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**40 CFR Part 282**

[FRL-5304-4]

**Underground Storage Tank Program: Approved State Program for Texas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Texas' underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

**DATES:** This regulation is effective March 18, 1996, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the codification of Texas' underground storage tank program must be received by the close of business February 20, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of March 18, 1996, in accordance with 5 U.S.C. 552(a).

**ADDRESSES:** Comments may be mailed to the Docket Clerk, Underground Storage Tank Program, 6H-A, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733. Comments received by EPA may be inspected in the public docket, located in the EPA Region 6 Library (12th floor) from 8 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gary Fisher, Underground Storage Tank Program, 6H-A, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733. Phone: (214) 665-8048.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to

operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Texas on March 7, 1995 (60 FR 14373). Approval was effective on April 17, 1995.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Texas underground storage tank program. This codification reflects the state program in effect at the time EPA granted Texas approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Texas program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Texas program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Texas, the status of federally approved requirements of the Texas program will be readily discernible. Only those provisions of the Texas underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Texas' underground storage tank program, EPA has added section 282.93 to title 40 of the CFR. Section 282.93 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.93 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state

authorized analogs to these provisions. Therefore, the approved Texas enforcement authorities will not be incorporated by reference. Section 282.93 lists those approved Texas authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.93 of the codification simply lists for reference and clarity the Texas statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

#### Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (60 FR 14373, March 7, 1995) to approve the Texas underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

#### Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

#### List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State

program approval, Underground storage tanks, Water pollution control.

Dated: October 20, 1995.

A. Stanley Meiburg,  
*Acting Regional Administrator.*

For the reasons set forth in the preamble, 40 CFR Part 282 is proposed to be amended as follows:

### PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

#### Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.93 to read as follows:

#### § 282.93 Texas State-Administered Program.

(a) The State of Texas is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Texas Natural Resource Conservation Commission, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Texas program on March 7, 1995 and it was effective on April 17, 1995.

(b) Texas has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Texas must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Texas obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the Federal Register.

(d) Texas has final approval for the following elements submitted to EPA in Texas' program application for final approval and approved by EPA on March 7, 1995. Copies may be obtained from the Underground Storage Tank Program, Texas Natural Resource

Conservation Commission, P.O. Box 13087, Austin, TX 78711-3087.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Texas Statutory Requirements Applicable to the Underground Storage Tank Program, 1995

(B) Texas Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) *Texas Water Code, Title 2, Subtitle D, Chapter 26—State Water Administration.*

§ 26.013 Research, Investigations  
 § 26.014 Power to Enter Property  
 § 26.015 Power to Examine Records  
 § 26.016 Enforcement Proceedings  
 § 26.017 Cooperation  
 § 26.019 Orders  
 § 26.020 Hearing Powers  
 § 26.021 Delegation of Hearing Powers  
 § 26.022 Notice of Hearings;  
 Continuance  
 § 26.042 Monitoring and Reporting  
 § 26.121 Unauthorized Discharges  
 Prohibited  
 § 26.122 Civil Penalty  
 § 26.123 Enforcement by Commission  
 § 26.124 Enforcement by Others  
 § 26.125 Venue and Procedure  
 § 26.126 Disposition of Civil Penalties  
 § 26.136 Administrative Penalty  
 § 26.212 Criminal Offense  
 § 26.213 Criminal Penalty  
 § 26.268 Penalties  
 § 26.353 Commission Orders  
 § 26.354 Emergency Orders  
 § 26.356 Inspections, Monitoring, and Testing

(B) The regulatory provisions include:

(1) *31 Texas Administrative Code, Chapter 334—Underground and Aboveground Storage Tanks.*

Subchapter A: General Provisions

§ 334.11 Enforcement  
 § 334.14 Memorandum of Understanding between the Attorney General of Texas and the Texas Natural Resource Conservation Commission

(2) *31 Texas Administrative Code, Chapter 337—Enforcement.*

(i) Subchapter A: Enforcement Generally.

