

Pollution Liability in Your Facility

Many chemicals used in common daily practices may be considered pollutants, if used, stored, or disposed improperly. Certain companies face a greater risk of environmental liability than others, based on their business type and daily practices. Your company faces a significant pollution liability if you:

- *Store hazardous material or waste:* Soil and groundwater impact can occur on your property as well as migration onto adjacent properties. Employee exposure can also be considered a significant risk with in-house hazardous material use and storage.
- *Hire another company to transport or dispose of hazardous materials or waste:* If your company contracts with a transporter, storage or disposal facility, you may be held liable in the event of a release.
- *Acquire real estate:* In the event of a property purchase or company merger, you become liable for pre-existing environmental contamination issues.

If your company falls into any of these categories, it is beneficial to have a coordinated program to handle exposure to environmental risk. If you haven't already addressed your environmental risk, consider the following options:

Step 1: Appoint an environmental compliance manager. This person has the responsibility of developing, overseeing and ensuring compliance with your company's environmental risk program.

Step 2: Assess your industry and company. The compliance manager may start by comparing your company's compliance program to others in the industry. Next, he should develop written assessment forms for each plant or location to help determine the environmental effects of their operations. Written assessments can also point out areas of weakness or non-compliance with applicable laws.

Step 3: Take mitigation action; some of the specific areas to check include:

- Pollutants – Check your facility for the use and/or existence of oil or hazardous materials. Some problem areas include storage tanks, drums, dumpsters, asbestos-containing materials, lead paints, manufacturing waste, septic waste and drainage systems. Test tanks for leaks and check equipment and operations to ensure that pollutants aren't released during manufacturing or handling.
- Plan for Disaster – Be sure to keep all documentation on file for materials used in your facility. Keep any necessary spill control equipment in areas of potential releases. Know whom to call in the event of a minor spill or environmental emergency. If you hire a contractor to deliver, handle or transport any oil or hazardous material at your facility, be sure they are qualified and insured to do so.
- Real Estate – When buying property, be very cautious of environmental contamination; in most cases the purchaser or current owner is responsible for environmental contamination.

Step 4: Develop a manual. This should include overviews of applicable federal, state and local regulations as they apply to you, an outline of management responsibilities, and checklists for each operation. Every employee who has an environmental oversight responsibility should receive a copy and be familiar with the program.

Step 5: Audit departments and facilities regularly. Internal or independent auditing groups should perform regular inspections of your environmental management program. A rating system may be implemented to monitor different departments and incentives can be used to keep the program on track.

Step 6: Evaluate your insurance program. Most commercial insurance policies exclude coverage for environmental losses. However, you can obtain pollution liability or environmental impairment liability coverage from specialty insurers.