



Pollution Liability Exposure:
Adjustments your automotive
business should consider to
maintain compliance



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Pollution sounds like such a dirty word. And as an automotive service business owner, employee or operator, you might be producing or disposing materials that, if not handled correctly, could be considered pollution.

Hazardous waste spills can not only harm people and the environment, but can also harm your business. Good risk management and insurance coverage is critical.

Clean up and remediation costs for accidental spills can run into the hundreds of thousand of dollars. Bear in mind, this does not include penalty fines for non-compliance of local, state, and federal regulations, which can be as high as \$100 to \$5,000 per spill per day.

In addition to the financial implications, the effect of a spill can be even more profound on your business from a public relations standpoint. Which large corporations come to your mind and are now forever associated with major environmental disasters?

Is your automotive business exposed to pollution liability risks and if so, are you covered? First let's look at three pollution liability cases that have actually occurred to automotive businesses and their outcomes:

- **Automobile Dealership** – Drainage piping associated with a wash bay releases a substantial amount of cleaning solvents into soil and groundwater. The insured is required to report the release to the state department of environmental protection. The agency orders the insured to do the following:
 - Excavate the piping associated with the floor drains and remove and dispose of all contaminated soil.
 - Drill additional wells in order to fully define the nature and extent of the groundwater contamination.
 - Test the ground water every three months for a period of five years to ensure the groundwater plume does not grow larger and the contaminant levels naturally fall below state cleanup standards.
- **Service Station** – A waste hauler hired by a service station to carry used motor oil overturns and spills its cargo into a stream. As the waste originator, the service station is required to contribute to the clean-up costs. It is important to keep in mind that as the originator of the waste, you have ultimate responsibility for it.
- **Body Shop** – A solvent recycling facility, used by the insured body shop, is the source of contamination to a local aquifer. As the generator of the waste, the body shop is designated a “responsible party” by the local environmental regulatory agency.

To effectively reduce pollution liability exposure, it's important to first understand the different types of hazardous waste.

Types of hazardous waste

Hazardous waste is defined by the Environmental Protection Agency (EPA) as “waste that is dangerous or potentially harmful to our health or the environment. Hazardous wastes can be liquids, solids, gases, or sludges. They can be discarded commercial products, like cleaning fluids or pesticides, or the by-products of manufacturing processes.” Waste is considered hazardous by the EPA if it is classified by either of the following:¹

- **Listed waste** - Determined to be hazardous by the EPA and listed as a hazardous waste in the Code of Federal Regulations, 40 CFR Part 261.
- **Characteristic waste** - Waste that exhibits ignitability, reactivity, corrosivity, or toxicity.
 - Ignitability (flammable) - Examples include some paints, paint solvents, other solvents and degreasers.
 - Reactivity - Examples include bleaches, oxidizers, cyanides and explosives, such as sodium azide (airbag initiators) and compressed gases.
 - Corrosivity - Examples include rust removers, acid or alkaline fluids and battery acid.
 - Toxicity - Examples include parts cleaners (MEK), chromium-bearing paints, mercury-containing devices, and spray booth filters
- **Universal waste** - Widely generated wastes including batteries, pesticides, mercury-containing equipment (e.g., thermostats) and lamps (e.g., fluorescent bulbs).
- **Mixed waste** - Waste that contains both radioactive and hazardous waste components.

Common hazardous wastes

Below are some of the most common hazardous wastes generated by automotive service businesses.²

- Waste solvent degreasers, parts washing fluid, immersion cleaner solvent, mineral spirits (including petroleum naphtha), brake cleaner, and carburetor cleaner.
- Sludges, filters or bottoms from part cleaners; coolant/antifreeze stills or filtration systems; solvent stills; hot dip tanks, and oil/water separators.
- Waste aerosol cans that are not completely empty such as brake cleaner, carburetor cleaner, other degreasers, and spray paints commonly found at auto repair shops are often hazardous for the chlorinated solvents they contain, or for ignitability.
- Waste paint thinners and lacquer thinners.
- Waste oil-based paints.

