

Environmental Insurance Coverage Evaluator

Prepared for:
Your Insured

On behalf of
Your Insured

By



March 21, 2016

©2015 UCPM, Inc.

Form Issues	Status	Description
Non-Owned Disposal Site (NODS) Coverage	Not Covered	Environmental laws make you responsible for your potentially hazardous waste even after it has been properly disposed of at an approved facility. If a disposal site has environmental problems, the EPA or other regulators will review the manifest and can require the originators of the waste to pay for a portion of the cleanup. CPL policies can provide coverage for hazardous waste you dispose of at a site that is properly permitted for treatment, storage or disposal of such waste. Sometimes NODS coverage is granted, but the carrier stipulates that the waste must originate from an insured job site. Such a requirement eliminates coverage for waste that originates from your own location. <i>Note:</i> this coverage is often written on a claims made basis.
First-Party Transportation Coverage	No	Basic CPL coverage applies to job site pollution liability, but a contractor can also face liability for pollutants that are transported to or from a job site by their own trucks or trailers. Coverage can be specifically added to address the exposure associated with pollutants being transported to or from a job site by your company. <i>Note:</i> this coverage can be written on a claims made basis.
Blanket Additional Insured - Ongoing Ops	No	Project owners may require that your insurance include them as an additional insured. Some AI endorsements are only applicable when the work has been completed and put to its intended use, while other forms include ongoing and “in progress” work. Here we have analyzed for wording that includes ongoing operations additional insured language.
Blanket Primary & Non-Contributory	No	A claim may arise that could be covered by both your insurance and the project owner’s. To address such a scenario, some project owners may require that your insurance is designated as “primary and non-contributory.” This means that your insurance will be the first to pay and the only to pay until the available limits are exhausted. Only then would the owner’s insurance respond to the claim. This concession by your carrier can be granted on a “blanket” basis for any projects where primary & non-contributory wording is required by written contract.
Defense Expense	Inside the Limits	The cost of defending a contractor in a pollution liability lawsuit can be significant. With some policies, the money spent on defense will reduce the amount available to pay any eventual settlement or judgment. This is referred to as defense “inside the limit”. Other policies may state that defense expense doesn’t reduce the limit available to pay a settlement or judgment (outside the limit). Other policies may state that a separate/additional limit is available in addition to the policy limits.

Blanket Additional Insured - Completed Ops	No	Project owners may require that your insurance include them as an additional insured. Some AI endorsements are only applicable when the work has been completed and put to its intended use while other forms include ongoing and “in progress” work. Here we have analyzed for wording that includes completed operations additional insured language.
Definition Of “Pollution Conditions” Includes Illicit Abandonment	No	Illicit abandonment is the illegal dumping of pollutants on your property or job site. This is typically done by someone looking to avoid the high costs of hazardous material disposal, but it can become your burden if law enforcement cannot find the originator of the waste. It becomes a pollution insurance issue because “pollution conditions” have historically been defined using motion words such as dispersal, escape, release, migration or seepage because carriers had to clarify that properly contained pollutants didn’t constitute a “pollution condition.” It creates a problem in the case of illicit abandonment because the pollutants are often contained in drums or tanks of some kind and therefore don’t have the requisite motion. Some carriers have specifically added illicit abandonment to the definition of “pollution conditions” to address this issue.
Definition of “Pollution Conditions” Includes Silt and Sedimentation	No	Courts have been split on whether silt and sedimentation fit the standard insurance definition of “pollutants” because they are just dirt. Still, silt and sedimentation have potential for ecological damage when they impact the natural balance of a body of water and contractors can be liable for those consequences. To gain potential coverage for such instances, the definition of “pollution conditions” or “pollutants” needs to include silt and sedimentation.
Your Owned or Leased Locations (Premises Liability)	Excluded	CPL coverage is designed to protect contractors from pollution claims arising out of their work performed at a job site. Generally, it is not designed to address environmental risk associated with a contractors own yard or office space. Because contractors may also have environmental exposure associated with their yard or warehouse, some carriers can provide limited coverage for pollution conditions at your own location. While broader coverage may be available on a stand-alone premises pollution policy, a limited premises coverage endorsement can be a cost effective way to insure against a required cleanup at your property. Even if the carrier can provide limited premises coverage with the CPL, it will only apply to pollution conditions that commence after the applicable retroactive date - meaning new conditions only. It may also be limited to cleanup costs only and only those conditions that originate on your property, may be limited to sudden and accidental situations, and is often written on a claims made basis.