



IN-DEPTH REVIEW OF COVERAGE ADDRESSING THE UNIQUE OPERATIONS OF A MOTOR CARRIER





POLLUTION EXPOSURES AND COVERAGE

**THIS WEBINAR IS NOT FILED FOR STATE CE
AND IS A LEARNING OPPORTUNITY ONLY**



QUESTIONS

If you have any questions, please send an email to:
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SHORT HISTORY OF COVERAGE

- Pre-1980 policies
 - (g) to **bodily injury** or **property damage** arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, but this expulsion does not apply if such discharge, dispersal, release or escape is sudden and accidental.
- AL and GL
 - “Sudden and accidental”



1980 ISO FORM REVISION

- Moved to an “easy to read” format
- Combined AL and PD into one policy
 - Insuring agreement
 - Only addressed direct damage
 - BI and PD
 - “No covered pollution cost or expense”
 - Added exclusion from pollution “damage” done by any property in insured’s CCC (their cargo)



1980 ISO FORM REVISION CONT.

- ISO said policy would not respond to “pollution clean-up”
- Courts said:
 - “Property damage” means damage to or loss of use of tangible property
 - So if a pollutant was in/on property, how could it be used unless pollutant was removed (cleaned-up)?



12/90 ISO FORM

- Adds a second insuring agreement (revised 12/90)
 - Addresses “covered pollution cost or expense” – Clean-up”
- ISO has an endorsement to provide coverage for pollution damage was done by property in insured’s CCC (the cargo)
 - CA9948



POLICY WORDING

SECTION II – LIABILITY COVERAGE

A. COVERAGE

We will pay all sums an “insured” legally must pay as damages because of “bodily injury” or “property damage” to which this insurance applies, caused by an “accident” and resulting from the ownership, maintenance or use of a covered “auto”.



POLICY WORDING CONT.

We will also pay all sums an “insured” legally must pay as a “covered pollution cost or expense” to which this insurance applies, caused by an “accident” and resulting from the ownership, maintenance or use of covered “autos”. However, we will only pay for the “covered pollution cost or expense” if there is either “bodily injury” or “property damage” to which the insurance applies that is caused by the same “accident”.



POLICY WORDING CONT.

We have the right and duty to defend any “insured” against a “suit” asking for such damages or a “covered pollution cost or expense”. However, we have no duty to defend any “insured” against a “suit” seeking damages for “bodily injury” or “property damage” or a “covered pollution cost or expense” to which this insurance does not apply. We may investigate and settle any claim or “suit” as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

FEDERAL GOVERNMENT FINANCIAL RESPONSIBILITY REQUIREMENTS

- Interstate Commerce Commission
 - 1935
 - Provide “authority” to interstate for-hire motor carriers hauling property that has been processed
 - Pickles not cucumbers
 - “For public conveyance and necessity”
 - Certain items over defined routes
 - » Require a COI (90) filing with limits of \$300,000, but only these motor carriers
 - About 17,000
 - Insurance carriers will protect the public if no coverage in policy to address damage done in crash (unit not listed)



MOTOR CARRIER ACT OF 1980

- Major changes in federal regulations
 - Authority no longer exclusive
 - \$300 – General Commodities Over Irregular Routes
 - Addresses financial responsibility
 - Part 387 – Minimum Levels of Financial Responsibilities for Motor Carriers



MOTOR CARRIER ACT OF 1980 CONT.

- New limits
 - From \$300,000 to \$500,000
 - Five years to current \$750,000 non-hazardous items
 - Hazardous items
 - \$1,000,000 or \$5,000,000
- Who must comply
 - All for-hire hauling interstate property (even exempt)
 - All motor carriers (includes private) if hauling hazardous items



MOTOR CARRIER ACT OF 1980 CONT.

- All exempt for-hire interstate and all hauling hazardous items including private must now meet the minimum levels of financial responsibility
- How to meet
 - Add an endorsement to their policy
 - MCS90



MOTOR CARRIER ACT OF 1980 CONT.

- Enforcement
 - When officers conduct an on-site inspection, review insurance policy to see if there is an endorsement with required limits based on what is being hauled
 - If financial responsibility not met, then fine
 - Up to
 - » \$10,000 at review
 - » \$11,000 a day
 - During on-site inspection



MCS90

- MCS90 is an endorsement and not sent anywhere
- 91X is a filing sent to FMCSA if motor carrier has a MC#
 - It requires a MCS90 endorsement to be added to the policy filing was based on
- MCS90 is only enforced when there is an on-site inspection
- MCS90 and 91X only become a factor in a claim when there is no coverage in policy



MCS90 CONT.

