

Environmental Insurance Basics for the Aviation Industry

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Environmental Risk for Aviation Industry

This presentation will look to answer the following questions:

- Do airport operations/operators have significant environmental exposures?
- What are the most prevalent environmental exposures associated with aviation industry?
- Is there any protection for environmental risk in liability insurance policies?

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Managing Environmental Risks

- Is the severity of your environmental risk exposure accurately understood?
- Is it properly accounted for?
- What types of risk management plans are in place?
- How has the risk/liability/hazard changed?
- What are your predictions for the future?

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Airport Operations

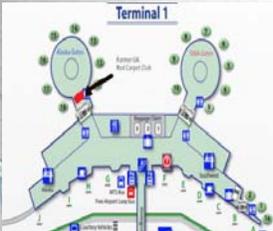
Airports are engaged in a wide variety of activities that involve many environmental risk:

- Fueling and Fuel Storage
- Deicing
- Aircraft repair, painting, and maintenance
- Waste management
- Land Expansion/Development

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Airport Operations

From Terminal



To Tarmac



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Airport Operations

From Fuel Farm



To Fueling



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Airport Operations

From MaintenanceTo Construction



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Common Classes – Hangars



- Common Exposures:
- Tankage
- Aircraft Repair/Painting
- Indoor Air Quality – mold/legionella, vapor chemicals, heating/cooling systems
- Waste Disposal

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Common Classes - Fixed-Base Operators



- Common Exposures:
- Fueling
- Deicing
- Transportation
- Tankage
- Aircraft Repair/Maintenance

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Common Classes – Aircraft Part Manufacturing



- Common Exposures:
- Process/Chemical Used
 - Length at facility
 - Environmental Compliance History
 - Potential Receptors/Surrounding Uses

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Common Classes - Airports



- Airports Authority are usually ultimately responsible for all pollution conditions at airport and their impacts
- Historical coverage is especially challenging

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Common Classes - Airport



- Airports have done a better job of transferring risk to airport contractors via insurance and contracts

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Common Classes

- Aerial Applicators - Chemical Stored
- Helicopter Operations - Fuel Delivery to Offsite Locations
- Ambulatory Helipads
- Sports and Entertainment Travel Teams
- Seaplane operations
- Cargo loading/offloading
- Aircraft/Airport Janitorial Services

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Environmental Exclusions

- Specialized Airport Owners & Operators General Liability Policies have broad pollution exclusions which eliminate coverage
- This policy does not coverage claims directly or indirectly occasioned by, happening through or in consequence of
 - Noise
 - Pollution and contamination of any kind whatsoever

Unless caused by or resulting in a crash fire explosion or a recorded in-flight emergency causing abnormal aircraft operation

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Why are environmental claims so complicated?

- Severity
- Claims may arise from a perceived, rather than actual, exposure to pollutants
- Are often difficult to quantify because they arise from activities that were not performed by you (previous owner, tenant, operator) and/or many years in the past
- Advances in technology and changes in regulations can change the exposure to loss (LEED Buildings, MTBE,..)

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Costs Arising out of Environmental Events

- Remediation of soil, groundwater, surface water and structures contaminated by hazardous materials
- Natural resource damage claims
- Loss of use or rental income due to contamination of facilities
- Costs of claims for bodily injury from person exposed to hazardous substances
- Costs of claims for property damage due to releases of hazardous substances
- Costs of investigation and defense of third party claims
- Court costs for litigation arising out of third-party claims

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Costs Arising out of Environmental Events- MIA Fuel Tank Fire 2011



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Costs Arising out of Environmental Events

- First-party costs
 - Site Investigation and characterization
 - Remedial Investigation and feasibility study
 - Execution of cleanup including disposal of hazardous wastes
 - Verification of remediation effectiveness
 - Monitoring and reporting of results
 - Costs of oversight provided by regulatory agencies
 - Remedy failure and implementation of alternative technology

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Costs Arising out of Environmental Events

- First-party (cleanup) costs and losses may also include the following:
 - Loss of use and/or rental income of property during investigation and remediation of pollution conditions
 - Loss of reputation due to negative publicity associated with environmental events
 - Natural resource damage claims by federal, state, and tribal trustees



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Costs Arising out of Environmental Events

- Third-party environmental claims can involve the following categories of costs:
 - Costs of legal defense
 - Costs of investigation of claims and pollution conditions
 - Medical costs for treatment of bodily injury
 - Cleanup costs to remedy third-party property damage
 - Monitoring costs for soil and groundwater contamination as well as for persons exposed to hazardous conditions
 - Costs of litigation, including expert reports, depositions and testimony
 - Punitive damages for negative conduct



