

# POLLUTION INSURANCE

## Is that a thing?

*Written by Pollution & Environmental Insurance Broker, Jayden Johnson and respectfully submitted in tandem with Eric Haun, Commercial Lines Agent from Coverra Insurance*

I'm Jayden Johnson, an environmental insurance wholesale broker, specializing in pollution insurance placements for 6+ years. This is what I do all day, every day. My passion is to educate business owners so they can make an informed decision on their pollution and environmental exposures. I'm proud to partner with my friends at Coverra Insurance to bring pollution insight to you, where you can learn about your potential pollution risks right here in this newsletter. Let's start thinking outside the box and jump in!

Have you heard about pollution insurance? If not, that's okay, because this article will provide insight into pollution insurance and discuss how it likely applies to your business. As a campground owner, you may think you do not have any exposure to a pollution claim. If that's your belief, I do not blame you, as that's common with most business owners in most industries. You may find this surprising, but there are actually more environmental laws than there are tax code regulations, which means you are faced with numerous risks and exposures to pollution/environmental claims. Pollution claims are not frequently occurring events, but when they do occur, they are usually life changing.

The word "pollution" is typically associated with stereotypical pollution events. I commonly hear the following when discussing pollution insurance: "I don't have a landfill", or, "I don't have any underground storage tanks", or, "I'm not in the hazardous waste business." It's a common misconception for business owners to believe that because these things may be true, they therefore must not have any possible risk related to pollution events. That simply is not true! In this article, I hope to clarify the many pollution risks facing campground owners.

What is pollution insurance and how does it protect my campground? Great questions! Pollution insurance, or, as I prefer to call it, "environmental insurance", is designed to fill coverage gaps created by exclusions and sub-limits that are commonly found in auto, general liability, and property insurance policies. In this article, I will focus more on the exclusions and sub-limits that may be hidden in your general liability and property policies.

The most extensive exclusion in a general liability policy is "Pollution Exclusion F". This exclusion takes away or reduces coverage for many possible risks related to locations you own, rent, or occupy. Here are some examples of losses that would be **excluded** under Pollution Exclusion F:

- One of your clients leaves or buries "waste" at your campground. You are strictly liable to remove or take care of the cleanup.
- Your septic systems fails or leaks, resulting in groundwater or soil contamination. The DNR determines that nitrate levels are over the cleanup threshold and require you by law to fund the cleanup.
- A leak in your above ground storage tank, which results in ground water contamination.

A pollution policy steps in and provides coverage in the situations described above.

We've touched on the more traditional pollution risks, but what about indoor air quality exposures, such as mold and bacteria, that are also excluded on your General Liability policy? Some property policies may provide a very small amount of coverage for mold and bacteria, but according to fire & water restoration contractors the average claim is around \$250,000 to fix mold issues. It's easy to envision one of your building's water



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fixtures leaking or emitting bacteria, resulting in the structure becoming a moldy mess. We must also consider the very real consequences of bacteria. Bacteria releases can result in wrongful death claims, such as legionella getting into the lungs of your patrons. Legionnaires' claims are becoming more & more common and present a large, uncovered exposure without having a pollution liability policy! Below is a list of other coverages contained within pollution policies:

- **Site Pollution Liability** - Covers newly discovered pollution conditions for on-site and off-site clean up and third-party Bodily Injury & Property Damage. This includes damage to natural resources such as killing fish or other wildlife.
- **"Gradual Release" trigger** available, which is significant if a leak or spill were to slowly leach into the soil, groundwater, or waterway over a long period of time.
- **Emergency response costs** - if the spill or release makes the news, not only will the carrier respond with an emergency team but also a PR team to lessen the reputational harm to your campground
- **Diminution of value** - this means if the "stigma" regarding your land decreases the value of your property. This policy language is in there to bridge that gap if a pollution event damages not only your reputation as a company, but also the value of the land itself.
- **Transportation Pollution Liability** (add-on available if you ever haul anything that could spill): This coverage is designed to fill the gap in the business auto policy that excludes pollution resulting from your cargo (fuel, sewage, chemicals, etc.).
- **Non-owned disposal site liability** (add-on available if your campground generates waste): You never know what people will put into your dumpsters which ends up in a landfill. You may have followed all the rules, but a class action lawsuit comes in which names you. This would provide your defense costs.



- Claims trigger includes "on a building and/or within a structure." The reason why this is important is that most "off the shelf" site pollution policies are designed for landfills and not campgrounds. These policies need to be amended to include within a building to properly work for indoor air quality such as mold and bacteria issues.
- Restoration costs included within the definition of cleanup costs: Why does this matter? I know I wouldn't be happy if I had a mold claim and the insurance company didn't pay to put the drywall back after being torn out in order to remediate the mold. By including restoration costs within the definition of cleanup costs ensures that things get paid to be put back together.
- No exclusion for above ground storage tanks: Underground storage tanks can be scheduled for an additional premium.
- Includes "Illicit Abandonment" within the definition of a pollution condition: What is illicit abandonment? An unknown third-party such as a camper (or non-camper) who decided to "midnight dump" on your property, leaving you forced to foot the bill to pay to clean it up.

In closing, as a campground owners, you're faced with two choices: 1) assume these risks yourself, and know that the related consequences would be backed only by your own check book, or 2) transfer these risks to an insurance company for a modest premium. Policies with a \$250,000 coverage limit start at around \$1,000 of annual premium with a 1-year policy term. 3-year policy terms are also available, which will typically have a lower annual cost. I'd suggest you reach out to Eric Haun, Coverra Insurance Services, to discuss your potential exposures and options to transfer those risks to an insurance company.

Thanks so much for taking the time to read!

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Environmental Insurance Broker  
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The logo for Coverra Insurance Services features the word "Coverra" in a large, bold, black sans-serif font. Above the letter "o" in "Coverra" is a blue curved line that arches over the top of the letters. Below "Coverra" is the phrase "Insurance Services" in a smaller, black, sans-serif font.