



Pollution Insurance: When does Compliance End and Coverage Begins

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What this Presentation will Cover

- What is a basic insurance definition of a pollutant(s).
- Different types of Pollution Insurance Policies.
- Potential causes that lead to pollution claims.
- Examples of pollution claims to include the amount paid.
- Steps that companies should take prior to an incident becoming a pollution claim.



***There is a common belief that if my company
is in “compliance”, there is no need for
insurance coverage***

What is the Basic Insurance Definition of a Pollutant(s)

Pollution Conditions means the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste and waste materials into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including groundwater, provided such conditions are not naturally present in the environment in the amounts or concentrations discovered.

BUSINESSES FACE 3 TYPES OF RISKS



5 WAYS TO MANAGE RISK

Why start here?





Pollution Legal Liability (PLL) ***aka Site Pollution***

This is a policy that can cover Property Owners for:

- Site cleanup arising from pollution conditions or emanating from the site.
- Third-party legal liability for bodily injury and property damage claims.
- Defense expenses arising from the pollution liability.
- Business interruption caused by pollution.



Transportation Pollution Liability (TPL)

This is a policy that can cover Transportation Companies from pollution “events” caused during transportation:

- Material Handling: Loading / Unloading
- Vehicle Accidents

Transportation Pollution Liability (TPL) is commonly referred to “over the road” pollution insurance.

Free on Board (FOB) is a shipment term that defines the point in the supply chain when a buyer or seller assumes responsibility for the goods being transported.

Contractor's Pollution Liability (CPL)

This is a policy that can cover contractors for:

- Site cleanup arising from pollution conditions emanating from the construction site.
- Third-party coverage for bodily injury and property damage claims.
- Defense expenses arising from the pollution liability during the course of construction.
- Completed operations.

What if I'm a Consultant

There is insurance coverage for consulting entities:

- Professional Liability Insurance
- General Liability Insurance

Recommend that when you hire employees and on annual basis, conduct training on how to communicate with clients.

Potential Causes that lead to Claims

- Leaks from Storage Tanks – AST / UST
- Striking a Utility Line: Sewer, Natural Gas, Electric
- Spills / Accidents
 - Stationary Sources
 - Transportation (in route)
- Leaks from Machinery or Storage Areas
- Illegal Dumping / Disposal:
 - Herbicides / Pesticides / Fertilizers
 - Hazards Chemicals / Containers / Asbestos

Potential Causes of Claims (cont.)

- Dust – Silica / Airborne Sources
- Project Site Run-Offs - chemicals
- Defective Construction – Mold (water intrusions, ice dams, leaking pipes)
- Failure to Maintain - HVAC systems: Legionella (Legionnaires disease)
- Noise – Airports, Construction Job Sites

Claims Examples: Improper Disposal



Contractor disposed of sealants and solvents containing toluene in a covered dumpster. Two 10-year-old children entered the dumpster, were overcome by fumes and died. A **\$2,000,000** claim was filed against the contractor for illegal disposal, etc.

Claims Examples: Vehicle Accident



A truck hit a slick area on the road and overturned spilling 500 gallons of used motor oil onto the road and into a stream that adjoined a residential area. Remediation Costs **\$700,000.**

Claims Examples: Dangerous Irritants



Sandblasting operation resulted in lead paint residue on residential properties. Cleanup and settlement costs exceeded **\$350,000**.

Claims Examples: Discharges to the Storm Drain



A parking lot was being seal coated and it rained. Rainwater washed most of the sealcoat into the storm drain which discharged into a park with a playground. Estimated **\$150,000** in remediation costs.

Claims Examples: Chemical Releases



Applying epoxy sealant in a building released fumes to other portions of the building. Evacuation & business interruption claim of **\$190,100**.

Claims Examples: Hitting Utility Lines



A worker punctured a benzene pipeline with the backhoe resulting in 8400 gallons of benzene being released into the soil. Even though all the lines had been previously marked, the operator still punctured the line.

With that being said, what should I do

Compliance Programs:

- What does your program look like, is it best in class or on the verge of failure.
 - Recordkeeping
 - Calibration of Equipment
 - Employee Training
 - Are established policies / protocols being followed
- What is your “status” with the regulatory agency:
 - Payments & Reports – are they on time
- Do you know that anyone can assess the EPA’s ECHO data base and/or ADEQ website (Maps).

With that being said, what should I do (cont.)

Insurance Coverage:

- Review your work activities and identify your “realistic pollution risks”.
- Review your coverage with your insurance broker, does your company have adequate coverage. Read and understand your policy.
- Review your vendor vetting process, ensure that the “correct language” is in the contract / service agreement, this can be done with your legal counsel or your insurance broker.

With that being said, what should I do (cont.)

- Review your Certificates of Insurance (COIs) to ensure that the “correct language” is on the COIs, this can be done with your insurance broker or your insurance company.
- Report incidents in a timely manner:
 - Policies have reporting requirements, can be short as 7 days or as long as 90 days.
 - Failure to report within the specified time frame may result in the claim being denied.
 - Soilage of Evidence



Questions