

**§ 144.66**

**§ 144.66 State assumption of responsibility.**

(a) If a State either assumes legal responsibility for an owner's or operator's compliance with the plugging and abandonment requirements of these regulations or assures that funds will be available from State sources to cover these requirements, the owner or operator will be in compliance with the requirements of this subpart if the Regional Administrator determines that the State's assumption of responsibility is at least equivalent to the mechanisms specified in this subpart. The Regional Administrator will evaluate the equivalency of State guarantees mainly in terms of (1) certainty of the availability of funds for the required plugging and abandonment coverage and (2) the amount of funds that will be made available. The Regional Administrator may also consider other factors. The owner or operator must submit to the Regional Administrator a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this subpart. The letter from the State must include, or have attached to it, the following information: the facility's EPA Identification Number, name and address, and the amounts of funds for plugging and abandonment coverage that are guaranteed by the State. The Regional Administrator will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of mechanisms specified in this subpart. The Regional Administrator may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with § 144.63.

(b) If a State's assumption of responsibility is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this subpart by use of both the State's assurance and additional financial mechanisms as speci-

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fied in this subpart. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this subpart.

**§ 144.70 Wording of the instruments.**

(a)(1) A trust agreement for a trust fund, as specified in § 144.63(a) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**TRUST AGREEMENT**

TRUST AGREEMENT, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of \_\_\_\_" or "a national bank"], the "Trustee."

Whereas, the United States Environmental Protection Agency, "EPA," an agency of the United States Government, has established certain regulations applicable to the Grantor, requiring that an owner or operator of an injection well shall provide assurance that funds will be available when needed for plugging and abandonment of the injection well,

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 owner or operator 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) Facility or activity means any "underground injection well" or any other facility or activity that is subject to regulation under the Underground Injection Control Program.

*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, and the current plugging and abandonment cost estimate, or portions thereof, for which financial assurance is demonstrated by this Agreement].