



BEACON HILL ASSOCIATES, INC. & PARTNERONE ENVIRONMENTAL

Your Source for Environmental Liability Insurance

Coverage Guide: Non-Environmental Contractors

Non-environmental businesses face multiple environmental risks stemming from their daily operations. Whether these actions create a pollution condition or aggravate an existing one, the non-environmental contractor can be held liable in the event of a claim, which their standard CGL coverage typically would not cover. There are many different types of pollution conditions that may be encountered. Proper coverage can be easily purchased to address the issues of job site pollution, in-transit spills, aggravation of an existing pollution condition, water damage leading to a mold condition, and potential restoration costs for surface water or soil, to name just a few.

We understand that pollution coverage is not usually an easy sell. Most non-environmental contractors do not believe they have an exposure and are not required to carry this type of coverage. They often don't see the importance of making it part of their insurance program until they have a claim denied under their GL policy. Additionally, most GL policy forms include the absolute pollution condition exclusion, so no coverage or defense is provided.

To address this gap, two common coverage approaches are presented below:

Annual Practice Policy:

This option is based upon the applicant's total gross revenue for the year and covers all projects performed during the policy term.

Project Specific Policy:

This option is available when a specific project the contractor is bidding for requires pollution liability coverage. Rating is based upon the gross revenue generated from that specific project, as well as the scope of work and anticipated project duration.

About Non-Environmental Contractors Pollution Coverage

Contractors Pollution Liability (CPL) insurance provides coverage for pollution conditions arising from the insured's operations at a jobsite, whether those operations have created a new condition, exacerbated an existing condition, or is otherwise created liability for the condition. Coverage can include work performed by or on your behalf, defense expenses, completed operations and many other enhancements.

Some examples of non-environmental companies include mechanical contractors, utility contractors, painters, plumbers, general construction, excavation and graders, HVAC contractors, sewer and septic contractors, roofers, and others. In addition to their job site exposure, non-environmental contractors have environmental exposures stemming from their owned premises/contractors yards. Non environmental contractors also have over the road pollution exposures, non-owned disposal site exposures, and professional liability exposures, all of which can be addressed by environmental policies.

Environmental liability can arise from any of the following:

- Retro fits of aging electrical systems that require proper disposal of PCB's
- Property damage or bodily injury caused by mold growth from water damage Interruption of electrical power while servicing emissions equipment may lead to airborne toxins being released
- Installation, retrofitting or repair of equipment may lead to disturbance of asbestos-containing materials or to damage of utility lines, causing a release of pollutants
- Bodily injury from toxic fumes caused by a fire in commercial property
- Faulty contractor work could lead to waste water leaks, mold, and contamination of soils and groundwater
- Management and negligence of subcontractors
- Storage of excavated soils that may contain pollutants which contaminate soils and groundwater
- Disposal of tanks, piping and old equipment scraps and cleanup of toxic adhesives and chemical coatings
- Damage to underground utilities including natural gas, fuel oil and trunk lines during excavation.
- Hazardous waste management on and off the job site for spills and safety handling
- Asbestos insulated piping removal and disposal
- Pollution condition from storm water or groundwater collection during excavations
- In-transit exposure during transport of manure to proper application site.
- Negligent handling of pumping/applicator equipment causing soil or groundwater contamination.

Recommended Coverage Enhancements:

- Blanket Additional Insured
- 1st Party -Transportation Pollution Liability
- 3rd Party – Contingent Pollution Liability
- Non-Owned Disposal Site Coverage
- Site pollution for owned premises
- Project-Specific Increased Limits
- Blanket Waiver of Subrogation
- Emergency Cleanup Costs
- Microbial substance Coverage
- Punitive Damages
- Incidental Professional Liability
- Extended Completed Operations Coverage
- Limitation of Coverage for Designated Project

Claims Scenarios

A **carpentry contractor** installed new carpeting in an office building. One week after the installation, the owner of the office building informed the contractor that employees were complaining of headaches and dizziness. The contractor could not prove that the manufacturers of the carpet or the carpet adhesive were responsible. The contractor filed a claim with their general liability carrier. The claim was denied because the contractor brought the hazardous materials, such as formaldehyde and volatile organic compounds, onto the site.

