

## Common Endorsements Whitepaper

These five insurance terms impact your policy and your wallet.

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As an environmental contractor or consultant, insurance gives you the ability to bid on contracts to grow your business. Without the correct limits, or complete coverage, you may not be awarded the contract. But, you could be giving them more than the contract requires, potentially exposing yourself.

Your General Liability policy covers Bodily Injury and Property Damage to others. Your Pollution Liability policy covers environmental damage. Your Professional Liability (Errors and Omissions) policy covers financial loss due to your opinion. In the environmental insurance industry, combining these coverages is referred to as a package. Other insurance markets would refer to these individually as monoline policies.

There are many benefits to a package policy including cost savings. Every insurance policy starts with the main policy, usually referred to as the policy form or standard form. From there, endorsements or changes are added to the policy to modify that original form. Some policies have three endorsements, some have 30; all depending on the insurance company.

Below are insurance terms that are available as endorsements. Some of these are built into the policy form. These changes affect you and your company. Knowing what they are will change the way you look at what your premium is going toward.

**Additional Insured** (Scheduled or Blanket; Ongoing Operations, Completed Operations, or Both): Your company is the Named Insured or First Named Insured. The options for Additional Insured status are: Ongoing, during the course of your work; Completed, after the project has been completed; or, both Ongoing and Completed. If you have a Blanket Additional Insured endorsement, any other entity that is requiring by contract to be one, can be an Additional Insured. If you do not have a contract with them, you can schedule them on an individual basis. The Additional Insured status forwards most rights and privileges of your policy to that person or entity. If your act or omission causes damage where the Additional Insured gets sued, your insurance will defend the Additional Insured in addition to you. As an example: You are consulting on a project where your extension cord spans a public walkway. A passerby trips, gets injured and not knowing who you are sues the building owner and property manager. Because they had a contract with you as an Additional Insured with Ongoing Operations, your insurance would defend them. **Why this matters:** Insurance is purchased to transfer the

risk of loss. When working on a job, there are many entities that are susceptible to loss due to your negligence. They protect themselves by being named as an Additional Insured on your policy. In the example above, if the building owner or property manager were mere certificate holders (in possession of your certificate of insurance), they would not be extended coverage by your insurance company. In the same scenario, if the building owner and property manager were named as an Additional Insured, but only in respect to your completed operations, they would be in the same bad scenario as the project was not yet completed. You would then have two suits against you, one from the building owner and property manager, and one from the passerby (as the building owner and property manager will be quick to let them know who you are). Not appropriately giving Additional Insured status for your jobs may lead to multiple suits from the same job. **How to get it:** Blanket Additional Insured is usually standard on environmental package policies and is activated when you have a contract requiring that status. If you don't have a contract or your policy does not automatically include it, ask your broker. You can purchase it on a scheduled basis.

**Waiver of Subrogation** (Scheduled or Blanket): Also known as transfer of rights of recovery, this means that the insurance company will relinquish the right to collect from another party for damages paid on behalf of you, their insured. As an example: If during the course of your work as a contracted subcontractor, you are instructed by the General Contractor to perform a task that leads to a claim, your insurance cannot go after the General Contractor. **Why this matters:** Insurance is purchased to protect the policyholder, unless a contract requires it protect others or you schedule it to protect others. The insurance company wants to be able to collect from whoever is truly liable. A Waiver of Subrogation prevents them from doing that. From the example above: Your insurance company will not go after the General Contractor who caused the damage. Your loss history would reflect the total cost of the suit. If the suit was substantial, the insurance company may cancel your policy, making you potentially uninsurable. But, if the insurance company could subrogate, your loss history will only reflect the cost of defense and other incurred expenses, thus making your company's loss ratio lower. This will allow you to continue coverage at a premium reflective of your loss ratio. The lower your loss ratio, the lower your premium. **How to get it:** There are two options, blanket and

scheduled. Blanket Waiver of Subrogation is standard on most package policies and is activated when you have a contract. If you don't have a contract or your policy does not automatically include it, ask your broker. You can purchase it on a scheduled basis. Just make sure you identify on every certificate of insurance whether or not you want to offer the waiver. If the contract does not ask for it, do not give it away.