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Claims Discussion

- Examples of claims and costs:
 - Leaking aboveground fuel oil tank (depends on size) – \$50,000
 - Leaking underground gasoline storage tanks – Up to \$1,000,000
 - Gasoline tank that contaminates municipal drinking water well with MTBE - \$\$\$



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Claims Discussion

- Examples of Claims and costs:
 - In course of airport expansion construction workers punctured an underground fuel line
 - Sudden & Accidental release was immediately contained
 - Regulators increased scrutiny required additional investigation and remediation
 - Costs escalated to \$800,000

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Claims Discussions

- Events of claims and costs:
 - Air quality issues stemming from mold, uncontained sewage and vapor exposure from ethylene glycol release
 - Multiple bodily injury claims against due to unhealthy environment
 - Ultimate payments were \$2,000,000+ for defense and settlement

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Natural Disaster/Occurrences



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Claims Discussions

- An FBO with leased space at the airport experienced a fuel spill on its site. The spill was the result of a broken supply line for an above ground storage tank located on the property. One thousand gallons of fuel was released into ditches on both sides of a roadway adjacent to the property, as well a neighboring waterway. In all, approximately 500 gallons entered the river. The insurance paid \$1M in remediation cost associated with the spill. Approximately 150 tons of soil was excavated. In order to remediate the river, dredging had to occur and river sediment monitoring plan was implemented.

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Insuring Environmental Liability

- Commercial Insurance is available through specialty underwriters for costs associated with first-party and third-party environmental losses
 - Site-specific policies addresses risk associated with properties and facilities (Site Specific Pollution)
 - Contractors coverage for liability due to claims arising out or releases caused by construction or remediation activities (Contractors Pollution Liability)
 - Coverage for Tankage, including financial responsibility

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Insuring Environmental Liability

- Pollution Liability policies from environmental insurers include the following coverage:
 - 1st party losses for onsite cleanup and damage to property of others
 - Offsite cleanup of pollutants release from insured locations or from insured operations of the airport
 - 3rd party claims (including regulatory orders) due to bodily injury and property damage from onsite pollution or migration to offsite locations
 - Also 3rd party claims arising out of pollution caused by operations and activities of the insured

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Insuring Environmental Liability

- Pollution Liability policies from environmental insurers can also include the following coverages:
 - Emergency response costs
 - Natural resource damage claims
 - Business interruption caused by pollution conditions
 - Claims arising out of transportation of hazardous materials
 - Non-owned disposal site coverage for releases from sites where the insured sent waste materials
 - Defense Costs

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Insuring Environmental Liability

- Some environmental insurance carriers are still intimidated
- Aviation industry doesn't have the best environmental track record. However, significant progress has been made.
- Performance contracts/lease agreements are requiring more frequently the purchase of environmental insurance
- Environmental Insurance is used to facility real estate transactions, mergers and acquisitions

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Insuring Environmental Liability

- Its helpful from an underwriting, claims, and client relationship perspective when insurance carrier writes both aviation and environmental insurance
- Environmental underwriters with aviation knowledge make the underwriting process easier
- Environmental Insurance is **available** for the aviation industry
 - Risk associated with current and historic operations are significant
 - Costs are competitive for adequate limits to address risk

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Tankage

- Underground Storage Tank vs Aboveground Storage Tanks
- Underground Storage Tank – age is a significant factor for environmental carriers – drives insurability, deductible
- Important to establish early on with insurance carrier if the state requires financial responsibility – some carriers can't provide financial responsibility
- Most state only required financial responsibility for USTs – FL and TX required financial responsibility for USTs and ASTs

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Tankage

- Tankage, especially underground storage tanks need to be disclosed and endorsed onto the policy for coverage to apply. This includes coverage for tanks that have been removed or closed in place.
- The expectation is that underground storage tanks won't be removed or upgraded during the policy term
- Tanks coverage is just tank coverage

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Underwriting Information

Supplement Aviation Pollution Applications

- Airport name, length of runway, largest aircraft handled
- Deicing – fluid use, contained area, revenue associated with deicing
- Vehicles – number of vehicles, capacity, licensed for road use, average distance traveled
- Tankage, Use of fuel hydrant system
- Aircraft repair, maintenance, painting - process

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Underwriting Information

- Tank Tightness Test Results for Underground Storage Tanks
- Tank Integrity Test for Larger Aboveground Storage Tanks
- Phase I/II reports, if available
- Financial Statement



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Questions



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