

WAC 173-360A-1084 Appendix E—Performance bond.

Date bond executed:

Period of coverage:

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility. List the coverage guaranteed by the bond: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].

Penal sums of bond:

Per occurrence \$

Annual aggregate \$

Surety's bond number:

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Washington State Department of Ecology, 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 is the full amount of the penal sums.

Whereas said Principal is required under the Solid Waste Disposal Act, as amended, and chapter 90.76 RCW to provide financial assurance for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above; and

Whereas said Principal must 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 faithfully ["takes remedial action, in accordance with WAC 173-360A-0750 and the Washington State Department of Ecology's instructions for," and/or "compensates injured third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tank(s) identified above, or if the Principal provides alternate financial assurance, as specified in Part 10 of chapter 173-360A WAC, within 120 days after the date the notice of

cancellation is received by the Principal from the Surety(ies), then this obligation is null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(1) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(2) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(3) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(4) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

(5) Bodily injury or property damage for which [insert 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 WAC 173-360A-1015.

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

Upon notification by the Washington State Department of Ecology that the Principal has failed to ["take remedial action, in accordance with WAC 173-360A-0750 and the Department's instructions" and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) must either perform ["remedial action in accordance with WAC 173-360A-0750 and the Department's instructions" and/or "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 Department under WAC 173-360A-1050.

Upon notification by the Department 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 Department has determined or suspects that a release has occurred, the Surety(ies) must place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Department under WAC 173-360A-1050.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment in any way alleviates its (their) obligation on this bond.

The liability of the Surety(ies) is not discharged by any payment or succession of payments hereunder, unless and until such payment or payments amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event do 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 must 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 thereof, 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 specified in WAC 173-360A-1084 as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)

[Name and address]
[State of incorporation:]
[Liability limit: \$]
[Signature(s)]
[Name(s) and 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: \$

[Statutory Authority: Chapter 90.76 RCW. WSR 18-15-083 (Order 16-02), § 173-360A-1084, filed 7/18/18, effective 10/1/18.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.