

**STATE OF FLORIDA**  
Underground Injection Control Program

Financial Responsibility Options  
for Owners and Operators of  
Injection Wells



Revised: 1996  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

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## Table of Contents

	<u>Page</u>
Preface .....	i
Introduction .....	1
Recommended Financial Responsibility Options .....	3
Update/Cancellation Schedules .....	5
Surety Bonds .....	7
Performance Bond .....	9
Financial Guarantee Bond .....	14
Letter of Credit .....	19
Trust Fund Agreements .....	23
Standby Trust Fund Agreement .....	25
Trust Fund Agreement .....	35
Financial Tests .....	45
RCRA Financial Test .....	53
UIC Financial Test .....	61
Local Government Guarantee .....	77
Certification of Financial Responsibility .....	79
Chapter 218, Part V, Florida Statutes .....	81
Certificate of Demonstration .....	83

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## PREFACE

### Financial Responsibility

Introduction - All Class I injection well permittees must demonstrate and maintain financial responsibility. Financial responsibility is defined as having the resources necessary to properly close, plug and abandon the injection operation. The injection operation includes the injection well(s) and associated monitor well(s).

Plugging and abandonment plan/cost determination - In order to demonstrate financial responsibility a permittee or applicant must submit a detailed plugging and abandonment (P&A) plan to the Department for approval. The P&A plan should contain the following information:

1. A step-by-step plugging plan indicating where cement and other fillers (if any) will be placed.
2. A drawing showing the well construction and proposed placement of plugging materials. Appropriate depths should be indicated on this drawing.
3. Calculations showing the derivation of the volume of cement and other fillers (if any) needed to plug the well according to the plan prepared in Items 1 and 2 above. Separate calculations should be made for each well.
4. Calculations showing the derivation of the total cost for plugging each well. Costs should be itemized for each well (i.e. cement cost, mobilization cost, etc.). Financial responsibility must be demonstrated for the sum of the total costs for all injection and associated monitor wells at a facility.

Methods of demonstration - Once the total cost of plugging and abandoning the injection operation has been determined the applicant or permittee must demonstrate financial responsibility by one of the following methods:

1. Surety bond
2. Letter of Credit
3. Trust Fund agreements
4. Financial tests
5. Local government guarantee

Each of these methods is discussed in detail in the Department's guidelines for demonstrating financial responsibility.

Timing of demonstrations - Department rules require that financial responsibility be demonstrated at the time of permitting and maintained. A demonstration of financial responsibility will be required for each construction and operation permit application. Also, at any time during a permit cycle, if updated plugging and abandonment costs exceed the initial financial certification amount by ten percent or more, then a redemonstration shall be submitted to the Department. Updated plugging and abandonment cost estimates should be provided to the Department at the midpoint of the permit cycle. Permittees which utilize a UIC Financial Test shall redemonstrate annually, and forward the latest annual report or financial statement.

Financial responsibility is required for Class I injection wells, and any monitor well which penetrates to a depth below the underground source of drinking water.

Summary - Department UIC rules require that a permittee for a Class I injection well demonstrate and maintain financial responsibility. To do this, the applicant or permittee must first develop a plugging and abandonment plan and determine the cost associated with implementing this plan should it become necessary. These costs should be updated during the midpoint of the permit cycle and if the cost is ten percent or more above the

amount of the previous financial responsibility demonstration is based, then a redemonstration must be made to the Department. Once the costs have been determined, several methods are available to demonstrate financial responsibility. Each method is described in the Department's guidelines for demonstrating financial responsibility.

Financial Responsibility Options  
for Owners and Operators  
of Class I Injection Wells

Introduction

The Florida Department of Environmental Protection (FDEP) has compiled the information provided in this document to assist Underground Injection Control (UIC) facilities in complying with the financial standards of Chapter 62-528.435(9), Florida Administrative Code (F.A.C.). The current rule language addressing UIC financial responsibility is written as follows:

Rule 62-528.435(9), F.A.C., Financial Responsibility. The Department shall require the permittee to demonstrate and maintain financial responsibility and resources necessary to enable the permittee to close, plug, and abandon the underground injection operation.

(a) Class I hazardous waste wells shall comply with the financial responsibility requirements of 40 C.F.R. pt. 144 Subpart F (1994).

(b) For Class I wells used to inject non-hazardous fluids these requirements are specified in the Department's document "State of Florida Underground Injection Control Program Financial Responsibility Options for Owners and Operators of Injection Wells" (1994), which is incorporated herein by reference, and which may be obtained by writing to the Bureau of Drinking Water and Ground Water Resources, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. In lieu of individual financial guarantees, the applicant shall furnish a financial guarantee covering all the applicant's injection wells in this State. The Department shall require a certificate showing that the applicant has assured, through appropriate means, that resources necessary to cover post-closure monitoring and any corrective action resulting from this monitoring have been provided.

Rule 62-528.435(9)(b), F.A.C., incorporates this guidance document by reference because other guidance provided in the rule is very limited and has caused the regulated community difficulty in knowing how to meet the financial requirements necessary to operate a Class I underground injection control facility in Florida.

The purpose of this document is to outline the financial options suggested by the FDEP for permittee compliance with the rule language as written. Although other options may be accepted by the FDEP, the permittee should consider those described herein before selecting an alternate financial demonstration. Options

selected by permittees which do not meet the format of those provided in this document will require additional review by the Agency before an opinion on acceptance can be rendered.

The suggested financial responsibility mechanisms are provided in a fill-in-the-blank format to assist the permittee and its financial institution in providing the requested information. Once completed, the original document(s) should be sent to Florida Department of Environmental Protection, Bureau of Drinking Water and Ground Water Resources, 2600 Blair Stone Road, Tallahassee, FL 32399-2400 and a photo copy submitted to the FDEP district office responsible for the permitting activities.

Recommended Financial Responsibility Mechanisms  
for Complying with Rule 62-528.435(9), F.A.C.

Financial Option	Documentation to be Submitted to FDEP
Performance Bond	<ul style="list-style-type: none"> <li>- Performance Bond</li> <li>- Standby Trust Bond Agreement               <ul style="list-style-type: none"> <li>--Certification of Acknowledgement</li> <li>--Schedule A</li> <li>--Schedule B</li> </ul> </li> </ul>
Financial Guarantee Bond	<ul style="list-style-type: none"> <li>- Financial Guarantee Bond</li> <li>- Standby Trust Fund Agreement               <ul style="list-style-type: none"> <li>--Certification of Acknowledgement</li> <li>--Schedule A</li> <li>--Schedule B</li> </ul> </li> </ul>
Letter of Credit	<ul style="list-style-type: none"> <li>- Letter of Credit</li> <li>- Standby Trust Fund Agreement               <ul style="list-style-type: none"> <li>--Certification of Acknowledgement</li> <li>--Schedule A</li> <li>--Schedule B</li> </ul> </li> </ul>
Trust Fund	<ul style="list-style-type: none"> <li>- Trust Fund Agreement               <ul style="list-style-type: none"> <li>--Certification of Acknowledgement</li> <li>--Schedule A</li> <li>--Schedule B</li> </ul> </li> </ul>
RCRA Financial Test	<ul style="list-style-type: none"> <li>- Letter from Chief Financial Officer</li> <li>- Letter from Independent Auditor Regarding Firm's Year-End Financial Statements</li> <li>- Letter from Independent Auditor on Data Provided in Chief Financial Officers Letter</li> <li>- Corporate Guarantee (for UIC) if Parent Company is Providing Financial Assurance for its Subsidiary</li> </ul>
UIC Financial Test	<ul style="list-style-type: none"> <li>- Letter from Chief Financial Officer</li> <li>- Letter from Independent Auditor Regarding Firm's Year-End Financial Statements</li> <li>- Letter from Independent Auditor on Data Provided in Chief Financial Officers Letter (if applicable)</li> <li>- Corporate Guarantee (for UIC) if Parent Company is Providing Financial Assurance for its Subsidiary</li> <li>- Corporate Income Tax Return for Previous Three Years</li> </ul>

Recommended Financial Responsibility Mechanisms  
for Complying with Rule 62-528.435(9), F.A.C.  
(continued)

Financial Option	Documentation to be Submitted to FDEP
Local Government Guarantee	<ul style="list-style-type: none"><li>- Letter from Attorney Attesting to Status as a Local Government</li><li>- Certification of Financial Responsibility</li><li>- Financial Statements of Local Government for Most Recently Completed Fiscal Year</li></ul>

UIC Financial Responsibility Options  
Update/Cancellation Schedules

UIC FINANCIAL RESPONSIBILITY OPTIONS	UPDATE COVERAGE WITHIN # DAYS OF INCREASE IN COSTS	TIME LINE FOR NOTICE OF CANCELLATION BY THIRD PARTY, DAYS TO DEMONSTRATE ASSURANCE, AND FDEP SECRETARY DRAWING ON FUNDS AVAILABLE BY THIRD PARTY
Financial Guarantee Bond	60	<u>Notice of Cancellation - 120 Days</u> 90 Days to Demonstrate Alternate Assurance + 30 Days for the FDEP Secretary to Draw on Bond.
Performance Bond	60	<u>Notice of Cancellation - 120 Days</u> 90 Days to Demonstrate Alternate Assurance + 30 Days for the FDEP Secretary to Draw on Bond.
Letter of Credit	60	<u>Notice of Cancellation - 120 Days</u> 90 Days to Demonstrate Alternate Assurance + 30 Days for the FDEP Secretary to Draw on Letter of Credit.
Trust Fund	60	Alternate Financial Assurance Must Be Submitted and Approved Before Termination.
Financial Test	nnually	Must Notify Within 90 Days After Close of Fiscal Year if Facility No Longer Meets Test Requirements + 30 Additional Days to Submit Alternate Assurance.
Corporate Guarantee	Annually	<u>Notice of Cancellation - 120 Days</u> 90 Days to Demonstrate Alternate Assurance + 30 Days Guarantor Must Provide Alternate Assurance.

