



# ENVIRONMENTAL INSURANCE AND THE HOTEL, LEISURE AND HOSPITALITY INDUSTRY

The hotel, leisure and hospitality industry is not generally associated with major environmental risks. However, loss trends demonstrate that the industry faces a number of environmental exposures and related liabilities that are typically excluded under General Liability and Property insurance programs.

For example, many brownfield sites are being redeveloped by the hotel, leisure and hospitality industry, and many of these sites have been contaminated as a result of past industrial uses. The most pressing concern is the potential for bodily injury claims from hotel guests or retail tenants in a hotel or leisure facility.

What can be done? The answer is a comprehensive environmental risk management plan and risk financing strategy. But first, hotel, leisure and hospitality industry facility owners and operators must understand the exposures they face.

## KEY HOTEL, LEISURE AND HOSPITALITY EXPOSURES

### INDOOR AIR QUALITY

Air can be contaminated by mold, fungi, viruses and other microbial matter such as Legionella. Pollutants can become inadvertently introduced to HVAC systems (e.g., as a result of construction or refurbishment operations) and then spread through facilities. Many facilities include swimming pools or water parks that produce the humid conditions that can foster mold problems.

### LEAD AND ASBESTOS RISKS

Many older facilities may contain lead paint or asbestos in any number of places. Risks include bodily injury claims from hotel guests.

### STORAGE OF HAZARDOUS MATERIALS

Aboveground and underground storage tanks are frequently used at hotel, leisure and hospitality facilities to store materials, such as fuels, heating oil, lubricants for machinery, and chlorine or other additives for pools and water facilities. In addition, smaller volumes of materials, such as pesticides/herbicides and cleaning agents, are often used and stored on-site.

### POTENTIALLY HAZARDOUS OPERATIONS

Dry cleaners, laundry operations, photograph development centers, convenience stores with gas stations, marinas, golf courses and other resort facilities and businesses use and store significant quantities of hazardous chemicals.



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## CONSTRUCTION AND PROPERTY ACQUISITION

Renovations are sometimes performed in one part of a facility while other sections remain operational, which increases the risk of spreading contaminants. Actions to remediate or remove contaminants can significantly impact the ability to conduct operations and can result in significant business interruption expenses. In construction of new facilities on newly acquired property, past uses of the property can be a significant risk consideration.

The potential consequences can include:

- **Direct losses.** Legal defense costs add up quickly; so can unexpected cleanup expenses and damage payments to third parties.
- **Indirect losses.** Pollution events can trigger a variety of consequential losses; for example, contamination can render facilities unusable, causing business interruption losses, loss in rental income and costs associated with relocation.
- **Property devaluation.** Environmental liabilities can dramatically impact the overall value of large asset holdings or the transferability of individual assets.

## REAL SOLUTIONS

Environmental insurance policies are readily available to address the risk exposures faced by the hotel, leisure and hospitality industry. It is important to evaluate existing insurance programs, paying particular attention to pollution exclusions in General Liability and Property programs, and then consider the use of Environmental insurance policies to address any coverage gaps. Site-specific Pollution Liability policies routinely provide coverage for:

- All primary and ancillary facilities – sometimes without the need to schedule individual locations
- On-site cleanup of new and preexisting pollution conditions
- Business interruption resulting from pollution conditions
- Both sudden and gradual pollution conditions
- Third-party claims for bodily injury, property damage and cleanup costs arising from on-site or off-site pollution conditions
- Defense of third-party claims up to the limit of the policy
- Transportation and non-owned disposal sites (NODS)
- Mold and microbial matter, including Legionella

In addition to routinely available coverage, customized programs are often attainable. Careful insurance buyers, working with knowledgeable professionals, are increasingly able to negotiate significant coverage enhancements that address their facility's individual history, operational risks and liability concerns.

## AN EXPENSIVE EXAMPLE

A global hotel operator faced over \$1,800,000 in compensatory damages to guests after a hotel was demonstrated to be contaminated by mold and the guests filed suit. The hotel operator estimated that the remediation and business interruption costs would exceed \$50 million.

## CONTACT

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