

## Chapter 16.110 HAZARDOUS MATERIALS\*

\***Cross references:** Hazardous materials commission, [§ 4.50.080](#); fines, [§ 14.60.030](#); environmental protection, [Tit. 15](#); gasoline service station regulations, [§ 21.45.280](#); streets and rights-of-way, [Tit. 24](#).

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16.110.020 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Acute hazardous waste* means a waste listed in 40 CFR 261.31, 261.32 or 261.33(e), as amended.

*Consumer commodity* means a hazardous material that is packaged and distributed in a form intended or suitable for retail sale for use by an individual, as defined in 49 CFR.

*Extremely hazardous substance* means a substance listed in the appendices to 40 CFR 355.

*Facility* means any land, building, equipment, structure, stationary item or combination thereof, not a transshipment facility, that is located on a single site or on contiguous or adjacent sites owned, leased, operated or otherwise controlled by the same person, other than a residential dwelling, as defined in the building code, as amended, as provided in [Title 23](#).

*Handles* means disposes of, generates, processes, stores, treats or uses.

*Hazard category* means the five physical or health classes defined in 40 CFR 370.2.

*Hazard class* means the class of hazardous materials authorized for transportation by 49 CFR subchapter C.

*Hazardous chemical* means any hazardous chemical as defined under 29 CFR 19100.1200(c).

*Hazardous material* means a material subject to 49 CFR subchapter C, including those:

1. Defined at 49 CFR 171.8 or 171.11, as amended; or
2. Listed in the hazardous materials table at 49 CFR 172.101 or 172.102, as amended, for any transportation mode;

and any other substance determined by the state department of public safety, division of fire prevention, to pose a significant health and safety hazard. The term "hazardous

material" does not include food, drugs, alcoholic beverages, cosmetics, tobacco or tobacco products intended for personal consumption.

*Hazardous waste* means a waste as defined in 40 CFR 261, as amended.

*Person* means the owner, operator or manager of any entity or any other individual in charge handling hazardous materials, hazardous chemicals or hazardous wastes, and includes but is not limited to individuals, trusts, corporations (including government corporations), partnerships, joint ventures, or a state or political subdivision thereof.

*Tier II inventory form* means the hazardous chemical inventory form set forth in 40 CFR 370.41, as amended.

*Threshold planning quantity* means the quantity for an extremely hazardous substance defined in 40 CFR 355, as amended.

*Transshipment facility* means any land, building, equipment, structure, stationary item or combination thereof that is located on a single site or on contiguous or adjacent sites owned, leased, operated or otherwise controlled by the same person whose principal business consists of the handling of materials including handling hazardous materials or hazardous wastes while such materials remain in the stream of interstate, intrastate or international commerce.

**Cross references:** Definitions and rules of construction generally, [§ 1.05.020](#).

#### 16.110.030 Reporting requirements.

A. *Applicability.* The reporting requirements of this section shall only apply if the following quantities are handled at a facility, other than a transshipment facility, on any day during a calendar year:

1. Any quantity of a hazardous material of the following hazard class or the International Civil Aviation Organization (ICAO)/International Maritime Organization (IMO) equivalents:
  - a. Poison A;
  - b. Poison B;
  - c. Class A explosive;
  - d. Class B explosive;
  - e. Flammable solid (dangerous when wet); or
  - f. Radioactive material.
2. A hazardous material or hazardous chemical other than one described in subsection A.1 of this section in an amount equal to or greater than 500 pounds.
3. An extremely hazardous substance in an amount equal to or greater than 500 pounds or the threshold planning quantity, whichever is less.
4. A hazardous waste in an amount equal to or greater than 220 pounds.
5. An acute hazardous waste in an amount equal to or greater than 2.2 pounds.
6. A consumer commodity of a hazardous material or hazardous chemical in an amount equal to or greater than 1,000 pounds at a facility longer than 14 days, other than a transshipment facility, prior to placement for display or sale.

B. *Hazardous materials or hazardous chemicals.* A person who handles hazardous materials or hazardous chemicals shall submit a report to the municipal fire chief as provided on a tier II inventory form with a site layout and floorplan of each facility showing the usual and ordinary location of each hazardous material, hazardous chemical and hazardous waste.

C. *Hazardous wastes.* A person who handles hazardous wastes shall submit a report to the municipal fire department on a form approved by the municipal fire chief, including:

1. The facility name and address.
2. The owner and operator name and address.
3. Emergency contact names and telephone numbers.
4. The EPA hazardous waste number for each hazardous waste.
5. Characteristics for each hazardous waste (ignitable, reactive, corrosive or toxic).
6. The maximum daily and average daily quantities handled during the reporting period and the number of days handled on-site.
7. The site layout and floorplan showing the usual and ordinary location of each hazardous waste.

D. *Consumer commodities.* A person who handles consumer commodities shall submit a report to the municipal fire department on a form approved by the fire chief, including:

1. The facility name and address.
2. The owner and operator name and address.
3. Emergency contact names and telephone numbers.
4. The product name of each hazardous material or hazardous chemical.
5. Physical and health hazards of each hazardous material or hazardous chemical.
6. The maximum daily and average daily quantities handled during the reporting period and the number of days handled on-site.
7. The site layout and floorplan showing the usual and ordinary location of each hazardous waste.