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## Surety Bonds

A surety bond is a guarantee made by a third party (surety company) that obligations as identified in the bond will be met if a permittee fails to fulfill his plugging and abandonment responsibilities to the State of Florida. Two forms of surety bonds, the Performance Bond and Financial Guarantee Bond, are suggested by the FDEP for complying with the financial responsibility requirements.

The performance bond guarantees the performance of plugging and abandonment of the underground injection system as outlined in the permittee's plugging and abandonment plan. If the surety company is unable to conduct the actual plugging and abandonment of the injection system, the total bond value will be placed in a standby trust fund, established in conjunction with the original performance bond. The FDEP will then oversee the plugging and abandonment activities utilizing the trust funds to cover the costs.

The financial guarantee bond guarantees that financial resources, in the amount of the bond, will be available to the FDEP to conduct plugging and abandonment activities if the permittee fails to meet this obligation. Again, a standby trust fund agreement is established at the time the bond is issued by the surety company. This allows easy transfer of funds from the bond to an account, in the name of the permittee, which the FDEP uses to perform plugging and abandonment activities.

Both surety bond options provide clauses which allow annual increases to the bond of 20 percent. Decreases in bond coverage requires the prior written consent of the FDEP Secretary.

Bond cancellation provisions require 120 days notice to both the permittee and the FDEP Secretary. The permittee will have 90 days, after receipt of the notice of cancellation, to obtain alternate financial assurance. If alternate assurance is unavailable, the FDEP will request the surety company to fund the standby trust fund.

Information on the availability of these bonds may be acquired from the owner's or operator's insurance company.

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Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Florida Department of Environmental Protection (hereinafter called FDEP), in the above penal sum for the payment, of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Underground Injection Control (UIC) rules, Chapter 62-528, Florida Administrative Code, to have a permit or comply with requirements to operate under rule in order to own or operate each injection well and associated monitor well(s) identified above, and

Whereas said Principal is required to provide financial assurance for plugging and abandonment and/or post-closure monitoring as a condition of the permit or provisions to operate under rule, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform plugging and abandonment and/or post-closure monitoring, whenever required to do so, of each injection well and associated monitor well(s) for which this bond guarantees plugging and abandonment and/or post-closure monitoring, in accordance with the plugging and abandonment and/or post-closure monitoring plan and other requirements of the permit or provisions for operating under rule as may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance and obtain the FDEP Secretary's written approval of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the FDEP Secretary from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the FDEP Secretary that the Principal has been found in violation of the plugging and abandonment and/or post-closure monitoring requirements of Rule 62-528, Florida Administrative Code, for an injection well or associated monitor well(s) which this bond guarantees performance of plugging and abandonment and/or post-closure monitoring, the Surety(ies) shall either perform plugging and abandonment and/or post-closure monitoring in accordance with the plugging and abandonment and/or post-closure monitoring plan and other permit requirements of provisions for operating under rule and other requirements or place the amount for plugging and abandonment and/or post-closure monitoring into a standby trust fund as directed by the FDEP Secretary.

Upon notification by the FDEP Secretary that the Principal has failed to provide alternate financial assurance and obtain written approval of such assurance from the FDEP Secretary during the 90 days following receipt by both the Principal and the FDEP Secretary of a notice of cancellation of the bond, the Surety(ies) shall place the full amount guaranteed for the injection and monitor well(s) into the standby trust as directed by the FDEP Secretary.

The Surety(ies) hereby waive(s) notification of amendments to plugging and abandonment and/or post-closure monitoring plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice by certified mail to the permittee and to the FDEP Secretary, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the FDEP Secretary, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the FDEP Secretary.

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new plugging and abandonment and/or post-closure monitoring amount provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the FDEP Secretary.

In witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

Principal

\_\_\_\_\_  
[Signature(s)]

\_\_\_\_\_

\_\_\_\_\_  
[Name(s)]

\_\_\_\_\_

\_\_\_\_\_  
[Title(s)]

\_\_\_\_\_

[Corporate Seal]

Corporate Surety(ies)

\_\_\_\_\_  
[Name and Address]

State of Incorporation: \_\_\_\_\_

Liability limit: \$ \_\_\_\_\_

\_\_\_\_\_  
[Signature(s)]

\_\_\_\_\_  
[Name(s)]

\_\_\_\_\_  
[Title(s)]

[Corporate Seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ \_\_\_\_\_

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Know All Persons By These Presents, That We, the Principal and Surety(ies) hereto are firmly bound to the Florida Department of Environmental Protection (hereinafter called FDEP), in the above penal sum for the payment, of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Underground Injection Control (UIC) rules, Chapter 62-528, Florida Administrative Code, to have a permit or comply with requirements to operate under rule in order to own or operate each injection well and associated monitor well(s) identified above, and

Whereas said Principal is required to provide financial assurance for plugging and abandonment and/or post-closure monitoring as a condition of the permit or provisions to operate under rule, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully, before the beginning of plugging and abandonment and/or post-closure monitoring of each injection well and associated monitor well(s) identified above, fund the standby trust fund in the amount(s) identified above for the injection well and associated monitor well(s),

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to begin plugging and abandonment and/or post-closure monitoring is issued by the FDEP Secretary or a Florida circuit court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as applicable, and obtain the FDEP Secretary's written approval of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the FDEP Secretary from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the FDEP Secretary that the Principal has failed to perform as guaranteed by this bond,

the Surety(ies) shall place funds in the amount guaranteed for the injection and associated monitor well(s) into the standby trust fund as directed by the FDEP Secretary.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the FDEP Secretary, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the FDEP Secretary, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the FDEP Secretary.

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new plugging and abandonment and/or post-closure monitoring amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the FDEP Secretary.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

Principal

\_\_\_\_\_  
[Signature(s)]

\_\_\_\_\_  
[Name(s)]

\_\_\_\_\_  
[Title(s)]

[Corporate Seal]

Corporate Surety(ies)

\_\_\_\_\_  
[Name and Address]

State of Incorporation: \_\_\_\_\_

Liability limit: \$ \_\_\_\_\_

\_\_\_\_\_  
[Signature(s)]

\_\_\_\_\_  
[Name(s)]

\_\_\_\_\_  
[Title(s)]

[Corporate Seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ \_\_\_\_\_

## Irrevocable Letter of Credit

The irrevocable letter of credit is a mechanism by which the credit of one party (such as a bank) is extended on behalf of a second party (the UIC permittee) to a beneficiary (the FDEP). The issuer offers this credit in exchange for a fee paid by the owner or operator.

Issuing institutions must be an entity which has authority to issue a letter of credit, and whose operations are regulated and examined by a Federal or State agency. The letter of credit presented in this document is irrevocable for a period of at least one year and provides for automatic extensions of at least one year. The value of the letter of credit must be at least equal to the current plugging and abandonment costs of the injection system for which it represents.

To complete a financial demonstration by use of a letter of credit, the permittee must also establish a standby trust fund. To establish a standby trust fund, the permittee must first identify a financial institution qualified to serve as a trustee. The trust fund is then initially created with a nominal sum and remains dormant until the Secretary of the FDEP calls on the letter of credit.

Under the FDEP Secretary's direction, funds from the letter of credit will be deposited by the issuing institution into the standby trust if the permittee fails to:

- (1) obtain alternate financial assurance within 90 days of receipt of a notice of cancellation of the letter of credit; or
- (2) perform plugging and abandonment.

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STATE OF FLORIDA

UNDERGROUND INJECTION CONTROL IRREVOCABLE LETTER OF CREDIT

\_\_\_\_\_, Secretary  
Florida Department of Environmental Protection  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit  
No. \_\_\_\_\_ in your favor, at the request and for the account of

\_\_\_\_\_  
[Owner's or Operator's name and address]

up to the aggregate amount of \_\_\_\_\_  
[in words]

U.S. dollars \$ \_\_\_\_\_, available upon presentation of

(1) Your sight draft, bearing reference to this letter of  
credit No. \_\_\_\_\_, and

(2) Your signed statement reading as follows: "I certify  
that the amount of the draft is payable pursuant to  
regulations issued under authority of the Safe Drinking  
Water Act and Chapter 62-528, Florida Administrative  
Code."

This letter of credit is effective as of \_\_\_\_\_ and  
[date]  
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

\_\_\_\_\_ and on each successive expiration date, unless at  
[date]  
least 120 days before the current expiration date, we notify both

you and \_\_\_\_\_ by certified mail that we  
[Owner's or Operator's name]  
have decided not to extend this letter of credit beyond the  
current expiration date. In the event you are so notified, any

unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and \_\_\_\_\_, as shown on the signed return receipts.  
[Owner's or Operator's name]

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, and we shall deposit the amount of the draft directly into the standby trust fund of

\_\_\_\_\_ in accordance with your instructions.  
[Owner's or Operator's name]

\_\_\_\_\_  
[Signature(s) and Title(s) of Official(s) of Issuing Institution] (Date)  
\_\_\_\_\_  
\_\_\_\_\_

This credit is subject to \_\_\_\_\_

\_\_\_\_\_  
[Insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce." or "The Uniform Commercial Code"].

