutory Authority: RCW 78.44.040, 34.05.220, 43.21C.135 and 78.44.250. WSR 94-14-051, § 332-18-130, filed 6/30/94, effective 8/2/94. Statutory Authority: RCW 78.44.040. WSR 92-20-059 (Order 605), § 332-18-130, filed 10/2/92, effective 11/2/92.]