

Figure: 30 TAC §37.621

IRREVOCABLE STANDBY LETTER OF CREDIT FOR LIABILITY

Name and Address of Issuing Institution

Executive Director

Texas Commission on Environmental Quality

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in the favor of (any and all third-party liability claimants or name of trustee of the standby trust fund), at the request and for the account of (owner's or operator's name and physical and mailing addresses) for third-party liability awards or settlements up to (in words) U.S. dollars \$_____ per occurrence and the annual aggregate amount of (in words) U.S. dollars \$_____, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of (in words) U.S. dollars \$_____ per occurrence, and the annual aggregate amount of (in words) U.S. dollars \$_____, for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this letter of credit No. _____, and (the following language if the letter of credit is being used without a standby trust fund:

(1) a signed certificate reading as follows:

CERTIFICATE OF VALID CLAIM

The undersigned, as parties, the Principal (name of principal) and (name and address of third party claimant(s)), hereby certify that the claim of bodily injury and/or property damage caused by a (sudden and/or nonsudden) accidental occurrence arising from operations of the Principal's facility(ies) should be paid in the amount of \$_____. We hereby certify that the claim does not apply to any of the following:

(a) Bodily injury or property damage for which the Principal is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the Principal (principal) would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of the Principal under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of the Principal arising from, and in the course of, employment by the Principal;

or

(2) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by the Principal.

This exclusion applies:

(A) Whether the Principal may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to

others of any aircraft, motor vehicle or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by the Principal;

(2) Premises that are sold, given away or abandoned by the Principal if the property damage arises out of any part of those premises;

(3) Property loaned to the Principal;

(4) Personal property in the care, custody or control of the Principal;

(5) That particular part of real property on which the Principal or any contractors or subcontractors working directly or indirectly on behalf of the Principal are performing operations, if the property damage arises out of these operations.

(Signatures) _____

Principal _____

(Signatures) _____

Claimant(s) _____

or

(2) a valid final court order establishing a judgment against the Principal for bodily injury or property damage caused by a sudden and/or nonsudden accidental occurrence arising from operation of the Principal's facility or group of facilities.)

This letter of credit is effective as of (date) and shall expire on (date at least one year later), but such expiration date shall be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the TCEQ executive director, and (owner's or operator's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

(Insert the following language if a standby trust fund is not being used: In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered ("primary coverage" or "excess coverage").)

We certify that the wording of this letter of credit is identical to the wording specified in 30 Texas Administrative Code §37.621 as such regulations were constituted on the date shown immediately below.

(Signature(s) and title(s) of official(s) of issuing institution)_____

(Date) _____

This credit is subject to ("the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code").