## Trust Fund Agreements

"A TRUST is a three party agreement whereby one party, called the GRANTOR, transfers some assets (often money) to a second party, called the TRUSTEE, to hold on behalf of a third party, called the BENEFICIARY."<sup>1</sup> For the purposes of demonstrating financial responsibility to the FDEP the following are parties to such an agreement:

UIC Permittee	- GRANTOR
Bank or Financial Institution which is authorized to act as a trustee	- TRUSTEE
FDEP	- BENEFICIARY

Two forms of trust fund agreements are included in this document. The first, entitled a Standby Trust Fund Agreement is used in conjunction with another financial mechanism, such as a surety bond or a letter of credit, to complete a showing of financial responsibility. The trust is established with a financial institution which has the authority to act as trustee and whose operations are examined and regulated by a State or Federal Agency. The fund is created by the permittee for a nominal fee and remains dormant until it receives the proceeds from a surety bond or letter of credit. Once funded, the trust shall become active and administered as directed in the trust agreement. The standby trust fund agreement is provided on pages 25 through 34 of this document.

A UIC facility may use a trust fund agreement as its primary demonstration of financial responsibility to the FDEP. This agreement is almost identical to that described above except the total cost of plugging and abandonment is paid in by the permittee when the trust is established. The trustee is responsible for administering the trust as outlined in the trust agreement upon date of execution. The Trust Fund agreement is provided on pages 35 through 44 of this document.

The facility using either form of trust agreement must provide the following documentation to complete the financial package to be submitted to the FDEP:

- (1) A Certification of Acknowledgement must be submitted attesting to the signing of the trust agreement by the permittee. Sample provided on pages 33 and 43 of this document.

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<sup>1</sup> EPA Financial Assurance for Closure and Post-Closure Care: Requirements for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities. A Guidance Manual. Office of Solid Waste and Emergency Response, Washington, D.C., May 1982.

- (2) Schedule A which identifies the facility(ies) covered by the trust agreement and the plugging and abandonment amount to be demonstrated for each facility. Sample provided on pages 33 and 43 of this document.
- (3) Schedule B which identifies the property used to establish the trust. Sample provided on page 34 and 44 of this document.

This financial mechanism shall continue until terminated at the written consent of the Grantor, the Trustee and the FDEP Secretary. If the Grantor ceases to exist, the trust may be terminated at the written consent of the Trustee and the FDEP Secretary.

UNDERGROUND INJECTION CONTROL STANDBY TRUST FUND AGREEMENT TO  
DEMONSTRATE FINANCIAL ASSURANCE

TRUST AGREEMENT, the "Agreement," entered into as of \_\_\_\_\_ [Date]

by and between \_\_\_\_\_,  
[Name of the Owner or Operator]

a \_\_\_\_\_ [insert "corporation,"  
[Name of State] "partnership," "association," or "proprietorship"], the "Grantor,"

and \_\_\_\_\_  
[Name of Corporate Trustee]

[insert "incorporated in the State of \_\_\_\_\_"  
\_\_\_\_\_, the "Trustee".  
or, "a national bank")]

WHEREAS, the Florida Department of Environmental Protection, "FDEP," an agency of the State of Florida, has established certain regulations applicable to the Grantor, requiring that an owner or operator of injection and associated monitor well(s) shall provide assurance that funds will be available when needed for plugging and abandonment and/or post-closure monitoring of the injection and associated monitor well(s),

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the permittee who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "FDEP" means the Florida Department of Environmental Protection, an Agency of the State of Florida or any successor thereof.

(d) The term "facility" means any underground injection well

and associated monitor well(s) or any other activity that is subject to regulation under the Underground Injection Control Program, Chapter 62-528, Florida Administrative Code.

Section 2. Identification of Facilities and Cost Estimates.

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A (on Schedule A, for each facility list the EPA/DEP Identification Number, name, address, and the current plugging and abandonment and/or post-closure monitoring cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement).

Section 3. Standby Trust. This Trust shall remain dormant until funded with the proceeds from the \_\_\_\_\_ [insert "Letter of Credit" or "Surety Bond"] as listed on Schedule B. The Trustee shall have no duties or responsibilities beyond safekeeping this Document. Upon funding this Trust shall become active and be administered pursuant to the terms of this instrument.

Section 4. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the FDEP. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the FDEP.

Section 5. Payment for Plugging and Abandonment. The Trustee shall make payments from the Fund as the FDEP Secretary shall direct, in writing, to provide for the payment of the costs of plugging and abandonment and/or post-closure monitoring of the injection well(s) covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the FDEP Secretary from the Fund for plugging and abandonment and/or post-closure monitoring expenditures in such amounts as the FDEP Secretary shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the FDEP Secretary specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 6. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee and shall consist solely of proceeds

from the \_\_\_\_\_

[Insert "Letter of Credit or "Surety Bond"]

Section 7. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, act in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. §80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;
- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
- (iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 8. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 9. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name or in the Name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 10. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall

be paid from the Fund.

Section 11. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Secretary of the FDEP a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the FDEP Secretary shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 12. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 13. Trustee Compensation. The Trustee is authorized to charge against the principal of the Trust its published Trust fee schedule in effect at the time services are rendered.

Section 14. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instruction. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, FDEP Secretary, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 10.

Section 15. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the

Grantor's orders, requests, and instructions. All orders, requests, and instructions by the FDEP Secretary to the Trustee shall be in writing, signed by the FDEP Secretary, or the designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the FDEP hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the FDEP, except as provided for herein.

Section 16. Amendment of Agreement. This agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the FDEP Secretary, or by the Trustee and the FDEP Secretary if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the FDEP Secretary, or by the Trustee and the FDEP Secretary if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the FDEP Secretary issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Florida.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written.

\_\_\_\_\_  
[Signature of Grantor]

\_\_\_\_\_  
[Title]

Attest:

\_\_\_\_\_  
[Title]

[Seal]

\_\_\_\_\_  
[Signature of Trustee]

Attest:

\_\_\_\_\_  
[Title]

[Seal]

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SAMPLE CERTIFICATION OF ACKNOWLEDGMENT FOR UNDERGROUND  
INJECTION WELL FACILITY STANDBY TRUST FUND AGREEMENT

The following is an example of the certification of acknowledgment which must accompany the agreement for a trust fund.

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came (permittee) to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

SAMPLE SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimate(s) for the following facility(ies):

Identification			Cost Estimates for Which Financial Assurance Being Demonstrated by This Agreement	
Number of Facility	Name of Facility	Address of Facility		
FLS 999999999	East Minor Facility	42 Main Street Los Tunas, CA. 90006	Plugging & Abandonment	\$110,000
			Post-Closure Monitoring	<u>\$ 62,000</u>
			TOTAL	\$172,000

The cost estimates listed here were last adjusted on July 1, 1986.

SAMPLE SCHEDULE B

The Fund is established initially as consisting of the following property:

\$172,000 (One hundred seventy-two thousand dollars), as evidenced by Midtown National Bank Cashier's Check Number 14,282 dated August 1, 1986.

STATE OF FLORIDA

UNDERGROUND INJECTION CONTROL TRUST FUND AGREEMENT  
TO DEMONSTRATE FINANCIAL ASSURANCE

TRUST AGREEMENT, the "Agreement," entered into as of

\_\_\_\_\_ by and between  
[date]

\_\_\_\_\_ a  
[Name of the owner or Operator]

\_\_\_\_\_ [insert "corporation,"  
[Name of State]

"partnership," "association," or "proprietorship"], the

"Grantor," and \_\_\_\_\_  
[Name of Corporate Trustee]

[insert "incorporated in the State of \_\_\_\_\_"]

\_\_\_\_\_, the Trustee".  
or "a national bank"]

Whereas, the Florida Department of Environmental Protection, "FDEP", an agency of the State of Florida, has established certain regulations applicable to the Grantor, requiring that an owner or operator of injection and associated monitor well(s) shall provide assurance that funds will be available when needed for plugging and abandonment and/or post-closure monitoring of the injection and associated monitor well(s),

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility(ies) identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the permittee who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "FDEP" means the Florida Department of Environmental Protection, an Agency of the State of Florida or any successor thereof.

(d) Facility or activity means any "underground injection well and associated monitor well(s)" or any other facility or activity that is subject to regulation under the Underground Injection Control Program, Chapter 62-528, Florida Administrative Code.

Section 2. Identification of Facilities and Cost Estimates.

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A (on Schedule A, for each facility list the EPA identification number, name, address, the current plugging and abandonment and/or post-closure monitoring cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a fund, the "Fund", for the benefit of the FDEP. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the FDEP.

Section 4. Payment for Plugging and Abandonment. The Trustee shall make payments from the Fund as the FDEP Secretary shall direct, in writing, to provide for the payment of the costs of plugging and abandonment and/or post-closure monitoring of the injection well(s) and associated monitor well(s) covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the FDEP Secretary from the Fund for plugging and abandonment and/or post-closure monitoring expenditures in such amounts as the FDEP Secretary shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the FDEP Secretary specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest

and reinvest the principal and income of the Fund and keep the Fund invested as a single Fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. §80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;
- (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and
- (iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by any agency of the Federal or State government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the FDEP Secretary a

statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the FDEP Secretary shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee is authorized to charge against the principal of the Trust its published Trust fee schedule in effect at the time services are rendered.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the FDEP Secretary and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the Acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or other such designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in writing without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the FDEP Secretary to the Trustee shall be in writing, signed by the FDEP Secretary or the designee, and the Trustee shall be fully protected in acting in accordance with such orders, requests, and instructions. The

Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or FDEP hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the FDEP, except as provided for herein.

