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INSURANCE FINANCIAL

Pollution Insurance Is Not One Size Fits All

Compared to other key insurance policies that protect your company like Property and Automobile insurance, Pollution policies are relative newcomers to the insurance marketplace. Many insurance buyers do not yet fully understand the critical protection they provide or how one policy can differ significantly from another. These differences can affect your company's ability to survive a pollution spill or escape.

Let me preface my next comments by saying; protection historically afforded incorporated entities (corporate veil) does not hold for liability arising from the escape of pollutants. Polluter pay legislation will not stop at Ltd. or Inc., but will take whatever corporate and personal monies, resources and capital to fully remediate a spill or escape up to and including personal wealth of directors and officers.

What are Pollutants?

Are pollutants only noxious chemicals like petrochemicals, acids and contaminated water?



Milk truck overturns releasing dairy product into a city drain system. The milk is considered a pollutant when it hits the ground.

Chlorinated water released into a water course has chlorine in levels not naturally occurring in nature resulting in damage to the ecosystem.

Pollutants or contaminants are substances that escape confinement resulting in them being where they should not be.

Pollution protection is not off-the-shelf

Purchasing a pollution policy does not automatically afford you and your organization the protection you hope to have. Like a fine suit, a pollution policy must be tailored to fit you.

Sudden & Accidental vs. Gradual

For instance, some policies afford coverage if the escape is sudden rather than gradual, giving you a finite and short period to discover and report the escape. If you miss the deadline, you will have to find another way to fund remediation.

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Fines & Penalties

Defending your company in the face of a spill is paid for with 'defence costs', but what if you have fines and penalties levied against you. What if your company receives an order to pay punitive costs?

There are a number of provincial and federal legislative bodies who can be run afoul of from the Dangerous Goods Transportation & Handling act to the Environmental Protection Act. Doing everything right doesn't always give you a pass.

Pay on Behalf of or Reimbursement

Did you ever think your company's liquidity would be a factor in surviving a covered loss? Some pollution policies will reimburse you after you pay the claim out of your own pocket. Are you liquid enough to pay a large remediation bill and wait to be reimbursed?

Protecting your Premises

If your company handles potential pollutants in volume like machine oils, paints or other chemicals, protecting your organization from a spill or escape is critical. Why? Legislation has evolved to a 'polluter pay' model rather than allowing it to be swept under the carpet as we have seen historically.

If a pollutant can escape your premises, you are vulnerable to actions from other (third) parties including government bodies empowered by legislation; Alberta Environmental Protection and Enhancement Act.

Pollutants that cannot escape your premises pose different challenges, probably most problematic is the eventual sale of your business or property. As a liability against your organization, historical spills will need to be remediated prior to sale or the liability transferred to the buyer reducing the value of the sale. Spills and escapes left for periods of time before remediation will migrate meaning the scope and cost to remediate only increases with time.

Triggers

Most pollution policies will only respond with a third party 'trigger' meaning a claim needs to be brought by someone outside of your company who is impacted by a spill or escape. Without a third party bringing action for a spill at your premises, your pollution policy will not respond. So what? Banks will not finance land transactions without environmental assessments. No trigger, no claim, no remediation, no sale.

Ensuring that coverage has been enhanced with a 1st party trigger is critical when obtaining Premises Pollution coverage.

Pollution insurance is complex and evolving. If you want to ensure you are protected, reach out to the Thor team for a policy review.