

1 1574-S AMH .... H2287.2

2 **SHB 1574 - H AMD 090 WITHDRAWN 3/7/95**

3 By Representative Elliot

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5 On page 2, beginning on line 9, after "with" strike "all material  
6 through "government" on line 18 and insert "~~((the laws of the state of  
7 Washington pertaining to metals mining and milling operations and with  
8 the related rules and permit conditions established by state and local  
9 government with respect to those operations as defined in RCW  
10 78.44.031(17) and)) permit conditions administered by the department of  
11 ecology, associated with the construction, operation, reclamation, and  
12 closure of a metals mining and milling operation, as required by rule  
13 adopted by the department of ecology under this chapter"~~"

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4 On page 2, beginning on line 19, after "(b)" strike all material  
5 through "(c)" on line 21

6 On page 2, line 23, strike "~~((e))~~ (d)" and insert "(c)"

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4 On page 4, after line 22, strike all of section 3 and insert the  
5 following:

6 "**Sec. 3.** RCW 78.44.087 and 1994 c 232 s 23 are each amended to  
7 read as follows:

8 (1) The department shall not issue a reclamation permit until the  
9 applicant has deposited with the department an acceptable performance  
10 security on forms prescribed and furnished by the department.

11 (2) A public or governmental agency shall not be required to post  
12 performance security nor shall a permit holder, other than a metals  
13 mining and milling operation subject to RCW 78.56.110, be required to  
14 post surface mining performance security with more than one state or  
15 local agency.

16 (3) This performance security may be:

17 ((+1)) (a) Bank letters of credit acceptable to the department;

18 ((+2)) (b) A cash deposit;

19 ((+3)) (c) Negotiable securities acceptable to the department;

20 ((+4)) (d) An assignment of a savings account;

21 ((+5)) (e) A savings certificate in a Washington bank on an  
22 assignment form prescribed by the department;

23 ((+6)) (f) Assignments of interests in real property within the  
24 state of Washington; or

25 ((+7)) (g) A corporate surety bond executed in favor of the  
26 department by a corporation authorized to do business in the state of  
27 Washington under Title 48 RCW and authorized by the department.

28 (4) The performance security shall be conditioned upon the faithful  
29 performance of the requirements set forth in this chapter and of the  
30 rules adopted under it.

31 (5) The department shall have the authority to determine the amount  
32 of the performance security using a standardized performance security  
33 formula developed by the department. The amount of the security shall  
34 be determined by the department and based on the estimated costs of  
35 completing reclamation according to the approved reclamation plan or

1 minimum standards and related administrative overhead for the area to  
2 be surface mined during (a) the next twelve-month period, (b) the  
3 following twenty-four months, and (c) any previously disturbed areas on  
4 which the reclamation has not been satisfactorily completed and  
5 approved.

6 (6) The department may increase or decrease the amount of the  
7 performance security at any time to compensate for a change in the  
8 disturbed area, the depth of excavation, a modification of the  
9 reclamation plan, or any other alteration in the conditions of the mine  
10 that affects the cost of reclamation. The department may, for any  
11 reason, refuse any performance security not deemed adequate.

12 (7) Liability under the performance security shall be maintained  
13 until reclamation is completed according to the approved reclamation  
14 plan to the satisfaction of the department unless released as  
15 hereinafter provided. Liability under the performance security may be  
16 released only upon written notification by the department.  
17 Notification shall be given upon completion of compliance or acceptance  
18 by the department of a substitute performance security. The liability  
19 of the surety shall not exceed the amount of security required by this  
20 section and the department's reasonable legal fees to recover the  
21 security.

22 (8) Any interest or appreciation on the performance security shall  
23 be held by the department until reclamation is completed to its  
24 satisfaction. At such time, the interest shall be remitted to the  
25 permit holder; except that such interest or appreciation may be used by  
26 the department to effect reclamation in the event that the permit  
27 holder fails to comply with the provisions of this chapter and the  
28 costs of reclamation exceed the face value of the performance security.

29 Except as provided in this section and in RCW 78.56.110 for metals  
30 mining and milling operations, no other state agency or local  
31 government shall require performance security for the purposes of  
32 surface mine reclamation and only one agency of government shall  
33 require and hold the performance security.

34 (9) For metal mining and milling operations subject to RCW  
35 78.56.110, a single performance security, when acceptable to both the  
36 department of natural resources and the department of ecology, may be  
37 utilized to satisfy the requirements of this section and RCW 78.56.110.

38 (10) The department may enter into written agreements with federal  
39 agencies in order to avoid redundant bonding of surface mines

1 straddling boundaries between federally controlled and other lands  
2 within Washington state.

3 ((~~The department and the department of ecology shall jointly~~  
4 ~~require performance security for metals mining and milling operations~~  
5 ~~regulated under chapter 232, Laws of 1994.~~))"

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