- MCS90 protects the public when there is no coverage in policy
 - “Public Liability” – BI/PD and environmental restoration/clean-up
- Obligates an insurance company to pay a final judgement against the insured
- But
- Providing no coverage to insured
 - “The insured agrees to reimburse the company for any payment made by the company . . . That the company would not have been obligated to make except for the endorsement”



MCS90 CONT.

- Coverage considerations
 - What is a covered auto?
 - How is damage done by pollutants (insured's cargo) addressed in policy?



MCS90 CONT.

- MCS90 – Protection of the Public from the Insured’s Negligence in Use of “Autos” that Are Subject to the MCA80 – If no coverage for the auto used!
 1. Endorsement Would Require Insurer to Respond to “Public Liability” on a Blanket Basis – Public protected for BI, PD and ER for all autos owned or operated by insured after determining no coverage
 2. Recovery – However . . . endorsement does not provide protection to the insured. Insured must buy policy to protect them or could have to repay insurance company. Watch covered auto – Pollution coverage
 3. Insurance carrier or insured must give the other party 36 days’ notice of cancellation of endorsement (policies) – 35 days insurance carrier – 36 of or by insured (or/of)



MCS90 CONT.

- Must Make Sure All Autos Owned and Used by the Insured Are Covered Under the Policy this Endorsement Is Attached to
 - Symbols (Any) (Any 10,000 GVW or larger) – No problem
 - Problem if specified and auto not listed but used
 - Hired auto coverage helps to meet requirement but premium consideration if provided



MCS90 CONT.

- Watch Your Insurance Carrier's Position on Providing Pollution Coverage
 - Forms with pollution coverage in or standard Endorsement CA9948
 - Within the policy
 - Additional cost
- What Is the Reimbursement Possibility of Being Successful?
 - Offer coverage



HAZARDOUS MATERIALS AS DEFINED BY FMCSA

- The definition of hazardous materials includes those materials designated by the Secretary of the Department of Transportation as posing an unreasonable threat to the public and the environment – The term “hazardous materials” includes all of the following:
 - Hazardous substances
 - Hazardous wastes
 - Marine pollutants
 - Elevated temperature material
 - Materials identified in 172, 101 and
 - Materials meeting the definitions contained in part 173



HAZARDOUS MATERIALS AS DEFINED BY FMCSA CONT.

- Hazmat classes
 - Class 1 Explosives
 - Class 2 Gases
 - Class 3 Flammable liquids
 - Class 4 Flammable solids
 - Class 5 Oxidizing substances
 - Class 6 Poisonous (toxic) and infectious substances
 - Class 7 Radioactive materials
 - Class 8 Corrosives
 - Class 9 Miscellaneous dangerous goods



ENVIRONMENTAL CLAIM PREPAREDNESS

- Environmental compliance trained personnel
- Understand your policy provisions
- Network of contacts for business and after hours
 - 24/7 hours/day – 365 days/year
 - Pollution liability legal expertise
- Protection of human health and the environment
- Focus on regulatory compliance
- Proactive approach cost management

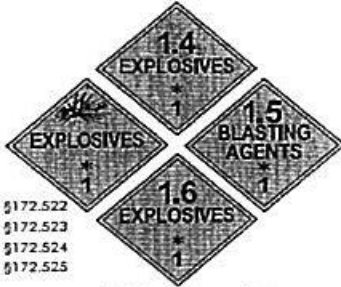


PLACARDING

- “DANGEROUS” Placards
 - You can use the “DANGEROUS” PLACARD, instead of multiple placards, for the two or more categories of non-bulk, Table 2 materials in the same shipment
 - If you load 1,000 kg (2,205 lbs.) or more of one category of Table 2 hazardous material, at one loading point you must display the required class or division placard for that material
 - For the above scenario, if you have a second Table 2 hazardous material in non-bulk packages of less than 1,000 kg (3,500 lbs.), you may use either the placard for the specific category of material or the ‘DANGEROUS” placard to represent the second material



CLASS 1 Explosives



§172.522
§172.523
§172.524
§172.525

* For Divisions 1.1, 1.2, or 1.3, enter division number and compatibility group letter, when required; placard any quantity. For Divisions 1.4, 1.5, and 1.6, enter compatibility group letter, when required; placard 454 kg (1,001 lbs) or more.