**Pollution Exclusion** (built into the policy or by endorsement): Pollution is excluded on every commercial General Liability Policy. Pollution can be purchased separately, but on environmental package policies it is "put back" within the same form or by endorsement. Pollution Liability for environmental contractors is quite simple, you ask your agent for Contractor's Pollution Liability coverage. This will cover Bodily Injury and Property Damage caused by a pollutant. Consultants though are slightly more complicated. As a standard, coverage for your errors and omissions resulting in pollution damage covers third party financial loss. Pollution coverage for Bodily Injury and Property Damage caused by a pollutant must be "put back" in at least two different ways. The first and broadest is by adding Contractor's Pollution Liability, even though you may not have any contracting operations. The second is by adding Pollution coverage to the Professional Liability portion of your policy. **Why this matters:** All environmental professionals need pollution insurance, the core of environmental insurance. The way the policy excludes different exposures can mean the difference between a law suit bankrupting you or having the insurance to cover you. **How to get it:** Always ask your agent for the broadest coverage offered by their respected insurance companies. Even if you have no contracting operations, request Contractor's Pollution Liability. There is a negligible cost associated with it.

**Hired and Non-Owned Auto Liability** (as a part of the environmental package): This coverage is excellent for environmental consultants and contractors who personally own their vehicle and don't have a commercial auto policy. Usually for \$250 a year, you can add \$1M of liability coverage that will cover any Bodily Injury and Property Damage to others, above your personal lines auto policy. But, if you do have a commercial auto policy, don't pay the \$250 to get it on the environmental package. Purchase the coverage on your commercial auto policy. **Why this works:** Non-Owned Auto coverage covers autos your company does not own. Since you personally own your vehicle and are using it for business purposes, the policy considers it Non-Owned. **Why you need this:** Your personal auto policy does not exclude pollution coverage, but most consultants don't carry over \$500,000 limits. The small investment gets you much more. Also, for contracts requiring \$1M in auto liability coverage, this will meet their needs. **How to get it:** Ask your agent. There is usually only one option, to get it or not.

**Per Project Aggregate** (PPA; Sometimes offered as a Per Location Aggregate; Scheduled or Blanket): Every commercial insurance policy has an occurrence limit and an aggregate limit. For this example we'll use \$1M occurrence and \$1M aggregate. \$1M is your limit per occurrence (or claim) and \$1M is the total the policy will pay. If you were to have one \$500,000 claim, this would reduce your aggregate by \$500,000 for the policy period. If you were to then have a \$1M claim that same policy period, your aggregate had been reduced to \$500,000, so the policy will only pay \$500,000 for that \$1M loss. **Why they are asking:** More and more contracts for environmental contractors and consultants are requesting a PPA. They don't want a piece of the pie; they want the whole pie, every project. This means every project (from the example above) would receive a separate \$1M aggregate. If you had 60 contracts during a policy period, the insurance company could potentially be on the hook for \$60M. **How to get it:** There are two options, scheduled and blanket. Scheduled is the most cost effective. You tell your agent the project, location, duration and estimated revenue, and they will calculate a cost. Blanket covers all projects, is negotiated at the inception of the policy, and stays in effect the whole policy term. **What to watch for:** In an attempt for insurance companies to meet their insured's contract requirements but also limit their liability, they have implemented stop-loss amounts to this coverage. On a Blanket PPA, using the example above and the stop-loss limit of \$10M, you would be covered at \$1M each for the first 10 claims. This limited Blanket PPA coverage should come at a discount to the traditional unlimited Blanket PPA.

There are currently over a dozen reputable insurance companies in the environmental insurance industry. Speak with your agent about your concerns and how your coverage affects you and your clients.

Need a second opinion? Legends Environmental Insurance Services, LLC has been in business since 1973 and has been serving the environmental industry since 1986. Legends is a brokerage that provides coverage for businesses with any type of environmental exposure. We are comprised of professionals with experience in risk management and commercial insurance and have the knowledge to make you a better insured. We are licensed in all 50 states and are available at [www.legends-enviro.com](http://www.legends-enviro.com) and 800-992-6999 x299. Fred Baron is the Business Development Manager and is looking forward to hearing from you.

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