



Florida Department of Environmental Protection Financial Assurance Working Group

WHAT YOU NEED TO KNOW ABOUT FINANCIAL RESPONSIBILITY

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[https://FloridaDEP.gov/waste/permitting-compliance-assistance/
content/storage-tank-financial-responsibility](https://FloridaDEP.gov/waste/permitting-compliance-assistance/content/storage-tank-financial-responsibility)





Storage Tank Financial Responsibility

Demonstration of Financial Responsibility is required for

- Storage Tanks with petroleum-based products
 - Underground Storage Tanks (USTs) with greater than 110-gallon capacity and
 - Aboveground Storage Tanks (ASTs) with greater than 550-gallon capacity
- Exemptions:
 - An [FAQ](#) on our General Guidance webpage lists some of the common exemptions and provides links to the rules detailing all exemptions.



What is Financial Responsibility

- Financial responsibility (FR) is having the financial resources to pay for the cost of corrective action and compensating third parties for bodily injury and property damage that might result from a discharge from a petroleum storage tank system.
- Financial assurance (FA) is the instrument(s) [mechanisms] used to demonstrate FR.
 - Sometimes FA refers to the value of a funding instrument, as in, “How much financial assurance do you have?”
- The two terms, FA and FR, are used synonymously.



Why must I comply

- Demonstrating storage tank FR is a requirement of [DEP rules and adopted federal regulations](#):
 - 62-761.420 (USTs), F.A.C.
 - 62 762.421 (ASTs), F.A.C.
 - 40 CFR Part 280 Subpart H
- DEP rules require DEP storage tank FA forms be used. A copy of required documentation must be made available to the inspector at the time of facility inspections.
 - The demonstration of FR is required at the time of first receiving 'product' and thereafter until the tank is closed in accordance with DEP rules.
- Deficient or non-existent FA is considered a major violation of DEP rules and Florida Statutes. A facility owner could be fined up to \$5,000 per day for non-compliance. [§403.121(4)(a) & (6), F.S.]



Before Obtaining an FA instrument

- Tanks must be registered before you obtain FR documentation. The [Storage Tank Facility Registration](#) website provides guidance.
- For other storage tank compliance information visit the [Storage Tank Compliance](#) website.



How do I comply

- The FA Instruments adopted by rule must be used and are available on our [Forms webpage](#).

- Non-government entities must choose from the following instruments:

» Certificate of Insurance	Form 62-761.900(3) Part D	» Performance Bond*	Form 62-761.900(3) Part E
» Insurance Endorsement	Form 62-761.900(3) Part C	» Letter of Credit*	Form 62-761.900(3) Part F
» Financial Test (Self Insurance)	Form 62-761.900(3) Part A	» Trust Fund Agreement	Form 62-761.900(3) Part G
» Guarantee*†	Form 62-761.900(3) Part B		

* - When a Letter of Credit, Bond or Guarantee is used, a Standby Trust Fund Agreement is also required:

» [Standby Trust Fund Agreement](#) Form 62-761.900(3) Part H

† - When a Guarantee is used, a Financial Test is also required.

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- Guidance is available on the forms, on 'form webpages' where individual forms ("Parts") are found, and on the [General Guidance \(FAQs\)](#) webpage. Some of the form webpages include checklists, worksheets or calculators.
 - Government entities have the option of using these or government-specific instruments.
 - Some instruments require additional supporting documentation. See individual form webpages for details.



Who Demonstrates Proof of FR

- The owner or operator who demonstrates FR must be one (or more) of the following 'persons':
 - Facility owner
 - Tank owner
 - Facility operator
 - Tank operator
- The owner or operator identified on FR documentation is usually a company, not a human individual. An officer, manager or another authorized person, on behalf of the owner or operator, must complete the
 - » [Certification of Financial Responsibility](#) Form 62-761.900(3) Part P



Provider Companies

- Most owners and operators use a Certificate of Insurance (COI) [Part D] obtained through their insurance agent. The person who signs a COI must have the authority to amend the policy in order to guarantee any inconsistencies with DEP rules are corrected.
 - EPA maintains a list of known [Insurance Providers](#). (See also the General Guidance webpage under [Insurance Guidance](#).)
- The next most used instruments are the Financial Test (Self Insurance) [Part A] and Guarantee [Part B].
- Many financial institutions can provide proof of FR through other instruments (bonds, letters of credit, trust funds). As the cost will vary depending on the instrument selected and institution used, we encourage facility owners and operators to shop around.



What Must Be Covered

Liability Types:

- Taking corrective action.
- Compensating third parties for bodily injury and property damage caused by accidental discharges.
 - Technically, both sudden and nonsudden accidental discharges must be covered. When both are covered by a single instrument, the term “accidental discharges” includes both types, per EPA guidance.
- With very rare exceptions, a single FA instrument is used to cover all required liability types.

Coverage Amounts:

- The “per occurrence” and “annual aggregate” amounts are dependent on variables such as number of UST tanks covered and an owner or operator’s largest facility’s combined AST tank capacity. Tables are available via our [Coverage Amounts](#) webpage.



What To Do With Completed Forms

- An owner or operator must maintain financial responsibility records at the facility site or at their business office.
- If not kept at the facility, they shall be made available at the facility or another agreed upon location upon five business days notice by a department or county inspector.
- The original should never be sent to Tallahassee for filing.
- Send a copy to Tallahassee or an Inspector only when
 - DEP rules require you to do so: an [FAQ](#) on our website provides some details and rule references.
 - you are requesting assistance.
 - we ask you to.



Further Assistance

- Please visit our website for forms, additional guidance, DEP rules and adopted federal code, and Storage Tank Program contacts. Feel free to contact us with form or data specific questions when filling financial assurance forms.
- **Website:**
<https://FloridaDEP.gov/waste/permitting-compliance-assistance/content/storage-tank-financial-responsibility>
- **E-Mail:**
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- **Financial Assurance Working Group**
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