

CHAPTER 12

NONCOAL

LETTERS OF CREDIT

~~Section 1. Conditions on the Letter of Credit.~~

~~(a) Letters of credit as authorized by W.S. § 35-11-418, shall be subject to the following conditions:~~

~~(i) The letter shall be irrevocable during its term, which shall coincide with the annual bonding period. The Administrator may approve the use of letters of credit as security in accordance with a schedule approved with the permit. Any bank issuing a letter of credit shall notify the Director in writing at least 90 days prior to the maturity date of such letter or the expiration of the letter of credit agreement. Letters of credit utilized as security in areas requiring continuous bond coverage shall be forfeited and collected by the Director if not replaced by other suitable evidence of financial responsibility at least 30 days before the expiration date of the letter of credit agreement;~~

~~(ii) The letter must be payable to the Department in part or in full upon demand and receipt from the Director of a notice of forfeiture issued in accordance with W.S. § 35-11-421;~~

~~(iii) The letter shall not be in excess of ten percent of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant;~~

~~(iv) The Administrator shall not accept letters of credit from a bank for any person, on all permits held by that person, in excess of three times the limitation imposed by W.S. § 13-3-402; and~~

~~(v) The letter of credit shall provide that:~~

~~(A) The bank will give prompt notice to the permittee and the Director of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements which could result in suspension or revocation of the bank's charter or license to do business;~~

~~(B) In the event the bank becomes unable to fulfill its obligations under the letter of credit for any reason, notice shall be given immediately to the permittee and the Director; and~~

~~(C) Upon the incapacity of a bank by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without performance bond coverage in violation of the Act. The Director shall issue a notice~~

~~of violation against any operator who is without bond coverage, specifying a reasonable period to replace bond coverage, not to exceed 90 days. During this period the Director or his designated representative shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulations and the Act. If the notice is not abated in accordance with the schedule, a cessation order shall be issued.~~

~~Section 2. Agent for Service of Process.~~

~~(a) The letter may only be issued by a bank organized to do business in the U.S. which identifies by name, address, and telephone number an agent upon whom any process, notice or demand required or permitted by law to be served upon the bank, may be served.~~

~~(i) If the bank fails to appoint or maintain an agent in this State, or whenever any such agent cannot be reasonably found, then the Director shall be an agent for such bank upon whom any process, notice or demand may be served for the purpose of this Chapter. In the event of any such process, the Director shall immediately cause one copy of such process, notice or demand to be forwarded by registered mail to the bank at its principal place of business. The Director shall keep a record of all processes, notices, or demands served upon him under this paragraph, and shall record therein the time of such service and his action with reference thereto.~~

~~(ii) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon the bank in any other manner now or hereafter permitted by law.~~