

**SUBCHAPTER D: STANDARDS APPLICABLE TO TRANSPORTERS
OF HAZARDOUS WASTE
§§335.91 - 335.94
Effective November 15, 2001**

§335.91. Scope.

(a) This subchapter establishes standards for transporters transporting hazardous waste to off-site storage, processing, or disposal facilities. These standards are in addition to any applicable provisions contained in Subchapter A of this chapter (relating to Industrial Solid Waste and Municipal Hazardous Waste Management in General).

(b) This subchapter does not apply to on-site transportation of hazardous waste by generators or by owners or operators of storage, processing or disposal facilities.

(c) A transporter of hazardous waste must also comply with any standards applicable to generators of hazardous waste if he:

(1) transports hazardous waste into the state from a foreign country; or

(2) mixes hazardous waste of different Department of Transportation shipping descriptions by placing them into a single container.

(d) Transporters who store hazardous waste are owners or operators of storage facilities and, as such, are also subject to the permit requirements and storage standards contained in this chapter.

(e) A transporter of hazardous waste subject to the federal manifesting requirements of 40 Code of Federal Regulations (CFR) Part 262, or subject to state hazardous waste manifesting requirements of §335.11 of this title (relating to Shipping Requirements for Transporters of Hazardous Waste or Class 1 Waste), or subject to the universal waste management standards of 40 CFR Part 273, or subject to Subchapter H, Division 5 of this chapter (relating to Universal Waste Rule), that is being imported from or exported to any of the countries listed in 40 CFR §262.58(a)(1) for purposes of recovery is subject to this subchapter and to all other relevant requirements of 40 CFR Part 262, Subpart H, including, but not limited to, 40 CFR §262.84 for tracking documents.

(f) The regulations in this chapter do not apply to transportation during an explosives or munitions emergency response conducted in accordance with §335.41(d)(2) of this title (relating to Purpose, Scope and Applicability).

(g) 40 CFR §266.203, as adopted by reference under Subchapter H, Division 6 of this chapter (relating to Military Munitions), identifies how the requirements of this subchapter apply to military munitions classified as solid waste under 40 CFR §266.202.

Adopted October 24, 2001

Effective November 15, 2001

§335.92. EPA Identification Number.

A transporter must not transport hazardous wastes without having received an Environmental Protection Agency (EPA) identification number.

Effective May 28, 1986

§335.93. Hazardous Waste Discharges.

(a) In the event of a discharge of hazardous waste during transportation, the transporter shall notify the commission as soon as possible and not later than 24 hours after the occurrence, according to the provisions of the Texas Water Code, §26.039, and the procedures set out in the State Oil and Hazardous Substances Spill Contingency Plan, and also take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge).

(b) If a discharge of hazardous waste occurs during transportation and a commission official acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.

(c) An air, rail, highway, or water transporter who has discharged hazardous waste must also:

(1) give notice, if required by 49 Code of Federal Regulations (CFR) §171.15, to the National Response Center (800-424-8802 or 202-426-2675); and

(2) report in writing as required by 49 CFR §171.16 to the Director, Office of Hazardous Waste Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

(d) A water (bulk shipment) transporter who has discharged hazardous waste must give the same notice as required by 33 CFR §153.203 for oil and hazardous substances.

(e) A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as required in §327.5 of this title (relating to Actions Required) so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

Adopted October 24, 2001

Effective November 15, 2001

§335.94. Transfer Facility Requirements.

(a) Unless the executive director determines that a permit should be required in order to protect human health and the environment, a transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of §335.65 of this title (relating to Packaging) at a transfer facility owned or operated by a registered transporter for a period of ten days or less is not subject to the requirement for a permit under §335.2 of this title (relating to Permit Required), with respect to the storage of those wastes provided that the transporter complies with the following sections:

- (1) 40 Code of Federal Regulations (CFR) §265.14 (relating to Security);
- (2) 40 CFR §265.15 (relating to General Inspection Requirements);
- (3) 40 CFR §265.16 (relating to Personnel Training);
- (4) 40 CFR Part 265, Subpart C;
- (5) 40 CFR Part 265, Subpart D (except §265.56(j)) and §335.113 of this title (relating to Reporting of Emergency Situations by Emergency Coordinator); and
- (6) 40 CFR Part 265, Subpart I.

(b) The executive director may require a permit for that portion of a facility otherwise exempted from that requirement under subsection (a) of this section, with respect to the storage of hazardous waste in containers, if the facility's operation also includes other storage and processing of hazardous waste which is not exempt under subsection (a) of this section.

Adopted October 24, 2001

Effective November 15, 2001