

Tow and Wrecker Pollution Spill Response Program



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The **Tow and Wrecker Pollution Spill Response Program** addresses some of the most common issues that arise in working with the towing industry in regard to understanding insurance coverage, spill cleanup and billing issues for clean-up services.



Your Team:



Environmental Chemical Solutions



Many vehicle accident scenes have spilled materials. Most of the time the spilled material is from the vehicle. At other times the spilled materials can be from cargo. This document is going to discuss the pollution these materials can cause in our waterways and the necessary response by tow operators. These incidents are the responsibility of the operator of the vehicle and the vehicle fluids are covered by the liability portion of the insurance policy. The incentive for cleaning up this pollution is revenue generated for proper response to the incident. This insures the scene will not contribute to polluting the waters in our communities.

Getting Started

“Incident Management Tow” is any tow of a vehicle in which the tow truck is summoned because of a traffic accident or to an incident, or any tow initiated by law enforcement.

Almost every state has the requirement of financial responsibility when it comes to the use and operation of a motor vehicle. This requirement simply states that you are financially responsible for any injury or property damage you may cause by the use and operation of a vehicle. This is most commonly known as liability insurance.

When automobile operating fluids are released into the environment, they are required to be cleaned up to the maximum extent practical. This Program Manual addresses this requirement and also addresses proper data collection for insurance purposes. Because decisional and statutory law on any topic can differ somewhat from state to state and because insurance principles and regulations evolve and are often subject to multiple interpretations, the reader is cautioned not to rely solely on the principles set forth in this document without undertaking additional research. Case citations used are from Texas and other state’s laws.

Understand Regulations

Many states have, in their transportation codes*, a regulation similar to this;

- ⦿ (a) A person who drops or permits to be dropped or thrown on a highway, destructive or injurious material, shall immediately remove the material or cause it to be removed.
- ⦿ (b) A person who removes a wrecked or damaged vehicle from a highway **shall**** remove glass or any other injurious substance dropped on the highway from the vehicle. **shall is a requirement

The following states all have this or similar wording

TX - TC 600.001, **AL** - 32-5A-60, **TN** - 55-8-170, **FL** - TC 316.2044, **KY** - 189-754, **PA** - 75-3709, **MS** - 63-3-1211, **VA** - 18.2-324, **MD** - 21-1111, **ID** - 49-613, **WV** - 17C-14-11, **OK** - 47-11-1110, **NY** - Nycode 1219, **MT** - 61-8-365, **DE** - Delcode 4189, **UT** - 41-6a-1712, **IA** - 321-371, **NE** - 39-311, **MN** - 169-42, **NH** - 265-102, **WA** - RCW 46.61.645, FL

Other states, like California, reword the requirement:

California Vehicle Code Section 23113 - Removal of Material From Highway

23113. (a) Any person who drops, dumps, deposits, places, or throws, or causes or permits to be dropped, dumped, deposited, placed, or thrown, upon any highway or street any material described in Section 23112 or in subdivision (d) of Section 23114 shall immediately remove the material or cause the material to be removed.

(b) If the person fails to comply with subdivision (a), the governmental agency responsible for the maintenance of the street or highway on which the material has been deposited may remove the material and collect, by civil action, if necessary, the actual cost of the removal operation in addition to any other damages authorized by law from the person made responsible under subdivision (a).

*Typically found, may be found in other state codes

In the U.S., the response to an incident is regulated under many statutes and many government agencies.

It is important for responders to at least understand the basis of these regulations because they dictate everything from how they manage a spill to the disposal of the spilled material. Contact your local Health Department, Department of Transportation or Department of the Environment for more information or – contact ECS for guidance.

Section 402(p) of the Clean Water Act specifies that NPDES permits for municipal storm sewer discharges “**shall require controls to reduce the discharge of pollutants to the maximum extent practicable**...and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.” See 33 U.S.C. §1342(p)(3)(B)(iii).

