

Environmental Liabilities Facing the Construction Industry

Uncover your environmental liabilities and exposures

The risks within the construction sector are becoming increasingly complex, placing a greater emphasis on environmental accountability, liability for directors/officers, and managing new regulations. Integrated and comprehensive environmental insurance coverage is a fundamental component of a strong risk management program. However, traditional insurance policies have limitations and exclusions that restrict coverage for various environmental liabilities or impacts to the natural environment which exposes companies to financial and reputational losses.

Aon's Environmental Services Group specializes in identifying and assessing the key environmental exposures organizations face in their day-to-day operations, historical exposures, and special projects.

Identifying the gaps

Historically, insurance programs were not designed to capture environmental risks and exposures. Therefore, many insuring agreements lack specific environmental terminology and affirmative coverage for pollutants, and contaminants may be limited or even excluded. Notable environmental coverage enhancements and affirmations include:

- Coverage for natural resource damage within the definition of "property damage"
- Coverage for first-party remediation costs to soil and water, on-site or off-site
- Coverage for emergency response costs incurred to respond to the release of a pollutant or contaminant
- Coverage for transportation and transported cargo related to environmental incidents
- Coverage for liability arising from waste streams via non-owned disposal sites coverage

Customizing solutions

Construction firms are surrounded by environmental exposures in their operations, work sites, material storage, and waste disposal practices that could compromise their reputation and revenue. Environmental coverage can be imperative in situations including but not limited to:

- Third-party liability from bodily injury and property damage (including diminution of value, loss of use, and natural resource damage)
- Business interruption due to an environmental incident (including extra expenses, loss in revenue, loss in rental income, delay in construction, and delay in start-up)
- Remediation or cleanup costs for on-site/off-site environmental damage
- Punitive damages
- Fines and penalties imposed by government orders
- Defense costs

Managing risk

Aon's Environmental Services Group is constantly managing new risks, evolving regulations, and working with unique projects for our clients. Our team can help mitigate further damage and take preventative action in situations such as:

- Contamination from historical usage of properties, i.e. legacy issues from improperly maintained PCB-containing equipment and transformers
- Inadvertent disturbance of pre-existing contamination affecting soil, groundwater, and structures (e.g. asbestos-containing materials and lead paint in old structures)
- Failure to properly locate pipelines, underground storage tanks, and utilities prior to excavating causing ruptures and spills
- Pass through contamination from adjacent industrial areas
- Leaks and spills from storage of large quantities of acids, bases, solvents, diesel fuel, lubricant oils, etc. into soil and groundwater

Environmental loss scenarios

The following examples demonstrate some of the ways in which construction companies may experience environmental losses:

Loss example no. 1

A construction manager was hired to build a new wing onto an existing high school. An environmental watchdog group alleged that pollutants including sediment, sand, silt, and colloidal material resulting from the high school expansion project were discharged into a nearby estuary. The pollutants created sediment islands, causing excessive silting in pipes and obstructing dredging channels. It was claimed that the damages were due to a failure to follow and implement the project specific erosion and sedimentation control plan. The Insured submitted the claim to their general liability carrier where it was denied based on the total pollution exclusion.

Loss example no. 2

A general contractor was hired to construct a senior living community that included two residential towers, a care center, and parking garage. Upon project completion, excessive moisture and mould

growth were discovered in the care center. The moisture and mould problems were severe enough that occupants of the care center had to be relocated. The situation was remediated and the care center was reconstructed under a multi-billion dollar charge order. Water infiltration was initially believed to have come from a defective pipe penetration created by the mechanical contractor. The owner filed suit alleging over CAD 50 M in damage relating to the project delay, project defects, and mould.

Loss example no. 3

A street and road contractor was preparing to lay asphalt down for a newly built hospital parking lot. As they graded the site, the contractor unknowingly ruptured the underground fuel line running into the hospital. The leak went undetected for a couple of days allowing the product to build up under the foundation. Clean-up costs for the site were estimated to be between CAD 5 M and CAD 23M.

We're here to empower results

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The Aon difference

- Largest dedicated team of environmental insurance brokerage professionals and claims advocacy in Canada
- Broad service offering including: environmental liability, focused contract management consulting, and environmental risk identification and assessment
- Innovators within the marketplace
- Leading market share in environmental liability insurance placements from within a single practice group