

**SUBCHAPTER U: FINANCIAL ASSURANCE FOR MEDICAL WASTE TRANSPORTERS**  
**§§37.9060, 37.9065, 37.9070, 37.9075, 37.9080, 37.9085**  
**Effective February 12, 2003**

**§37.9060. Applicability.**

This subchapter applies to all owners or operators required to provide financial assurance under Chapter 330, Subchapter Y of this title (relating to Medical Waste Management). This subchapter establishes requirements and mechanisms for demonstrating financial assurance for automobile liability and pollution liability.

Adopted February 24, 2000

Effective March 21, 2000

**§37.9065. Definitions.**

Definitions for terms that appear throughout this subchapter are defined in Subchapter A of this chapter (relating to General Financial Assurance Requirements) and in Chapter 330, Subchapter Y of this title (relating to Medical Waste Management).

Adopted February 24, 2000

Effective March 21, 2000

**§37.9070. Financial Assurance Requirements.**

(a) Owners or operators registered to transport medical waste are required to demonstrate for automobile liability and pollution liability and must comply with Subchapters A and B of this chapter (relating to General Financial Assurance Requirements and Financial Assurance Requirements for Closure, Post Closure, and Corrective Action), except the following sections do not apply:

(1) §37.11 of this title (relating to Definitions); §37.31 of this title (relating to Submission of Documents); §37.41 of this title (relating to Use of Multiple Financial Assurance Mechanisms); §37.51 of this title (relating to Use of a Financial Assurance Mechanism for Multiple Facilities); and §37.52 of this title (relating to Use of a Universal Financial Assurance Mechanism for Multiple Facilities and Program Areas);

(2) §37.131 of this title (relating to Annual Inflation Adjustments to Current Cost Estimates) and §37.161 of this title (relating to Establishment of a Standby Trust).

(b) Owners or operators required to provide financial assurance under this subchapter may only use those financial assurance mechanisms as specified in §37.9075 of this title (relating to Financial Assurance Mechanisms).

(c) Owners or operators who transport medical waste are required to demonstrate financial assurance for automobile liability and pollution liability in the dollar limits specified in this subsection and are responsible for any liability costs that exceed these dollar limits. Such owners or operators must provide:

(1) a combined, single-limit automobile liability insurance policy with limits of at least \$1 million per accident, exclusive of legal defense costs, that meets the requirements of subsection (d) of this section; and

(2) a pollution liability policy with a limit of \$500,000, exclusive of legal defense costs, if the transporter registers one to seven vehicles or a pollution liability policy with a limit of \$1 million, exclusive of legal defense costs, if the transporter registers more than seven vehicles; or

(3) an irrevocable letter of credit that meets the requirements specified in this subchapter, made payable to the Texas Commission on Environmental Quality in the following amount:

(A) \$10,000, if three or less self-contained trucks or transport vehicles (not tractor-trailer units) are registered;

(B) \$35,000, if more than three self-contained trucks or transporter vehicles (not tractor-trailer units) are registered;

(C) \$25,000, if three or less tractor-trailer vehicles are registered; or

(D) \$50,000, if more than three tractor-trailer vehicles are registered.

(d) Owners or operators who transport medical waste shall comply with the following insurance requirements.

(1) The owner or operator who transports medical waste must be the named insured on the certificate of insurance and the certificate holder must be listed as the Texas Commission on Environmental Quality.

(2) The cancellation statement on the certificate shall read exactly as follows:  
"Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail a 30-day written cancellation notice to the certificate holder."

(3) Upon the executive director's receipt of a cancellation notice, the owner or operator who transports medical waste shall obtain alternate insurance coverage and submit evidence of such coverage to the commission before the effective date of the cancellation. Failure to do so will result in revocation of the registration.

(4) Evidence of pollution liability coverage is demonstrated by submitting an MCS 90 form along with the original certificate for the automobile coverage. The schedule of insured vehicles must accompany the certificate of insurance.

(5) Insurance coverage must be issued for at least one year by a carrier that is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer in Texas. The insurer must be acceptable to the executive director.

(6) An original or certified copy of the insurance policy shall be provided within 30 days from the date requested by the executive director.

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Effective February 12, 2003

**§37.9075. Financial Assurance Mechanisms.**

Owners or operators subject to this subchapter may use the following financial assurance mechanisms:

(1) a certificate of insurance to demonstrate automobile liability coverage; and

(2) an MCS 90 form or letter of credit to demonstrate pollution liability coverage. The letter of credit is subject to the requirements specified in §37.231 of this title (relating to Irrevocable Standby Letter of Credit), except:

(A) whenever the terms “closure,” “post closure,” “corrective action,” or “current cost estimate” are cited, replace with “pollution liability”; and

(B) in §37.231(h) of this title, the following statement will be added: “Failure to obtain alternate insurance coverage and submit evidence of such coverage to the executive director before the effective date of the cancellation will result in revocation of the registration.”

Adopted February 24, 2000

Effective March 21, 2000

**§37.9080. Submission of Documents.**

An owner or operator required to provide financial assurance must submit an originally signed financial assurance mechanism prior to issuance of registration. The signed financial assurance mechanism must be in effect at the time it is submitted.

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**§37.9085. Incapacity of Owners or Operators Registered to Transport Medical Waste or of the Issuing Institution.**

The requirements specified in §37.71 of this title (relating to Incapacity of Owners or Operators, Guarantors, or Issuing Institutions) shall be satisfied, except 60 days should be changed to 30 days as specified in §37.71(b) of this title.

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