**Section 811.APPENDIX A Financial Assurance Forms**

**Section 811.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 or corrective action for each site in accordance with the closure and post-closure care or corrective action 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 or corrective action.

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.

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 or corrective action in accordance with the closure and post-closure care or corrective action plans for the site if, during the term of the bond, the Principal fails to provide closure or post-closure care or corrective action for any site in accordance with the closure and post-closure care or corrective action 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 or corrective action 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 or corrective action in accordance with the closure and post-closure care or corrective action plans;

e) For corrective action, fails to implement corrective action at a municipal solid waste landfill unit in accordance with 35 Ill. Adm. Code 811.326; or

f) Fails to provide alternative 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 within 30 days after the IEPA mails notice to the Surety that the Principal 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 or corrective action, then the Surety must initiate closure and post-closure care or corrective action 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 or corrective action in accordance with the closure and post-closure care or corrective action 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 that 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 811.702.

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 811.Appendix A, Illustration D as that regulation was constituted on the date this bond was executed.

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| --- | --- | --- | --- |
| PRINCIPAL | | SURETY | |
|  | |  | |
| Signature |  | Name | |
|  | |  | |
| Typed Name |  | Address | |
|  | |  | |
| Title |  | State of Incorporation | |
|  | |  | |
| Date |  | Signature | |
|  | |  | |
| Corporate Seal | | Typed Name | |
|  | |
| Title | |
|  | |
| Corporate Seal | |
|  | |
|  | |
|  | |
|  | |
|  | |  | |
|  | | Bond Premium: $ |  |

(Source: Amended at 35 Ill. Reg. 18882, effective October 24, 2011)