

IMPORTANT INFORMATION

SPECIALTY LIABILITY

*****This document is a generalized discussion of coverage. At all times, and in all instances, the coverage afforded by your policy is as described on your policy declaration and within the applicable policy wordings.*****

Businesses across various industries face unique risks that can be mitigated through specialty liability insurance coverages that may be excluded under your commercial general liability policy. These coverages are essential to protect against claims that arise from specific aspects of business operations. The following covers some of the key specialty liability insurance options available to commercial clients: Professional Liability, Directors & Officers Liability, Pollution Liability (including Contractors Pollution Liability and Premises Pollution Liability), and Umbrella & Excess Liability.

Professional Liability (E&O):

Professional Liability Insurance, also known as Errors and Omissions Insurance (E&O), protects businesses and professionals against claims of negligence, errors, or omissions in the services they provide. This type of coverage is critical for businesses that offer advice, expertise, or services to clients, as it covers financial losses that clients may suffer due to mistakes, whether accidental or due to inadequate advice.

***Did You Know?** If you provide professional services—such as legal advice, financial consulting, or architectural design—you are at risk of facing a claim for failing to meet a standard of care, even if no mistake was made. Professional Liability insurance can help cover legal defense costs and damages.*

Directors & Officers Liability (D&O):

Directors and Officers Liability Insurance (D&O) covers the personal assets of company's directors and officers if they are sued for alleged wrongful acts while managing the company. This can include issues like mismanagement, violation of laws, or failure to fulfill fiduciary duties. D&O coverage is important for protecting the individuals who are leading the company from financial losses arising from such claims.

***Did You Know?** D&O claims are not limited to situations where a company is accused of breaking the law. They can also arise from disagreements with shareholders, employees, or competitors regarding business decisions, like mergers, acquisitions or other financial decisions.*

Pollution Liability:

Pollution Liability insurance protects a business from claims related to pollution caused by its operations. This coverage is particularly important for businesses in industries such as manufacturing, transportation, oil & gas, and construction.

Pollution Liability covers damages and cleanup costs related to pollution incidents that harm the environment, human health, or property. Pollution-related incidents can arise from both routine operations and unexpected events.

Contractors Pollution Liability (CPL):

Contractors Pollution Liability is a specialized type of pollution liability coverage designed for contractors. This coverage helps protect contractors against claims arising from pollution events caused during construction, renovation, or demolition work. It provides financial protection in case pollutants, such as hazardous materials or chemicals, are released into the environment during a job.

***Did You Know?** Contractors Pollution Liability insurance not only covers environmental cleanup costs, but also the legal defense costs if a contractor is held responsible for environmental damage caused by construction activities.*

Premises Pollution Liability (PPL):

Premises Pollution Liability is coverage for pollution that occurs on a company's **own property** or **business premises**. This type of insurance is often used by businesses that deal with hazardous materials or operations that might inadvertently lead to pollution on their premises, such as waste management companies, oil & gas, manufacturers, or even those who operate large warehouses.

***Did You Know?** Even if a company is not actively generating pollution, it could still be held liable for pollution found on its premises, such as underground contamination or legacy pollution from previous tenants.*

Umbrella & Excess Liability:

Umbrella and Excess Liability insurance offer additional coverage above and beyond the limits of your primary liability policies, such as General Liability or Auto Liability. This coverage kicks in when the underlying policy limits are exhausted, providing extra protection against large claims that could potentially bankrupt a business.

- **Umbrella Liability:** Typically provides broader coverage and can fill in gaps of coverage across various policies.
- **Excess Liability:** Provides higher coverage limits on specific policies, without extending coverage to new types of risks.

***Did You Know?** Umbrella and Excess Liability insurance is often used by businesses in industries with higher risks, such as construction or manufacturing, where the potential for large claims exists. It can be the difference between financial stability and significant financial loss in the event of a large lawsuit.*

Claims-Made vs. Occurrence Liability: What's the Difference?:

When choosing specialty liability insurance, it's important to understand the difference between **Claims-Made** and **Occurrence** policies.

- **Claims-Made Insurance** covers claims made during the policy period. However, the policy must have been in force continuously since the retroactive date — a starting point for coverage, usually inception — and claims must occur after this date to be eligible for coverage. If the policy ends, claims made after the policy period won't be covered unless an Extended Reporting Period is purchased.
- **Occurrence Insurance** covers incidents that occur during the policy period, no matter when the claim is filed, as long as the event happened while the policy was active.

***Did You Know?** Professional Liability and D&O policies are typically Claims-Made, often with a retroactive date, to ensure claims arising from past actions are covered. In Pollution Liability, both Claims-Made and Occurrence policies are available, but Claims-Made is more common due to the long-term nature of pollution claims. Umbrella and Excess Liability usually follow the same structure as the underlying primary policies. Understanding this distinction ensures you select the right policy for your business's needs.*

Types of losses where coverage may not apply:

Liability coverage contains exclusions. It is important to refer to your policy and its applicable wording to understand your coverage. In general, the following are some of the losses that are not insured unless expressed otherwise.

- **Bodily Injury and Property Damage:** Excludes coverage for bodily injury or property damage, typically covered under General Liability Insurance.
- **Fraudulent or Intentional Misconduct:** Excludes claims arising from intentional fraud or criminal acts (e.g., fraud, embezzlement).
- **Contractual Liability:** Excludes claims related to the failure to meet contractual obligations, unless specifically endorsed for coverage.

- **Criminal Acts:** Excludes claims arising from intentional, illegal, or criminal actions like embezzlement or bribery.
- **Pollution from Pre-existing Conditions:** Premises Pollution Liability (PPL) and Contractors Pollution Liability (CPL) often exclude pollution events that occurred before the policy's retroactive date.
- **Excluded Coverage Areas from Underlying Policies: Excess Liability & Umbrella Liability** only provide additional coverage above the limits of underlying policies, so any exclusions in the underlying policies also apply to the excess and umbrella policy.

Talk to your Broker:

Specialty liability coverage is an essential part of any comprehensive insurance program. Understanding the various types of liability insurance such as Professional Liability, Directors & Officers Liability, Pollution Liability, and Umbrella & Excess Liability can help businesses manage risks more effectively and protect themselves from financial loss.

By investing in the right liability coverages, businesses not only safeguard their operations, but also ensure they can weather the financial impact of legal challenges or unforeseen events. If your business has any of the exposures mentioned above, it's important to speak with your insurance broker to ensure your coverage is up to date and adequate.