1 www.epa.gov/epawaste/hazard/wastetypes/listed.htm

2 www.dep.state.fl.us/waste/quick_topics/publications/shw/hazardous/business/Paint_and_Body8_09.pdf

Sources of Hazardous Waste

These are some of the most common sources for producing the hazardous waste listed above.³

Used Oil

Used oil that is not recycled or is rendered unrecyclable may be regulated as a hazardous waste. If oil is spilled on the ground and not cleaned up immediately, the oil and soil are possibly hazardous and may cause a groundwater contamination problem.

Lead Acid Batteries

Lead acid batteries that are not recycled or are managed in a manner to allow a discharge are possible hazardous wastes.

Engine Coolant

Engine coolant that is not recycled must be tested prior to disposal. It often is a hazardous waste because of lead or solvent content. It may not be discharged directly to the environment.

Parts Cleaners and Parts Washers

Spent parts cleaners and washers are considered hazardous wastes because they have a low flashpoint (less than 140 degrees Fahrenheit) or may be toxic. Common solvents include mineral spirits, MEK, 1,1,1-trichloroethane and toluene. Solvents become hazardous wastes because they are contaminated with heavy metals such as lead, cadmium, chromium or barium. Do not mix spent solvents with used oil. Mixing a hazardous cleaner with another substance may make the mixture hazardous.

Shop Rags

Rags contaminated with used oil or solvents may be a hazardous waste if not commercially laundered. If your shop washes rags, water must be discharged to a publicly-owned sanitary sewer, not a storm sewer, septic tank or cesspool. If you use a towel service, make sure the company discharges its water to a publicly owned sewer system.

Mercury-Containing Devices

Mercury-containing devices may not be incinerated or land filled in any quantity, not even one. They either must be recycled or handled as hazardous waste. Recycling is easier and costs less. The department recommends recycling of all mercury-containing devices. Examples of these devices include fluorescent and high-density discharge lamps, thermostats, and trunk and hood light switches.

Painting and Paint Removal

Waste paint-contaminated materials, such as paint booth filters, masking paper and overspray paper, may be hazardous because of heavy metal pigments in paints. Waste paints, paint strippers and thinners may be ignitable and may contain hazardous materials such as toluene, xylene, acetone, methyl ethyl ketone, petroleum distillates, methylene chloride or methyl isobutyl ketone. Paint chips from sanding and spent grit blast media may be hazardous because of heavy metal pigments in paints.

³ www.dep.state.fl.us/waste/quick_topics/publications/shw/hazardous/business/autorepair02.pdf

How do I identify hazardous waste?

Correctly identifying whether or not waste is hazardous is very important to determine how it should be managed. As a waste generator, you are responsible for making this determination. Using the EPA's hazardous waste identification process can help determine if a waste meets the Resource Conservation and Recovery Act (RCRA) definition of hazardous waste. The process consists of the following four questions:⁴

1. Is the material a solid waste?⁵
2. Is the waste specifically excluded from Resource Conservation and Recovery Act (RCRA)?⁶
3. Is the waste a listed hazardous waste?⁷
4. Does the waste exhibit a characteristic of hazardous waste?⁸

In addition, you should also do the following:

- Obtain and read Material Safety Data Sheets (MSDS)
- Talk to product suppliers and manufacturers
- Read product labels
- Have unidentified waste or non-hazardous waste that may become hazardous during use tested by a commercial lab

Federal compliance regulations

The U.S. Environmental Protection Association (EPA) finalized the Spill Prevention, Control, and Countermeasure (SPCC) Rule⁹ in November 2009 and has established a compliance deadline of November 10, 2010. The SPCC Rule outlines requirements for prevention of, preparedness for, and response to oil discharges as part of the Oil Pollution Prevention regulation (40 CFR part 112).