§ 337.1 Enforcement Orders

- § 337.2 Hearings on Violations
- § 337.3 Legal Proceedings
- § 337.4 Complaint File
- § 337.5 Confidentiality of Enforcement Information
- § 337.6 Force Majeure
- (ii) Subchapter B: Enforcement Hearings.
- § 337.31 Purpose
- § 337.32 Remedies
- § 337.33 Definitions
- § 337.34 Substantial Noncompliance and Emergency Conditions
- § 337.35 Emergencies
- § 337.36 Preliminary Enforcement Report
- § 337.37 Notice
- § 337.38 Answer
- § 337.39 Commission Action
- § 337.40 Appeals of Administrative Penalties
- (iii) Subchapter C: Water Rights Enforcement.
- § 337.51 Show-Cause Enforcement Procedures
- § 337.52 Notice
- § 337.53 Enforcement of Commission Orders
- § 337.54 Enforcement
- (3) 31 Texas Administrative Code, Chapter 265—Procedures Before Public Hearing.
- § 265.1 Initial Pleadings
- § 265.2 Executive Director Forwards Initial Pleadings to the Commission
- § 265.3 Acceptance for Filing
- § 265.4 Affidavit of Publication
- § 265.5 Effect of Failure to Furnish Affidavit
- § 265.6 Conference Before Hearing
- § 265.7 Recordation of Conference Action
- § 265.8 Prefiled Testimony and Exhibits
- § 265.9 Written Protest
- § 265.10 Discovery
- § 265.11 Forms of Discovery
- § 265.12 Scope of Discovery
- § 265.13 Exceptions
- § 265.14 Protective Orders
- § 265.15 Duty to Supplement
- § 265.16 Discovery of Documents and Things
- § 265.17 Interrogatories to Parties
- § 265.18 Admission of Facts and Genuineness of Document
- § 265.19 Requests for Requests for Information
- § 265.20 Sanctions for Failure to Comply with Discovery Ruling
- (4) 31 Texas Administrative Code, Chapter 267—Procedures During Public Hearing.
- § 267.1 Designation of Parties
- § 267.2 Statutory Parties
- § 267.3 Rights of Parties at the Hearing
- § 267.4 Persons Not Parties
- § 267.5 Effect of Postponement
- § 267.6 Furnishing Copies of Pleadings
- § 267.7 Conference During Hearing
- § 267.8 Recordation of Hearing Conference Action
- § 267.9 Agreements to be in Writing
- § 267.10 Rulings in Commission Evidentiary Hearings
- § 267.11 Order of Presentation
- § 267.12 Alignment of Participants
- § 267.13 General Admissibility of Evidence
- § 267.14 Objections
- § 267.15 Interlocutory Appeals
- § 267.16 Cross-Examination of Witnesses
- § 267.17 Stipulation
- § 267.18 Exhibits
- § 267.19 Copies of Exhibits
- § 267.20 Abstracts of Documents
- § 267.21 Excluding Exhibits
- § 267.22 Official Notice
- § 267.23 Parties to be Informed of Material Officially Noticed
- § 267.24 Continuance
- § 267.25 Oral Argument
- § 267.26 Submittal of Findings of Fact and Conclusions of Law
- (5) 31 Texas Administrative Code, Chapter 273—Procedures After Final Decision.
- § 273.1 Motion for Rehearing
- § 273.2 Reply to Motion for Rehearing
- § 273.3 Granting of Motion for Rehearing
- § 273.4 Modification of Time Limits
- § 273.5 Decision Final and Appealable
- § 273.6 Appeal
- § 273.7 The Record
- § 273.8 Costs of Record on Appeal
- (iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.
- (A) Texas Water Code, Title 2, Subtitle D, Chapter 26—State Water Administration.
- (1) Subchapter I: Underground and Aboveground Storage Tanks.
- § 26.341 Purpose (Insofar as it applies to aboveground storage tanks.)
- § 26.342 Definitions (Insofar as (10) and (12) apply to aboveground storage tanks.)
- § 26.344 Exemptions (Insofar as (a), (d), and (f) apply to aboveground storage tanks.)
- § 26.3441 Aboveground Storage Tanks (Insofar as it applies to aboveground storage tanks.)
- § 26.345 Administrative Provisions (Insofar as (a) and (e) apply to aboveground storage tanks.)
- § 26.346 Registration Requirements (Insofar as (a) applies to aboveground storage tanks.)
- § 26.349 Reporting of Releases and Corrective Action (Insofar as (a) applies to aboveground storage tanks.)
- § 26.351 Corrective Action (Insofar as it applies to aboveground storage tanks.)
- § 26.3511 Corrective Action by the Commission (Insofar as it applies to aboveground storage tanks.)
- § 26.3514 Limits on Liability of Lender (Insofar as it applies to aboveground storage tanks.)
- § 26.3515 Limits on Liability of Corporate Fiduciary (Insofar as it applies to aboveground storage tanks.)
- § 26.355 Recovery of Costs (Insofar as it applies to aboveground storage tanks.)
- § 26.358 Storage Tank Fund; Fees (Insofar as it applies to aboveground storage tanks.)
- (B) 31 Texas Administrative Code, Chapter 334—Underground and Aboveground Storage Tanks.
- (1) Subchapter A: General Provisions.
- (i) Insofar as § 334.1(a)(1), (c), and (d)(2) apply to aboveground storage tanks.
- (ii) Insofar as § 334.3(b) applies release reporting and corrective action requirements to certain hydraulic lift tanks that are exempt under the federal program.
- (iii) Insofar as § 334.4 does not exclude airport hydrant fuel distribution systems and UST systems with field-constructed tanks; excludes only *sumps* less than 110 gallons, as opposed to all tanks; and does not provide a release detection deferral for UST systems that store fuel solely for use by emergency power generators.
- (iv) Insofar as § 334.4 subjects wastewater treatment tank systems that are deferred in the federal rules to the registration, general operating requirements, and corrective action requirements.
- (v) Insofar as § 334.4 requires USTs that store radioactive substances or are part of a nuclear power plant to comply with registration and general operating requirements.
- (vi) Insofar as § 334.4 applies release reporting and corrective action requirements to certain hydraulic lift tanks that are exempt under the federal program.
- (2) Subchapter F: Aboveground Storage Tanks (Insofar as it applies to aboveground storage tanks)
- § 334.121 Purpose and Applicability

