



SPILL CENTER

# TRUCK SPILL NIGHTMARES

SEVEN COMMON MISTAKES THAT  
CAN SERIOUSLY HARM YOUR FLEET



With approximately 500,000 truck accidents occurring every year across 4.1 million miles of roads in the U.S., truck fleet operators need to be prepared to address spills anywhere their trucks may be and at any time.

With ever-tightening environmental regulations, strict highway safety requirements and high fines for lack of spill response, staying compliant places significant pressure on today's fleet operators. It's easy to become complacent and believe that you have well-designed spill-response processes and systems in place. But do you truly understand the stakes involved with truck spills? Here are seven common mistakes that fleet managers/operators make that can seriously harm your fleet and your business.



## HOPING A HAZMAT SPILL WON'T HAPPEN

It's very easy to be complacent about the risks of a hazmat spill and just assume that "it'll never happen to me." But the facts are clear, according to a Pipeline and Hazardous Materials Safety Administration report, "In the 10-year period between 2003 and 2012, there were 161,079 hazardous waste transport incidents in the U.S." That equates to roughly 16,000 hazardous waste transport incidents every year — or more than 40 incidents every single day. That means every single day, seven days a week, more than 40 fleet managers or operations managers will receive the dreaded phone call about a hazardous waste spill. At a minimum, 1% of your power units will have a spill each year. But in reality, it's closer to 1% per month.



## BELIEVING THAT SPILL REPORTING, RESPONSE, REMEDIATION AND DISPOSAL IS EASY AND DOESN'T COST MUCH

By law, your company, as the spill generator, is responsible for paying the following:

- All damages and costs related to environmental impairment and waste disposal
- Property damage and bodily injury expenses arising from the spill
- Fines and penalties for failing to comply with reporting regulations

For those 161,079 hazardous waste transport incidents in the U.S. that occurred between 2003 and 2012, the cost to transportation companies totaled more than \$701 billion in cleanup/mitigation costs (Pipeline and Hazardous Materials Safety Administration, 2013). The average saddle tank release amount nationwide is 104 gallons, and the average cost to clean that up is \$19,600. To make matters worse, the fines and penalties for not complying with reporting regulations vary from one jurisdiction to another. The potential for multiple jurisdictions with separate reporting requirements exists in every incident. For example, a spill in one of the five boroughs of New York City requires that reports be made to county, state and federal authorities — plus to the NYC Department of Environmental Protection. Failure to make the city report can cost as much as \$100,000 per day, with each day being a separate violation. In the states of New Mexico, Utah, Washington and Louisiana, for instance, the average state fines alone can reach \$300,000 or more per incident.





## ASSUMING THAT IF IT'S NOT YOUR DRIVER'S FAULT, YOU WON'T HAVE TO PAY

If your truck is involved in an accident that wasn't the driver's fault — for example, maybe an impaired driver collides with the truck and ruptures the saddle tank, causing diesel fuel to spill — the liability for the spill is still yours. The environmental and spill liability laws are written in a way that no matter who causes the release, the party who has care, custody and control of or who owns the material at the time of loss is the one legally responsible to respond, contain and report the spill; remediate the site; and safely and legally dispose of the contaminated soil and material. The owner of the truck could seek reimbursement from the driver at fault, who had a duty not to drive impaired but breached that duty and ultimately caused the damages. But regardless of that, strict liability laws make the trucking company responsible for the spill. It is in the company's best interest to respond and handle it as quickly and cost-effectively as possible because it's easier to claim and successfully recover a small amount of money than it is to recover a couple million dollars. Time is money.

Even if the damages are not ultimately going to be paid by your trucking company, you want to control those costs so you have a better chance of getting reimbursement. The state police and environmental authorities at the scene understand strict liability very well and are not going to look to the drunk driver to report, respond, remediate and contain the release. They expect the spill generator to do those things.



## BELIEVING YOU HAVE LITTLE SPILL LIABILITY BECAUSE YOU DON'T HANDLE HAZMAT

Not all regulated spills involve cargo. More than half of all over-the-road releases involve the diesel fuel in the truck's saddle tanks — about an even split between broken fuel crossover lines and saddle-tank punctures. When it comes to fines and penalties for failure to report — and enforcement and compliance requirements — most jurisdictions do not distinguish between diesel fuel and hazmat. The average amount of fuel spilled in a saddle-tank release is 104 gallons. The average fine for this cleanup over the past five years was \$14,837.44, up from \$11,428.12 during the previous five-year period. Each year on average, \$5,504,689.20 in fines are incurred, with more than \$27.5 million levied since 2015 (U.S. EPA, Echo Enforcement and Compliance History Online Database).

Fines for non-compliance can total tens of thousands of dollars or more. Consider this incident involving a Spill Center client.

The carrier was involved in a spill of 65 gallons of diesel fuel at a road paving site near Atlanta. Local police and fire personnel responded and contained the spill, which they did not consider to be a major incident. The carrier assumed that it had done everything that needed to be done — until a letter came from the Georgia Department of Natural Resources, which had heard about the spill three weeks later. The paving contractor was ordered to tear up 500 feet of interstate he had completed, and the carrier was ordered to complete spill remediation at the site. The work had to be done within two and a half weeks, or the carrier would start incurring fines of \$30,000 a day for failure to comply. The carrier, a Spill Center subscriber, did not call the center for assistance until after the letter was received. Immediately upon notification, the Spill Center:

- Advised the carrier to stop the paving contractor from handling the contaminated soil and asphalt at the site
- Helped the carrier hire an environmental contractor who was qualified — technically and legally — to dispose of the material
- Started preparations to fight the unreasonableness of the demands

The site was completely remediated the day before the \$30,000-a-day fines were to start. The cost to the carrier was still more than \$40,500, including some \$30,000 to the paving contractor, whose invoice was negotiated down 20% by Spill Center.