#### 16.110.035 Exceptions.

A. The municipal fire chief may except, by regulation adopted pursuant to [Chapter 3.40](#), certain hazardous materials listed in the hazardous materials table at 49 CFR 172.101 or 172.102 from the requirements of this chapter upon determination that the materials do not pose a significant health or safety hazard. The municipal fire department shall maintain a list of the materials excepted from the reporting requirements for public review.

B. The municipal fire chief may adopt regulations pursuant to [Chapter 3.40](#) requiring that a person report smaller quantities of a hazardous material, hazardous chemical or hazardous waste than specified in this chapter upon a determination that the smaller quantity poses a significant health or safety hazard.

C. This chapter shall not apply to any hazardous material, hazardous chemical or hazardous waste or consumer commodity possessed by an individual for his personal, family or household use.

#### 16.110.040 Reporting schedules.

A. A person who is required to submit a report pursuant to [Section 16.110.030](#) or 16.110.060 shall submit that report by March 1, 1988, for every transshipment facility and other facility in operation on January 1, 1988, and no later than March 1 of each year thereafter. The reporting period shall be for the previous calendar year, except that the initial report filed for March 1, 1988, may be a projection for the following calendar year.

B. A person not subject to the reporting requirements of [Section 16.110.030](#) or 16.110.060 on January 1, 1988, who subsequently becomes subject to the terms of that

section shall submit the information required in [Section 16.110.030](#) or 16.110.060 within 30 days after commencement of such handling and shall update the information by March 1 of each year thereafter. The initial report may be a projection of activities for the following calendar year.

#### 16.110.045 Report updating.

A. A person required to make a report by this chapter for a facility other than a transshipment facility shall report each change to the most recently submitted site layout or floorplan showing the change in storage location for a hazardous material, hazardous chemical or hazardous waste to the municipal fire chief by telephone within 24 hours and in writing within 30 days after each such change.

B. A person required to make a report by [Section 16.110.030](#).B, C or D for a facility other than a transshipment facility shall update the annual inventory report if there is an addition of a hazardous material, hazardous chemical or hazardous waste that would change the reporting range code (00 to 10) contained in the annual current tier II inventory form. Such an update report shall be made within 90 days of receipt of the additional hazardous material, hazardous chemical or hazardous waste.

C. A person required to make a report by [Section 16.110.030](#).B, C or D for a facility other than a transshipment facility shall update the annual inventory report whenever a hazardous material, hazardous waste or hazardous chemical of a reportable quantity of a new hazard category is handled at a facility. Such a report shall be made within 30 days of receipt of the additional hazardous material, hazardous waste or hazardous chemical in the new hazard category.

#### 16.110.050 Placarding requirements.

A. A person who handles hazardous materials, hazardous chemicals or hazardous wastes at a facility, other than a transshipment facility, in an amount equal to or greater than the quantities specified in [Section 16.110.030](#) shall post placards that give adequate warning to the public and to emergency response personnel of the type of hazardous materials, hazardous chemicals or hazardous wastes handled.

B. A placard shall meet the standard specifications for size, lettering, numbers, colors and symbols established by the National Fire Protection Association (NFPA) for the 704 M system, unless an alternative placard has been approved for use by the municipal fire chief.

C. The municipal fire chief shall determine which numbers and symbols shall be contained on placards for facilities, based on the inventory reports submitted in accordance with this chapter. Where a facility contains more than one class of hazardous materials, hazardous chemicals or hazardous wastes, the placard shall be based on the hazardous material, hazardous chemical or hazardous waste with the most severe degree of hazard.

D. Any facility handling consumer commodities of a hazardous material or hazardous chemical in an amount equal to or greater than 1,000 pounds on any single day shall post a placard in a form designated by the municipal fire chief at a location allowed in subsection E of this section.

E. Placards shall be placed as provided in this subsection:

1. Unless alternative placarding locations have been approved in accordance with this subsection, placards shall be posted as follows:
  - a. One placard shall be displayed on the exterior wall adjacent to the main street entrance.
  - b. At least one placard shall be displayed on each side of the structure for which there is an entrance other than the main entrance.
  - c. Each placard shall be posted on the latch side of the door. In the case of double door, the placard shall be displayed to the right side of the door.
  - d. Each placard shall be posted within 24 inches of an entrance and placed at a height of 4.5 to 5.5 feet above the bottom edge of the entrance.
  - e. No other sign shall be placed within six inches of any placard.
  - f. Placards shall be securely mounted and maintained in such condition as to be easily read.
2. A request for alternative placard locations, different than those described in subsections E.1 and E.3 of this section, shall be submitted to the municipal fire chief with an annual report or modification thereof. The request shall state the reasons why the location standards or approved alternative locations in this chapter should not apply or are otherwise inappropriate, and describe a proposed alternative placard location and explain how the alternative location will give adequate warning to the public and emergency response personnel. The alternative placard location may be used only upon written approval by the municipal fire chief.
3. Subject to the written approval of the municipal fire chief, the following alternative placard locations to those described in subsection E.1 of this section may be used:
  - a. *Multiple-story buildings with interior fire panels.* Placards may be posted at the interior fire panels showing the specific floors on which hazardous materials, hazardous chemicals or hazardous wastes are handled and the appropriate placard designations for each floor.
  - b. *Retail establishments.* A placard does not need to be adjacent to the main customer entrance provided that the placard can be placed at a location on the exterior wall in a manner giving adequate warning to the public and emergency response personnel.

