

GOOD TO KNOW



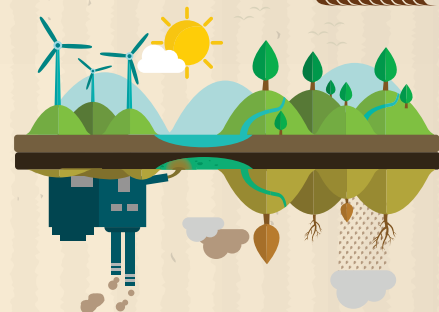
AMERICAN RISK MANAGEMENT RESOURCES NETWORK, LLC. ENVIRONMENTAL INSURANCE TOOLBOX

since 1999

**ARPIL
2017**

Environmental Insurance: Just the Facts

5 "Good to Know" facts about Environmental Insurance



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Environmental Insurance History



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Essential Coverage Elements

in a Genuine
Environmental
Insurance
Policy.



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GOOD TO KNOW



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OTHER ENVIRONMENTAL PROSPECTS WE CAN HELP WITH!

- General Construction Firms
- Fire & Water Restoration Contractors
- Mold/Asbestos/Lead Contractors
- Asphalt and Paving Contractors
- Environmental Contractors
- Waste Water Treatment Plants
- Landfills
- Farms
- Municipalities
- School Districts
- Plumbers, Roofers, and Artisan Contractors
- Hotels, Condo & Apartment Building Owners or Managers
- Property Transfers Including Purchase & Sales, Mergers & Acquisitions
- Roustabouts, Freshwater Haulers, & Fracking Support Contractors

1

Environmental Insurance History



Environmental Insurance History

Environmental impairment liability (EIL) insurance was first introduced in 1978 and has been in constant evolution since. AIG insurance company introduced its private label version of environmental impairment liability insurance under their brand name "Pollution Legal Liability" in 1980. Contractors environmental liability was first introduced by AIG under the brand name "Contractors Pollution Liability" in 1986.

There are well over 100 different genuine environmental insurance policy forms available in 2015. Market capacity exceeds \$200 million in limits of liability for a single risk.

There are no industry standards for the coverages offered in an environmental insurance policy. As a result, the coverages offered

between different environmental insurance policies vary a great deal, even within the same coverage line.

There is very little regulatory oversight of the coverage line because almost all of the environmental insurance policies are written in the excess and surplus lines insurance marketplace. Therefore, when evaluating different CEL options, for example, it is necessary to perform a coverage review of the actual policy forms and endorsements. Environmental insurance policies should not be evaluated on premium, deductible and limits alone. It is possible to purchase an environmental insurance policy that will not insure 90 percent of an insurance buyer's loss exposure if a poor match of policy form to the particular customer's insurance needs is made.



2

Essential Coverage Elements

in a Genuine Environmental Insurance Policy.



Essential Coverage Elements in a Genuine Environmental Insurance Policy

Genuine environmental insurance needs to have an insuring agreement that provides specific coverage for losses arising from the release or escape of pollutants.

At a minimum, insurance coverage will apply to losses arising from:

- Bodily injury (mirrors and sometimes enhances the definition used in the general liability (GL) policy)
- Property damage (mirrors and sometimes enhances the definition used in the GL policy)
- Cleanup expenses (usually as required by environmental laws with available enhancements by class of business)

- Defenses costs (usually included within the limit of liability)

Common optional coverages include:

- Non-owned waste disposal sites
- Transportation of pollutants as cargo
- Business interruption
- Loss of rents
- Extra expense
- Midnight dumping on insured locations
- Coverage for fungi/bacteria as defined pollutants
- Amended definitions of cleanup costs for contaminants that are not regulated as hazardous materials (fungi/bacteria)
- Reputational damages





Basic Environmental Liability Insurance Policy Forms

There are three basic environmental liability insurance policy forms, discussed below.

- **Environmental Impairment Liability** (sold under various product names)
Coverage only applies to listed locations.
This policy form can provide coverage for first-party cleanup costs, business interruption, loss of rents and extra expenses coverage. These coverage extensions are especially important on commercial buildings and habitational risks, such as apartment complexes and hotels.

Regarding the insurance application process, underwriters basically need to know about the preexisting pollution conditions at the insured locations (if any), the raw materials or inventories at the insured locations and the size and use of the insured property.

- **Contractors Environmental Liability**

Coverage applies for pollution events arising from the operations of the insured as described in the insurance application. In some cases, the insurance application specifically becomes part of the part of the insurance policy.

The insurance application process; Underwriters basically need to have a description of the insured operations and a measurement of relative size of the operations to be insured which is usually measured by dollars of gross revenue.

- **Professional Liability**

In most cases professional liability for pollution related losses is provided under a professional liability policy that does not have a pollution exclusion.

The insurance application process mirrors traditional professional liability underwriting with an emphasis on the professional qualifications of the insured.



Common Coverage Mistakes Made in Environmental Insurance

There are many mistakes made when placing or buying environmental insurance.

