**Section 807.666 Self-insurance for Non-Commercial Sites**

a) Definitions: The following terms are used in this Section. The definitions are intended to assist in the understanding of this Section and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting principles.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Generally accepted accounting principles" means the accounting and auditing standards incorporated by reference at 35 Ill. Adm. Code 810.104(a)(2).

"Gross Revenue" means total receipts less returns and allowances.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets less liabilities; tangible assets do not include intangibles such as goodwill and rights to patents or royalties.

b) An operator may satisfy the financial assurance requirements of this Part by providing the following:

1) Bond without surety promising to pay the cost estimate (subsection (c)).

2) Proof that the operator meets the gross revenue test (subsection (d)).

3) Proof that the operator meets the financial test (subsection (e)).

c) Bond without surety. An operator utilizing self-insurance must provide a bond without surety on the form provided in Appendix A, Illustration G. The operator must promise to pay the current cost estimate to the Agency unless the operator provides closure and post-closure care in accordance with the closure and post-closure care plans.

d) Gross revenue test. The operator must demonstrate that less than one-half of its gross revenues are derived from waste disposal operations.

e) Financial test:

1) To pass the financial test, the operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B):

A) The operator must have:

i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5; and

ii) Net working capital and tangible net worth each at least six times the current cost estimate; and

iii) Tangible net worth of at least $10 million; and

iv) Assets in the United States amounting to at least 90 percent of the operator's total assets and at least six times the current cost estimate.

B) The operator must have:

i) A current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

ii) Tangible net worth at least six times the current cost estimate; and

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.

2) To demonstrate that it meets this test, the operator must submit the following items to the Agency:

A) A letter signed by the operator's chief financial officer and worded as specified in Appendix A, Illustration I; and

B) A copy of the independent certified public accountant's report on examination of the operator's financial statements for the latest completed fiscal year; and

C) A special report from the operator's independent certified public accountant to the operator stating that:

i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

f) Updated information:

1) After the initial submission of items specified in subsections (d) and (e), the operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year.

2) If the operator no longer meets the requirements of subsections (d) and (e), the operator must send notice to the Agency of intent to establish alternate financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the operator no longer meets the requirements.

g) Qualified opinions. If the opinion required in subsections (e)(2)(B) and (e)(2)(C) includes an adverse opinion or a disclaimer of opinion, the Agency shall disallow the use of self-insurance. If the opinion includes other qualifications, the Agency shall disallow the use of self-insurance if:

1) The qualifications relate to the numbers that are used in the gross revenue test or the financial test; and

2) In light of the qualifications, the operator has failed to demonstrate that it meets the gross revenue test or financial test.

h) Parent corporation. An operator may satisfy the financial assurance requirements of this Part by:

1) Demonstrating that a corporation that owns an interest in the operator meets the requirements of this Section; and

2) Providing a bond to the Agency with the parent corporation as surety on a form specified in Appendix A, Illustration H in accordance with Section 807.662(d), (e), (f), and (g) of this Part.

(Source: Amended at 35 Ill. Reg. 10784, effective June 22, 2011)