

# Coverage Insights

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## Contractors Pollution Liability Insurance

Contractors, no matter what industry they work in, face environmental risks stemming from operations on a daily basis. For most contractors, a single pollution incident or loss can seriously damage their reputation, operations and even their balance sheet. Making matters worse, pollution incidents can be sudden or occur gradually over time.

While many contractors assume that environmental claims will be covered under their commercial general liability (CGL) policy, the unfortunate reality is that most CGLs contain pollution exclusions that leave contractors uninsured in the event of a pollution incident.

Thankfully, contractors are increasingly turning to contractors pollution liability (CPL) insurance to ensure they have the right coverage in place to remain secure and profitable.

### CPL Coverage Basics

CPL policies provide contractor-based insurance for third-party coverage for bodily injury, property damage, defense, and cleanup as a result of sudden and gradual pollution incidents arising from contracting operations performed by or on behalf of the contractor. CPL insurance is intended to provide coverage to all types of contracting operations, including contractors who are involved in building construction and environmental firms that remediate polluted sites.

CPL policies are offered on either a claims-made or occurrence basis. What's more, CPL policies are nonstandard, meaning each policy is different and can be modified to cover the various needs of the contractor purchasing the policy. Policies can be offered on a project or blanket program basis.

In some instances, CPL policies can also be used to cover losses from civil fines, penalties and punitive damages.

### Covered Pollution Incidents

Contractors should keep in mind that CPL insurance policies differ in regard to the types of pollution incidents that are covered. Two important considerations when evaluating CPL insurance policies are:

- Whether or not the policy will respond to gradual releases of pollutants, as opposed to sudden and accidental releases
- The types of substances that are considered "pollutants" under the terms of the policy

Generally, policies that cover both gradual and sudden releases of pollutants provide contractors with a broader scope of coverage. In addition, policies that provide a broad definition of pollutants are considered superior to those that contain a narrow definition. Accordingly, it is important that contractors work with their broker to find a CPL policy that is tailored to their needs.

### CGL Pollution Exclusions

A primary reason why contractors obtain a CPL policy is due to the various pollution exclusions contained in most CGL policies. The pollution exclusions found in most CGL policies take one of two forms, either "absolute" or "total."

CGL policies with an absolute pollution exclusion remove coverage for most pollution events that would occur in the course of an insured's business operations. However, despite its name, an absolute pollution exclusion may preserve coverage for certain incidental pollution damages, products and completed operations liability, and certain off-premises work.

However, more commonly, CGL policies include a more restrictive "total pollution exclusion." This type of exclusion effectively removes coverage for any event the insurer characterizes as a pollution incident.

## **Contractual Requirements**

Contractual requirements serve as another motivating factor that lead many contractors to obtain a CPL policy. In many instances, project owners and general contractors will require contractors to obtain pollution insurance that meets certain, predetermined standards.

From this perspective, having a CPL insurance policy in place can serve as an upfront sales tool during the bidding process that enables contractors to qualify for opportunities when such coverage is required.

## **Finding the Right Policy**

Regardless of specialty, all contractors should be mindful of the pollution risks associated with their work. A CPL insurance policy can provide much-needed security in the event of a pollution incident, even in the most unlikely of circumstances.

Let Garland-Sturges & Quirk work with your organization to find the CPL coverage that is right for you.

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