Following are some:

- Selling a policy form that is not fit for the purpose for which it is intended. Selling an insurance policy designed for an industrial site to a hotel is a common example in EIL policy placements. In another common example, the package general liability/contractors pollution liability insurance policies needed to insure

a fire and water damage restoration contractor were originally designed to insure nuclear weapons manufacturing plant cleanup contractors. The original package insurance policy design for a nuclear cleanup contractor is not well suited to a contractor working in a private residence kitchen. Most environmental insurance policies need to be amended to address the specific coverage needs of the insured parties.

- Failure to address completed operations loss exposures in contractors environmental liability (especially on project-specific insurance placements).

- Not addressing the full effects of the pollution exclusions in standard property and liability insurance policies within the design of the environmental insurance placement.
- Selling environmental insurance policies with fundamentally flawed coverage for fungi/bacteria.
- Not addressing preexisting pollution conditions on the environmental insurance policies sold to farms.
- General sloppiness on additional insured endorsements and certificates of insurance.
- Underestimating the full effects of pollution exclusions in standard policy forms.
- By far the most common coverage mistake made by insurance agents/brokers is to leave their customers ignorantly uninsured for contamination related losses. Usually this is caused by the self-guided belief that somehow pollution exclusions only apply to hazardous waste. That turns out to be a very dangerous assumption for insurance agents and brokers to make from a professional errors and omissions standpoint.

How bad are the coverage mistakes with pollution exclusions and environmental insurance in practice? The answer is amazingly bad. The #1 coverage flaw for contamination risks is unnecessarily uninsured loss exposures. Second to that problem is the sale of environmental insurance policies that contain fundamental coverage defects. This usually occurs when an environmental insurance policy that was never designed to be used in the class of business it is going to be used for is sold to an uninformed buyer by a uniformed insurance agent or broker. Because of these factors working in concert, the vast majority of commercial insurance buyers are needlessly and ignorantly uninsured for losses caused by a contamination event of some sort.

Here are some common examples of unnecessary coverage flaws in practice:

<https://www.irmi.com/articles/expert-commentary/environmental-insurance-just-the-facts>



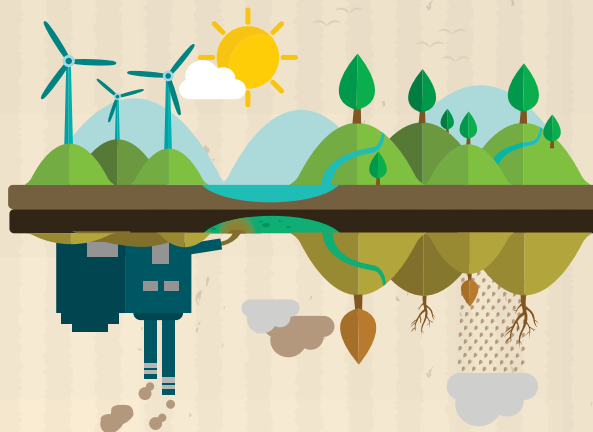
How To Fix Common Coverage Glitches for Contamination Losses

The first step is for insurance agents and brokers to specifically address—rather than ignore—the environmental risks in their customer base. See *A User's Guide to Pollution Exclusions*, which contains a field guide that serves as a tool in beginning that process. Commercial insurance buyers need to be informed on the effects of pollution exclusions and offered insurance coverage solutions if they are available. There is a lot more environmental insurance product available at lower prices than most insurance agents and brokers realize.

To avoid coverage mistakes in environmental insurance placements, most insurance agents and brokers will need to seek out specialists in environmental risk management and insurance. All the training in the world on traditional property and casualty insurance does not prepare an insurance agent or broker to work with environmental insurance. A working knowledge of the environmental risks and insurance drivers in certain classes of business is relatively easy to master with a good coach.

The inaccurate beliefs and myths about the effects of pollution exclusions persist because there is a dearth in training venues on the subjects of environmental risk management, pollution exclusions, and environmental insurance. To make matters worse, much of what was taught about pollution exclusions in the past was simply not technically accurate. A fledgling not-for-profit organization is set to help correct that problem. The Society of Environmental Insurance Professionals (SEIP) is a not-for-profit educational organization dedicated to expanding the understanding of environmental risks and environmental insurance. (www.seipro.org). Anyone wanting to keep current on environmental risk and insurance should get on the SEIP mailing list.

GOOD TO KNOW



Meet Your Contractor's Environmental Liability Specialists at ARMR.Network LLC



AMERICAN RISK MANAGEMENT
RESOURCES NETWORK, LLC.
ENVIRONMENTAL
INSURANCE TOOLBOX

Your Production Team:



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American Risk Management Resources Network, LLC is a wholesale brokerage firm that can help with many different environmental insurance placements not just Contractor's Environmental Liability! There are many hidden opportunities in many classes of business!

OTHER ENVIRONMENTAL PROSPECTS WE CAN HELP WITH!

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- Property Transfers Including Purchase & Sales, Mergers & Acquisitions
- Roustabouts, Freshwater Haulers, & Fracking Support Contractors

Honesty | Integrity | Knowledge | Excellence | Accountability