F. The municipal fire chief may require a specific area or room within a facility to be placarded upon a request by a facility or upon his determination that the type or location of hazardous materials, hazardous chemicals or hazardous wastes may pose a significant health or safety threat to emergency personnel if the specific area or room is not placarded.

G. A person shall post the placards, as designated by this section or by the municipal fire chief, within 30 days of receipt of notification from the municipal fire department that the placards have been designated.

H. Placards shall be removed within 24 hours after hazardous material, hazardous chemicals or hazardous wastes are no longer being handled at a facility.

#### 16.110.060 Transshipment facilities.

- A. *Reporting schedule and contents.* A person who handles hazardous materials or hazardous wastes at a transshipment facility shall submit a report in accordance with the schedule stated in [Section 16.110.040](#) on a form prescribed by the municipal fire chief and including:

1. The transshipment facility name and address.
  2. The owner and operator names and addresses.
  3. Emergency contact names, titles and telephone numbers.
  4. A list of all hazard classes handled at the transshipment facility.
  5. The site layout and floorplan showing the usual and ordinary locations of hazardous waste and hazardous material at the transshipment facility.
  6. The method of marking or warning used.
- B. *Report updating.* A person required to submit a report pursuant to subsection A.1 of this section shall:
1. Update that report within 30 days after a new hazard class has been handled or a change has been made in the marking or warning system used at the transshipment facility; and
  2. Report each change to the most recently submitted site layout and floorplan showing the changes in the usual and ordinary storage location for a hazardous material or hazardous waste to the municipal fire chief by telephone within 24 hours and in writing within 30 days after each such change.
- C. *Markings and warnings.* A person who operates a transshipment facility shall display markings and warnings under one of the following categories:
1. Mark the immediate area to be used for hazardous materials or hazardous wastes handling with a conspicuous sign reading "Hazardous Materials," using block letters a minimum of three inches in height with a one-half-inch strike on a white background;
  2. Display hazardous materials labels or placards in accordance with DOT requirements to identify the commodities present;
  3. Display placards in accordance with [Section 16.110.050](#); or
  4. Display such other placards, warnings or markings as the municipal fire chief may require or allow in writing following his determination that such additional or alternative action will reasonably protect the public safety.
- D. *Applicability of reporting and placarding requirements.* Transshipment facilities are not subject to the requirements related to reporting and placarding contained in this chapter except those set forth in [Section 16.110.040](#) and this section.  
(AO No. 87-101(S))

#### 16.110.080 Penalty for violation of chapter.

- A. A person who violates any provision of this chapter shall be subject to civil penalties, injunctive relief, or both, as provided by [Section 1.45.010.B](#), including civil penalties as set forth in [Section 14.60.030](#) where applicable.
- B. A person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$50.00 and not more than \$300.00 for each offense.
- C. Each day of violation shall constitute a separate offense for purposes of this chapter.
- D. The enforcement provisions in this section shall not be effective for facilities and transshipment facilities handling less than 10,000 pounds of a hazardous material, hazardous chemical or hazardous waste until July 1, 1988.  
(AO No. 87-101(S); AO No. 93-167(S-1), § 14, 4-13-94)

#### 16.110.090 Certificate of compliance.

A. *Required.* A person subject to the reporting requirements of this chapter shall obtain a certificate of compliance with this chapter from the municipal fire chief. An application for a certificate shall be made on a form approved by the municipal fire chief no later than March 1 of every calendar year or within 30 days after commencement of activities to be reported under this chapter.

B. *Payment of fee.* A certificate shall be valid only so long as the fee required by subsection C of this section is tendered to the municipality no later than 30 days after the date of the municipal invoice for that fee.

C. *Amount of fee.* The fee to be paid by each facility and transshipment facility shall be based on the total daily maximum amount of hazardous material, hazardous chemicals or hazardous waste handled at a facility on any one calendar day, as follows:

TABLE INSET:

Reportable Quantity (pounds)	Annual Fee	
	Facility Fee per Year	Transshipment Fee per Year
0--4,999	\$ 65.00	\$ 165.00
5,000--14,999	165.00	185.00
15,000--74,999	225.00	225.00
75,000--299,999	325.00	325.00
300,000--649,999	950.00	950.00
650,000--999,999	2,000.00	2,000.00
1,000,000--3,000,000	4,000.00	4,000.00
Greater than 3,000,000	5,000.00	5,000.00

(AO No. 87-101(S); AO No. 92-17; AO No. 2004-151, § 8, 1-1-05)

16.110.100 Use of fees and penalties.

All fees and penalties collected in connection with the administration or enforcement of this chapter shall be dedicated to the program authorized by this chapter.

(AO No. 87-101(S))