Many states are now requiring tow operators who perform the cleanup of vehicle operating fluids to maintain a Hazwoper certification level of “Technician”. Hazwoper stands for **HAZ**ardous **W**aste **O**perations and **E**mergency **R**esponse. The law (29 CFR 1910.120) spells out the requirements for training.

The following illustrates what is required for a Hazwoper Hazardous Materials Technician level:

WHO: Worker who responds to the release or potential release for the purpose of stopping the release. Capable of performing in proactive role to approach the point of release in order to plug, patch or otherwise stop the release.

WHEN: At least 24 hours training equal to first responders operation level and have competence in the listed requirements with the employer certifying this competency.

WHAT: Training equal to the first responder operations level and in addition have competency in the following areas:

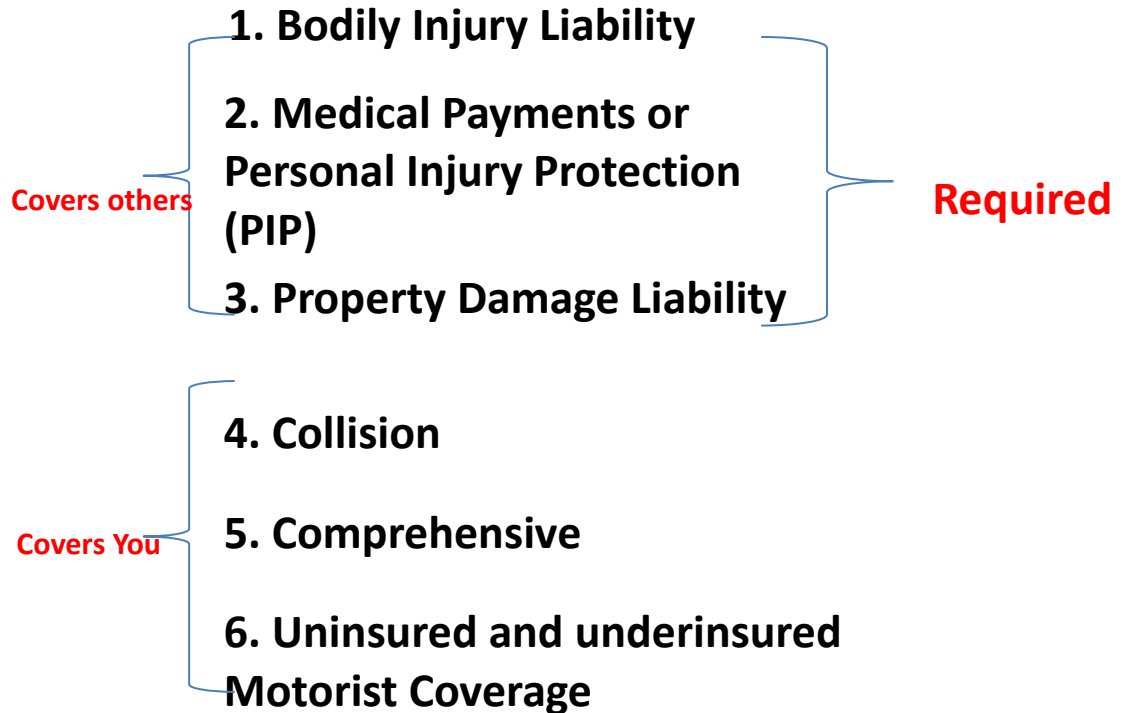
- Know how to implement the employer’s emergency response plan.
- Know the classification, identification and verification of known and unknown materials by using field survey instruments and equipment.
- Be able to function within an assigned role in the Incident Command System.
- Know how to select and use proper specialized chemical PPE provided for their assignment.
- Understand hazard and risk assessment techniques.
- Be able to perform advance control, containment and/or confinement operations with the capabilities of the resources and PPE available with the unit.
- Understand and implement decontamination procedures.
- Understand termination procedures.
- Understand basic chemical and toxicological terminology and behavior.