CLASS 2 Gases



§172.528
§172.530
§172.532
§172.540

For NON-FLAMMABLE GAS, OXYGEN (compressed gas or refrigerated liquid), and FLAMMABLE GAS, placard 454 kg (1,001 lbs) or more gross weight. For POISON GAS (Division 2.3), placard any quantity.

CLASS 3 Flammable Liquid and Combustible Liquid



§172.542
§172.544

For FLAMMABLE, placard 454 kg (1,001 lbs) or more. GASOLINE may be used in place of FLAMMABLE placard displayed on a cargo tank or portable tank transporting gasoline by highway. Placard combustible liquid transported in bulk. See §172.504(a)(2) for use of FLAMMABLE placard in place of COMBUSTIBLE. FUEL OIL may be used in place of COMBUSTIBLE on a cargo or portable tank transporting fuel oil not classed as a flammable liquid by highway.

CLASS 4 Flammable Solid, Spontaneously Combustible, and Dangerous When Wet



§172.546, §172.547, §172.548

For FLAMMABLE SOLID and SPONTANEOUSLY COMBUSTIBLE, placard 454 kg (1,001 lbs) or more. For DANGEROUS WHEN WET (Division 4.3), placard any quantity.

CLASS 5 Oxidizer & Organic Peroxide



Organic Peroxide, Transition 2011 (rail, vessel, and aircraft) 2014 (highway)

§172.550, §172.552

For OXIDIZER and ORGANIC PEROXIDE (other than TYPE B, temperature controlled), placard 454 kg (1,001 lbs) or more. For ORGANIC PEROXIDE (Division 5.2), Type B, temperature controlled, placard any quantity.

CLASS 6 Poison (Toxic) and Poison Inhalation Hazard



§172.504(a)(10), §172.554, §172.555

For POISON (PGI or PGII, other than inhalation hazard) and POISON (PGIII), placard 454 kg (1,001 lbs) or more. For POISON-INHALATION HAZARD (Division 6.1), inhalation hazard only, placard any quantity.

CLASS 7 Radioactive



§172.556

Placard any quantity - packages bearing RADIOACTIVE YELLOW-III labels only. Certain low specific activity radioactive materials in "exclusive use" will not bear the label, but the radioactive placard is required for exclusive use shipments of low specific activity material and surface contaminated objects transported in accordance with §172.504(e) Table 1 and §173.427(a)(3).

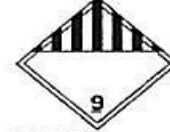
CLASS 8 Corrosive



§172.558

For CORROSIVE, placard 454 kg (1,001 lbs) or more.

CLASS 9 Miscellaneous



§172.560

Not required for domestic transportation. A bulk packaging containing a Class 9 material must be marked with the appropriate ID number displayed on a Class 9 placard, an orange panel, an orange square-on-point display.

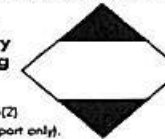
Dangerous



§172.521

A freight container, unit load device, transport vehicle, or rail car which contains non-bulk packages with two or more categories of hazardous materials that require different placards specified in Table 2 §172.504(e) may be placarded with DANGEROUS placards instead of the specific placards required for each of the materials in Table 2. However, when 1,000 kg (2,205 lbs) or more of one category of material is loaded at one loading facility, the placard specified in Table 2 must be applied.

Limited Quantity Marking



§172.315(a)(2)
(Vessel transport only).

12



Material Safety Data Sheet (MSDS)

Material Safety Data Sheet

Nitric Acid

1. PRODUCT AND COMPANY IDENTIFICATION

Product Name: Nitric Acid

Synonyms/Generic Names: Aqua Fortis, Azotic acid, Hydrogen nitrate.

Product Use: Industrial, Manufacturing or Laboratory use

Manufacturer:

For More Information Call:
(Monday – Friday 8:00-4:30)

IN CASE OF EMERGENCY CALL:
(24 Hours/Day, 7 Days/Week)

2. COMPOSITION/INFORMATION ON INGREDIENTS

Weight %	Component	CAS #	EINECS# / ELINCS#	Classification*
68 - 70%	Nitric Acid	7697-37-2	231-714-2	O; R8 -C; R35, **

*Symbol and R phrase according to EC Annex1

** Subject to the reporting requirements of SARA Title III Section 313

3. HAZARDS IDENTIFICATION

Clear, colorless to yellow solution with caustic odor.