Section 15. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the FDEP Secretary, or by the Trustee and the FDEP Secretary if the Grantor ceases to exist.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 15, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the FDEP Secretary, or by the Trustee and the Secretary if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 17. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the FDEP Secretary issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. Choice of Law. This agreement shall be administered, construed, and enforced according to the laws of the State of Florida.

Section 19. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written,

\_\_\_\_\_  
[Signature of Grantor]

\_\_\_\_\_  
[Title]

Attest:

\_\_\_\_\_  
[Title]

[Seal]

\_\_\_\_\_  
[Signature of Trustee]

Attest:

\_\_\_\_\_  
[Title]

[Seal]

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SAMPLE CERTIFICATION OF ACKNOWLEDGMENT FOR UNDERGROUND  
INJECTION WELL FACILITY TRUST FUND AGREEMENT

The following is an example of the certification of acknowledgment which must accompany the agreement for a trust fund.

Under penalty of perjury I hereby certify that I reside at [address], and that I am [title] of [corporation], the corporation described in and which executed the above instrument; that I know the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that I signed my name thereto by like order.

\_\_\_\_\_ [Signature] \_\_\_\_\_ [Date]

SAMPLE SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimate(s) for the following facility(ies):

Identification Number of Facility	Name of Facility	Address of Facility	Cost Estimates for Which Financial Assurance Being Demonstrated by This Agreement	
FLS 999999999	East Minor Facility	42 Main Street Los Tunas, CA. 90006	Plugging & Abandonment	\$110,000
	Post-Closure		Monitoring	\$ 62,000
			TOTAL	<u>\$172,000</u>

The cost estimates listed here were last adjusted on July 1, 1986.

SAMPLE SCHEDULE B

The Fund is established initially as consisting of the following property:

\$172,000 (One hundred seventy-two thousand dollars), as evidenced by Midtown National Bank Cashier's Check Number 14,282 dated August 1, 1986.

## Financial Test Mechanism

The permittee has several financial test options available for demonstrating financial responsibility as required by Rule 62-528.435(9), F.A.C. For those facilities engaged in hazardous waste management activities as well as underground injection activities in the State of Florida, the Department is allowing the permittee to demonstrate financial responsibility for both programs using the RCRA financial test mechanism. A copy of this mechanism is provided on pages 53 through 63 of this document. An in depth explanation of its requirements are not supplied because use of this document should be familiar to RCRA permittees.

The test options developed for the UIC program, by Dr. William Jordan using the Altman model, incorporate costs associated with hazardous waste management facilities. Although use of this test is acceptable for demonstration of financial responsibility as outlined in Rule 62-528.435(9), F.A.C., it is not an acceptable demonstration for the FDEP's Hazardous Waste Program. Facilities interested in providing one financial assurance demonstration to the FDEP for both programs must use the RCRA financial test.

The logic behind requesting cost information associated with both environmental programs (UIC & RCRA) deals with the ability of the firm to meet its outstanding obligations based on its current financial stability. To support the information provided through the financial test options, the firm must submit in conjunction with the mechanism located on pages 65 through 75 of this document a letter from the owner's or operator's independent certified public accountant addressing financial data presented by the firm to the Department as outlined below.

To satisfy the UIC financial test option, the owner or operator must meet one of the four test alternatives. The tests are numbered one through four in descending order based on difficulty. Firms utilizing the financial test option should begin with alternative one and proceed through the alternatives until they have successfully passed a test or failed all four available options. The Department will review the option selected by the permittee on an annual basis to determine if its financial strength is declining over time. A firm which meets alternative 2 one year, alternative 3 the next year and alternative 4 the following year is a likely candidate for defaulting on its obligation to the FDEP.

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Alternative 1

The owner or operator must satisfy all of the following tests:

- (a) Total Assets of not more than the sum of:
  - 1.2 x (Current Assets - Current Liabilities)
  - + 1.4 x (Retained Earnings)
  - + 3.3 x (Earnings before Interest and Taxes); and
- (b) Tangible Net Worth of at least six times the sum of the UIC and RCRA cost estimates outlined in the chief financial officers letter.

Alternative 2

The owner or operator must have all of the following:

- (a) Total Assets of not more than the sum of:
  - 2.4 x (Current Assets - Current Liabilities)
  - + 2.8 x (Retained Earnings)
  - + 6.6 x (Earnings before Interest and Taxes); and
- (b)  $\frac{\text{Current Assets}}{\text{Current Liabilities}}$  at least 1.5; and
- (c) Tangible Net Worth of at least six times the sum of the current UIC and RCRA cost estimates outlined in the chief financial officers letter.

Alternative 3

The owner or operator must have all of the following:

- (a) Tangible Net Worth of at least six times the sum of the current UIC and RCRA cost estimates outlined in the chief financial officers letter; and
- (b) Retained Earnings of at least \$10 million; and
- (c) The sum of
  - 1.2 x (Current Assets - Current Liabilities)
  - + 1.4 x (Retained Earnings)
  - + 3.3 x (Earnings before Interest and Taxes) greater than zero; and
- (d)  $\frac{\text{Current Assets}}{\text{Current Liabilities}}$  at least 1.0

#### Alternative 4

The owner or operator must have the following:

- (a) A current rating for the most recent bond issuance of one of the three highest Standard and Poor's or Moody's bond ratings.

To demonstrate compliance with the UIC financial test options outlined above, the owner or operator shall submit the following items to the Department at the time of application for a permit and within 90 days of the close of each succeeding fiscal year.

1. A letter signed by the owner's or operator's chief financial officer setting forth:
  - a. the injection well and related monitoring wells for which financial assurance for plugging and abandonment is demonstrated through the financial test;
  - b. the current plugging and abandonment cost estimate to be covered by such test;
  - c. the financial test relied upon.
2. A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year, and copies of the corporate income tax return for the previous three years.
3. A special report (required for Alternatives 1, 2 and 3 only) from the owner's or operator's independent certified public accountant to the owner or operator affirming
  - a. that he has reviewed the data which the letter from the chief financial officer specifies, denoted by an asterisk (\*) mark, as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts provided in the financial statements for that fiscal year;
  - b. in connection with the above review, no matters came to his attention which would cause him to believe that the specified data should be adjusted.
4. A corporate guarantee in conjunction with the chief financial officers letter, must be submitted by a parent company to provide the financial assurance for its subsidiary to meet the financial standards outlined in Rule 62-528.435(9), F.A.C.

**Please note:** The Secretary may require reports of financial condition at any time from the owner or operator.

If the Secretary determines that the financial test has not been met or, based on a reasonable belief that such test does not fairly reflect the owner's or operator's financial responsibility and resources sufficient to close, plug and abandon the underground injection operation, then he may require alternate financial assurance within 30 days after notification of such a finding.

The Secretary may disallow reliance upon any financial test, based upon qualifications of the audit opinion of the owner's or operator's independent certified public accountant. An adverse opinion or a disclaimer of opinion by such accountant will be cause for disallowance.

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Examples of the UIC Financial Test Options

Table 1 lists financial variables for four firms as reported in the COMPUSTAT data tape.

-----  
Table 1  
Financial Variables for Selected Firms  
(In \$ millions)  
-----

Corporate Name	Total Assets	Current Assets	Current Liab.	Working Capital	Retained Earnings	EBIT
Castle & Cooke	1,043	563	259	304	20	(10)
Newhall Land & Farm	147	81	21	60	66	3
San Carlos Milling	6	2	2	0	2	0
Southeastern PS	347	197	114	83	20	6

-----

Alternative 1:  $A \leq 1.2WC + 1.4RE + 3.3EBIT$

Castle & Cooke	$1,043 \leq 360$ (NO)
Newhall Land & Farm	$147 \leq 174$ (YES)
San Carlos Milling	$6 \leq 2.8$ (NO)
Southeastern PS	$347 \leq 247$ (NO)

Alternative 2:  $A \leq 2.4WC + 2.8RE + 6.6EBIT$  and  
 $CR \geq 1.5$

Castle & Cooke	$1,043 \leq 720$ (NO); $2.2 \geq 1.5$ (YES)
Newhall Land & Farm	$147 \leq 348$ (YES); $4.1 \geq 1.5$ (YES)
San Carlos Milling	$6 \leq 5.6$ (NO); $1.0 \geq 1.5$ (NO)
Southeastern PS	$347 \leq 494$ (YES); $1.7 \geq 1.5$ (YES)

Alternative 3:  $0 \leq 1.2WC + 1.4RE + 3.3EBIT$  and  
 $CR \geq 1$ ;  $RE \geq \$10$  million

Castle & Cooke	$0 \leq 360$ (YES); $2.2 \geq 1.0$ (YES);	(RE?) Y
Newhall Land & Farm	$0 \leq 174$ (YES); $4.1 \geq 1.0$ (YES);	Y
San Carlos Milling	$0 \leq 2.8$ (YES); $1.0 \geq 1.0$ (YES);	N
Southeastern PS	$0 \leq 247$ (YES); $1.7 \geq 1.0$ (YES);	Y

Thus, Newhall Land & Farm meets all tests, Southeastern Public Service meets only second and third tests, Castle & Cooke meets only the third test, and San Carlos Milling fails all tests.

