

Figure: 30 TAC §37.651

FINANCIAL TEST FOR LIABILITY
LETTER FROM CHIEF FINANCIAL OFFICER

(Address to TCEQ Executive Director)

I am the chief financial officer of (firms's name and physical and mailing addresses). This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage (if applicable, "and closure, post closure, or corrective action") as specified in 30 Texas Administrative Code (TAC) Chapter 37 (relating to Financial Assurance).

(Fill out the following paragraphs regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its permit number, name, and physical and mailing addresses).

The firm identified above is the owner or operator of the following facilities for which liability coverage for (sudden or nonsudden, or both sudden and nonsudden) accidental occurrences is being demonstrated through the financial test specified in 30 TAC §37.541 (relating to Financial Test for Liability):_____.

The firm identified above guarantees, through the guarantee specified in 30 TAC §37.551 (relating to Corporate Guarantee for Liability), liability coverage for (sudden or nonsudden or both sudden and nonsudden) accidental occurrences at the following facilities owned or operated by the following:_____. The firm identified above is (the direct or higher-tier parent corporation of the owner or operator, or engaged in a substantial business relationship with the owner or operator).

(If you are using the financial test to demonstrate coverage of both liability and closure, post closure, or corrective action, fill in the following five paragraphs. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include: the permit number, name, the program area (hazardous waste, municipal solid waste, etc.), the physical and mailing addresses, and current cost estimate. Identify for each current cost estimate the amount designated for closure, post closure, or corrective action.)

1. The firm identified above owns or operates the following facilities in Texas for which financial assurance for closure, post closure, or corrective action or liability coverage is demonstrated through a financial test specified in 30 TAC Chapter 37. The current cost estimates covered by the test are shown for each facility:_____.
2. The firm identified above guarantees, through a corporate guarantee specified in 30 TAC Chapter 37, the cost for closure, post closure, corrective action, or liability coverage of the following facilities owned or operated by the guaranteed party. The current cost estimates so guaranteed are shown for each facility:_____.
3. In States where TCEQ is not administering the financial requirements of 30 TAC Chapter 37, this firm, as owner, operator, or guarantor, is demonstrating financial assurance for the closure, post closure, or corrective action of the following facilities through the use of a test equivalent to a financial test specified in 30 TAC Chapter 37. The current cost estimates covered by such a test are shown for each facility:_____.
4. The firm identified above owns or operates the following facilities for which financial assurance for closure, post closure, or corrective action, is not demonstrated either to

TCEQ, a federal agency or a State through the financial test or any other financial assurance mechanisms specified in 30 TAC Chapter 37 or equivalent State mechanisms. The current cost estimates not covered by such financial assurance are shown for each facility:_____.

5. This firm is the owner or operator or guarantor of the following facilities for which financial assurance is being demonstrated under other EPA regulations or state programs authorized by EPA through a financial test or guarantee. The following amounts have not been included in Paragraphs 1 through 4. (For each program area identify: the facility name, physical and mailing addresses, federal or state equivalent regulations, permit number, and current cost estimate. Identify for each current cost estimate the amount designated for closure, post closure, or corrective action.)

- (a) Municipal solid waste management facilities under 30 TAC Chapter 330, 40 CFR part 258 or equivalent \$ _____
- (b) Underground injection control facilities under 30 TAC Chapter 331, 40 CFR part 144 or equivalent \$ _____
- (c) Petroleum underground storage tank facilities under 30 TAC Chapter 334, and 40 CFR part 280 or equivalent \$ _____
- (d) PCB storage facilities under 40 CFR part 761 or equivalent \$ _____
- (e) Hazardous waste treatment, storage, and disposal facilities under 30 TAC Chapter 335, 40 CFR parts 264 and 265 or equivalent \$ _____
- (f) Additional environmental obligations not shown above \$ _____
- Total (a) - (f) \$ _____

This (owner, operator, or guarantor) (has or has not) received an adverse opinion, a disclaimer of opinion, or a going concern qualification from an independent auditor on its financial statements for the latest completed fiscal year.

This firm (is required or is not required) to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year. The fiscal year of this firm ends on (month, day). The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended (date).

Part A. Liability Coverage for Accidental Occurrences

(Fill in Alternative I if the criteria of 30 TAC §37.541(b)(1) are used. Fill in Alternative II if the criteria of 30 TAC §37.541(b)(2) are used.)

