**Section 811.700 Scope, Applicability and Definitions**

a) This Subpart provides procedures by which the owner or operator of a permitted waste disposal facility provides financial assurance satisfying the requirements of Section 21.1(a) of the Act.

b) Financial assurance shall be provided, as specified in Section 811.706, by a trust agreement, a bond guaranteeing payment, a bond guaranteeing payment or performance, a letter of credit, insurance or self-insurance. The owner operator shall provide financial assurance to the Agency before the receipt of the waste.

c) Except as provided in subsection (f), this Subpart does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site that is owned or operated by such a governmental entity shall provide financial assurance for closure and post-closure care of the site.

d) The owner or operator is not required to provide financial assurance pursuant to this Subpart if the owner or operator demonstrates:

1) That closure and post-closure care plans filed pursuant to 35 Ill. Adm. Code 724 or 725 will result in closure and post-closure care of the site in accordance with the requirements of this Part; and

2) That the owner or operator has provided financial assurance adequate to provide for such closure and post-closure care pursuant to 35 Ill. Adm. Code 724 or 725.

e) Definition: "Assumed closure date" means the point in time when the extent and manner of the facility's development, as permitted for operation in accordance with 35 Ill. Adm. Code 813.203 when applicable, would make closure the most expensive.

f) On or after April 9, 1997, no person, other than the State of Illinois, its agencies and institutions, shall conduct any disposal operation at an MSWLF unit that requires a permit under Section 21(d) of the Act, unless that person complies with the financial assurance requirements of this Part.

g) The Board will grant a variance pursuant to Sections 35 through 38 of the Act and 35 Ill. Adm. Code 104 that allows a facility to operate not in compliance with the otherwise applicable requirements of this Section for up to one year, until April 9, 1998, for good cause, if it determines that an owner or operator has demonstrated that the prior April 9, 1997 effective date for the requirements of this Section did not provide sufficient time to comply and that operating not in compliance with the otherwise applicable provisions of this Section would not adversely affect human health or the environment.

BOARD NOTE: Subsection (f) clarifies the applicability of the financial assurance requirements to units of local government, since the Subtitle D regulations exempt only federal and state governments from financial assurance requirements. (See 40 CFR 258.70 (1996).) P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60327), USEPA added 40 CFR 258.70(c) (1996), codified here as subsection (g), to allow states to waive the compliance deadline until April 9, 1998.

(Source: Amended at 35 Ill. Reg. 10842, effective June 22, 2011)