- § 334.122 Definitions
- § 334.123 Statutory Exemptions
- § 334.124 Commission Exclusions
- § 334.125 General Prohibitions and Requirements
- § 334.126 Installation Notification
- § 334.127 Registration
- § 334.128 Annual Facility Fees
- § 334.129 Release Reporting and Corrective Action
- § 334.130 Reporting and Recordkeeping
- § 334.131 Enforcement
- § 334.132 Other General Provisions
- (3) Subchapter I: Underground Storage Tank Contractor Certification and Installer Licensing (Insofar as it applies to individuals other than UST owners and operators)
- § 334.401 Certificate of Registration for UST Contractor
- § 334.402 Application for Certificate of Registration
- § 334.403 Issuance of Certificate of Registration
- § 334.404 Renewal of Certificate of Registration
- § 334.405 Denial of Certificate of Registration
- § 334.406 Fee Assessments for Certificate of Registration
- § 334.407 Other Requirements
- § 334.408 Exception to Registration Requirements
- § 334.409 Revocation, Suspension or Reinstatement of Certification of Registration and License
- § 334.410 Notice of Hearings
- § 334.411 Type of Hearing
- § 334.412 Subchapter I Definitions
- § 334.413 License for Installers and On-Site Supervisors
- § 334.414 License for Installers and On-Site Supervisors
- § 334.415 License A and License B
- § 334.416 Requirements for Issuance of License A and License B
- § 334.417 Application for License A and License B
- § 334.418 Notification of Examination
- § 334.419 License A and License B Examination
- § 334.420 Issuance of License A or License B
- § 334.421 Renewal of License
- § 334.422 Denial of License A or License B
- § 334.423 Fees Assessments for License A and License B
- § 334.424 Other Requirements for a License A and License B
- § 334.425 Exceptions to License A and License B Requirements
- § 334.426 Revocation, Suspension, or Reinstatement of a License A and License B
- § 334.427 Notice of Hearings
- § 334.428 Type of Hearing

