

FERMA - Survey on Environmental Liability Directive Report

Total answers: 43

27 January 2010

FERMA (Federation of European Risk Management Associations)

FERMA brings together the National Risk Management Associations of 18 countries to form the **Federation of European Risk Management Associations - FERMA**. It represents over 4800 individual members and a wide range of business sectors from manufacturing to financial services, charities, health organisations as well as local government organisations.

Mission Statement

FERMA exists to support its members by coordinating and enhancing awareness and effective use of risk management, insurance and risk financing in Europe.

Strategic Objectives

1. To coordinate, promote and support the development and application of risk management in Europe
2. To be recognized as a significant stakeholder in the decision making process at the European level on Risk Management and Insurance issues

2. Size of Operation

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		Response Percent	Response Count
Small (< 50 Persons express in annual work units and turnover is ≤ €10 million or Balance sheet total is ≤ €10 million)		2.6%	1
Medium (< 250 Persons express in annual work units and turnover is ≤ €50 million or Balance sheet total is ≤ €43 million)		7.7%	3
Large (Outside above criteria)		89.7%	35
<i>answered question</i>			39
<i>skipped question</i>			4

4. I am :

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		Response Percent	Response Count
OFFICER		29.0%	9
SENIOR MANAGER		74.2%	23
Show replies Other (please specify)			8
<i>answered question</i>			31
<i>skipped question</i>			12

ELD - Section A - INSURANCE AND OTHER FINANCIAL SECURITY AVAILABILITY

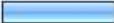




1. Generally, what financial security instruments are used by your organization to protect against environmental liability risk? [Create Chart](#) [Download](#)

		Response Percent	Response Count
Insurance		90.9%	30
Pool(s), including mutual or other direct contractual spreading mechanisms		3.0%	1
Alternative security instruments		15.2%	5
Government Provided Insurance or Financial Security Mechanisms		21.2%	7
	Show replies Other (Please describe)		6
	answered question		33
	skipped question		10

Others:

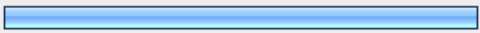
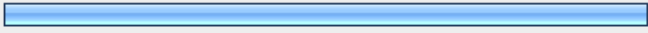
- Internal procedures
- It is part of internal auditing of specified business processes
- Cash
- Third party financial guarantees
- Reserves under the balance sheet
- Also largely self insured

2. If you selected Insurance, what kind of insurance have you selected to cover your environmental liabilities? [Create Chart](#) [Download](#)

		Response Percent	Response Count
Stand-alone operational risk environmental insurance policy that includes partial cover for Environmental Liability Directive (ELD) liabilities		10.3%	3
Stand-alone operational risk environmental insurance policy that includes complete cover for ELD liabilities		17.2%	5
Stand alone ELD-specific policy that offers partial coverage		17.2%	5
Stand alone ELD-specific policy that offers full coverage		6.9%	2
A policy that is part of, or an endorsement to, your General Third Party Liability (GTPL) policy and would cover ELD liabilities		79.3%	23
	Show replies Other (e.g., Captive, self-insurance, etc.) Please describe.		4
		answered question	29
		skipped question	14

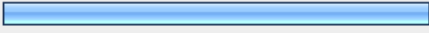
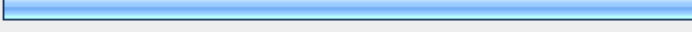
Others:

- Self insurance retention is also used with caps covered in the captives
- Self insurance
- Self-insurance, no clear analysis made yet
- Captive solution


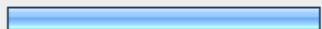
3. Have you taken actions to obtain insurance or other financial security instruments to specifically protect against potential risk under the ELD?		Create Chart	Download
		Response Percent	Response Count
Yes		42.4%	14
No		57.6%	19
	Show replies If yes, please describe		10
	<i>answered question</i>		33
	<i>skipped question</i>		10

If yes, please describe:

- Not yet, we are in the process of investigating needs and possibilities
- Risk assessment to be conducted by an external service provider in order to define exposures and tailor insurance solutions accordingly.
- Negotiations with insurers
- For many of our activities ELD is compulsory in several states
- We have considered to buy additional insurance but decided not to buy.
- Discussion with brokers and insurers
- Still gathering information for decision
- Checked with legal department and insurance companies what's necessary to comply to ELD
- Regularly contact with insurers but not yet convinced that insurers have a stable, good and long term solution.
- We have started to look at the opportunities

4. If not, do you regard that your potential liability under the ELD will be fully covered by your current insurance policy?		Create Chart	Download
		Response Percent	Response Count
Yes		38.1%	8
No		61.9%	13
	<i>answered question</i>		21
	<i>skipped question</i>		22

ELD - Section B - ACTUAL REMEDIATION OF ENVIRONMENTAL DAMAGES

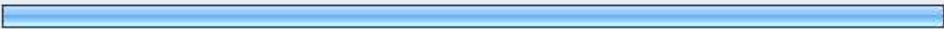

1. Do you know that the Environmental Liability Directive(ELD) has been transposed into the national laws of all Member States?		Create Chart	Download
		Response Percent	Response Count
Yes		72.7%	24
No		27.3%	9
Show replies If yes, how were you made aware of the ELD transposition?			18
<i>answered question</i>			33
<i>skipped question</i>			10

