

## STATE OF FLORIDA STORAGE TANK PERFORMANCE BOND

Reference: 40 CFR 280.98(b)

Date bond executed: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Principal: \_\_\_\_\_ herein referred to as "owner or operator",  
[Legal name of owner or operator]

\_\_\_\_\_  
[Address of owner or operator]

Type of organization: \_\_\_\_\_  
[Legal Entity Type (e.g., sole proprietor, joint venture, partnership, corporation, limited liability company)]

State of incorporation (if applicable): \_\_\_\_\_

Surety(ies): \_\_\_\_\_  
[Name(s) and business address(es)]

**Scope of Coverage:**

**Facility/Tank Schedule:**

[List information for each facility. See Instruction #6 on page *i* for details. Indicate "See attachment identifying instrument and dated [date]" if required.]

<u>DEP FacID</u> <small>(for sites in Florida)</small>	<u>Facility Name and Site Address</u> <small>(for all sites covered)</small>	<u>Number of Tanks</u> <u>or Tank I.D. Nos.</u>

**Penal sums of bond:**

**Per Occurrence:** \$ \_\_\_\_\_ **Annual Aggregate:** \$ \_\_\_\_\_

[If the amount of coverage is different for different types of coverage or for different storage tanks or locations, indicate on the facility list above or by separate attachment the amount of coverage for each type of coverage and/or for each storage tank or location.]

**Surety's bond number:** \_\_\_\_\_ **Bond premium:** \$ \_\_\_\_\_

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Florida Department of Environmental Protection (DEP), in the above penal sums 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 sums 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 sums 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 sums.

Whereas, said Principal is required, pursuant to the requirements of Rule(s) 62-761.420 and/or 62-762.421, F.A.C., to provide financial assurance for \_\_\_\_\_  
[Insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by"]

\_\_\_\_\_ arising from operating the storage tanks identified  
[Insert "accidental discharges" or "sudden accidental discharges" or "nonsudden accidental discharges" or leave blank if only corrective action is covered]  
above, 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 the obligation are such that if the Principal shall faithfully

[Check either or both, to match coverage identified above.]

<input type="checkbox"/> take corrective action, in accordance with 40 CFR Part 280, Subpart F and instructions by the FDEP Secretary or the Secretary's designee ("designee"), for (and)
<input type="checkbox"/> compensate injured third parties for bodily injury and property damage caused by _____ [Insert "accidental discharges" or "sudden accidental discharges" or "nonsudden accidental discharges" or leave blank if not checked]

arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in 40 CFR Part 280, Subpart H, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect. Such obligation does not apply to any of the following:

- (a) Any obligation of the owner or operator under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of the owner or operator, arising from, and in the course of employment by the owner or operator;
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by the owner or operator that is not the direct result of a discharge from a storage tank;
- (e) Bodily injury or property damage for which the owner or operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 CFR 280.93 and/or paragraph 62-762.421(3)(c), F.A.C.

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 DEP Secretary or designee that the Principal has failed to

[Check either or both, to match coverage identified above.]

<input type="checkbox"/> take corrective action, in accordance with 40 CFR Part 280, Subpart F and instructions by the FDEP Secretary or the Secretary's designee ("designee"), (and)
<input type="checkbox"/> compensate injured third parties for bodily injury and property damage

as guaranteed by this bond, the Surety(ies) shall perform

[Check either or both, to match coverage identified above.]

<input type="checkbox"/> corrective action, in accordance with 40 CFR Part 280, Subpart F and instructions by the FDEP Secretary or the Secretary's designee ("designee"), (and)
<input type="checkbox"/> third party liability compensation

or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the DEP Secretary or designee under 40 CFR 280.112.

Upon notification by the DEP Secretary or designee that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the DEP Secretary or designee has determined or suspects that a discharge has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the DEP Secretary or designee under 40 CFR 280.112.

The Surety(ies) hereby waive(s) notification of amendments to 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 annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

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

The Principal may terminate this bond by sending written notice to the Surety(ies.)

In Witness Whereof, the Principal and Surety(ies) have executed this 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) and that the wording of this surety bond is identical to the wording as adopted and incorporated by reference in Rule(s) 62-761.420 and/or 62-762.421, F.A.C.

**PRINCIPAL**

\_\_\_\_\_  
[Signature of Authorized Representative of Principal]

\_\_\_\_\_  
[Type Name and Title]

\_\_\_\_\_  
[Telephone Number]

\_\_\_\_\_  
[Email Address]

**CORPORATE SURETY(IES)**

Provide the following for each surety (co-surety). Attach pages as needed.

\_\_\_\_\_  
[Surety Company] [Liability Limit (for co-sureties only)]

\_\_\_\_\_  
[Signature of Authorized Representative of Surety] (SEAL)  
(Attach Power of Attorney)

\_\_\_\_\_  
[Type Name and Title]

\_\_\_\_\_  
[Address of Authorized Representative]

\_\_\_\_\_  
[Telephone Number]

\_\_\_\_\_  
[Email Address]

(See attached Power of Attorney.)  
[Owner or Operator must maintain a Standby Trust Fund Agreement, per 40 CFR 280.111(3).]