- (4) Subchapter J: Registration of Corrective Action Specialists and Project Managers for Product Storage Tank Remediation Projects (Insofar as it applies to individuals other than UST owners and operators)
- § 334.451 Applicability of Subchapter J
- § 334.452 Exemptions from Subchapter J
- § 334.453 General Requirements and Prohibitions
- § 334.454 Exception for Emergency Abatement Actions
- § 334.455 Notice to Owner or Operator
- § 334.456 Application for Certificate of Registration for Corrective Action Specialist
- § 334.457 Application for Certificate of Registration for Corrective Action Project Manager
- § 334.458 Review and Issuance of Certificates of Registration
- § 334.459 Continuing Education Requirements for Corrective Action Project Managers
- § 334.460 Renewal of Certificate of Registration for Corrective Action Specialist and Corrective Action Project Manager
- § 334.461 Denial of Certificate of Registration
- § 334.462 Other Requirements
- § 334.463 Grounds for Revocation or Suspension of Certificate of Registration
- § 334.465 Procedures for Revocation or Suspension of Certificate of Registration
- § 334.466 Reinstatement of a Certificate of Registration
- (2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Texas on January 11, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*
- (ii) Letter from the Attorney General of Texas to EPA, January 11, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*
- (3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application on April 28, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*
- (4) *Program Description.* The program description and any other material

submitted as part of the original application on April 28, 1994, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the Texas Natural Resource Conservation Commission, signed by the EPA Regional Administrator on January 13, 1995, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order "Texas" and its listing.

**Appendix A to Part 282—State Requirements Incorporated by Reference in part 282 of the Code of Federal Regulations**

\* \* \* \* \*

*Texas*

(a) The statutory provisions include

*1. Texas Water Code, Title 2, Subtitle D, Chapter 26—State Water Administration*

a. Subchapter I: Underground and Aboveground Storage Tanks

- § 26.341 Purpose (Except insofar as it applies to aboveground storage tanks.)
- § 26.342 Definitions (Except insofar as (10) and (12) apply to aboveground storage tanks.)
- § 26.343 Regulated Substances
- § 26.344 Exemptions (Except insofar as (a), (d), and (f) apply to aboveground storage tanks.)
- § 26.345 Administrative Provisions (Except insofar as (a) and (e) apply to aboveground storage tanks.)
- § 26.346 Registration Requirements (Except insofar as (a) applies to aboveground storage tanks.)
- § 26.347 Tank Standards
- § 26.348 Leak Detection and Record Maintenance
- § 26.349 Reporting of Releases and Corrective Action (Except insofar as (a) applies to aboveground storage tanks.)
- § 26.350 Tank Closure Requirements
- § 26.351 Corrective Action (Except insofar as it applies to aboveground storage tanks.)
- § 26.3511 Corrective Action by the Commission (Except insofar as it applies to aboveground storage tanks.)
- § 26.3512 Owner or Operator Responsibility; Limitations on Fund Payments for Corrective Action
- § 26.3513 Liability and Costs: Multiple Owners and Operators
- § 26.3514 Limits on Liability of Lender (Except insofar as it applies to aboveground storage tanks.)