While a **mechanical contractor** was repairing leaks on fuel lines at a shipyard, an unknown party opened the valve that separated the inactive lines under repair from the active lines. Fuel began to flow through the lines under repair, releasing 3,500 gallons of gasoline. The cost to clean up soils and groundwater contaminated by petroleum hydrocarbons was \$500,000.

A **street & road contractor** was subject to cleanup costs and business interruption expenses in excess of \$500,000 when they ruptured an unmarked petroleum pipeline. The contents were released into the subsurface soil and groundwater because of the contractor's inadequate response to the rupture.

An **excavation contractor** was responsible for overseeing a sewer rehabilitation project. During excavation of a trench, the bucket of a backhoe hit a natural gas line. This forced evacuation of the immediate area, including a small strip mall. Store owners filed loss of business claims against the contractor, exceeding \$75,000.

An underground storage tank leaks petroleum into a neighbor's drinking water well. The well must be shut down and drinking water must be provided to neighboring properties by installing a pipeline to the municipal water supply, all at the tank installation contractors' expense.

A **Sewer and septic contractor** is responsible for overseeing a sewer rehabilitation project. During excavation of a trench, the bucket of a backhoe hit a natural gas line. This forced evacuation of the immediate area, including a small strip mall. Store owners filed business interruption claims against the contractor, exceeding \$75,000.

An **HVAC contractor** was responsible for overseeing the renovation of a hospital wing. When two patients died in the intensive care unit adjacent to the construction zone, the contractor was sued for inadequate monitoring and containment of the work area. The patients' cause of death was determined to be an organic fungus found in the ventilation system, and traced back to dusts generated during demolition. The general contractor was responsible for \$10 million in damages.

Overcoming Hurdles When Discussing Coverage Options with Your Client

Having trouble responding to challenging questions relating to Environmental coverage? We have put together some of the most common disputes pertaining to this coverage, and our suggestions for how to handle them.

My General Liability policy will cover everything.

This isn't always the case. Many GL policies have specific absolute or total pollution exclusions that limit how that policy would respond. CPL coverage could fill in important gaps the GL policy may have.

I don't think I have a pollution exposure.

It may be a small exposure but what typically happens is a little exposure that can lead to a large claim. Something as simple as spilling fuel while on the job can lead to a cleanup mandate or a lawsuit. Unfortunately, General Liability won't even come into play for defense costs, so the contractor will have to foot the bill.

I don't deal with hazardous materials.

Insurance companies consider most liquids, gasses, smoke, and dust in large quantities as pollutants. Accidental release of fuel and chemicals from broken pipelines, tanks, and utilities are only some of the reasons many contractors decide to purchase coverage.

I've never had a claim before.

Environmental claims tend to be less frequent but large problems when they happen. On average, clean up costs tend to run in the hundreds of thousands. When an environmental problem becomes apparent, it will be too late to purchase coverage!

I'm not required to carry it.

The requirements for environmental coverage are rapidly increasing. Chances are, by having this type of policy in place before bidding on a contract that requires it, your insureds will already be ahead of the competition.

But I sub out most of my work.

Contractors Pollution Liability policies typically cover work performed by or on behalf of the insured. So if subcontractors cause a pollution condition to occur and they aren't carrying the coverage themselves, it's going to come back to your insured to handle.

It's probably too expensive.

Premiums for CPL policies typically start around \$2,500 for a one million dollar limit of liability. Pricing is based on projected revenues, scope of work, and any required enhancements, like mold coverage for example. Mold continues to be a hot topic from a legal standpoint—having coverage for defense costs alone may be worth buying a pollution policy.

The chances of something happening with my company are so slim. I don't think it's worth the money.

Coverage could also include work performed by subcontractors, cost of defense in the event of a lawsuit, and third party bodily injury and property damage. Also, jobs that are already completed could be covered. When considering the low cost of a CPL policy, the price is small compared to the potentially costly problems faced by those who choose to self-insure.

Application

To obtain an application, please click [here](#). It is critical that the following items are submitted along with the application:

- All sections of application completed, signed and dated.
- Financial statements covering the most recent two years.
- Three years currently valued loss runs, or no loss letter on Insured letterhead.
- Copies of all training certificates, licenses, etc.
- Statement of Qualifications
- Employee Safety Manual

For more information, please contact us at 1-800-596-2156 or send us an [email](#).

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