

§1310-Y. Financial assurance

An owner or operator of a solid waste disposal facility 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. 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. [PL 2001, c. 575, §1 (AMD).]

1. Acceptable forms of financial assurance. Acceptable forms of financial assurance are:

A. A letter of credit; [PL 1993, c. 378, §9 (NEW).]

B. A surety bond; [PL 1993, c. 378, §9 (NEW).]

C. An escrow account; [PL 1993, c. 378, §9 (NEW).]

D. A reserve account calculated in a manner consistent with the United States Internal Revenue Code; [PL 1993, c. 378, §9 (NEW).]

E. An irrevocable trust account; or [PL 1993, c. 378, §9 (NEW).]

F. In the case of a municipal solid waste disposal facility, any of the allowable financial assurance mechanisms set forth in applicable federal rules. [PL 1993, c. 378, §9 (NEW).]

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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.; [PL 2001, c. 575, §1 (NEW).]

B. A ratio of less than 1.5 comparing total liabilities to net worth; or [PL 2001, c. 575, §1 (NEW).]

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. [PL 2001, c. 575, §1 (NEW).]

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2. Report. An owner or operator of a solid waste disposal facility shall annually prepare a report containing a sworn statement providing the year-end balance of any escrow, trust or reserve account 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.

[PL 1993, c. 378, §9 (NEW).]

SECTION HISTORY

PL 1993, c. 378, §9 (NEW). PL 1995, c. 44, §1 (AMD). PL 2001, c. 315, §4 (AMD). PL 2001, c. 575, §1 (AMD).

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