- § 26.3515 Limits on Liability of Corporate Fiduciary (Except insofar as it applies to aboveground storage tanks.)
- § 26.352 Financial Responsibility
- § 26.355 Recovery of Costs (Except insofar as it applies to aboveground storage tanks.)
- § 26.357 Standards and Rules
- § 26.3571 Eligible Owner or Operator
- § 26.3572 Groundwater Protection Cleanup Program
- § 26.3573 Petroleum Storage Tank Remediation Fund
- § 26.35735 Claims Audit
- § 26.3574 Fee on Delivery of Certain Petroleum Products
- § 26.358 Storage Tank Fund; Fees (Except insofar as it applies to aboveground storage tanks.)
- § 26.359 Local Regulation or Ordinance
- (b) The regulatory provisions include
1. 31 Texas Administrative Code, Chapter 334—Underground and Aboveground Storage Tanks
- a. Subchapter A: General Provisions
- § 334.1 Purpose and Applicability (Except insofar as § 334.1(a)(1), (c), and (d)(2) apply to aboveground storage tanks.)
- § 334.2 Definitions
- § 334.3 Statutory Exemptions (Except insofar as § 334.3(b) applies release reporting and corrective action requirements to certain hydraulic lift tanks that are exempt under the federal program.)
- § 334.4 Commission Exclusions (Except insofar as § 334.4: (1) Does not exclude airport hydrant fuel distribution systems and UST systems with field-constructed tanks; excludes only *sumps* less than 110 gallons, as opposed to all tanks; and does not provide a release detection deferral for UST systems that store fuel solely for use by emergency power generators; (2) Subjects wastewater treatment tank systems that are deferred in the federal rules to the registration requirements, general operating requirements, and corrective action requirements; (3) Requires USTs that store radioactive substances or are part of a nuclear power plant to comply with registration and general operating requirements; and (4) Applies release reporting and corrective action requirements to certain hydraulic lift tanks that are exempt under the federal program.)
- § 334.5 General Prohibitions
- § 334.6 Construction Notification
- § 334.7 Registration
- § 334.8 Certification
- § 334.9 Seller's Disclosure
- § 334.10 Reporting and Recordkeeping
- § 334.12 Other General Provisions
2. Subchapter B: Underground Storage Tank Fees
- § 334.21 Fee Assessment
- § 334.22 Failure to Make Payment
- § 334.23 Disposition of Fees, Interest and Penalties
3. Subchapter C: Technical Standards
- § 334.41 Applicability
- § 334.42 General Standards
- § 334.43 Variances and Alternative Procedures
- § 334.44 Implementation Schedules
- § 334.45 Technical Standards for New UST Systems
- § 334.46 Installation Standards for New UST Systems
- § 334.47 Technical Standards for Existing UST Systems
- § 334.48 General Operating and Management Requirements
- § 334.49 Corrosion Protection
- § 334.50 Release Detection
- § 334.51 Spill and Overfill Prevention and Control
- § 334.52 UST System Repairs and Relining
- § 334.53 Reuse of Used Tanks
- § 334.54 Temporary Removal from Service
- § 334.55 Permanent Removal from Service
4. Subchapter D: Release Reporting and Corrective Action
- § 334.71 Applicability
- § 334.72 Reporting of Suspected Releases
- § 334.73 Investigation Due to Off-Site Impacts
- § 334.74 Release Investigation and Confirmation Steps
- § 334.75 Reporting and Cleanup of Surface Spills and Overfills
- § 334.76 Initial Response to Releases
- § 334.77 Initial Abatement Measures and Site Check
- § 334.78 Initial Site Characterization
- § 334.79 Free Product Removal
- § 334.80 Investigation for Soil and Groundwater Cleanup
- § 334.81 Corrective Action Plan
- § 334.82 Public Participation
- § 334.83 Emergency Orders
- § 334.84 Corrective Action by the Commission
- § 334.85 Management of Wastes
5. Subchapter E: Financial Responsibility
- § 334.91 Applicability
- § 334.92 Compliance Dates
- § 334.93 Amount and Scope of Required Financial Responsibility
- § 334.94 Allowable Mechanisms and Combinations of Mechanisms
- § 334.95 Financial Test of Self-Insurance
- § 334.96 Guarantee
- § 334.97 Insurance and Risk Retention Group Coverage
- § 334.98 Surety Bond
- § 334.99 Letter of Credit
- § 334.100 Trust Fund
- § 334.101 Standby Trust Fund
- § 334.102 Substitution of Financial Assurance Mechanisms by Owner or Operator
- § 334.103 Cancellation or Nonrenewal by a Provider of Financial Assurance
- § 334.104 Reporting by Owner or Operator
- § 334.105 Financial Assurance Recordkeeping
- § 334.106 Drawing on Financial Assurance Mechanisms
- § 334.107 Release from the Requirements
- § 334.108 Bankruptcy or Other Incapacity of Owner or Operator of Provider of Financial Assurance
- § 334.109 Replenishment of Guarantees, Letters of Credit, or Surety Bonds
6. Subchapter H: Interim Reimbursement Program
- § 334.301 Applicability of this Subchapter
- § 334.302 General Conditions and Limitations Regarding Reimbursement—Interim Period
- § 334.303 Time to File Application—Interim Period
- § 334.304 Who May File Application—Interim Period
- § 334.305 Where and How Documents Must Be Filed—Interim Period
- § 334.306 Form and Contents of Application—Interim Period
- § 334.307 Technical Information Required—Interim Period
- § 334.308 Allowable Costs and Restrictions on Allowable Costs—Interim Period
- § 334.309 Reimbursable Costs—Interim Period
- § 334.310 Requirements for Eligibility—Interim Period
- § 334.311 Determining the Number of Occurrences—Interim Period
- § 334.312 Owner/Operator Contribution
- § 334.313 Review of Application by Executive Director—Interim Period
- § 334.314 Executive Director's Fund Payment Report—Initial Period
- § 334.315 Protest of Fund Payment Report—Interim Period
- § 334.316 Formal Petition—Interim Period
- § 334.317 Hearing by the Commission—Interim Period
- § 334.318 Recovery of Costs—Interim Period
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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 541

