

**SUBCHAPTER X: FINANCIAL ASSURANCE REQUIREMENTS  
FOR BRINE EVAPORATION PITS  
§§37.9245, 37.9250, 37.9255, 37.9260, 37.9265  
Effective October 16, 2008**

**§37.9245. Applicability.**

This subchapter applies to owners and operators of brine evaporation pits required to provide evidence of financial assurance under Chapter 218 of this title (relating to Brine Evaporation Pits). This subchapter does not apply to state or federal governmental entities whose debts and liabilities are the debts and liabilities of a state or the United States. This subchapter establishes requirements and mechanisms for demonstrating financial assurance for closure and third party pollution liability.

Adopted September 24, 2008

Effective October 16, 2008

**§37.9250. Definitions.**

Definitions for terms that appear throughout this subchapter may be found in Subchapter A of this chapter (relating to General Financial Assurance Requirements) and Chapter 218 of this title (relating to Brine Evaporation Pits), except the term "brine evaporation pit" shall mean the same as "facility" for purposes of this subchapter.

Adopted September 24, 2008

Effective October 16, 2008

**§37.9255. Submission of Documents.**

An owner or operator required by this subchapter to provide financial assurance must submit an originally signed financial assurance mechanism for closure, post closure and third party pollution liability coverage.

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

(A) prior to permit issuance; or

(B) as otherwise approved in writing 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 180 days of the effective date of this section; or

(B) as otherwise approved in writing by the executive director.

Adopted September 24, 2008

Effective October 16, 2008

**§37.9260. Financial Assurance Requirements for Closure and Post Closure of Brine Evaporation Pits.**

(a) An owner or operator of a brine evaporation pit subject to this subchapter shall establish financial assurance for the closure and post closure of the facility that meets the requirements of this section, in addition to the requirements specified under 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 §37.31 of this title (relating to Submission of Documents) is not applicable.

(b) An owner or operator subject to this subchapter may use any of the financial assurance mechanisms as specified in Subchapter C of this chapter to demonstrate financial assurance for closure except a pay-in trust fund may not be used.

Adopted September 24, 2008

Effective October 16, 2008

**§37.9265. Third Party Pollution Liability Requirements for Brine Evaporation Pits.**

(a) An owner or operator subject to this subchapter shall establish and maintain financial assurance for third party pollution liability insurance covering bodily injury and property damage to third parties caused by accidental sudden or nonsudden occurrences arising from facility operations that:

(1) is issued by an insurance company authorized to do business in the state of Texas that has a rating by the A.M. Best Company of "A-" or better;

(2) is in an amount not less than \$3 million; and

(3) is evidenced by either an originally signed certificate of insurance worded identically to the wording specified in §37.631 of this title (relating to Certificate of Insurance for Liability) or an endorsement worded identically to the wording specified in §37.641 of this title (relating to Endorsement for Liability).

(b) If an endorsement as described within this section is used, the insurance policy shall be amended by the Endorsement for Liability.

(c) Owners and operators must also comply with §37.402 of this title (relating to Definitions), §37.404 of this title (relating to Liability Requirements for Sudden and Nonsudden Accidental Occurrences) and §37.411 (relating to Adjustments to the Level of Liability Coverage).

Adopted September 24, 2008

Effective October 16, 2008