R35 – Causes severe burns.

R8 – Contact with combustible material may cause fire.

S1/2, S23, S26, S36, S45

Chronic Effects: Not Available

Teratogenicity: None found

Mutagenicity: None found

Embryotoxicity: None found

Synergistic Products/Effects: Not Available

12. ECOLOGICAL INFORMATION

Ecotoxicity (aquatic and terrestrial): Aquatic fish; LC50 (96 hrs): 72 mg/l (Gambusia affinis)

Persistence and Degradability: Not Available

Bioaccumulative Potential: Not Available

Mobility in Soil: Not Available

Other Adverse Effects: Not Available

13. DISPOSAL CONSIDERATIONS

RCRA:

Hazardous waste? Yes RCRA ID number: D002

Waste Residues: Carefully dilute with water, neutralize per spill procedures in section 6. Neutralized material may be flushed to sewer (REGULATIONS PERMITTING!) or disposed of through a licensed contractor. Users should review their operations in terms of the applicable federal/nation or local regulations and consult with appropriate regulatory agencies before discharging or disposing of waste material.

Product containers: Containers, if thoroughly cleaned, preferably by rinsing three times and handling the rinse water as waste residues, may be disposed of or recycled as non-hazardous waste. Users should review their operations in terms of the applicable federal/national or local regulations and consult with appropriate regulatory agencies before discharging or disposing of waste material.

The information offered in section 13 is for the product as shipped. Use and/or alterations to the product may significantly change the characteristics of the material and alter the waste classification and proper disposal methods.

14. TRANSPORTATION INFORMATION

DOT: UN2031, Nitric Acid, 8, pg II

TDG: UN2031, Nitric Acid, 8, pg II

PIN: Not Available

IDMG: UN2031, Nitric Acid, 8, pg II

Marine Pollutant: No

IATA/ICAO: UN2031, Nitric Acid, 8, pg II



LIMITS CONSIDERATIONS

- If insured has a MC# must have a 91X filing with limits found in “Licensing & Insurance”
 - Insurance Required
- Who determines what limits are required for MCS150 form?
 - Section 25



25. HAZARDOUS MATERIALS (Carrier or Shipper) (check all that apply):

(C=Carrier; S=Shipper; B=Bulk, in cargo tanks; NB=Non-Bulk, in packages)

	C	S	B	NB		C	S	B	NB		C	S	B	NB
A. DIV 1.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	O. DIV 2.3D	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CC. DIV 6.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. DIV 1.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	P. CLASS 3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	DD. CLASS 7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. DIV 1.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Q. CLASS 3A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	EE. HRCQ	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. DIV 1.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	R. CLASS 3B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FF. CLASS 8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. DIV 1.5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	S. COMB LIQ	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	GG. CLASS 8A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. DIV 1.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	T. DIV 4.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	HH. CLASS 8B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. DIV 2.1 (Flam. Gas)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	U. DIV 4.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	II. CLASS 9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. DIV 2.1 LPG	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	V. DIV 4.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	JJ. ELEVATED TEMP. MAT.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I. DIV 2.1 (Methane)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	W. DIV 5.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	KK. INFECTIOUS WASTE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. DIV 2.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X. DIV 5.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	LL. MARINE POLLUTANTS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K. DIV 2.2D (Ammonia)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Y. DIV 6.1A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MM. HAZARDOUS SUB (RQ)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L. DIV 2.3A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Z. DIV 6.1B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NN. HAZARDOUS WASTE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
M. DIV 2.3B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	AA. DIV 6.1 POISON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	OO. ORM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N. DIV 2.3C	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	BB. DIV 6.1 SOLID	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					



LIMITS ON MCS90

- At on-site inspection
 - Inspector will review what insured hauls with limits needed
- Concern
 - Typically insurance providers only show limits required on MCS90 and 91X
 - Usually \$750,000
 - If inspector feels more limits required
 - Fine or allow to send new endorsement while on-site
- A change in limits for 91X is not a function of inspection

INSURANCE COVERAGE

- If coverage
 - 91X and MCS90 do not become a part of a claim



CONSIDERATIONS

- Truck driver driving down highway carrying 55 gallon drums of oil
- One drum falls off and lands on car behind truck
 - Breaks windshield – Glass cuts driver and passenger
 - Drum top comes off and oil gets in driver's eyes and burns skin
- Driver of car loses control, hits a tree
 - Smashes front of car
 - The gas from the car escapes and gets on the grass and into the creek



CONSIDERATIONS CONT.