[Docket No. 95-63; Notice 04]

RIN 2127-AE92

#### Final Theft Data; Motor Vehicle Theft Prevention Standard

**AGENCY:** National Highway Traffic  
Safety Administration (NHTSA),  
Department of Transportation.

**ACTION:** Publication of final theft data.

**SUMMARY:** This document publishes the  
final data on thefts of model year (MY)  
1993 passenger motor vehicles that

occurred in calendar year (CY) 1993. The final 1993 theft data indicate a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1992. The final theft rate for MY 1993 passenger vehicles stolen in calendar year 1993 decreased to 3.98 thefts per thousand vehicles produced. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment. The data was calculated for informational purposes only.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Gray's telephone number is (202) 366-1740. Her fax number is (202) 493-2739.

**SUPPLEMENTARY INFORMATION:** NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually since 1983/84. Continuing to fulfill the § 33104(b)(4) mandate, this document reports the final theft data for CY 1993, the most recent calendar year for which data are available.

In calculating the 1993 theft rates, NHTSA followed the same procedures it used in calculating the MY 1992 theft rates. (For 1992 theft data calculations, see 60 FR 1824, January 5, 1995). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1993 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1993 vehicles of that line stolen during

calendar year 1993, by the total number of vehicles in that line manufactured for MY 1993, as reported to the Environmental Protection Agency.

The final 1993 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1992. The final theft rate for MY 1993 passenger vehicles stolen in CY 1993 decreased to 3.98 thefts per thousand vehicles produced, a decrease of 7.7 percent from the rate of 4.31 thefts per thousand vehicles experienced by MY 1992 vehicles in CY 1992. For MY 1993 vehicles, out of a total of 213 vehicle lines, 97 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 97 vehicle lines with a theft rate higher than 3.5826, 76 are passenger car lines, 17 are multipurpose passenger vehicle lines, and 4 are light-duty truck lines.

On Tuesday, September 12, 1995, NHTSA published the preliminary theft rates for CY 1993 passenger motor vehicles in the Federal Register (60 FR 47429). The agency tentatively ranked each of the MY 1993 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data, and to provide final production figures for individual vehicle lines. In response to the September 1995 notice, the agency received written comments from Ford Motor Company (Ford), General Motors Corporation (GM), and Mercedes-Benz of North America, Inc. (Mercedes-Benz). In its comments, all three manufacturers provided corrected production figures for their vehicle lines. (The written corrections are available at the docket number cited at the beginning of this notice.) The updated production figures from those manufacturers affected the theft rates of the vehicle lines of each manufacturer as follows: The Ford Taurus, E150 Van, F150 Pickup Truck, and Mercury Capri have been amended. In addition, the General Motors Geo Metro and Tracker are revised. Likewise, the Mercedes-Benz 124 (E-Class), 129 (SL-Class), 140 (S-Class), and 201 have also been revised.

The agency used all written comments to make the necessary adjustments to its data. As a result of the adjustments, the final theft rate and ranking of the vehicle lines changed from those published in the September 1995 notice. The Ford E150 Van previously ranked at No. 37, with a theft rate of 6.4963, is now ranked at No. 26, with a theft rate of 7.5873; the Ford F150 Pickup Truck previously ranked at No. 195, with a theft rate of 0.6147, is now ranked at No. 159, with a theft rate