Legend for financial test components used above:

- WC - Working Capital (Current Assets - Current Liabilities)
- RE - Retained Earnings
- EBIT - Earnings Before Interest and Taxes
- CR - Current Ratio (Current Assets ÷ Current Liabilities)

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STATE OF FLORIDA

HABARDOUS WASTE FACILITY LETTER FROM CHIEF FINANCIAL OFFICER  
TO DEMONSTRATE LIABILITY COVERAGE OR TO DEMONSTRATE BOTH  
LIABILITY COVERAGE AND ASSURANCE OF CLOSURE OR POST-CLOSURE CARE

\_\_\_\_\_, Secretary  
Florida Department of Environmental Protection  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

I am the chief financial officer of \_\_\_\_\_  
[Owner's or Operator's Name and  
Address]

This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage \_\_\_\_\_  
(insert "and closure and/or post-closure care" if applicable) as specified in Subpart H of 40 CFR Parts 264 and 265, as adopted by reference in Section 17-730.180, Florida Administrative Code (F.A.C.).

[Fill out the following paragraphs regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA/DEP Identification Number, name, and address].

The firm identified above is the owner or operator of the following facilities for which liability coverage for \_\_\_\_\_  
(insert "sudden" or "nonsudden" or "both sudden and nonsudden" accidental occurrences) is being demonstrated to the State of Florida through the financial test specified in Subpart H of 40 CFR Parts 264 and 265, as adopted by reference in Section 17-730.180, F.A.C.:

The firm identified above guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265 liability coverage for \_\_\_\_\_  
(insert "sudden" or "nonsudden" or "both sudden and nonsudden") accidental occurrences at the following facilities owned or operated by the following subsidiaries of the firm:

DEP FORM 17-730.900(4)(b)  
October 1, 1987

Financial Test (Liab. Coverage or Liab.  
Coverage, Closure/Post-Closure)  
Page 1 of 7

(If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following six paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA/DEP Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.)

1. The firm identified above owns or operates the following facilities in the State of Florida for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265, as adopted by reference in Section 17-730.180, F.A.C. The current closure and/or post-closure estimates covered by the test are shown for each facility:

2. The firm identified above guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, as adopted by reference in Section 17-730.180, F.A.C., the closure and post-closure care of the following facilities in the State of Florida owned or operated by its subsidiaries. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility:

3. In States other than Florida where EPA is administering the financial requirements of Subpart H of 40 CFR Parts 264 and 265, this owner or operator is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

4. In States other than Florida where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 and 265, this owner or operator is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

5. The firm identified above owns or operates the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanisms specified in Subpart H of 40 CFR Parts 264 and 265, or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

6. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR Part 144 and/or Section 17-28.27(9), F.A.C. The current plugging and abandonment cost estimates as required by 40 CFR 144.92 and/or Section 17-28.27(9), F.A.C. are shown for each facility:

DEP FORM 17-230.900(4)(b)  
October 1, 1987

Financial Test (Liab. Coverage or Liab.  
Coverage, Closure/Post-Closure)  
Page 3 of 7

This firm \_\_\_\_\_ (insert "is required" or "is not required") to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this owner or operator ends on \_\_\_\_\_  
[Month, Day]

The figures for the following items marked with an asterisk are derived from this owner's or operator's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended

\_\_\_\_\_  
[Date]

[Fill in part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of paragraph (f)(1)(i) of 264.147 or 265.147, as adopted by reference in Section 17-730.180, F.A.C., are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of 264.147 or 265.147, as adopted by reference in Section 17-730.180, F.A.C., are used.]

ALTERNATIVE I

- 1. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
  - \*2. Current assets \$ \_\_\_\_\_
  - \*3. Current liabilities \$ \_\_\_\_\_
  - 4. Net working capital (line 2 minus line 3) \$ \_\_\_\_\_
  - \*5. Tangible net worth \$ \_\_\_\_\_
  - \*6. If less than 90% of assets are located in the U.S., give total U.S. assets \$ \_\_\_\_\_
- |   | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 7. Is line 5 at least \$10 million?   | _____      | _____     |
| 8. Is line 4 at least 6 times line 1?   | _____      | _____     |
| * 9. Is line 5 at least 6 times line 1?                                       | _____      | _____     |
| 10. Are at least 90% of assets located in the U.S.? If not, complete line 11. | _____      | _____     |
| 11. Is line 6 at least 6 times line 1?  | _____      | _____     |

ALTERNATIVE II

1. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
  2. Current bond rating of most recent issuance and name of rating service \_\_\_\_\_
  3. Date of issuance of bond \_\_\_\_\_
  4. Date of maturity of bond \_\_\_\_\_
  - \*5. Tangible net worth \$ \_\_\_\_\_
  - \*6. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) \$ \_\_\_\_\_
- |   | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 7. Is line 5 at least \$10 million?   | _____      | _____     |
| 8. Is line 5 at least 6 times line 1?   | _____      | _____     |
| *9. Are at least 90% of assets located in the U.S.? If not, complete line 10. | _____      | _____     |
| 10. Is line 6 at least 6 times line 1?  | _____      | _____     |

[Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

Part B. Closure or Post-Closure Care and Liability Coverage

[Fill in Alternative I if the criteria of paragraphs (f)(1)(i) of §§264.143 or 264.145 and (f)(1)(i) of §264.147, as adopted by reference in Section 17-730.180, F.A.C., are used or if the criteria of paragraphs (e)(1)(i) of §§265.143 or 265.145 and (f)(1)(i) of §265.147, as adopted by reference in Section 17-730.180, F.A.C., are used. Fill in Alternative II if the criteria of paragraphs (f)(1)(ii) of §§264.143 or 264.145 and (f)(1)(ii) of §264.147, as adopted by reference in Section 17-730.180, F.A.C., are used or if the criteria of paragraphs (e)(1)(ii) of §§265.143 or 265.145 and (f)(1)(ii) of §265.147, as adopted by reference in Section 17-730.180, F.A.C., are used.]

ALTERNATIVE I

1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above) \$ \_\_\_\_\_
2. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
3. Sum of lines 1 and 2 \$ \_\_\_\_\_

- \*4. Total liabilities (if any portion of the closure or post-closure cost estimates is included in your total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 5 and 9) \$ \_\_\_\_\_
- \*5. Tangible net worth \$ \_\_\_\_\_
- \*6. Net worth \$ \_\_\_\_\_
- \*7. Current assets \$ \_\_\_\_\_
- \*8. Current liabilities \$ \_\_\_\_\_
- 9. Net working capital (line 7 minus line 8) \$ \_\_\_\_\_
- \*10. The sum of net income plus depreciation, depletion, and amortization \$ \_\_\_\_\_
- \*11. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) \$ \_\_\_\_\_

YES    NO

- 12. Is line 5 at least 100 million? \_\_\_\_\_
- 13. Is line 5 at least 6 times line 10? \_\_\_\_\_
- 14. Is line 9 at least 6 times line 10? \_\_\_\_\_
- \*15. Are at least 90% of assets located in the U.S.? If not, complete line 16. \_\_\_\_\_
- 16. Is line 11 at least 4 times line 10? \_\_\_\_\_
- 17. Is line 4 divided by line 6 less than 2.0? \_\_\_\_\_
- 18. Is line 10 divided by line 4 greater than 0.1? \_\_\_\_\_
- 19. Is line 7 divided by line 8 greater than 1.5? \_\_\_\_\_

ALTERNATIVE II

- 1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above) \$ \_\_\_\_\_
- 2. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
- 3. Sum of lines 1 and 2 \$ \_\_\_\_\_
- 4. Current bond rating of most recent issuance and name of rating service \_\_\_\_\_
- 5. Date of issuance of bond \_\_\_\_\_

- 6. Date of maturity of bond \_\_\_\_\_
  - \*7. Tangible net worth (if any portion of the closure and post-closure cost estimates is included in "total liabilities" on your financial statements, you may add the amount of that portion to this line) \$ \_\_\_\_\_
  - \*8. Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.) \$ \_\_\_\_\_
- |  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 9. Is line 7 at least \$10 million?  | _____      | _____     |
| 10. Is line 7 at least 6 times line 3?   | _____      | _____     |
| *11. Are at least 90% of assets located in the U.S.? If not, complete line 12. | _____      | _____     |
| 12. Is line 8 at least 6 times line 3?   | _____      | _____     |

I hereby certify that the wording of this letter is substantially identical to the wording specified in 40 CFR 264.151(g), as adopted by reference in Section 17-730.180, F.A.C., as such regulations were constituted on the date shown immediately below except for the references to the State of Florida, the F.A.C. and the FDEP Secretary.

\_\_\_\_\_  
 [Signature]

\_\_\_\_\_  
 [Type Name]

\_\_\_\_\_  
 [Type Title]

\_\_\_\_\_  
 [Date]

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STATE OF FLORIDA

UNDERGROUND INJECTION FACILITY CORPORATE GUARANTEE  
TO DEMONSTRATE FINANCIAL RESPONSIBILITY  
OF AN UNDERGROUND INJECTION CONTROL FACILITY

Guarantee made this \_\_\_\_\_, by  
[Date]

\_\_\_\_\_ a  
[Name of Guaranteeing Entity]  
business corporation organized under the laws of the State of

\_\_\_\_\_ herein referred to as guarantor, to the  
[Name of State]  
Florida Department of Environmental Protection (FDEP), obligee,  
on behalf of our subsidiary \_\_\_\_\_,  
[Name of Subsidiary]

\_\_\_\_\_  
[Business Address]

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to adjust the cost estimate on an annual basis to reflect cost increases due to such factors as inflation.
2. \_\_\_\_\_ owns and operates  
[Owner/Operator]  
the following underground injection facility(ies) covered by this guarantee: (Indicate the plugging and abandonment costs for each well separately).

