**Section 811.720 Corporate Guarantee**

a) An owner or operator of an MSWLF may meet the requirements of 35 Ill. Adm. Code 811.700 and 811.706 by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in Section 811.719 and must comply with the terms of the guarantee. The owner or operator shall place a certified copy of the guarantee in the facility's operating record along with a copy of the letter from the guarantor's chief financial officer and copies of the accountants' opinions. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

b) The guarantee must be effective and all required submissions placed in the operating record before the initial receipt of waste or before February 17, 1999, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324, in the case of corrective action.

 BOARD NOTE: Corresponding 40 CFR 258.74(g)(2) provides that this requirement is effective "before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later." The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.

c) The terms of the guarantee must provide as follows:

1) If the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

A) Perform, or pay a third party to perform closure, post-closure care, and corrective action, as required (performance guarantee); or

B) Establish a fully funded trust fund, as specified in Section 811.709 or 811.710, in the name of the owner or operator (payment guarantee).

2) The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this Subpart unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date on which the owner or operator and the Agency have both received the notice of cancellation, as evidenced by the return receipts.

3) If the guarantor gives notice of cancellation, the owner or operator shall obtain alternative financial assurance, place evidence of that alternative financial assurance in the facility operating record, and notify the Agency within 90 days following receipt of the cancellation notice by the owner or operator and the Agency. If the owner or operator fails to obtain alternative financial assurance within the 90-day period, the guarantor must provide that alternative assurance within 120 days after the cancellation notice, obtain alternative financial assurance, place evidence of the alternative assurance in the facility operating record, and notify the Agency.

d) If a corporate guarantor no longer meets the requirements of Section 811.719(a), the owner or operator shall obtain alternative assurance, place evidence of the alternative assurance in the facility operating record, and notify the Agency within 90 days. If the owner or operator fails to provide alternative financial assurance within the 90-day period, the guarantor shall provide that alternative assurance within the next 30 days.

e) The owner or operator is no longer required to meet the requirements of this Section when:

1) The owner or operator substitutes alternative financial assurance, as specified in this Subpart G; or

2) The owner or operator is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.

(Source: Added at 23 Ill. Reg. 2794, effective February 17, 1999)