

Environmental Risk Overview



Plant and Tree Nurseries

Nurseries face environmental exposures from a range of operations and materials used and stored at the site. Nurseries use chemicals such as fertilizers, herbicides, pesticides and other potentially hazardous materials. These materials are stored on the property and have the potential to be released into the environment. Improper application, management and storage of fertilizer and other chemicals can cause spills that may enter nearby storm drains that discharge into rivers, streams, lakes, or a wastewater treatment facility. Additional exposures may include leaks of fuel and fluids from powered equipment; the storage, use and disposal of hazardous materials; the generation of wastewater; and mold and bacteria exposures at the facility.

Environmental Exposures May Include

- Improper management of fertilizers, pesticides, herbicides, and other chemicals utilized at the nursery may result in releases that, if not properly contained, could migrate offsite and enter streets and off-site storm drains. In addition, misuse, overapplication or releases of fertilizers and other chemicals used at nurseries can leach into the soil and ultimately reach and contaminate groundwater.
- Illicit abandonment is the illegal dumping of pollutants on a property by a third-party. It can become the burden of the property owner for cleanup and third-party bodily injury or property damage if law enforcement cannot find the originator of the waste.
- Leaking of fluids, such as motor oil, hydraulic fluid, gasoline, or diesel fuel from vehicles and powered equipment being use at the nursery, can lead to contamination of the soil, groundwater, or surface water. Releases to surface water may cause damage to natural resources such as fish, wildlife, biota and air, and it may also negatively impact local drinking water sources.
- Improperly managed irrigation systems at the property can release contaminants directly into storm drains or drywells located on the site and lead to pollutants entering the local sewer system or drinking water sources.
- Cultivation activities at nurseries may reduce ground cover and compact the soil, leading to increased runoff and soil erosion. This can result in larger volumes of storm water runoff that are contaminated with silt and sediment. Improper erosion controls can allow run off of silt and sediment into water systems severely damaging water quality, adversely affecting channel stability and causing ecological damage that threatens wildlife and aquatic systems.
- Mold could develop from moisture intrusion due to storms and flooding or from leaking water pipes, sprinklers and HVAC systems. Many buildings are flat roofed where pooled water can be absorbed by the roofing material and seep into sub-roof areas. Mold can also develop within HVAC systems (air handling units, coils and ductwork), or from improper building ventilation or humidity management of climate-controlled storage.
- Improper application of fertilizers, herbicides and pesticides could result in pollutants entering the local sanitary sewer, potentially contaminating and ultimately cause damage to the wastewater treatment plant that receives the waste water.
- Fertilizers can also cause a great deal of harm to natural resources. Phosphorous is the main ingredient in synthetic fertilizers and can deplete oxygen supplies in lakes, rivers and streams and lead to the growth of toxic blue-green algae, which can harm aquatic life.
- Legionella is a bacterium that causes a form of potentially fatal pneumonia. Legionella can thrive in water containing systems like air conditioning, water heating and cooling, plumbing, misters and in water features. Poorly maintained systems and inadequate corrosion control or sanitation can result in Legionella growth and dispersal through mist and airborne droplets. Exposure can result in illness such as Legionnaires' disease, Pontiac Fever and can severely complicate existing respiratory diseases.
- The exposure of nurseries to weather elements creates a significant risk for storm water runoff to collect chemicals, oils, pesticides and silt and sediment. Stormwater encountering uncovered waste storage areas, including trash, debris and other solid waste, such as pallets and fertilizer, herbicide and pesticides containers, could also mobilize contaminants and enter nearby storm sewers, drywells, or surface waters. If storm water runoff is not properly controlled, contained and pre-treated prior to discharge into sanitary or storm drainage systems, it can pollute soil and groundwater or discharge directly into surface waters, which can impact human health and natural resources.
- Nurseries can generate wastes that they dispose of at non-owned disposal sites, including pesticides, fertilizers and automotive fluids from equipment used on the property. Pesticide waste can include rinse material from containers and spray equipment, left over spray solutions and excess pesticides. These wastes can be classified as hazardous and must be disposed of at facilities permitted to accept this material. Waste generators retain "cradle to grave" liability for their disposed wastes.