<u>EPA/DEP I.D. No.</u>	<u>Name/Address</u>	<u>Well Number</u>	<u>Cost</u>
-------------------------	---------------------	--------------------	-------------

3. Plugging and abandonment plan as used below refers to the plan maintained as required by Chapter 62-528, F.A.C., for the plugging and abandonment of the facilities identified above.

4. For value received from \_\_\_\_\_  
[Owner or Operator]  
guarantor guarantees to the FDEP that in the event that \_\_\_\_\_  
[Owner or Operator] fails to perform the plugging and abandonment of the facility(ies) in accordance with the plugging and abandonment plan and other permit requirements whenever required to do so, the guarantor shall do so or establish a trust fund in the name of \_\_\_\_\_  
\_\_\_\_\_, in the amount of \_\_\_\_\_  
[Owner or Operator] the current plugging and abandonment cost estimates.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the FDEP Secretary and to \_\_\_\_\_  
[Owner or Operator] that he intends to provide alternate financial assurance in the name of \_\_\_\_\_  
[Owner or Operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless \_\_\_\_\_  
[Owner or Operator] has done so.

6. The guarantor agrees to notify the FDEP Secretary by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the FDEP Secretary of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of plugging and abandonment care, he shall establish alternate financial assurance in the name of \_\_\_\_\_  
[Owner or Operator] or unless \_\_\_\_\_  
[Owner or Operator] has done so.

8. Guarantor agrees to remain bound under this guarantee

notwithstanding any or all of the following: amendment or modification of the plugging and abandonment plan, amendment or modification of the permit, the extension or reduction of the time of performance of plugging and abandonment, or any other modification or alteration of an obligation of the owner or operator.

9. Guarantor agrees to remain bound under this guarantee for so long as \_\_\_\_\_ must comply with \_\_\_\_\_ [Owner or Operator] the applicable financial assurance requirements of Rule 62-528.435(9), F.A.C., for the above listed facilities except that guarantor may cancel this guarantee by sending notice, by certified mail, to the FDEP Secretary and to \_\_\_\_\_ [Owner or Operator], such cancellation to become effective no later than 120 days after receipt of such notice by the FDEP and \_\_\_\_\_ [Owner or Operator], as evidenced by return receipts.

10. Guarantor agrees that if \_\_\_\_\_ [Owner or Operator] fails to provide alternate financial assurance and obtain written approval of such assurance from the FDEP Secretary within 90 days after a notice of cancellation by the guarantor is received by the FDEP Secretary from guarantor, guarantor shall provide alternate financial assurance in the name of \_\_\_\_\_ [Owner or Operator].

11. Guarantor expressly waives notice of acceptance of this guarantee by the FDEP or by \_\_\_\_\_ [Owner or Operator].

I hereby certify that the information provided herein is current as of the date shown below.

\_\_\_\_\_  
[Effective Date]

Notarized by:

\_\_\_\_\_  
[Name of Guarantor]

\_\_\_\_\_  
[Authorized Signature for Guarantor]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Title of Person Signing]

Corporate Guarantee Page 3 of 3

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STATE OF FLORIDA

LETTER FROM CHIEF FINANCIAL OFFICER  
TO DEMONSTRATE FINANCIAL RESPONSIBILITY  
OF AN UNDERGROUND INJECTION CONTROL FACILITY

\_\_\_\_\_, Secretary  
Florida Department of Environmental Protection  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

I am the chief financial officer of \_\_\_\_\_  
[Name and

\_\_\_\_\_  
Address of Firm]

This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as required by Rule 62-528.433(9), Florida Administrative Code (F.A.C.).

(Complete the following 9 paragraphs regarding facilities and associated cost estimates. Paragraphs 1 through 4 pertain to Underground Injection Control (UIC) facilities while Paragraphs 5 through 9 pertain to Hazardous Waste Management facilities. If your firm has no facilities that belong in a particular paragraph, write "NONE" in the space provided. For each facility, include its EPA/DER Identification Number, name, address and current cost estimate. Identify each cost estimate as to whether it is for plugging and abandonment, closure or post-closure.

1. This firm is the owner or operator of the following facilities in the State of Florida for which financial assurance for plugging and abandonment of an underground injection system is demonstrated through the financial test for Rule 62-528.433(9), F.A.C.
2. The owner or operator identified above guarantees, through the corporate guarantee, the plugging and abandonment of an underground injection system for the following facilities in the State of Florida owned or operated by its subsidiaries. The current cost estimates for plugging and abandonment so guaranteed are shown for each facility:

UIC Financial Test Page 1 of 7

3. In States other than Florida where EPA is administering the financial requirements of Subparts C, D, and F of 40 CFR 144, the owner or operator is demonstrating financial assurance for the plugging and abandonment of the following UIC facilities through the use of a financial test. The current plugging and abandonment cost estimates covered by such a test are shown for each facility:
  
4. In States other than Florida where EPA is not administering the financial requirements of Subparts C, D, and F of 40 CFR 144, this owner or operator is demonstrating financial assurance for the plugging and abandonment of the following UIC facilities through the use of a financial test. The current plugging and abandonment cost estimates covered by such a test are shown for each facility:
  
5. The owner or operator identified above owns or operates the following hazardous waste management facilities in the State of Florida for which financial assurance for closure and/or post-closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265, as adopted by reference in Rule 62-730.180, F.A.C. The current closure and/or post-closure estimates covered by the test are shown for each facility:
  
6. The owner or operator identified above guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, as adopted by reference in Rule 62-730.180, F.A.C., the closure and/or post-closure care of the following hazardous waste management facilities in the State of Florida owned or operated by its subsidiaries. The current cost estimates for the closure and/or post-closure care so guaranteed are shown for each facility:

7. In States other than Florida where EPA is administering the financial requirements of Subpart H of 40 CFR Parts 264 and 265, this owner or operator is demonstrating financial assurance for closure and/or post-closure care of the following facilities through the use of a financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:
  
8. In States other than Florida where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 and 265, this owner or operator is demonstrating financial assurance for closure and/or post-closure care of the following facilities through the use of a financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:
  
9. The owner or operator identified above owns or operates the following hazardous waste management facilities for which liability coverage for sudden and/or non-sudden accidental occurrences are demonstrated through the use of a financial test. Identify the category and annual aggregate amount of coverage for each facility below:

This firm \_\_\_\_\_ required to file a Form 10K with the  
 [is/is not] Securities and Exchange Commission for the latest fiscal year.

The fiscal year of the firm ends on \_\_\_\_\_.  
 {month, day}

The values for the following items marked with an asterisk are derived from the firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended \_\_\_\_\_.  
 [date]

[Complete Alternatives 1, 2, 3 or 4]

UIC Financial Test Page 3 of 7

ALTERNATIVE 1

---

1. Amount of the current:
- a. Plugging and abandonment costs for underground injection facilities. (Paragraphs 1, 2, 3, & 4; \_\_\_\_\_
  - b. Closure and/or post-closure estimates for hazardous waste management facilities. (Paragraphs 5, 6, 7, & 8) \_\_\_\_\_
2. Amount of annual aggregate liability coverage to be demonstrated for hazardous waste management facilities. (Paragraph 9) \_\_\_\_\_
3. Sum of lines 1a, 1b, & 2 \_\_\_\_\_
- \*4. Total Assets \_\_\_\_\_
- \*5. Current Assets (a) \_\_\_\_\_  
Current Liabilities (b) \_\_\_\_\_  
Working Capital [5(a) minus 5(b)] (c) \_\_\_\_\_  
Line 5(c) multiplied by 1.2 (d) \_\_\_\_\_
- \*6. Retained Earnings (a) \_\_\_\_\_  
Line 6(a) multiplied by 1.4 (b) \_\_\_\_\_
- \*7. Net Income Before Income & Taxes (a) \_\_\_\_\_  
Line 7(a) multiplied by 3.3 (b) \_\_\_\_\_
8. Add Lines 5(d), 6(b) and 7(b) \_\_\_\_\_
- \*9. Tangible Net Worth (a) \_\_\_\_\_  
Line 3 multiplied by 6.0 (b) \_\_\_\_\_  
Line 9(a) minus Line 9(b) (c) \_\_\_\_\_
- 

- |   | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 10. Is Line 4 less than or equal to Line 8?     | _____      | _____     |
| 11. Is Line 9(c) greater than or equal to zero? | _____      | _____     |
-

