**Section 820.401 General Provisions**

a) This Subpart states the procedures by which the owner or operator of a GCDD recovery facility must provide financial assurance for closure under Section 820.305.

b) Amount

1) Except as provided in subsection (b)(2), beginning one year after the effective date of this Part the owner or operator of a GCDD recovery facility must at all times maintain financial assurance in an amount equal to or greater than the current approved closure cost estimate calculated under Section 820.402.

2) Within 60 days after the current approved closure cost estimate increases or the value of the trust fund established under Section 820.404 decreases, the owner or operator must increase the total amount of financial assurance to an amount that is equal to or greater than the current approved closure cost estimate calculated under Section 820.402.

c) Mechanisms

1) The owner or operator may use a trust fund, insurance, or a combination of both as financial assurance for closure of a GCDD recovery facility.

2) If an owner or operator uses multiple financial assurance mechanisms, the combination of mechanisms must provide financial assurance for an amount at least equal to the current approved closure cost estimate.

3) An owner or operator may use a financial assurance mechanism to meet the requirements of this Subpart for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility, the name, address, and the amount of funds assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. The amount of funds available to the Agency must be sufficient to close all of the owner's or operator's GCDD recovery facilities in compliance with Section 820.305.

d) The Agency may pursue legal action in any court of competent jurisdiction to enforce its rights under financial instruments used to provide the financial assurance required under this Subpart. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.

e) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order that an owner or operator modify the financial assurance or order that proceeds from financial assurance be applied to the closure of the GCDD recovery facility.

f) The following Agency actions may be appealed to the Board as a permit denial under 35 Ill. Adm. Code 105:

1) a refusal to accept financial assurance tendered by the owner or operator;

2) a refusal to release the owner or operator from the requirement to maintain financial assurance; or

3) a refusal to release excess funds from a trust.