[Note: ECS now offers Hazwoper training online. For more information go to ecschem.com](http://ecschem.com)

Insurance Coverage

We have looked at the regulations, now let's understand the insurance policy. Individual insurance policies on an auto may include six coverages.

An auto policy may include six coverages.



Liability coverage is what protects others if you're at fault for an accident and you hurt someone or damage someone's property. It's made up of two components: **bodily injury liability** and **property damage liability**.

Spilled fluids are considered pollutants and create property damage. In an individual's policy only vehicle fluids are covered under the liability section. Cargo is only covered under additional pollution coverage. These spilled fluids are pollutants and cleanup is the responsibility of the vehicle operator.

Typically, Pollution Coverage is found under the EXCLUSION SECTION of the Insurance Policy. First they issue the exclusion, then the coverage. Let's look at an excerpt from the exclusion section of a typical insurance policy. Item #11 in the exclusion section discusses pollutants.

EXCLUSION example:

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

A. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

B. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

C. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph A. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment".

Typically, Pollution Coverage is found under the EXCLUSION SECTION of the Insurance Policy

Liquid Pollutant Debris can be described in the following definitions

LIQUID DEBRIS – This is debris consisting of liquids from a vehicle or its cargo, i.e., oil, transmission fluid, or radiator fluid. Liquid debris can be broken down into five categories or patterns found at the accident scene.

(1) **Spatter** – Spatter is the collection of spots on the road made by liquid squirted from the vehicle or its cargo by the force of collision. One example is coolant from the radiator.

(2) **Dribble** – Dribble is the liquid from a vehicle or its cargo that drops to the ground. This may often leave a trail if the vehicle is moving. The spatter pattern may also give an indication of the direction of travel/motion at the time of impact.

(3) **Puddle** – Wet area where dribble accumulates after a vehicle has come to rest.

(4) **Run-off** – Run-off is rivulets of liquid from a puddle area flowing downhill toward soak-in at the edge of the pavement.

(5) **Soak-in** – An area saturated with liquid, either at the end of the run-off or as a puddle marking the rest position of a vehicle.

In order to be compensated for cleaning up the pollutants at a vehicle accident, you must:

1. Be properly trained. This may include Hazwoper training and understand how to clean up and dispose of the cleanup materials correctly.
2. Gather all of the information necessary to bill for the incident.
3. Develop a billing program separate from your towing billing.
4. Dispose of cleanup materials properly



Environmental Chemical Solutions

The ECS Tow and Wrecker Spill Response Program

ECS understands the accident spill response and billing procedures. We developed the procedures and billing software to allow fire departments to bill for spill mitigation at accident scenes. We have been involved in the operation of emergency response services billing for accident scenes since 2006. We have the experience to help train your staff and the knowledge to do your billing.

Training

ECS has online Hazwoper training through our web portal. Our team is there to assist in the training of your team. We have partnered with an outstanding company for your initial 40 hour Hazwoper training and follow up refresher training. Our system will track your staff to insure their credentials are always current.

ECS has been involved in spill response for over 20 years we will work with your staff teaching them the proper way to clean up the vehicle pollutants and how to properly dispose of these materials.

Billing

Our portal allows you to file your claim online. With the mobile app you can gather all the pertinent information necessary including pictures at the scene. Once you are ready just hit the button and we begin the process to get you paid for your actions. Because we developed the billing software and the procedures over 11 years ago we have refined the process of billing for accident response to a science.

*The environment is green
but the standard is GOLD*



www.goldcrew.net

Mitigating environmental impacts since **1966**



ECS combines the power of science and technology to develop programs that deal with the environmental, health, and safety issues associated with hydrocarbons. Since 1995, ECS has been dealing with hydrocarbon spills, reducing their impact on stormwater runoff and protecting responders.

We also have programs available for hydrocarbon vapor suppression, cleaning, remediation, and fire control. We continue to improve our programs to insure that our customers receive the best solutions for the hydrocarbon-related issues they face. Our integrated, diverse product portfolio delivers technology-driven solutions to high-growth sectors like petroleum, towing, fire, and transportation.

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