ALTERNATIVE 2

- 
1. Amount of the current:
- a. Plugging and abandonment costs for underground injection facilities. (Paragraphs 1, 2, 3, & 4) \_\_\_\_\_
  - b. Closure and/or post-closure estimates for hazardous waste management facilities. (Paragraphs 5, 6, 7, & 8) \_\_\_\_\_
2. Amount of annual aggregate liability coverage to be demonstrated for hazardous waste management facilities. (Paragraph 9) \_\_\_\_\_
3. Sum of lines 1a, 1b, & 2 \_\_\_\_\_
- \*4. Total Assets \_\_\_\_\_
- \*5. Current Assets (a) \_\_\_\_\_  
Current Liabilities (b) \_\_\_\_\_  
Working Capital [5(a) minus 5(b)] (c) \_\_\_\_\_  
Line 5(c) multiplied by 2.4 (d) \_\_\_\_\_
- \*6. Retained Earnings (a) \_\_\_\_\_  
Line 6(a) multiplied by 2.8 (b) \_\_\_\_\_
- \*7. Net Income Before Income & Taxes (a) \_\_\_\_\_  
Line 7(a) multiplied by 6.6 (b) \_\_\_\_\_
8. Add Lines 5(d), 6(b) and 7(b) \_\_\_\_\_
9. Divide Line 5(a) by Line 5(b) \_\_\_\_\_
- \*10. Tangible Net Worth (a) \_\_\_\_\_  
Line 3 multiplied by 6.0 (b) \_\_\_\_\_  
Line 10(a) minus Line 10(b) (c) \_\_\_\_\_

- 
- |  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 11. Is Line 4 less than or equal to Line 8?      | _____      | _____     |
| 12. Is Line 9 greater than or equal to 1.5?      | _____      | _____     |
| 13. Is Line 10(c) greater than or equal to zero? | _____      | _____     |
-

ALTERNATIVE 3

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- 1. Amount of the current:
  - a. Plugging and abandonment costs for underground injection facilities.  
(Paragraphs 1, 2, 3, & 4) \_\_\_\_\_
  - b. Closure and/or post-closure estimates for hazardous waste management facilities.  
(Paragraphs 5, 6, 7, & 8) \_\_\_\_\_
- 2. Amount of annual aggregate liability coverage to be demonstrated for hazardous waste management facilities. (Paragraph 9) \_\_\_\_\_
- 3. Sum of lines 1a, 1b, & 2 \_\_\_\_\_
- \*4. Total Assets \_\_\_\_\_
- \*5. Current Assets (a) \_\_\_\_\_  
Current Liabilities (b) \_\_\_\_\_  
Working Capital [5(a) minus 5(b)] (c) \_\_\_\_\_  
Line 5(c) multiplied by 1.2 (d) \_\_\_\_\_
- \*6. Retained Earnings (a) \_\_\_\_\_  
Line 6(a) multiplied by 1.4 (b) \_\_\_\_\_
- \*7. Net Income Before Income & Taxes (a) \_\_\_\_\_  
Line 7(a) multiplied by 3.3 (b) \_\_\_\_\_
- 8. Add Lines 5(d), 6(b) and 7(b) \_\_\_\_\_
- 9. Divide Line 5(a) by Line 5(b) \_\_\_\_\_
- \*10. Tangible Net Worth (a) \_\_\_\_\_  
Line 3 multiplied by 6.0 (b) \_\_\_\_\_  
Line 10(a) minus Line 10(b) (c) \_\_\_\_\_

- 
- |  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 11. Is Line 8 greater than zero?                 | _____      | _____     |
| 12. Is Line 9 greater than or equal to 1.0?      | _____      | _____     |
| 13. Is Line 6(a) at least \$10 million?          | _____      | _____     |
| 14. Is Line 10(c) greater than or equal to zero? | _____      | _____     |
-

ALTERNATIVE 4

---

1. Description of most recent bond issue:

Stated interest rate: \_\_\_\_\_

Date of issuance: \_\_\_\_\_

Date of maturity: \_\_\_\_\_

Current bond rating: \_\_\_\_\_

Rating Agency: \_\_\_\_\_

---

I hereby certify that the information provided above reflects the current cost estimates and financial data as of the date shown immediately below.

\_\_\_\_\_  
(Signature of Chief Financial Officer)

Notarized by:

\_\_\_\_\_  
[Type Name]

\_\_\_\_\_  
[Type Title]

\_\_\_\_\_  
[Date]

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STATE OF FLORIDA

UNDERGROUND INJECTION FACILITY CORPORATE GUARANTEE  
TO DEMONSTRATE FINANCIAL RESPONSIBILITY OF AN UNDERGROUND  
INJECTION CONTROL FACILITY

Guarantee made this \_\_\_\_\_, by  
[Date]

\_\_\_\_\_ a  
[Name of Guaranteeing Entity]  
business corporation organized under the laws of the State of

\_\_\_\_\_ herein referred to as guarantor, to the  
[Name of State]  
Florida Department of Environmental Protection (FDEP), obligee,

on behalf of our subsidiary \_\_\_\_\_  
[Name of Subsidiary]

\_\_\_\_\_  
[Business Address]

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to adjust the cost estimate on an annual basis to reflect cost increases due to such factors as inflation.
2. \_\_\_\_\_ owns and operates  
[Owner/operator]  
the following underground injection facility(ies) covered by this guarantee: (Indicate the plugging and abandonment costs for each well separately).

<u>EPA/DEP I.D. No.</u>	<u>Name/Address</u>	<u>Well Number</u>	<u>Cost</u>
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modification of the plugging and abandonment plan, amendment or modification of the permit, the extension or reduction of the time of performance of plugging and abandonment, or any other modification or alteration of an obligation of the owner or operator.

9. Guarantor agrees to remain bound under this guarantee for so long as \_\_\_\_\_  
[Owner or Operator]  
must comply with the applicable financial assurance requirements of Rule 62-528.435(9), F.A.C., for the above listed facilities except that guarantor may cancel this guarantee by sending notice, by certified mail, to the FDEP Secretary and to \_\_\_\_\_,  
[Owner or Operator]  
such cancellation to become effective no later than 120 days after receipt of such notice by the FDEP and \_\_\_\_\_  
[Owner or Operator], as evidenced by return receipts.

10. Guarantor agrees that if \_\_\_\_\_  
[Owner or Operator]  
fails to provide alternate financial assurance and obtain written approval of such assurance from the FDEP Secretary within 90 days after a notice of cancellation by the guarantor is received by the FDEP Secretary from guarantor, guarantor shall provide alternate financial assurance in the name of \_\_\_\_\_.  
[Owner or Operator]

11. Guarantor expressly waives notice of acceptance of this guarantee by the FDEP or by \_\_\_\_\_.  
[Owner or Operator]

I hereby certify that the information provided herein is current as of the date shown below.

\_\_\_\_\_  
[Effective Date]

Notarized by:

\_\_\_\_\_  
[Name of Guarantor]

\_\_\_\_\_  
[Authorized Signature or Guarantor]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Title of Person Signing]

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## Local Government Guarantee

A unit of local government of the State of Florida may demonstrate financial responsibility as required in Rule 62-528.435(9), F.A.C., by submitting all of the following information:

1. The local government must submit a letter from its attorney attesting to the permittee meeting the definition of a local government as defined in Chapter 218, Florida Statutes (F.S.). The attorney must also attest to the local government's coverage under Chapter 218, Part V, F.S., Financial Emergencies. A copy of Chapter 218, Part V, F.S., is provided on pages 81 and 82 of this document.

If the permittee is unable to obtain a letter from its attorney regarding its status as a local government, an alternate demonstration of financial responsibility must be submitted to the FDEP. The alternatives suggested by the FDEP are:

- a. Surety Bond
- b. Letter of Credit
- c. Trust Fund
- d. Financial Test

2. The local government must submit a Certification of Financial Responsibility which certifies unconditionally the obligation of the local government to perform plugging and abandonment of its injection system(s) pursuant to Chapter 62-528, F.A.C. The certification form provides information on the location of the injection system(s) guaranteed by the local government with the related cost estimates for plugging and abandonment.

The certification allows for an annual cost increase of 10 percent without submission of an updated certification form. Cancellation of the agreement may not take place without the written consent of the FDEP Secretary.

The person signing the Certification on behalf of the local government must be an individual authorized to bind the local government to such an agreement. The signing of this agreement must be notarized to complete the processing of the "Certification of Financial Responsibility" form. The wording of the certification form is provided on page 79 of this document.

3. A copy of the financial statements for the latest completed fiscal year must accompany items 1 and 2 above to complete the financial package for review by the FDEP. If the Department finds through its review of the financial statements that the financial strength of the unit of local government is questionable, the Department may notify the permittee of its intentions to deny the financial package as submitted. The permittee would then be required to submit an alternate financial demonstration to meet the requirements of Rule 62-528.435(9), F.A.C.

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CERTIFICATION OF FINANCIAL RESPONSIBILITY

The \_\_\_\_\_, a unit of local government of the State of Florida, hereby certifies that it has unconditionally obligated itself to have the financial resources necessary to close, plug, and abandon its Class I underground injection well(s) and related monitoring wells, as required by Chapter 62-528, Florida Administrative Code. It is further understood that the cost estimate to conduct plugging and abandonment, established on \_\_\_\_\_, shall be reviewed on an annual basis and this obligation shall incorporate accumulated inflation costs. An annual adjustment exceeding 10 percent in any one year shall require submission of an updated certification form.

List of Injection Wells Covered By This Agreement:  
(for each injection well list the following information)

Facility Name: \_\_\_\_\_

Facility Address: \_\_\_\_\_

Facility Contact: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Latitude/Longitude of Injection Well: \_\_\_\_\_

DEP/EPA Identification Number: FLS \_\_\_\_\_

Current Plugging and Abandonment Cost Estimate: \_\_\_\_\_

It is hereby understood that the cancellation of this certification may not take place without the prior written consent of the Secretary of the Florida Department of Environmental Protection.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

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**218.407 Local government investment authority.—**

(1) Upon determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the trust fund, a resolution by the governing body shall be filed with the State Board of Administration authorizing investment of its surplus funds in the trust fund established by this part. The resolution shall name:

- (a) The local government official, who may be the chief financial or administrative officer of the local government, or
- (b) An independent trustee holding funds on behalf of the unit of local government,

responsible for deposit and withdrawal of such funds and shall state the approximate cash-flow requirements of the local government for the surplus funds to be invested.

