**Section 807.APPENDIX A Financial Assurance Forms**

**Section 807.ILLUSTRATION D Performance Bond**

PERFORMANCE BOND

|  |  |
| --- | --- |
| Date bond executed: |  |
|  |
| Effective date: |  |
|  |
| Principal: |  |
|  |  |
|  |  |
|  |
| Type of organization: |  |
|  |
| State of incorporation: |  |
|  |
| Surety: |  |
|  |
| Sites: |
|  |
| Name |  |
|  |
| Address |  |
|  |
| City |  |
|  |  |
| Amount guaranteed by this bond: | $ |  |  |
|  |  |
| Name |  |
|  |
| Address |  |
|  |
| City |  |
|  |  |
| Amount guaranteed by this bond: | $ |  |  |
|  |
| Please attach a separate page if more space is needed for all sites. |
|  |  |
| Total penal sum of bond: | $ |  |
|  |
| Surety's bond number: |  |  |

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency ("IEPA") the above penal sum unless the Principal or Surety provides closure and post-closure care for each site in accordance with the closure and post-closure care plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], to have a permit to conduct a waste disposal operation;

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1], to provide financial assurance for closure and post-closure care;

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance, or approved to provide insurance as an excess or surplus lines insurer, by the insurance department in one or more states; and

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois;

The Surety shall pay the penal sum to the IEPA or provide closure and post-closure care in accordance with the closure and post-closure care plans for the site if, during the term of the bond, the Principal fails to provide closure or post-closure care for any site in accordance with the closure and post-closure care plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or post-closure care when ordered to do so by the Illinois Pollution Control Board or a court of competent jurisdiction;

d) Notifies the IEPA that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care in accordance with the closure and post-closure care plans; or

e) Fails to provide alternate financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA or notify the IEPA that it intends to provide closure and post-closure care in accordance with the closure and post-closure care plans for the site within 30 days after the IEPA mails notice to the Surety that the Principal has met one or more of the conditions described above. Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure Fund.

If the Surety notifies the IEPA that it intends to provide closure and post-closure care, then the Surety must initiate closure and post-closure care within 60 days after the IEPA mailed notice to the Surety that the Principal met one or more of the conditions described above. The Surety must complete closure and post-closure care in accordance with the closure and post-closure care plans, or pay the penal sum.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_ [date]; but such expiration date shall be automatically extended for a period of \_\_\_\_\_\_\_\_\_ [at least one year] on \_\_\_\_\_\_\_\_\_ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Principal by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the Principal and the IEPA have received the notice, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 807.604.

In Witness Whereof, the Principal and Surety have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration D as such regulation was constituted on the date this bond was executed.

|  |  |  |
| --- | --- | --- |
| Principal |  | Corporate Surety |
|  |  |
| Signature | Name |
|  |  |  |
| Typed Name | Address |
|  |  |
| Title | State of Incorporation |
|  |  |
| Date | Signature |
|  |  |
|  | Typed Name |
|  |  |
|  |  | Title |
|  |  |  |
|  |  |
| Corporate seal | Corporate seal |
|  |  |
|  | Bond premium: | $ |  |

(Source: Amended at 35 Ill. Reg. 18867, effective October 24, 2011)

**Section 807.APPENDIX A Financial Assurance Forms**

**Section 807.ILLUSTRATION E Irrevocable Standby Letter of Credit**

IRREVOCABLE STANDBY LETTER OF CREDIT

Director

Illinois Environmental Protection Agency

C/O Bureau of Land #24

Financial Assurance Program

1021 North Grand Avenue East

Post Office Box 19276

Springfield, Illinois 62794-9276

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language that does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_\_ in your favor, at the request and for the account of \_\_\_\_\_\_\_\_\_\_\_\_ up to the aggregate amount of \_\_\_\_\_\_\_\_ U.S. dollars ($\_\_\_\_\_\_\_), available upon presentation of:

1. your sight draft, bearing reference to this letter of credit No. \_\_\_\_\_; and

2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 807.664(e)."

This letter of credit is effective as of \_\_\_\_\_\_\_\_\_\_\_\_ [date] and shall expire on \_\_\_\_\_\_\_\_\_\_[date at least one year later], but, such expiration date shall be automatically extended for a period of \_\_\_\_\_\_\_\_\_ [at least one year] on \_\_\_\_\_\_\_\_\_ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. The 120 days will begin on the date when both\_\_\_\_\_\_\_\_\_\_[owner's or operator's name] and the IEPA have received the notice, as evidenced by the return receipts. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and \_\_\_\_\_\_\_\_\_ [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the State of Illinois Landfill Closure and Post-Closure Fund in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 35 Ill. Adm. Code 807.Appendix A, Illustration E as such regulations were constituted on the date shown below.

|  |
| --- |
| Signature |
| Typed Name |
| Title |  |
| Date |  |
| Name and address of issuing institution |

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(Source: Amended at 35 Ill. Reg. 18867, effective October 24, 2011)