



Guidance Document

Letters of Credit for Reclamation for the State of Tennessee's Surface Mining Program

Before submitting a letter of credit in fulfillment of the requirements of Tennessee Rule 0400-42-02-.02, please review the checklist below.

Checklist

- The department must receive a signed original of the letter of credit.
- The letter of credit should be accompanied by a letter from the owner/operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the permit identification number, name, and location of the site, and the amount of funds assured for the site by the letter of credit.
- The letter of credit should use the language provided by the department. If you or the financial institution have concerns about a specific provision, please contact the Division of Financial Responsibility.
- The amount of the letter of credit must be at least equal to the amount of financial assurance required.
- The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

A note on foreign banks: In order to comply with Tennessee regulations, letters of credit issued by a foreign bank must be issued by a United States branch of that bank whose letter of credit operations are regulated and examined by a Federal or State agency. Letters of credit issued directly by a bank branch based in a foreign country do not meet this criterion and cannot be used.

A note on amendments to letters of credit: When making adjustments to the amount of a letter of credit, the bank will usually send an amendment referencing the original letter of credit number and indicating the new amount rather than sending a completely new letter of credit. This is acceptable. In these cases, we will review the amendment for the following:

- The amendment should reference the correct original letter of credit number.
- The amendment must be a signed original.
- The amendment should indicate clearly that all other terms and conditions of the original letter of credit remain unchanged.

Note: This checklist is provided only as a convenience in order to address some of the more common issues that we encounter when reviewing financial instruments. It is not intended as a complete representation of all applicable regulatory requirements. Please consult with your legal counsel and the TDEC Division of Financial Responsibility before submitting a financial instrument.