

# Pollution Liability: The Spill is Just the Beginning



By Chris Richmond for [WorkBoat Magazine](#)

All commercial hull policies have a pollution exclusion clause attached to them. Sometimes you can get a pollution buy back endorsement added for a small amount of additional premiums, but this will essentially just cover the cleanup of a spill. While this is a good start it is not the ideal solution for a potential spill. In today's world, the cleanup costs can just be the start of the expense you will incur.

Pollution policy premium is based on the vessels gross tonnage and type of vessel. These policies offer coverage for eight different sections:

- A: The Discharge of the pollutant
- B: Investigation & Defense
- C: Fines & Penalties
- D: Additional Public Relations
- E: Automatic Acquisition
- F: Mitigation
- G: Property Damage Ashore
- H: U.S. Criminal Defense

While not all of these may apply to your circumstances, there are some important distinctions to remember.

Section A covers not only spills related to the Oil Pollution Act of 1990 but also to claims brought under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Remember, pollution is not only petroleum but can also include other hazardous materials that are stored or transported on your vessel. You can have just as much a problem with a chemical spill as an oil spill.

After the spill is contained and cleaned up, who is going to pay your defense costs? Section B addresses this area. As you are well aware, this is a part of liability policies that come in key as potential litigation claims can drag on and defense costs mount. Whether you are found liable or not your defense costs can add up. Having these covered in a policy is particularly important.

And what if your spill was a total accident? Is that going to stop any fines or penalties imposed upon you by state or federal authorities? Don't count on it. Section C provides coverage here for fines that may be imposed against you.

The only thing worse than the actual spill is the image on the television of oil coated birds on the beach. Allowing the public to know that you are doing your best to take care of the situation can go a long way with public relations. Section D of the pollution policy will help you there.

Should your vessel be out of commission and you require a short-term charter to continue operations you can have pollution coverage on these under Section E.

Actions taken by you after the spill has occurred to help mitigate further damage due to the spill or to property ashore

is provided to you under section F.

Third party liability claims against you due to damage done to property ashore due to the spill is afforded to you under section G, Property Damage Ashore.

And finally, Section H provides U.S. criminal defense costs that you may incur due to federal and state laws that have been violated due to the discharge of a pollutant.

While you may never have to use your pollution policy, the coverage that it provides for that one time will pay off in the long run. It is an important part of your vessel's coverage and in some instances, it is required by the Coast Guard's Certificate of Financial Responsibility (COFR) program. Have a talk with your insurance agent to find out more.