

**SUBCHAPTER J: FINANCIAL ASSURANCE FOR  
RECYCLING FACILITIES  
§§37.901, 37.911, 37.921, 37.931  
Effective November 4, 2004**

**§37.901. Applicability.**

This subchapter applies to owners and operators of recycling facilities required to provide evidence of financial assurance under Chapters 328, 330, 332, or 335 of this title (relating to Waste Minimization and Recycling; Municipal Solid Waste; Composting; and Industrial Solid Waste and Municipal Hazardous Waste). This subchapter establishes requirements and mechanisms for demonstrating financial assurance for closure.

Adopted October 13, 2004

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**§37.911. Definitions.**

Definitions for terms that appear throughout this subchapter may be found in Subchapter A of this chapter (relating to General Financial Assurance Requirements), as well as Chapters 328, 330, 332, and 335 of this title (relating to Waste Minimization and Recycling; Municipal Solid Waste; Composting; and Industrial Solid Waste and Municipal Hazardous Waste).

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**§37.921. Financial Assurance Requirements for Closure.**

(a) In addition to the requirements of this subchapter, owners and operators of recycling facilities required to demonstrate financial assurance for closure must comply with Subchapters A - D of this chapter (relating to General Financial Assurance Requirements; Financial Assurance Requirements for Closure, Post Closure, and Corrective Action; Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action; and Wording of the Mechanisms for Closure, Post Closure, and Corrective Action) except:

- (1) §37.31 of this title (relating to Submission of Documents) is not applicable;
  - (2) §37.131 of this title (relating to Annual Inflation Adjustments to Closure Cost Estimates) is not applicable;
  - (3) §37.161 of this title (relating to Establishment of a Standby Trust) is not applicable;
- and
- (4) §37.241(b) of this title (relating to Insurance) is not applicable.

(b) Owners or operators shall submit an originally signed financial assurance mechanism to the executive director.

(1) For new facilities, owners or operators shall submit the originally signed financial assurance mechanism:

(A) prior to receipt of materials; or

(B) as otherwise approved by the executive director.

(2) For facilities in existence upon the effective date of this section, owners or operators shall submit the originally signed financial assurance mechanism:

(A) within 60 days of executive director approval of the closure cost estimate as required in §328.5(c) of this title (relating to Reporting and Recordkeeping Requirements), §330.282(a) of this title (relating to Closure for Process Facilities), or §335.24(j) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials); or

(B) within 180 days of the effective date of this section, whichever occurs first; or

(C) as otherwise approved by the executive director.

(c) Insurers providing insurance in accordance with §37.241 of this title must be licensed to transact the business of insurance in Texas or eligible to provide insurance as an excess or surplus lines insurer in Texas.

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**§37.931. Financial Assurance Mechanisms.**

Owners and operators subject to this subchapter may use any of the financial assurance mechanisms as specified in Subchapter C of this chapter (relating to Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action) to demonstrate financial assurance for closure except:

(1) a pay-in trust fund may not be used; and

(2) a surety bond guaranteeing performance may not be used unless the owner or operator is required to provide financial assurance under §332.47 of this title (relating to Permit Application Preparation).

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