

**SUBCHAPTER O: FINANCIAL ASSURANCE FOR PUBLIC DRINKING
WATER SYSTEMS AND UTILITIES**
§§37.5001, 37.5002, 37.5011
Effective February 12, 2003

§37.5001. Applicability.

This subchapter applies to public water systems and retail public utilities required to provide evidence of financial assurance under Chapter 290 of this title (relating to Public Drinking Water), or Chapter 291 of this title (relating to Utility Regulation).

Adopted January 13, 1999

Effective February 4, 1999

§37.5002. Definitions.

For definitions of words and terms and other definitions not found in Subchapter A of this Chapter, relating to General Financial Assurance Requirements, see §290.38, of this title (relating to Rules and Regulations for Public Water Systems), and §291.3, of this title (relating to Definitions of Terms).

Adopted January 13, 1999

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§37.5011. Financial Assurance for a Public Water System or Retail Public Utility.

(a) Financial assurance demonstrations shall comply with the wordings of the mechanisms as described in Subchapter A of this chapter (relating to General Financial Assurance Requirements), Subchapter B of this chapter (relating to Financial Assurance Requirements for Closure, Post Closure, and Corrective Action), Subchapter C of this chapter (relating to Financial Assurance Mechanisms for Closure, Post Closure, and Corrective Action), and Subchapter D of this chapter (relating to Wording of the Mechanisms for Closure, Post Closure, and Corrective Action), except operation should be substituted for closure.

(b) The prospective owner or operator of a public water system may be ordered to provide adequate financial assurance to operate the system as specified in §290.39(f) of this title (relating to General Provisions). A public water system that was constructed without approval or has a history of noncompliance or is subject to commission enforcement action as specified in §290.39(n) of this title, may be required to provide financial assurance to operate the system in accordance with applicable laws and rules. Financial assurance may be required of an applicant requesting approval for a certificate or a certificate amendment or a person establishing, purchasing or acquiring a retail public utility as specified in §291.102(d) of this title (relating to Criteria for Considering and Granting Certificates or Amendments), and §291.109(c) of this title (relating to Report of Sale, Merger, Etc: Investigation; Disallowance of Transaction). A person acquiring a controlling interest in a utility may

be required to demonstrate adequate financial assurance as specified in §291.111(c) of this title (relating to Purchase of Voting Stock in Another Utility). The commission may order a utility that has failed to provide continuous and adequate service to provide financial assurance to ensure that the system will be operated as required by §291.114 of this title (relating to Requirements to Provide Continuous and Adequate Service). Such financial assurance will allow for payment of improvements and repairs to the water or sewer system.

(c) If rate increases or customer surcharges are determined by the executive director to be an acceptable form for demonstrating financial assurance in accordance with §290.39(n)(3) of this title, such funds shall be deposited into an escrow account with an escrow agent that has the authority to act as an escrow agent and whose escrow operations are regulated and examined by a federal or state agency. At least annually a statement of the account shall be submitted to the executive director.

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