(2) The State Board of Administration shall, upon the filing of the resolution, invest the moneys in the trust fund in the same manner and subject to the same restrictions as are set forth in s. 215.47.

(3) The provisions of this part shall not impair the power of a unit of local government to hold funds in deposit accounts with banking or savings institutions or to invest funds as otherwise authorized by law.

*History.—* s. 1, ch. 77-294; s. 5, ch. 82-45; s. 3, ch. 84-137; s. 5, ch. 87-235.

**218.409 Administration of the trust fund.—**

(1) Upon receipt of the resolution from the local governing body, the State Board of Administration shall accept *all* wire transfers of funds into the trust fund. The State Board of Administration shall also wire-transfer invested local government funds to the local government upon request of the local government official named in the resolution.

(2) The State Board of Administration shall administer the investment trust funds on behalf of the participants and shall have the power to invest such funds.

(3) The State Board of Administration may purchase such surety or other bonds as may be necessary for its officials in order to protect the fund.

(4) All investments may be purchased jointly for the participants in the trust fund. The board may also purchase investments for a pooled investment account in which all participants may share *pro rata*, as determined by rule of the board, in the capital gain, income, or losses, subject to any penalties for early withdrawal.

(5) The State Board of Administration shall keep a separate account, designated by name and number of each participating local government, individual transactions and totals of all investments, or the share belonging to each participant, shall be recorded in the accounts.

(6) The State Board of Administration shall report semiannually or upon request to every participant having a *beneficial interest in the trust fund*. The report shall show the changes in investments made during the preceding period. The report shall delineate, in a manner which is in accordance with generally accepted governmental accounting procedures, those funds on deposit, the manner in which the funds are invested, and the interest earnings thereon. The State Board of Administration shall furnish upon request the details of an investment transaction to any participant.

(7) Costs incurred in carrying out the provisions of this part shall be deducted from the interest earnings accruing to the trust fund. Such deductions shall be prorated among the participant local governments in the percentage that each participant's deposits bear to the total trust fund.

(8)(a) The principal, and any part thereof, of each and every account constituting the trust fund shall be subject to payment at any time from the moneys in the fund or as otherwise provided by agreement between the State Board of Administration and the investing unit.

(b) An order or warrant may not be issued upon any account for a larger amount than the share of the particular account to which it applies; and if such order or warrant is issued, the responsible official shall be personally liable under his bond for the entire overdraft resulting from the payment if made.

*History.—* s. 1, ch. 77-294; s. 4, ch. 84-137.

**218.411 Authorization for state technical and advisory assistance.—**

(1) The State Board of Administration is authorized, upon request, to assist local governments in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to such local governments through publication and other appropriate means.

(b) Acquainting such local governments with the state's practice and experience in investing short-term funds.

(c) Providing, in cooperation with the Department of Community Affairs, technical assistance to local governments in investment of surplus funds.

(2) The State Board of Administration may establish fees to cover the cost of such services, which shall be paid by the unit of local government requesting such service. Such fees shall be deposited to the credit of the appropriation or appropriations from which the costs of providing the services have been paid or are to be charged.

*History.—* s. 1, ch. 77-364; s. 20, ch. 87-167; s. 18, ch. 83-55.

PART V

FINANCIAL EMERGENCIES

- 218.50 Short title.
- 218.501 Purpose.
- 218.502 Definitions.
- 218.503 Determination of financial emergency.
- 218.504 Cessation of state action.

**218.50 Short title.—**Sections 218.50-218.504 shall be known as the "Local Government Financial Emergencies Act."

*History.—* s. 5, ch. 79-152.

**218.501 Purpose.—**The purpose of this act is:

- (1) To preserve and protect the fiscal solvency of units of local government.
- (2) To assist local governmental units in providing their essential services without interruption and in meeting their financial obligations.
- (3) To assist units of local government through the improvement of local financial management procedures.

*History.—* s. 5, ch. 79-152.

218.502 Definitions.—As used in ss. 218.50-218.504, except where the context clearly indicates a different meaning, "unit of local government" means a county, municipality, or special district.

History.—s. 6, ch. 79-152

218.503 Determination of financial emergency.—

(1) A unit of local government shall be in a state of financial emergency when any of the following conditions occur:

(a) Failure within the same fiscal year in which due to pay short-term loans from banks or failure to make bond debt service payments when due.

(b) Failure to transfer at the appropriate time, due to lack of funds:

- 1. Taxes withheld on the income of employees; or
- 2. Employer and employee contributions for:
  - a. Federal social security; or
  - b. Any pension, retirement, or benefit plan of an employee.

(c) Failure for one pay period to pay, due to lack of funds:

- 1. Wages and salaries owed to employees; or
- 2. Retirement benefits owed to former employees.

(d) Budget deficits for 2 successive years.

(e) Noncompliance of the local government retirement system with actuarial conditions provided by law.

(2) A unit of local government shall notify the Governor and the Legislative Auditing Committee when one or more of the conditions specified in subsection (1) have occurred or will occur. In addition, any state agency may notify the Governor and the Legislative Auditing Committee when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist a unit of local government.

(3) Upon determination that one or more of the conditions in subsection (1) exist, the Governor shall have authority to implement measures as set forth in ss. 218.50-218.504 to resolve the financial emergency. Such measures may include, but shall not be limited to:

(a) Requiring approval of the local unit's budget by the Governor;

(b) Authorizing a state loan to the unit of local government and providing for repayment of same;

(c) Prohibiting a unit of local government from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section;

(d) Making such inspections and reviews of records, information, reports, and assets of the unit of local government, in which inspections and reviews the appropriate local officials shall cooperate;

(e) Establishing a financial emergencies board to oversee the activities of the local government. The board, if established, shall be appointed by the Governor. The Governor shall select a chairman and such other officers as are necessary. The board shall adopt such rules as are necessary for conducting board business. The board shall have authority to:

a. Make such reviews of records, reports, and assets of the local government as needed;

b. Consult with the officials of the unit of local government and appropriate state officials regarding any necessary steps to bring the books of account, accounting systems, financial procedures, and reports of the local government into compliance with state requirements;

c. Review the operations, management, efficiency, productivity, and financing of functions and operations of the unit of local government;

2. The recommendations and reports made by the board shall be submitted to the Governor for appropriate action;

(f) Requiring and approving a plan to be prepared by the appropriate state agency in conjunction with the unit of local government, prescribing actions that will cause the local unit to no longer be subject to this section. Such plan shall include, but not be limited to:

1. Providing for payment in full of all payments due or to come due on debt obligations, pension payments, and all payments and charges imposed or mandated by federal or state law and for all judgments and past-due accounts, as priorities of expenditures;

2. A basis of priority budgeting or zero-based budgeting, resulting in the elimination of the lowest priority items which are not affordable;

3. A prohibition on a level of operations which can be sustained only with nonrecurring revenues;

(4) During the financial emergency period, the local governmental unit may not seek application of laws under the bankruptcy provisions of the United States Constitution except upon the prior approval of the Governor.

History.—s. 6, ch. 79-152; s. 34, ch. 85-165

218.504 Cessation of state action.—The Governor shall have the authority to terminate all state actions pursuant to ss. 218.50-218.504. Cessation of state action shall not occur until the Governor has determined that:

(1) The unit of local government:

(a) Has established and is operating an effective financial accounting and reporting system;

(b) Has corrected or eliminated the local emergency conditions outlined in s. 218.503;

(2) No new fiscal emergency conditions exist.

History.—s. 6, ch. 79-152

## Certificate of Demonstration

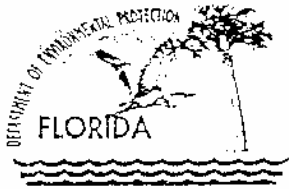
All facilities which comply with the financial requirements outlined in Rule 62-528.435(9), F.A.C., will be issued a CERTIFICATE OF DEMONSTRATION. This certificate should be placed in the permit files maintained by the permittee for future reference.

The information provided on the certificate will allow the permittee and the FDEP to assure continued compliance with the financial standards. By reviewing cost estimates covered by the financial mechanism(s) and the date of expiration of each financial demonstration (if applicable), the permittee and the FDEP should be able to address financial issues prior to problems which may arise.

Copies of all certificates issued to permittees will be provided to the FDEP District Office responsible for overseeing UIC permitting activities. Without copies of the certificate the district office will be unable to approve the permittee's demonstration of financial responsibility.

A sample copy of the CERTIFICATE OF DEMONSTRATION is provided on page 85 of this document.

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# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

## ***CERTIFICATE OF DEMONSTRATION***

*Florida Underground Injection Control Program*

*Demonstration of Financial Responsibility*

*Facility Name:*

*Facility Address:*

*Mailing Address:*

*Facility Contact:*

*EPA Identification Number:*

*DEP Permit Number:*

*Date Financial Information Received:*

*Current Plugging and Abandonment Cost Estimate:*

*Current Post-Closure Monitoring Estimate:*

*Mechanism(s) Used to Demonstrate  
Financial Responsibility*

*Local Government Guarantee*

*Date of Expiration*

*Written Consent  
of DEP Secretary*

*Date Mechanism Approved:*

*By:* \_\_\_\_\_

*James E. McNeal  
Professional Geologist  
904-488-3601*