

MOVING HAZARDS: THE ROADS

The transportation system responsible for moving the largest volume of hazardous materials is the U.S. network of streets and highways; too often, truck crashes and other incidents release dangerous toxins into the environment.¹

- In 2023, trucks carried nearly 856 million tons of gasoline, more than 644 million tons of fuel oils, over 460 million tons of natural gas and other fossil fuel products, and more than 19 million tons of crude petroleum over U.S. roads.²
- The most recent federal data show that in 2022 there were over 3,240 hazmat cargo releases in crashes involving large trucks with hazmat placards (*i.e.*, mandated signage for explosives, radioactive materials, and certain highly toxic substances) and the problem continues to grow as data shows that “[o]ver the last 10 years, the number of big rig accidents involving hazardous materials has jumped two and a half times, an increase of 155%.”³
- For every hazmat train accident, there are 33 hazmat incidents involving big rigs.⁴

Many releases are the result of cargo tank trucks rolling over; there are nearly four tanker truck rollovers every day and the causes vary.⁵

- More than three-quarters of the time, driver error – largely fatigue and inattention – is to blame, with the troubling fact that “over 90% of the time, the rollover is not the ‘first’ event.”
- Load size can have a tremendous impact on driving, with “some 63% of rollover crashes occur[ing] with cargo tanks carrying partial loads, so drivers must understand the ‘slosh and surge’ effect of liquid loads.”
- Vehicles are also to blame, particularly brake defects. One study found that “54% of vehicles in rollovers had a brake defect of some sort.”

The toxic impact of rollovers and other hazmat accidents cannot be overstated.

- Extremely worrisome, explained one former government official, “are potential large hazardous materials accidents ‘in highly densely populated areas where there’s a release of what’s called a toxic by annihilation material, like chlorine [which could] vaporize.’”⁶

- Common types of releases involve liquids transported for home fuel oil, which can catch fire.⁷
- Tanker spills, leaks, and explosions may contaminate surface water as well as ground water, the source of drinking water for “more than 90 percent of the rural population who do not get their water delivered to them....”⁸

The two federal agencies responsible for overseeing hazmat trucks – the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Motor Carrier Safety Administration (FMCSA) – are not doing enough to mitigate dangers.

- The National Transportation Safety Board has recommended numerous safety improvements to hazmat-carrying trucks but PHMSA and FMCSA have not adopted them.⁹
- When these agencies do take action, they often result in recommendations not mandates. Potential fines against bad actors have been kept at levels too low to have much impact.¹⁰

The horrific nature and avoidable causes of many of these crashes will sometimes lead victims to pursue court action. However, there may be significant obstacles in a victim’s quest to reach the courthouse.

- Federally-mandated insurance minimums (\$1 million per accident for big rigs transporting oil; \$5 million if hauling hazardous material) can function as a liability cap.¹¹
- The trucking industry has been lobbying heavily for tort restrictions to make legitimate lawsuits more difficult to bring and compensation less available to victims.¹²
 - Within the last year, new laws were passed in Iowa and West Virginia to cap non-economic damages available to injured victims, including children, harmed in truck crashes.¹³ These \$5 million caps apply even in hazmat incidents.
 - In Florida, the trucking industry supported a new set of tort limits recently signed into law, many of which strip away the legal rights of truck crash victims.¹⁴
 - In September 2021, a law went into effect in Texas, creating a two-tiered system of justice for truck crash victims that was pushed by the state’s trucking industry.¹⁵
 - In 2021 and 2020, Montana and Louisiana (respectively) enacted legislation backed by the trucking industry that, among other things, reduces compensation to victims.¹⁶
 - In July 2020, Missouri “raised the bar for ordering a trucking company to pay punitive damages.”¹⁷

Notes

¹ Commercial Vehicle Safety Alliance, “More Than 7,500 Vehicles Transporting Hazardous Materials/Dangerous Goods Were Inspected During CVSA’s Unannounced Five-Day Inspection and Enforcement Initiative,” August 24, 2023, <https://www.cvsa.org/news/2023-hm-dg-blitz-results/>; Stephen Stock et al., “Hazmat road accidents in the U.S. have more than doubled in the past decade,” *CBS News*, May 9, 2023, <https://www.cbsnews.com/news/hazardous-materials-trucks/>; Jayme Fraser and Tami Abdollah, “How often do train wrecks spill hazardous chemicals into

neighborhoods? Here’s what data shows,” *USA Today*, March 31, 2023, <https://www.usatoday.com/story/news/2023/02/09/did-train-wrecks-spill-hazardous-chemicals-near-your-home-look-data/11197948002/>

² Bureau of Transportation Statistics, “Moving Goods in the United States,” <https://data.bts.gov/stories/s/Moving-Goods-in-the-United-States/beyt-rqmu/#commodities> (viewed April 20, 2024).