In hindsight, if the carrier had called Spill Center at the time of the spill, the whole containment, cleanup and disposal could have been completed for about \$8,200 by following the carrier's contingency plan that was on file at Spill Center. Clients need to understand that no matter how small the spill, it should be called in to Spill Center. If someone in authority says it's too small, make sure the driver gets the name of the person who said he didn't have to report it. A spill that seems very minor can have major consequences. It comes down to driver training more than anything else. If the driver in Atlanta had called Spill Center at the time of the spill, as the contingency plan advises, he would have saved more than \$32,000.



## LEAVING EVERYTHING TO YOUR INSURANCE COMPANY

Insurance companies are in the business of controlling costs and limiting liability arising from hazmat spills. When you can report quickly, complete regulatory reporting and find local response resources — everybody wins. True, insurance companies cannot cover the fines and penalties for failure to comply with hazmat incident regulatory reporting because it is against public policy, but you can handle this. Be sure to send copies of the regulatory reports you have completed when you report your claim. Help your insurance company by handling the things that are the most important to you as a spill generator. Whether it's after hours, weekends or holidays, you have to do your part.



## ASSUMING THAT WHOEVER ARRIVES ON SCENE WILL KNOW ALL THE AUTHORITIES THAT REQUIRE REPORTS – AND WHAT TO REPORT TO EACH

The key to staying out of trouble with environmental authorities is knowing which reports you owe to whom after an accidental release of fuel, spent solvents, cleaning materials, toxic chemicals or other materials used in a typical fleet operation. **Never try to cover up an environmental incident.** Stiff fines for failure to report make that an unwise decision. In fact, it's better to report a spill even if you don't believe it involves a reportable quantity. If someone in authority says it isn't reportable, that is the best legal defense against third-party claims related to the spill. Just make sure you get the name, position and phone number of the person who said you didn't need to report it.

Do you have the time and resources to get to know your local and state environmental authorities and the reporting requirements of each jurisdiction in which you maintain and operate equipment? You should – because laws vary from one jurisdiction to the next. Some jurisdictions require environmental or groundwater testing after a spill. In a maintenance facility that handles and manages a broad variety of chemicals and wastes, pollution prevention and proper disposal of regulated materials are primary considerations. Check with environmental authorities to ensure that you are in compliance with all regulations regarding water runoff, underground and aboveground storage tanks and spill prevention/containment.

You also need to maintain current information and contacts for every jurisdiction in which your equipment operates to protect yourself from fines for non-compliance with environmental reporting regulations.



## RELYING ENTIRELY ON THE CLEANUP CONTRACTOR FOR DOCUMENTATION

Thorough documentation of every environmental release is the best way to maintain a legally defensible position against third-party claimants and avoid being included as a responsible party to a pre-existing contamination problem. A detailed log should be kept of all actions taken after a spill in order to document that your release was separate in time, separate in nature and the subject of a separate and complete response and remediation.

A driver involved in a fuel spill should record the quantity spilled (based on last fueling and miles driven), the times and phone numbers of calls they made to report the incident, the actions taken to contain the leak, the actions taken by emergency responders at the scene, the number of responders, the time on scene and the equipment used. That driver's log will provide a written record that can be used to place the company in a legally defensible position.

It is vital to document all reporting and remediation activities performed to limit your environmental liability and establish a legal defense against any third-party claims that might arise from spills. You need to maintain accurate, complete documentation of spill incidents, reporting, site remediation and other actions taken to close them.

## BE TRULY PREPARED. KNOW HOW TO RESPOND TO SPILLS. WORK TO MINIMIZE YOUR LIABILITY AND COSTS.

Now that you understand the common mistakes that can seriously harm your fleet, here are some key points to remember:

- A. There are more liabilities than you are likely aware of.
- B. These liabilities can have serious negative consequences on your company (and your job).
- C. The effort and knowledge required to mitigate and avoid these liabilities is significant.
- D. Trying to address and reduce these liabilities on your own is a daunting goal; the risk of doing it yourself can be significant.

If these are your concerns, you'll want to consider reducing your liabilities by getting outside help from proven experts that specialize in effective spill response. Professionals will have the experience to help you reduce your liabilities while ensuring you maintain compliance with federal, state and local regulations and reporting requirements.

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## TALK TO SPILL CENTER.

Spill Center has decades of experience helping private fleet operators like you gain peace of mind via our trusted 24/7 incident response operation solution and support center. Spill Center works to control costs and limit liability by providing expert resources and advice and thorough documentation that helps keep your company in a legally defensible position. Our easy-to-use customizable mobile applications and online tools make reporting and tracking your incident easier than ever. Best yet, our system notifies all parties who need to know and uses a role-based dashboard to help them manage, view and document incidents.



### 30+ years. Zero fines.

In over 30 years, not a single Spill Center client has ever been fined for failure to report. If prompt, reliable and compliant spill response matters to you and your fleet, you need to talk to Spill Center today.

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