

**PROGRAM DIVISION
BULLETIN**

2002- 04

February 22, 2002

Mold and Fungus Exclusions for Casualty

As a Division we must be addressing the potential of claims arising from toxic molds and fungus.

Certain molds and mildew (fungi) have toxic effects on individuals, possibly causing sinusitis, asthma, infections in the eyes, nose and lungs, other diseases and even death. Fungi can also have severe destructive effects on building structures, components, equipment, furniture, etc. Owners or operators of buildings, offices or premises where individuals are potentially exposed to fungi, and the spores they produce, may not always take adequate steps to ensure there is an environment free of these substances. Mold and mildew spores are found in the air and may be distributed through air conditioning ductwork and other air conveyance systems. These substances can contaminate building environments and even render the premises uninhabitable.

Generally, the following businesses/risks have a higher than normal fungus exposure and individual strategies should specifically address them:

- Businesses/services, institutions and habitational risks where owners have not adequately or appropriately addressed: a) maintenance/housekeeping; b) water damage or infiltration; c) ventilation; or d) air filtration issues, possibly leading to moisture build-up and growth of mold and mildew on their premises; and
- Contracting and servicing risks where the likelihood of water infiltration due to faulty installation or defective products could lead to growth of mold or mildew and other fungi.

There will be no affirmative grant of coverage for fungus (an affirmative grant of coverage is an endorsement that specifically states fungus is covered; omitting the exclusion from a specific file is not an affirmative grant of coverage), even at reduced limits.

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LEXINGTON INSURANCE COMPANY

PROGRAM DIVISION

200 State Street/11th Floor, Boston, MA 02109
phone 617-330-1100 / fax 617-330-8595

EFFECTIVE IMMEDIATELY we will add the attached fungus exclusions to the following classes/programs:

- 1. All Contractors – NIF, Pest Control, Homebuilders, RSO Contractors**
- 2. Habitational Risks – Resorts, SKI, Coastal Condo, Brownstone, City Clubs**
- 3. Building Materials dealers – Lumber**

This applies to General Liability including products/completed operations, E&O and Umbrella/Excess. For non-admitted business use the same endorsements as for admitted.

For admitted business use endorsement number 78689 for CGL and endorsement number 78691 for umbrella/excess. A copy of the current state filing status is attached for your reference.

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Fungus Exclusion and Transmissible Spongiform Encephalopathy and Chronic Wasting Disease Exclusion Endorsements

Our Filing Number: AIC-01-OL-06	STATE	MAILED	STATUS	EFFECTIVE
Fungus Exclusion and Transmissible Spongiform Encephalopathy and Chronic Wasting Disease Exclusion Endorsements (Fungus - TSE/CWD)	ALABAMA	09-27-01	E	11-02-01
	ALASKA	09-27-01		
	ARIZONA		XM	
	ARKANSAS	10-12-01	E	12-03-01
COMPANIES FILED: (filing made country-wide except as noted on the modifications and licensing pages)	CALIFORNIA	09-07-01		
	COLORADO		XM	
AIU Insurance Company	CONNECTICUT	09-25-01	E	10-31-01
American Home Assurance Company	DELAWARE	09-28-01	E	11-02-01
American International Pacific Insurance Company	DIST. OF COLUMBIA	09-07-01	E	11-19-01
American International South Insurance Company	FLORIDA	09-07-01	obj	
Audubon Insurance Company	GEORGIA	10-09-01		
Birmingham Fire Insurance Company of Pennsylvania	HAWAII	09-27-01		
Commerce and Industry Insurance Company	IDAHO	09-07-01	E	10-18-01
Granite State Insurance Company	ILLINOIS	09-27-01	obj	
Illinois National Insurance Co	INDIANA	10-16-01	E	11-26-01
The Insurance Company of the State of Pennsylvania	IOWA	09-28-01		
National Union Fire Insurance Company of Louisiana	KANSAS	09-28-01		
National Union Fire Insurance Company of Pitts., Pa	KENTUCKY	10-09-01		
New Hampshire Insurance Company	LOUISIANA	10-22-01		
	MAINE	10-02-01		
DESCRIPTION OF FILING:	MARYLAND	10-02-01		
These exclusion endorsements attach to the ISO Commercial General Liability coverage forms, the Umbrella Elite Program, and the Excess Liability and Commercial Umbrella program	MASSACHUSETTS			
	MICHIGAN		XM	
	MINNESOTA	10-12-01		
	MISSISSIPPI	10-10-09	E	11-19-01
The endorsements provide coverage for liability exposures not covered by the aforementioned forms and programs	MISSOURI	10-23-01	E	11-26-01
	MONTANA			
	NEBRASKA	10-05-01		
	NEVADA	10-09-01	E	11-20-01
CONTENTS OF FILING:	NEW HAMPSHIRE	09-27-01		
<i>ISO CGL</i>	NEW JERSEY	11-07-01		
Fungus Exclusion - Form No. 78689 (8/01)	NEW MEXICO	10-09-10	E	12-18-01
Transmissible Spongiform Encephalopathy and Chronic Wasting Disease Exclusion - Form No. 78690 (8/01)	NEW YORK	11-13-01		
	NORTH CAROLINA	08-30-01	E	12-07-01
	NORTH DAKOTA	10-05-01	E	12-11-01
<i>Umbrella Elite</i>	OHIO	10-02-01	E	11-06-01
Fungus Exclusion - Form No. 78692	OKLAHOMA	10-05-01	E	12-12-01
Transmissible Spongiform Encephalopathy and Chronic Wasting Disease Exclusion - Form No. 78693 (8/01)	OREGON	09-28-01	E	12-03-01
	PENNSYLVANIA	10-12-01	E	12-03-01
	RHODE ISLAND	09-27-01		
<i>Excess Liability and Commercial Umbrella</i>	SOUTH CAROLINA	10-12-01	E	11-20-01
Fungus Exclusion - Form No. 78691 (8/01)	SOUTH DAKOTA	09-25-01		
Transmissible Spongiform Encephalopathy and Chronic Wasting Disease Exclusion - Form No. 78694 (8/01)	TENNESSEE	09-27-01	E	11-02-01
	TEXAS	09-07-01		
	UTAH	10-05-01	E	11-12-01
State Filings Analyst: Gerry Karavitis 212.458.3446	VERMONT	10-12-01		
	VIRGINIA	10-16-01		
Profit Center Contacts: Bill Moller 212.458.3035	WASHINGTON	09-25-01		
Ed Martin 212.458.3269	WEST VIRGINIA	10-05-01		
	WISCONSIN	09-25-01	DA	11-02-01
	WYOMING	09-25-01	E	11-21-01
	TOTALS	46		22
E=Effective; X=Exempt from filing requirements; M=See Modifications Page for state specific requirements; WD=Withdrawn; DIS=Disapproved; NF=Not Filed, OBJ=Objection, DA=Deemed Approved				

