

# ENVIRONMENTAL INCIDENTS: 5 Keys to Complying with the TSB Reporting Requirements



EHS professionals know that if their company is involved in an environmental incident, they're probably required to report it by environmental law. But did you know that the federal *Transportation Safety Board Regulations* (TSB Regulations) under the *Canadian Transportation Accident Investigation and Safety Board Act* also require reports for certain transportation-related incidents? In fact, changes were made to the incident reporting requirements under the TSB Regulations, which just took effect on **July 1, 2014**. So here's a look at what you need to know to ensure your company complies with the new reporting requirements under the TSB Regulations, if applicable.

## LAWS WITH INCIDENT REPORTING REQUIREMENTS

As noted above, the TSB Regulations aren't the only laws that require the reporting of certain incidents. Whenever you have some sort of incident in the workplace or involving your operations, you may be required to report it to government officials under the TSB Regulations as well as one or more of the following laws (depending on the circumstances):

- Environmental laws (if the environment was harmed or something was released or discharged that could harm the environment);
- OHS laws (if workers were injured or killed);
- Transportation of dangerous goods laws (if the incident involved the transportation of substances classified as 'dangerous goods' under the law); and
- Applicable provincial, territorial or local laws, such as traffic laws that require the reporting of vehicular accidents.

## 5 KEYS TO COMPLIANCE

To comply with the TSB's new incident reporting requirements, you need to know the following key information:

### When the Requirements Apply

The new incident reporting requirements under the TSB Regulations apply to:

- All marine occurrences in Canada, including those related to the exploration or exploitation of the continental shelf, but excluding those involving only pleasure craft. They also apply to any occurrence involving a ship registered or licensed in Canada;
- All pipelines occurrences in Canada involving federally-regulated pipelines and any pipeline occurrence outside Canada if the TSB is investigating it;
- All rail occurrences in Canada if the railway is federally-regulated, including local railway companies that fall directly under the authority of the *Railway Safety Act* when operating on federally-regulated railway lines, as well as any rail occurrence outside Canada if the TSB is investigating it; and
- All aviation occurrences that happen in or over Canada, or any place that's under Canadian air traffic control. They also apply to any occurrence involving an aircraft for which, or that's operated by a person to whom, a Canadian aviation document has been issued under Part I of the *Aeronautics Act*.

### What Kinds of Incidents Must Be Reported

The types of incidents called 'occurrences' in the TSB Regulations that must be reported depend on whether they're marine, pipeline, rail or aviation incidents (see, **this chart** for details). But the regulations require you to report *all* such incidents in which a person is killed or sustains a serious injury, which is defined to include:

- A fracture of any bone, except simple fractures of fingers, toes or the nose;
- Lacerations that cause severe hemorrhage or nerve, muscle or tendon damage;
- An injury to an internal organ;
- Second or third degree burns, or any burns affecting more than 5% of the body;
- A verified exposure to infectious substances or injurious radiation; or
- An injury that's likely to require hospitalization.
- In addition, you must report all aviation, rail and marine incidents in which:
  - A dangerous good is released; and
  - A crew member whose duties are directly related to the safe operation of the airplane, ship or train is unable to perform his/her duties as a result of a physical incapacitation, which poses a threat to the safety of persons, property or the environment.

Note that because the focus of the TSB is safety, the regulations cast a wide net in terms of which events must be reported. In fact, some of the kinds of 'incidents' that must be reported under the TSB Regulations may not seem like incidents at all, such as the refuelling of a plane with the incorrect or contaminated fuel, or may be considered 'near misses,' such as a ship's near

collision.

### **Who's Required to Submit Report**

Individuals with reporting duties include:

- *Aviation incidents*: the owner, operator, pilot-in-command, any crew member of the aircraft and any person providing air traffic services who have direct knowledge of the incident;
- *Marine incidents*: the operator of the ship, other than a pleasure craft, whether or not they're the owner, the master, the ship's pilot, any crew member of the ship and the harbour master, who have direct knowledge of the incident;
- *Pipeline incidents*: the operator of the pipeline; and
- *Rail incidents*: the operator of the rolling stock, the operator of the track and any crew member who have direct knowledge of the incident.

### **The Information the Reports Must Contain**

The information required in the reports again varies by type of incident (see, **this chart** for details). But *all* reports for incidents covered by the TSB Regulations must include the following:

- Date, time and location of the incident;
- A description of the incident;
- Identifying information about the ship, railway, pipeline or plane involved in the incident;
- The number of people killed or who sustained serious injuries as a result of the incident;
- A description of any action taken or planned to protect persons, property and the environment;
- The name and title of the person making the report, plus the phone number and address where that person can be reached; and
- Any information specific to the incident that the TSB requires.

### **When the Reports Must Be Submitted**

A person required to make a report must send it to the TSB as soon as possible and by the quickest means available and include all the information required that's available at the time of the incident. The rest of that information must be submitted as soon as it becomes available within 30 days after the incident or, in the case of rail incidents, by the end of the calendar month following the month of the incidents.

### **BOTTOM LINE**

Environmental incidents may trigger reporting requirements under various laws. So it's crucial for EHS professionals to be aware of all laws that contain such requirements, including those that aren't strictly environmental laws, such as the TSB Regulations. Although submitting multiple reports to multiple government agencies is a burden, you'll likely need to gather essentially the same information on the incident for all of the reports.