

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
H.P. 1504 - L.D. 2227

**An Act to Update Financial Assurance Requirements for Certain Solid Waste Facilities**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §1310-Y**, as amended by PL 2023, c. 517, §§7 and 8, is further amended to read:

**§1310-Y. Financial assurance**

An owner or operator of a solid waste processing facility that processes plastic waste through chemical plastic processing that is licensed under section 1310-N or of a solid waste disposal facility that is licensed under section 1310-N shall provide the department assurance of its financial ability to satisfy the estimated cost of corrective action for known releases from the facility and its financial capacity to satisfy the estimated cost of closure and postclosure care and maintenance at the facility for a period of at least 30 years after closure. The board may adopt rules that increase or decrease that postclosure care period, as long as those rules are consistent with applicable federal rules. The department may consider the use of more than one acceptable form of financial assurance per facility to satisfy the financial assurance requirement of this section. This section applies to all privately owned solid waste disposal facilities licensed by the department, including facilities licensed by the department before June 16, 1993, and to all solid waste processing facilities that process plastic waste through chemical plastic processing. This section does not apply to a municipally owned or operated solid waste disposal facility that accepts exclusively special waste, construction and demolition debris, land-clearing debris or any combination of those types of waste or to a municipally owned or operated solid waste disposal facility licensed before June 16, 1993.

**1. Acceptable forms of financial assurance.** Acceptable forms of financial assurance are under this section must include at least one of the following:

- A. A letter of credit;
- B. A surety bond;
- C. An escrow account;

D. A reserve account calculated in a manner consistent with the United States Internal Revenue Code;

E. An irrevocable trust account; or

~~F. In the case of a municipal solid waste disposal facility, any of the allowable financial assurance mechanisms set forth in applicable federal rules.~~

G. A corporate financial test that satisfies the requirements of 40 Code of Federal Regulations, Section 258.74(e);

H. A local government financial test that satisfies the requirements of 40 Code of Federal Regulations, Section 258.74(f);

I. A corporate guarantee that satisfies the requirements of 40 Code of Federal Regulations, Section 258.74(g); or

J. A local government guarantee that satisfies the requirements of 40 Code of Federal Regulations, Section 258.74(h).

~~**1-A. Substitute requirements.** The department may substitute part of the acceptable forms of financial assurance under subsection 1 with one or more of the following requirements:~~

~~A. A current rating for its senior unsubordinated debt of AAA, AA, A or BBB as issued by Standard and Poor's Corporation or Aaa, Aa, A or Baa as issued by Moody's Investors Services, Inc.;~~

~~B. A ratio of less than 1.5 comparing total liabilities to net worth; or~~

~~C. A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10,000,000, to total liabilities.~~

**1-B. Review of financial assurance.** A licensee subject to the requirements of this section shall annually review and, as necessary and in accordance with department rule, update its financial assurance mechanisms under this section. The department may require an applicant or licensee subject to the requirements of this section to conduct and submit to the department an independent 3rd-party financial review of any proposed form of financial assurance.

**2. Report.** An owner or operator of a solid waste processing facility that processes plastic waste through chemical plastic processing or of a solid waste disposal facility shall annually prepare a report containing a sworn statement providing the year-end balance or value of any escrow, trust or reserve account form of financial assurance established under this section. That report must be submitted to the commissioner by March 31st of each year or such other date as the commissioner may designate.