Important Notice To Our Customers

AIG has filed a new exclusion that may be attached to your Commercial General Liability Policy. Key issues are discussed below. Please contact your Agent or Broker for additional information or clarification of coverage and how it affects your insurance program.

Coverage Exclusion:

FUNGUS EXCLUSION – This exclusion deletes all coverage for “bodily injury”, “property damage”, “personal and advertising injury” and any other loss, cost or expense arising from any form of fungus.

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

ENDORSEMENT

This endorsement, effective 12:01 A. M. forms a part of Policy

No. issued to by

FUNGUS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury", or any other loss, cost or expense, including, but not limited to losses, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

- a. Any "fungus(i)", "molds(s)", mildew or yeast, or
- b. Any "spore(s)" or toxins created or produced by or emanating from such fungus(i), "mold(s)", mildew or yeast, or
- c. Any substance, vapor, gas, or other emission or organic or inorganic body or substance produced by or arising out of any "fungus(i)", "mold(s)", mildew or yeast, or
- d. Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbors, nurtures or acts as a medium for any "fungus(i)", "mold(s)", mildew, yeast, or "spore(s)" or toxins emanating therefrom,

regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that "bodily injury", "property damage", "personal and advertising injury", loss, cost or expense.

For the purposes of this exclusion, the following definitions are added to the Policy:

"Fungus(i)" includes, but is not limited to, any of the plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including molds, rusts, mildews, smuts, and mushrooms.

“Mold(s)” includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce molds.

“Spore(s)” means any dormant or reproductive body produced by or arising or emanating out of any “fungus(i)”, “mold(s)”, mildew, plants, organisms or microorganisms.

Authorized Representative

Important Notice To Our Customers

AIG has filed a new exclusion that may be attached to your Commercial Umbrella Policy. Key issues are discussed below. Please contact your Agent or Broker for additional information or clarification of coverage and how it affects your insurance program.

Coverage Exclusion:

FUNGUS EXCLUSION – This exclusion deletes all coverage for “bodily injury”, “property damage”, “personal and advertising injury” and any other loss, cost or expense arising from any form of fungus.

ENDORSEMENT

This endorsement, effective 12:01 A.M. forms a part of

Policy No. issued to:

by

COMMERCIAL UMBRELLA POLICY FUNGUS EXCLUSION

Section V. Exclusions is amended by adding the following exclusion to the policy:

This insurance does not apply to "bodily injury", "property damage", "personal injury", "advertising injury" or any other loss, injury, damage, cost or expense, including , but not limited to, losses, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

- a. Any "fungus(i)", molds(s), mildew or yeast, or
- b. Any "spore(s)" or toxins created or produced by or emanating from such fungus(l), mold(s), mildew or yeast, or
- c. Any substance, vapor , gas, or other emission or organic or inorganic body or substance produced by or arising out of any "fungus(i)" , "mold(s)", mildew or yeast, or
- d. Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbors, nurtures or acts as a medium for any "fungus(i)" , mold(s), mildew, yeast, or "spore(s)" or toxins emanating therefrom,

regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that loss, injury ,damage, cost or expense.

For the purposes of this exclusion, the following definitions are added to the Policy:

"Fungus(i)" includes, but is not limited to, Any of the plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including molds, rusts, mildews, smuts and mushrooms.

"Mold(s)" includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce molds.

“Spore(s)” means any dormant or reproductive body produced by or arising or emanating out of any “fungus(i)”, “mold(s)”, mildew, plants, organisms or microorganisms.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

Authorized Representative