Regulated facilities must develop and implement SPCC Plans that establish procedures, training and equipment requirements to help prevent and control oil discharges from reaching navigable waters or adjoining shorelines.

Automotive service businesses are subject to the rule if they maintain an above ground oil storage capacity greater than 1,320 U.S. gallons, or completely buried oil storage capacity greater than 42,000 U.S. gallons.

What can you do?

Planning

- Ensure you are in compliance with all local, state and federal environmental protection laws and regulations.
- Develop a list of all hazardous and non-hazardous chemicals and waste materials generated or stored at your facility including lead acid batteries, antifreeze/coolant, transmission fluid, waste oil, paints, solvents, used shop rags and mercury containing devices (light bulbs, mercury switches, etc.).
- Determine where and how leaks and spills could occur.

4 www.epa.gov/epawaste/hazard/wastetypes/wasteid/index.htm

5 www.epa.gov/epawaste/hazard/dsw/index.htm

6 www.epa.gov/epawaste/hazard/wastetypes/wasteid/exclude.htm

7 www.epa.gov/epawaste/hazard/wastetypes/listed.htm

8 www.epa.gov/epawaste/hazard/wastetypes/characteristic.htm

9 www.epa.gov/ceppo/web/content/spcc

- Perform a regular audit of your facility and thoroughly analyze your pollution exposure.
- Zurich also recommends talking to members of any industry associations you might belong to about their experiences with pollution exposures.

Training

- Train personnel how to identify, reduce and dispose of waste material.
- Develop emergency procedures in advance to deal with spills and designate an emergency coordinator to train personnel in how to handle the spill.

Transportation

- Deal only with reputable companies for waste transport and disposal.
- Investigate your waste transport and disposal companies by checking with your state or federal Environmental Protection Agency (EPA) to ensure that they hold the proper permits and licenses, and whether they have any violations.
- Examine waste transport and disposal companies methods and procedures first-hand while they are on your premises.
- Obtain certificates of insurance from third parties who pick up and handle your waste products. Make sure to talk to your agent about this exposure.

Disposal

- Review how and in what manner you store and dispose of waste material.
- Convert hazardous waste to non-hazardous through incineration (waste oil heaters can be utilized).
- Recycle hazardous waste including paint thinner and parts cleaning fluid.
- Check with your local code official prior to installing any new system to handle waste.
- Use new materials that are not hazardous in place of hazardous substances – water based parts washers, “green” solvents and cleaners, etc.

Storage

- If you have underground tanks, take time to review regulations specific to underground Storage Tanks (USTs) and ensure your tanks are in compliance.
- Use “spill containment” pallets for storage of 55-gallon drums containing new and used oil, antifreeze, brake cleaners, paint thinners, etc.
- Install double-walled tanks and diking for above ground storage tanks containing waste oil, gasoline, etc.
- Install canopies over outside storage tanks and drum storage areas to control run-off and spills.
- Store lead acid batteries off the ground and on suitable pallets or containers.
- Use flammable liquids storage cabinets for smaller quantities of liquids for inside storage.

Where can I get more information?

- United States Environmental Protection Agency (US EPA) – www.epa.gov
- A Guide on Hazardous Waste Management for Florida’s Auto Repair and Paint and Body Shops - www.dep.state.fl.us/waste/quick_topics/publications/shw/hazardous/business/Paint_and_Body8_09.pdf
- A Guide on Hazardous Waste Management for Florida’s Auto Repair Shops - www.dep.state.fl.us/waste/quick_topics/publications/shw/hazardous/business/autorepair02.pdf
- Compliance Assistance for the Auto Care Professional - www.ccar-greenlink.org
- Environmental Emergency Plans – www.epa.gov/emergencies/index.htm
- Spill Prevention, Control, and Countermeasure (SPCC) Rule – www.epa.gov/ceppo/web/content/spcc

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