

Manufacturing and Pollution – Mind the Gap!

Manufacturing operations have a wide range of pollution exposures that are often excluded or limited by General Liability, Auto Liability and Property insurance policies. If your client does not purchase insurance to address these pollution exposures, they may have gaps in their risk management programs which can result in them incurring significant costs following a pollution event. Even when pollution coverage extensions are provided under a property or liability insurance program, such as Time Element/Sudden & Accidental coverage, significant coverage gaps can still exist.

The table shown on page 2 discusses common characteristics of property and liability insurance policies compared to Chubb's Premises Pollution Liability policy, focusing on potential pollution-related coverage gaps caused by exclusions sometimes contained in property and liability policies and why your client should consider a dedicated Premises Pollution Liability policy as part of their overall Insurance program.



Policy Type	Pollution Provisions	Potential Gaps in Coverage	Examples of Potentially Uncovered Events	Compare Features of a Dedicated Premises Pollution Liability Policy
General Liability	Absolute Pollution Exclusion	<ul style="list-style-type: none"> No coverage for bodily injury, property damage or any associated legal defense expenses arising from a pollution release 	<ul style="list-style-type: none"> Fire at an insured facility results in runoff of firefighting water and chemicals onto neighboring property and clean-up is required Insured is named in a suit by a neighboring property alleging mismanagement of wastewater or stormwater 	<ul style="list-style-type: none"> Emergency response costs coverage On-site & off-site remediation costs coverage Business interruption / extra expense coverage Legal defense expense coverage
	Pollution Exclusion with exception for Hostile Fire	<ul style="list-style-type: none"> No coverage for bodily injury, property damage or any associated legal defense expenses arising from a pollution release, except for loss arising from a hostile fire 	<ul style="list-style-type: none"> Process piping fails and causes a spill on the insured's property that migrates to a nearby tributary A nearby neighborhood alleges that a facility is emitting noxious odors leading to a class-action suit for bodily injury and property damage 	<ul style="list-style-type: none"> First-party discovery triggers coverage Natural resource damages coverage Third-party bodily injury & property damage coverage Broad definition of "pollution condition"
	Time Element Pollution Basis/Sudden & Accidental Coverage	<ul style="list-style-type: none"> No coverage for gradual releases Discovery and reporting requirements must be strictly adhered to Coverage usually does not apply to first-party property damage Coverage usually does not apply to liability arising from the disposal of waste at an off-site landfill Coverage does not apply to loss arising from Underground Storage Tanks Limits may not extend into the umbrella layer 	<ul style="list-style-type: none"> Biproductions from the manufacturing process are improperly treated due to an oil/water separator malfunction that is not discovered for several months; EPA issues notices of violation and fines/penalties Insured is named in a suit regarding the disposal of hazardous waste at a closed landfill Containment tank has corroded and process wastewater seeps under the building and into the groundwater; PA files suit for contamination and requires remediation 	<ul style="list-style-type: none"> Coverage applies to both sudden and gradual events Civil and administrative fines and penalties coverage Non-owned disposal sites coverage Optional coverage for underground storage tanks
Property	Clean-up costs/ Business Interruption for specified perils and/or Fungus	<ul style="list-style-type: none"> Coverage is often sublimited (i.e., \$50,000) Coverage triggers are narrow and usually apply to specified perils only 	<ul style="list-style-type: none"> On-site transformer is found to be leaking PCBs during an annual audit Storm-related water ingress into a warehouse that results in mold growth and blackwater that requires treatment prior to disposal 	<ul style="list-style-type: none"> Up to \$25M limit capacity Emergency response costs coverage
Auto	Pollution exclusion	<ul style="list-style-type: none"> No coverage for spilled cargo that results in pollution Coverage may not respond to first-party remediation costs, emergency response costs, bodily injury or property damage 	<ul style="list-style-type: none"> Vehicle hauling chemicals/waste material overturns causing a spill Pollution loss during loading/unloading at a customer location 	<ul style="list-style-type: none"> Specific coverage for pollution conditions resulting during transportation, <u>including loading and unloading activities</u>
	CA 9948 Pollution Liability Endorsement – Broadened Coverage for Covered Autos	<ul style="list-style-type: none"> Applies to insured-owned/operated vehicles only 	<ul style="list-style-type: none"> Third-party trucking company hired to haul an insured's products or waste carries inadequate insurance. Railcar carrying insured's product leaks due to a failed dispensing port at a third-party location 	<ul style="list-style-type: none"> Covers transportation performed by or on behalf of a named insured Covers transportation by any conveyance, including aircraft, watercraft and railcar

This communication contains product summaries only. Coverage is subject to the language of the policies as actually issued. The comparisons contained herein were prepared solely by Chubb based upon a good faith, objective reading of the language of the basic policy forms and/or endorsements and highlights selected coverages of the policies referenced as of 10/01/23 and is subject to change without notice. Comparing Chubb's Customarq Property Coverage form 80-02-1000 (3-19) and General Liability Coverage form 80-02-2000 (4-01) against Chubb's Premises Pollution Liability Insurance Policy PF-44887a.

Did you know?



- The majority of pollution-related claims received by Chubb from manufacturing clients are first-party claims for Remediation Costs and Business Interruption, without a suit by a third-party. A dedicated pollution policy is an important tool for **asset and balance sheet protection**, similar to a property policy.
- The average loss paid by Chubb for Manufacturing SIC Codes (between 2011 and 2021) is more than \$500,000. While the frequency of pollution related events is relatively low; the **severity is often high**.
- A material does not have to be hazardous in nature in order for its release to be considered a pollution condition. Chubb has paid claims for spilled materials that are **safe for humans to ingest**.
- Leasing or renting a facility (versus owning it) does not absolve a client from pollution liability, and negligence is not always required to be found liable and **responsible for cleanup**.

Typical manufacturing exposures:



- Air & odor emissions from smokestacks, dust chambers, air purifiers, air scrubbers, and paint spray booths
- Refrigerants from temperature-controlled processes and/or storage
- Chemicals such as solvents, lubricants, degreasers, coolants, cutting oils, dyes, paint spraying, and/or organic chemicals
- Fuel Storage/Back-up Generators and/or Aboveground and Underground Storage Tanks
- Waste streams from the manufacturing process
- Ownership/operation of a dedicated railroad spur
- Releases from process piping
- Fungi/Legionella
- Stormwater runoff onto neighboring properties or into nearby bodies of water
- Catastrophe driven losses, including wildfire, hurricane and flood events which can create pollution conditions

Bottom Line:

Traditional General Liability, Auto and Property policies are not intended to provide meaningful coverage for the pollution exposures arising from manufacturing operations. A dedicated Premises Pollution Liability policy **fills in potential coverage gaps**.

Please contact your local Chubb Environmental Underwriting team to discuss how we can help.