- Nurseries may use aboveground or underground storage tanks to fuel equipment onsite. Leaks from storage tank systems and releases during delivery or from fueling operations can contaminate soil and groundwater, and may enter storm drains damaging the local sanitary sewer or municipal and private drinking water systems in the areas surrounding the landfill.
- Recycled water may be used at a nursery site. This water could contain plant pathogens as well as bacteria and viruses, which can lead to the spread of diseases throughout the nursery. Improper use or failure to test and treat recycled water for sanitation and preventative control practices could lead to soil contamination and third-party liability.

Environmental Pollution Liability Can Provide Coverage For

- On/Off-site cleanup of new and preexisting pollution conditions
- Third party claims for cleanup costs
- Third party claims for bodily injury and property damage
- Both sudden and gradual pollution conditions
- First and third-party transportation liability
- Loading and unloading
- Defense costs for third party claims
- Non-Owned Disposal Sites
- Mold, bacteria, legionella and more
- Natural resource damage
- Silt and sedimentation
- Emergency response costs
- Civil fines and punitive damages where allowed by state law
- Business Interruption expenses
- Illicit abandonment
- Above and underground storage tanks

Claims Scenarios & Examples

- A landscaper sued a garden center for \$10 million in damages. The company alleged the garden center did not disclose that asbestos was included in debris the company hauled away. They landscaper started the process of removing the soils from the garden center and taking it to the different environmental dumps. It was discovered that the soil contained high levels of asbestos and the landscaper had to take it back. They were then banned from further business at those dumps.
- A commercial nursery used treated waste water as a fertilizer in a land application process. The wastewater was not tested prior to application. After several months of application, heavy metals and high counts of e-coli were found in the soils. The nursery was required to pay remediation costs in excess of \$265,000.
- Over a period of years, storm water from a commercial garden entered a nearby stream. Excessive algae and bacteria developed in the stream and the stream emptied into a nearby lake that caused riparian property owners to file claims that exceeded \$2,000,000 for property damage, loss of enjoyment, natural resource damages and perceived bodily injury.
- On a rainy morning, an interstate highway was closed due to a serious traffic accident involving a pickup truck owned by a local plant nursery and a truck-tractor hauling a gasoline tank semi-trailer (tanker). The pickup truck driver attempted to pass the tanker, lost control due to the wet conditions, and then cut in front of the tanker, causing both vehicles to veer off the road. Fortunately, no one was injured, but the accident caused the tanker to overturn and split open, releasing its cargo – the gasoline. In addition, the pickup truck's diesel fuel tank and oil pan ruptured, releasing both diesel fuel and motor oil into the environment. The state environmental authority issued a cleanup order to both the owner of the pickup truck and the owner of the tanker.
- Prior to selling his land, a property owner had their water well tested. Testing revealed that the well water contained petroleum hydrocarbons. The source of the contamination was determined to be an unknown underground storage tank that used to be used for heating the neighboring commercial gardens greenhouses. Other neighbors had their well water tested and contamination was discovered. Disposal of the tank, contaminated soil and groundwater cleanup, along with bodily injury and property damage claims submitted by the neighboring property owners exceeded \$3,000,000.

Final Consideration

Your property can be faced with the cost to defend itself against allegations or legal action from pollution related events, regardless if you are at fault or not. Having the proper insurance coverage in place will help fund the expenses incurred to investigate or defend against a claim or suit and provide you with environmental claims handling expertise.

This environmental risk overview has been developed by Environmental Risk Professionals on behalf of J. Loos & Associates. It is intended to provide the reader with a broad range of potential risks they may encounter and may not reflect all risks associated with their business. To verify available insurance coverage, please consult your insurance representative.

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