³ Federal Motor Carrier Safety Administration, *2023 Pocket Guide to Large Truck and Bus Statistics* (December 2023), <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2024-04/FMCSA%20Pocket%20Guide%202023-FINAL%20508%20-%20April%202024.pdf>; Stephen Stock et al., “Hazmat road accidents in the U.S. have more than doubled in the past decade,” *CBS News*, May 9, 2023, <https://www.cbsnews.com/news/hazardous-materials-trucks/>

⁴ Stephen Stock et al., “Hazmat road accidents in the U.S. have more than doubled in the past decade,” *CBS News*, May 9, 2023, <https://www.cbsnews.com/news/hazardous-materials-trucks/>

⁵ Federal Motor Carrier Safety Administration, “Cargo Tank Rollover: Myths & Truths” (June 2021), https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-07/FMCSA%20%E2%80%9CCargo%20Tank%20Rollover%20Prevention%E2%80%9D%20Fact%20Sheet_508c.pdf

⁶ Stephen Stock et al., “Hazmat road accidents in the U.S. have more than doubled in the past decade,” *CBS News*, May 9, 2023, <https://www.cbsnews.com/news/hazardous-materials-trucks/>

⁷ *Ibid.*

⁸ U.S. Geological Survey, “What is groundwater?” <https://www.usgs.gov/faqs/what-groundwater> (viewed April 16, 2024).

⁹ Stephen Stock et al., “Hazmat road accidents in the U.S. have more than doubled in the past decade,” *CBS News*, May 9, 2023, <https://www.cbsnews.com/news/hazardous-materials-trucks/>

¹⁰ Per the most recent federal data, in 2022, 81 hazmat carrier enforcement cases settled for \$830,690 total, 39 hazmat carrier/shipper cases settled for \$330,930 total, and five cargo tank facility cases settled for \$82,840 total. Federal Motor Carrier Safety Administration, *2023 Pocket Guide to Large Truck and Bus Statistics* (December 2023), <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2024-04/FMCSA%20Pocket%20Guide%202023-FINAL%20508%20-%20April%202024.pdf>. Recently adjusted for inflation, penalties remain at absurdly low amounts: A maximum of \$99,756 for violation of hazardous materials regulations, safety permitting regulations, or “[o]perating after being declared unfit by assignment of a final “unsatisfactory” safety rating”; and a maximum of \$232,762 for violation of hazardous materials regulations or safety permitting regulations that results in death, serious illness, severe injury to persons, or destruction of property, or “[o]perating after being declared unfit by assignment of a final “unsatisfactory” safety rating” that results in death, serious illness, severe injury to persons, or destruction of property. “Revisions to Civil Penalty Amounts, 2024,” 88 FR 89551, December 28, 2023, <https://www.federalregister.gov/documents/2023/12/28/2023-28066/revisions-to-civil-penalty-amounts-2024>

¹¹ Truck Safety Coalition, “Minimum Insurance Levels for Motor Carriers,” <https://trucksafety.org/minimum-insurance-levels-motor-carriers/> (viewed April 16, 2024), <https://trucksafety.org/minimum-insurance-levels-motor-carriers/>; Federal Motor Carrier Safety Administration, “Insurance Filing Requirements,” February 21, 2024, <https://www.fmcsa.dot.gov/registration/insurance-filing-requirements>

¹² James O’Donnell, “How Recent State Laws Are Making It Harder to Sue Trucking Companies After Crashes,” *PBS Frontline/ProPublica*, July 12, 2023, <https://www.pbs.org/wgbh/frontline/article/state-laws-harder-sue-trucking-companies-crashes/>

¹³ “West Virginia Governor Signs Law Capping Damages in Lawsuits Against Commercial Motor Vehicles,” *WV News*, April 11, 2024, https://www.wvnews.com/news/wvnews/west-virginia-governor-signs-law-capping-damages-in-lawsuits-against-commercial-motor-vehicles/article_a4db2858-f843-11ee-990a-4b29d59c62f9.html; Stephen Gruber-Miller, “Kim Reynolds signs Iowa law capping damages in truck driving lawsuits. Here’s how it will work,” *Des Moines Register*, May 15, 2023, <https://www.desmoinesregister.com/story/news/politics/2023/05/12/kim-reynolds-signs-iowa-law-limiting-damages-in-truck-driving-lawsuits/70207274007/>

¹⁴ Western Truck Insurance Services, “How Florida’s Tort Reform Will Impact Trucking Industry,” April 14, 2023, <https://www.truckinsure.com/how-floridas-tort-reform-will-impact-trucking-industry/>

¹⁵ See Dwain Hebda, “Newly signed Texas law changes how truck crash lawsuits are adjudicated,” *The Trucker*, August 10, 2021, <https://www.thetrucker.com/trucking-news/the-nation/newly-signed-texas-law-changes-how-truck-crash-lawsuits-are-adjudicated>

¹⁶ Mark Ballard, “John Bel Edwards signs the tort reform bill,” *Advocate*, July 16, 2021, https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_1f80317e-c7a2-11ea-a78e-bb8190e7bdf9.html; “Louisiana Passes Legislation Aimed at Significant Tort Reform,” *Transport Topics*, July 2, 2020, <https://www.ttnews.com/articles/louisiana-passes-legislation-aimed-significant-tort-reform>

¹⁷ James O’Donnell, “How Recent State Laws Are Making It Harder to Sue Trucking Companies After Crashes,” *PBS Frontline/ProPublica*, July 12, 2023, <https://www.pbs.org/wgbh/frontline/article/state-laws-harder-sue-trucking-companies-crashes/>; History of Missouri SB591, <https://legiscan.com/MO/bill/SB591/2020>