If yes, how were you made aware of the ELD transposition:

- Public available information, special insurance publications
- The press and specialized magazines
- Through local subsidiaries and through global broker
- Lawyers, brokers information, local legal audit
- Broker en lawyers
- Insurance Market events and publications, Spanish Risk Management Association (AGERS) Newsletters and forums, Specialized Publications.
- CEA information and the national association.
- Brokers and news
- By our legal department
- Information by press, insurers and brokers.
- Our legal department
- Publications; information by insurers and associations
- Different seminars and other information
- By info coming from law firms and insurance brokers
- Broker update
- At the Ferma and through our insurance broker
- Thru my organization's environmental dpt and sector's entities.
- Aside from Greece and Slovenia, by insurers



2. Are you aware of that the objective of the ELD is to prevent and remedy “environmental damage” (damage to protected species and habitats, damage to water and damage soil)?

[Create Chart](#) [Download](#)

		Response Percent	Response Count
Yes		84.8%	28
No		15.2%	5
<i>answered question</i>			33
<i>skipped question</i>			10



3. Do you know that the ELD subjects operators of certain activities listed in the ELD and covered by other environmental directives to strict liability for environmental damages and operators of other occupational activities to fault or negligence liability for environmental damages?

[Create Chart](#) [Download](#)







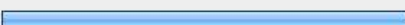



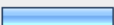
		Response Percent	Response Count
Yes		71.0%	22
No		29.0%	9
<i>answered question</i>			31
<i>skipped question</i>			12



4. Has your company begun to consider how the ELD might affect your company?

[Create Chart](#) [Download](#)

		Response Percent	Response Count
Yes		75.8%	25
No		24.2%	8
<i>answered question</i>			33
<i>skipped question</i>			10

5. The ELD applies strict liability for “environmental damage caused by any of the occupational activities listed in Annex III, and to any imminent threat of such damage occurring by reason of any of those activities”. Below are the relevant operations listed under Annex III of the ELD. Check all apply to your company. [Create Chart](#) [Download](#)

		Response Percent	Response Count
Operation of installations subject to permit		65.4%	17
Waste Management Operations		69.2%	18
All discharges into the inland surface water		57.7%	15
All discharges of substances into groundwater		34.6%	9
Discharge or injection of pollutants into surface water or groundwater		30.8%	8
Water abstraction and impoundment of water		42.3%	11
Manufacture, use, storage, processing, filling, release into the environment and onsite transport of (1) dangerous substances; (2) plant protection product; or (3) biocidal products		42.3%	11
Transport by road, rail, inland waterways, sea or air of dangerous goods or polluting goods		38.5%	10
The operation of installations subject to authorisation		50.0%	13
Any contained use, including transport, involving genetically modified micro-organisms		0.0%	0
Any deliberate release into the environment, transport and placing on the market of genetically modified organisms		7.7%	2
Transboundary shipment of waste within, into or out of the EU		11.5%	3
		answered question	26
		skipped question	17

6. What kinds of activities have been (or will be undertaken) by your company with respect to possible effects of the ELD on the above checked activities?		 Download
		Response Count
 Show replies		19
<i>answered question</i>		19
<i>skipped question</i>		24

Replies

- Preventive measurements as far as possible
- Internal audits
- Each country has an environmental coordinator. However, the need to coordinate matter at international level is needed. New function to be created
- As of now we are still investigating the impact.
- We already had loss prevention standards aimed at protecting the environment
- Minimizing packaging water treatment
- Environmental audits are conducted on the annual basis
- Risks of the constructor, sub constructor and lending activities
- Plants of Manufactured Wood, Plants of Furniture Production, plants of Clothes Production, maintenance supply requirements for Department Stores and Warehouses, perform a risk analysis.
- The company already had measures to prevent environmental hazards before this law
- Our Environmental Department is doing an inventory and a action plan
- Periodic check of fuel tanks for the auxiliary generators
- Internal responsibilities and regular checks/controls; external advise and consultants
- Adapt our installations to legal required standards
- Actions are permitted by local authorities already.
- Within normal business-activities
- Audit

7. Do you know of cases (your company or otherwise) that that have arisen under Member State legislation transposing the ELD into national law? [Create Chart](#) [Download](#)

		Response Percent	Response Count
Yes		6.1%	2
No		93.9%	31
<i>answered question</i>			33
<i>skipped question</i>			10

8. If you are aware of cases that may fall under the applicability of the ELD, please identify the following: [Download](#)

		Response Percent	Response Count
Show replies Which Member States in which the legal action has occurred;		100.0%	1
Show replies The environmental damages alleged; and		100.0%	1
Show replies The operations which allegedly caused the damage.		100.0%	1
<i>answered question</i>			1
<i>skipped question</i>			42

Reply: France and UK
 Biodiversity damage to land or water
 We have heard of three cases in the petro-chemical industry arising from pipeline rupture, discharge to a river and oil depot rupturing.