

567—136.15(455B) Local government guarantee.

136.15(1) A local government owner or operator may satisfy the requirements of rule 567—136.4(455B) by obtaining a guarantee that conforms to the requirements of this rule. The guarantor must be either the state in which the local government owner or operator is located or a local government having a “substantial governmental relationship” with the owner and operator and issuing the guarantee as an act incident to that relationship. A local government acting as a guarantor must:

a. Demonstrate that it meets the bond rating test requirement of rule 567—136.13(455B) and deliver a copy of the chief financial officer’s letter as contained in subrule 136.13(4) to the local government owner or operator; or

b. Demonstrate that it meets the worksheet test requirements of rule 567—136.14(455B) and deliver a copy of the chief financial officer’s letter as contained in subrule 136.14(5) to the local government owner or operator; or

c. Demonstrate that it meets the local government fund requirements of subrule 136.16(1), 136.16(2), or 136.16(3) and deliver a copy of the chief financial officer’s letter as contained in rule 567—136.16(455B) to the local government owner or operator.

136.15(2) If the local government guarantor is unable to demonstrate financial assurance under rule 567—136.13(455B) or 567—136.14(455B) or subrule 136.16(1), 136.16(2), or 136.16(3) at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in subrule 136.23(3).

136.15(3) The guarantee agreement must be worded as specified in subrule 136.15(4) or 136.15(5), depending on which of the following alternative guarantee arrangements is selected:

a. If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the director of the Iowa department of natural resources, the guarantee shall be worded as specified in 136.15(4).

b. If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the director of the Iowa department of natural resources for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in subrule 136.15(5).

136.15(4) If the guarantor is a state, the local government guarantee with standby trust must be worded as specified in paragraph “*a*,” except that instructions in brackets are to be replaced with relevant information and the brackets deleted. If the guarantor is a local government, the local government guarantee with standby trust must be worded as specified in paragraph “*b*,” except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

a. Local Government Guarantee With Standby Trust Made by a State Guarantee made this [date] by [name of state], herein referred to as guarantor, to Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor is a state.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [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 567—Chapter 135 of the Iowa Administrative Code (IAC), and the name and address of the facility.] This guarantee satisfies 567—Chapter 136 IAC requirements for assuring funding for [insert: “taking corrective 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

above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) Guarantor guarantees to Iowa department of natural resources and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [director] of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the director shall fund a standby trust fund in accordance with the provisions of 567—136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567—Chapter 135 IAC, the guarantor upon written instructions from the director shall fund a standby trust fund in accordance with the provisions of 567—136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 567—136.21(455B) IAC to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees to notify [owner or operator] 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.

(5) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567—Chapter 135 or 136 IAC.

(6) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567—Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(7) The guarantor’s obligation does not apply to any of the following:

1. Any obligation of [local government 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: local government owner or operator] arising from, and in the course of, employment by [insert: local government 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: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily damage 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 567—136.4(455B) IAC.

(8) Guarantor expressly waives notice of acceptance of this guarantee by the Iowa department of natural resources, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567—subrule 136.14(4) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

b. Local Government Guarantee With Standby Trust Made by a Local Government Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Iowa, herein referred to as guarantor, to the Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of 567—136.13(455B) of the Iowa Administrative Code (IAC), the local government financial test requirements of 567—136.14(455B) IAC, or the local government fund under 567—subrule 136.16(1), 136.16(2), or 136.16(3) IAC.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [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 567—135.3(455B) IAC or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 567—Chapter 136 IAC requirements for assuring funding for [insert: “taking corrective 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 above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Iowa department of natural resources and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the director of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [director], shall fund a standby trust fund in accordance with the provisions of 567—136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567—Chapter 135 IAC, the guarantor, upon written instructions from the [director], shall fund a standby trust fund in accordance with the provisions of 567—136.21(455B) IAC, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 567—136.21(455B) IAC to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] 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.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567—Chapter 135 or 136 IAC.

(7) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567—Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [local government 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: local government owner or operator] arising from, and in the course of, employment by [insert: local government 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: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
5. Bodily damage 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 567—136.4(455B) IAC.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Iowa department of natural resources, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567—subrule 136.15(4) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

136.15(5) If the guarantor is a state, the local government guarantee without standby trust must be worded as specified in paragraph “a,” except that instructions in brackets are to be replaced with relevant information and the brackets deleted. If the guarantor is a local government, the local government guarantee without standby trust must be worded as specified in paragraph “b,” except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

a. Local Government Guarantee Without Standby Trust Made by a State Guarantee made this [date] by [name of state], herein referred to as guarantor, to the Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor is a state.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [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 567—Chapter 135 of the Iowa Administrative Code (IAC), and the name and address of the facility.] This guarantee satisfies 567—Chapter 136

IAC requirements for assuring funding for [insert: “taking corrective 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 above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Guarantor guarantees to the department of natural resources and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the director of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567—Chapter 135 IAC, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees to notify [owner or operator] 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.

(5) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567—Chapter 135 or 136 IAC.

(6) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567—Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(7) The guarantor’s obligation does not apply to any of the following:

1. Any obligation of [local government 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: local government owner or operator] arising from, and in the course of, employment by [insert: local government 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: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily damage 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 567—136.4(455B) IAC.

(8) Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567—subrule 136.15(5) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

b. Local Government Guarantee Without Standby Trust Made by a Local Government Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to the Iowa department of natural resources and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of 567—136.13(455B) of the Iowa Administrative Code (IAC), the local government financial test requirements of 567—136.14(455B) IAC, the local government fund under 567—subrule 136.16(1), 136.16(2) or 136.16(3) IAC.

(2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [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 567—Chapter 135 IAC or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 567—Chapter 136 IAC requirements for assuring funding for [insert: “taking corrective 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 above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Iowa department of natural resources and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the director of the Iowa department of natural resources has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 567—Chapter 135 IAC, the guarantor, upon written instructions from the [director], shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon

written instructions from the [director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] 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.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 567—Chapter 135 or 136 IAC.

(7) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 567—Chapter 136 IAC for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(8) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [local government 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: local government owner or operator] arising from, and in the course of, employment by [insert: local government 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: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily damage 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 567—136.4(455B) IAC.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Iowa department of natural resources, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 567—subrule 136.15(5) IAC on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:
