POLLUTION COVERAGE FOR JOB SITE ACTIVITIES
Contractors pollution liability (CPL) coverage provides coverage for pollution claims arising from the job site activities of the contractor or its subcontractors. As the following case studies and graphs illustrate, pollution coverage is vital to a number of job activities.

Equipment Damages Pipeline
An insured was hired to work on a water pipeline project. During construction equipment struck another pipeline for methanol transpiration. Years passed, and a leak was discovered. The claim alleged that the leak began as a result of the piece of equipment striking the pipeline. A suit was filed for clean-up costs, which topped $4 million, $1 million of which was covered by the insured’s policy.

Leaking Pipe Leads to Significant Damages
A leak was discovered after completion of services on a wastewater treatment facility for a food processing plant. The leak was fixed, but less than a year later the leaking pipe had to be uncovered because of more leaks. Uncovering the pipe resulted in a dirt wall collapsing, which then broke an adjacent pipe, releasing 400,000 gallons of sewage. A pipe corrosion expert assisted in the defense, which ultimately lowered the paid indemnity amount. The expert witness helped the insured maintain some policy limits on a suit that could have exceeded their limits.

Aquifer Membrane Compromised
An insured provided services on a diesel fueling facility located above an aquifer. The aquifer required special protection during construction because it was the sole water source for more than 500,000 residents. During construction one of the membranes protecting the aquifer was penetrated; extensive remediation was needed. The contract between the insured and client was a client-generated contract that contained broad provisions beyond the scope of coverage. More than $4 million was paid on behalf of the insured.

Importance of Having Proper Coverage
A key component of any risk management program includes proper pollution liability coverage. Your coverage should include:

- Coverage for pollution claims, including costs for government mandated clean-up
- Coverage for pollution incidents created by the loading or unloading of automobiles
- Coverage for clean-up costs resulting from work on a job site

### Pollution Liability Construction Exposure Matrix

<table>
<thead>
<tr>
<th>Activity</th>
<th>Risk Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Releases of fuel, oil, or lubricant from mobile equipment</td>
<td>High</td>
</tr>
<tr>
<td>Impact with transformers, storage tanks, pipelines, or other utilities</td>
<td>High</td>
</tr>
<tr>
<td>Spills of solvents, sealants, or other chemicals</td>
<td>High</td>
</tr>
<tr>
<td>Existing onsite contamination</td>
<td>High</td>
</tr>
<tr>
<td>Disturbing existing materials containing asbestos or lead</td>
<td>High</td>
</tr>
<tr>
<td>Fumes from solvents, sealants, other chemicals, or building materials</td>
<td>High</td>
</tr>
<tr>
<td>Transport and disposal of unknown contaminated soil</td>
<td>High</td>
</tr>
</tbody>
</table>

Based on claim severity rates

Low Risk ↔ High Risk
Claims related to pollution liability can be costly. This chart shows the average severity rates by claim type for pollution liability claims. While some claims may be inevitable, there are ways to help reduce the possibilities of claims. Firms need to incorporate risk management techniques into their everyday business functions to ensure that safety procedures and risk management practices are adhered to by all staff.

Hazardous Environmental Conditions
If the contractor is not engaged to perform services related to hazardous environmental conditions, contract language should explicitly exclude such services and exposures. The CNA policy does not exclude asbestos, lead, or EIFS exposures.

Indemnification
Indemnification provisions allocate risk and liability among parties. In the context of construction contracts, each party should be willing to be responsible for losses and claims arising out of its construction activities.

Review Safety Procedures
As part of any internal training, review any Occupational Safety and Health Administration (OSHA) safety procedures for the type of site or project that is under construction. Also, all potentially new equipment drivers should have their driving records thoroughly checked before being hired. After being hired new drivers should ride with an experienced company driver who will observe acceptable driving behaviors and procedures. The new driver should then be required to complete a road test with an experienced company driver.

Vicarious Liability
A prime contractor is responsible for the actions, including negligence, of those providing services through the prime. Care should be taken to select subcontractors and consultants who are qualified to provide their services, who are insured or otherwise have the financial strength to stand behind their contractual commitments, and who do not attempt to shift risk to the prime by unreasonably limiting their liability to the prime or a third party through their contract with the prime contractor.

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