- The drum of oil that hit the car, contents spill on the ground killing grass and into a creek
- When drum falls off the truck, the truck becomes unbalanced and turns over
 - The diesel fuel from the tank escapes and also gets on the grass and into the creek as well as two more drum tops come off and contents get on grass and into the creek



CONSIDERATIONS CONT.

- Crash site action
 - Notify EPA
 - Time and amount
- Response
 - Absolute liability
 - Last entity (person) with pollutant before incident must address clean-up even if insured did not cause the release



CONSIDERATIONS CONT.

- Clean-up concerns
 - At crash site
 - Who authorized?
 - Who pays?
 - If not paid, MCS90?



POLLUTION CONT.

- Three areas property causing pollution damage can come from:
 - Property that is cargo – In insured's CCC – Property being carried does damage
 - Property used for service of vehicle – Fluids that make covered auto go – Escapes from designed containers and does damage
 - Property that is someone else's property – Third party's property that an insured causes to escape does damage



POLLUTION CONT.

Definition from Section V

“POLICY WORDING”

“Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminate, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.



POLLUTION CONT.

- ANYTHING THAT IS YUCKY!
- RECAP –
 - **Property Damage Clean-Up** – Cargo, No – Fluids for Service, Yes
– Other’s Property, Yes
 - **Pollution Direct Damages – “BI” and “PD”** – Cargo, No – Fluids for service, Yes – Other’s Property, Yes
 - No coverage if pollutant is the insured cargo – Per ISO Standard Form



POLLUTION CONT.

- Limited coverage in current ISO policy
 - No coverage for pollution caused by insured's cargo
- Some insurers give protection for pollution all the time
 - Included in some coverage forms
- Some carriers – If endorsed – CA9948 – Full limit coverage
 - Some endorsements do not provide full limits and all pollutants
 - Included in quoted premium
 - Additional premium



POLLUTION CONT.

- Mandated by law in some states
 - Full Limit
 - Virginia
 - New York
 - Vermont
- Coverage is available
 - Question of cost
 - Insured's decision
 - When and why to discuss – Before loss – Not at time of loss



COVERAGE

- Add Endorsement CA9948 – Pollution Liability – Broadened Coverage for Covered Autos – Business Auto and Motor Carrier Coverage Forms
 - Always included in coverages and quoted premium by some carriers
 - Added if requested for a premium charge by some carriers
 - Some carriers have endorsements to limit coverage amount or items
- Included in some carriers' forms because of the form wording



COVERAGE CONT.

- You need to ask every carrier you do business with writing motor carriers how they approach pollution coverage
- It is available, it is a question of cost – This should be the insured's option, not yours



CONSIDERATIONS

- No coverage in the unendorsed standard ISO coverage form for pollution damage done to insured's cargo but MCS90 would require insurance carrier to pay judgment from pollution damage
- How successful will subrogation be when coverage was not offered?
- How much additional exposure could there be for pollution damage at settlement vs. immediate action?
 - Best is to address ASAP – lessens damage
 - MCS90 only pays for judgment – If clean-up before judgment maybe no subrogation



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLLUTION LIABILITY – BROADENED COVERAGE FOR COVERED AUTOS – BUSINESS AUTO AND MOTOR CARRIER COVERAGE FORMS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Covered Autos Liability Coverage is changed as follows:

1. Paragraph a. of the **Pollution Exclusion** applies only to liability assumed under a contract or agreement.
2. With respect to the coverage afforded by Paragraph A.1. above, Exclusion B.6. **Care, Custody Or Control** does not apply.

B. Changes In Definitions

For the purposes of this endorsement, Paragraph D. of the **Definitions** Section is replaced by the following:

- D. "Covered pollution cost or expense"** means any cost or expense arising out of:
1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
 2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraphs a. and b. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.



COVERAGE

- CA9948 vs. MCS90
 - Insurance carrier's own endorsement
 - Limits on policy
 - Define what pollutant is covered
 - Other
 - Stand alone pollution policy: Site/transportation
 - If no coverage
 - MCS90
 - Would insurance carrier pay
 - Chance of subrogation



RECAP

- Agent and insurance provider must meet requirements
 - 91X – MC# holder
 - Limits required to operate
 - MCS90
 - All DOT# holders for-hire and some private
 - To not be fined



QUESTIONS

If you have any questions, please send an email to:
trs@mcief.org

