**Section 811.717 Local Government Guarantee**

An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by Section 21.1(a) of the Act and 811.Subpart G, by obtaining a written guarantee provided by a unit of local government. The guarantor shall meet the requirements of the local government financial test in Section 811.716, and shall comply with the terms of a written guarantee.

a) Terms of the written guarantee. The guarantee must be effective before the initial receipt of waste or before November 27, 1997, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325. The guarantee must provide that:

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 must:

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

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

2) The guarantee must remain in force unless the guarantor sends 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 of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

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

b) Recordkeeping and reporting.

1) The owner or operator shall place a certified copy of the guarantee along with the items required under Section 811.716(c) into the facility's operating record before the initial receipt of waste or before November 27, 1997, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.

2) The owner or operator is no longer required to maintain the items specified in subsection (b) when:

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

B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).

3) If a unit of local government guarantor no longer meets the requirements of Section 811.716, the owner or operator shall, within 90 days, obtain alternative assurance, place evidence of the alternative assurance in the facility operating record, and notify the Agency. If the owner or operator fails to obtain alternative financial assurance within that 90-day period, the guarantor shall provide that alternative assurance within the next 30 days.

 BOARD NOTE: Derived from 40 CFR 258.74(h), added at 61 Fed. Reg. 60327 (Nov. 27, 1996).

(Source: Added at 21 Ill. Reg. 15831, effective November 25, 1997)