

Contractors Pollution Liability vs. CGL Pollution Endorsement

AN OVERVIEW OF THE POTENTIAL COVERAGE DIFFERENCES

All Commercial General Liability (CGL) policies contain some form of the total pollution exclusion. Occasionally carriers are willing to give back limited coverage by endorsement; however, the coverage is still inadequate to address pollution risks. A Contractor's Pollution Liability (CPL) policy can provide coverage to meet broad pollution needs that GL pollution endorsements are often unable to.

*The chart below provides a comparison of some potential differences, with "YES" meaning coverage can often be included.

COVERAGE ISSUE	CPL POLICY	CGL POLLUTION ENDORSEMENT
Pollutants: Legionella, mold, asbestos and lead are pollutants that can result in costly claims.	YES: Coverage regularly included for these as specifically named pollutants.	Generally Not Covered: These pollutants may even be specifically excluded.
Transportation Pollution Liability (TPL): Contractors transport equipment, chemicals, solvents, materials and waste to and from jobsites.	YES: Coverage regularly included for 1st and 3rd party TPL along with loading and unloading.	Generally Not Covered: The CA 99 48 pollution endorsement available on the auto has limitations as well.
Non-Owned Disposal Site: In the event of a pollution condition at a disposal facility all contributors of waste are potentially responsible parties.	YES: Coverage regularly included for non-owned disposal site liability.	Generally Not Covered: Could even be specifically excluded.
Completed Operations/ERP: Contracts often include requirements for completed operations or an extended reporting period (ERP).	YES: Coverage can be included for ERP or completed ops.	Generally Not Covered: Coverage may not be able to meet contract requirements.
Illicit Abandonment (Midnight Dumping): Contractors can be responsible for hazardous waste dumped at jobsites by unknown parties.	YES: Coverage can be included for illicit abandonment.	Generally Not Covered
Emergency Response Costs: Insureds may incur costs from immediately responding to a pollution condition that poses an imminent threat.	YES: Can cover reimbursement of these costs incurred by the insured provided the incident would be covered by the policy.	Generally Not Covered
Cleanup and Monitoring Costs: Cleanup and monitoring of pollution incidents are often mandated by the government, and the cost can be significant.	YES: Coverage regularly includes the cost of cleanup and monitoring, which can include: testing, assessment, removal, disposal, etc.	Generally Not Covered: Coverage may only include BI and PD, or offer limited onsite cleanup.
Natural Resource Damage: Pollution incidents may contaminate wildlife, fish and wetlands that will require restoration.	YES: Coverage regularly includes natural resource damage.	Generally Not Covered

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<p>Restoration Costs: Expenses incurred to restore, repair and/or replace property to its original state prior to being damaged by remediation activities.</p>	<p>YES: Coverage can be included for these costs.</p>	<p>Generally Not Covered</p>
<p>Fines, Penalties and Punitive Damages: Contractors could incur civil fines and penalties and punitive damages in relation to a pollution condition.</p>	<p>YES: Coverage may be available where allowable by law.</p>	<p>Generally Not Covered: Can even be specifically excluded.</p>
<p>Contracting Services: Work may be performed by the contractor and/or on their behalf (vicarious liability from work done by subcontractors).</p>	<p>CPL: “Your Work” definitions often include work performed by the contractor or on their behalf.</p>	<p>CGL: Coverage is often limited to work performed by the insured.</p>
<p>Time Element: The release of pollutants may be sudden or it may go undetected, migrate and grow gradually over time.</p>	<p>CPL: Coverage regularly included for sudden and accidental as well as gradual pollution incidents.</p>	<p>CGL: Coverage often limited to sudden and accidental (pollution incident must occur and be reported within the specified number of days, often 10 days or less).</p>
<p>Limits: Pollution claims are often high severity claims. The lower the limits of insurance, the greater the risk of being underinsured.</p>	<p>CPL: Pollution policy limits generally start at \$1M and up. Higher limits are available as needed.</p>	<p>CGL: Limits are generally offered at \$1M or less and are shared with the CGL.</p>
<p>Claims Handling: Environmental claims are complex and involve local, state and federal laws. Each jurisdiction has a unique regulatory position requiring environmental counsel.</p>	<p>CPL: Pollution claims are typically handled by an environmental claims adjuster and environmental counsel.</p>	<p>CGL: Most likely will be handled by the CGL claims adjuster and counsel.</p>

Actual coverage will be provided in accordance with the endorsements and policy issued. Please refer to the specific CGL limited pollution endorsement and CPL policy form for verification.