ALTERNATIVE I

- 1. Amount of annual aggregate liability coverage to be demonstrated \$ _____
- *2. Current assets \$ _____

- *3. Current liabilities \$ _____
- 4. Net working capital (line 2 minus line 3) \$ _____
- *5. Tangible net worth \$ _____
- *6. If less than 90% of assets are located in the U. S., give total U.S. assets \$ _____

Indicate either "yes" or "no" to the following questions:

- 7. Is line 5 at least \$10 million? (Yes/No)
- 8. Is line 4 at least 6 times line 1? (Yes/No)
- 9. Is line 5 at least 6 times line 1? (Yes/No)
- *10. Are at least 90% of assets located in the U.S.? (If not, complete line 11) (Yes/No)
- 11. Is line 6 at least 6 times line 1? (Yes/No)

ALTERNATIVE II

- 1. Amount of annual aggregate liability coverage to be demonstrated \$ _____
- 2. Current bond rating of most recent issuance and name of rating service _____
- 3. Date of issuance of bond _____
- 4. Date of maturity of bond _____
- *5. Tangible net worth \$ _____
- *6. Total assets in U.S. (Required only if less than 90% of assets are located in the U.S.) \$ _____

Indicate either "yes" or "no" to the following questions:

- 7. Is line 5 at least \$10 million? (Yes/No)
- 8. Is line 5 at least 6 times line 1? (Yes/No)
- 9. Are at least 90% of assets located in the U.S.? (If not, complete line 10) (Yes/No)
- 10. Is line 6 at least 6 times line 1? (Yes/No)

Part B. Closure, Post Closure, Corrective Action, and Liability Coverage

(Fill in Alternative I if the criteria of 30 TAC §37.251(b)(1) and 30 TAC §37.541(b)(1) are used. Fill in Alternative II if the criteria of 30 TAC §37.251(b)(2) and 30 TAC §37.541(b)(2) are used.)

ALTERNATIVE I

1. Sum of current closure, post closure, and corrective action cost estimates
(total of all cost estimates listed above) \$ _____
2. Amount of annual aggregate liability coverage to be demonstrated \$ _____
3. Sum of lines 1 and 2 \$ _____
- *4. Total liabilities (if any portion of your current cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6) \$ _____
- *5. Tangible net worth \$ _____
- *6. Net worth \$ _____
- *7. Current assets \$ _____
- *8. Current liabilities \$ _____
9. Net working capital (line 7 minus line 8) \$ _____
10. The sum of net income plus depreciation, depletion, and amortization \$ _____
- *11. Total assets in the United States (required only if less than 90% of assets located in the United States) \$ _____

Indicate either "yes" or "no" to the following questions:

12. Is line 5 at least \$10 million? (Yes/No)
13. Is line 5 at least 6 times line 3? (Yes/No)
14. Is line 9 at least 6 times line 3? (Yes/No)
- *15. Are at least 90% of assets located in the U.S.? (If not, complete line 16) (Yes/No)
16. Is line 11 at least 6 times line 3? (Yes/No)
17. Is line 4 divided by line 6 less than 2.0? (Yes/No)
18. Is line 10 divided by line 4 greater than 0.1? (Yes/No)
19. Is line 7 divided by line 8 greater than 1.5? (Yes/No)

ALTERNATIVE II

1. Sum of current closure, post closure, and corrective action cost estimates (total of all cost estimates listed above) \$ _____
2. Amount of annual aggregate liability coverage to be demonstrated \$ _____
3. Sum of lines 1 and 2 \$ _____
4. Current bond rating of most recent issuance and name of rating service _____
5. Date of issuance of bond _____
6. Date of maturity of bond _____
- *7. Tangible net worth (if any portion of the current cost estimates is included in total liabilities you may add that portion to this line) \$ _____
- *8. Total assets in the U.S. (Required only if less than 90% of assets are located in the U.S.) \$ _____

Indicate either "yes" or "no" to the following questions:

9. Is line 7 at least \$10 million? (Yes/No)
10. Is line 7 at least 6 times line 3? (Yes/No)
- *11. Are at least 90% of assets located in the U.S.? (If not, complete line 12) (Yes/No)
12. Is line 8 at least 6 times line 3? (Yes/No)

I hereby certify that the wording of this letter is identical to the wording specified in 30 TAC §37.651 as such regulations were constituted on the date shown immediately below.

(Signature) _____

(Name) _____

(Title) _____

(Date) _____