

ARMR.Network Environmental Practice

Memorandum

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Mold & Bacteria Exclusions on Contractors

ARMR.Network Your Environmental Insurance & Risk Management Resource

This is the fourth communication in a series designed to create competitive advantages for insurance agencies utilizing **ARMR.Network** as their Environmental Practice Group and environmental insurance wholesaler. For more information on **ARMR.Network**, please visit www.armr.net.

THE ISO MOLD & BACTERIA EXCLUSION CAN VOID ALL GENERAL LIABILITY COVERAGE

The ISO Fungi and Bacteria exclusion endorsement on General Liability policies creates huge coverage gaps for many different risks. These include general contractors, fire & water restoration contractors, mold remediators, remodeling contractors, roofers, electricians, plumbers, dry wall contractors, HVAC contractors, and maintenance and cleaning firms. Essentially, any contractor who can cause a water leak, or in any way works with mold and bacteria, has a significant uninsured loss exposure today.

The Typical ISO GL Fungi and Bacteria exclusion endorsement reads as follows:

This insurance does not apply to:

Fungi Or Bacteria

a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of "fungi" or bacteria, by any insured or by any other person or entity. (emphasis added)

THE CATASTROPHIC UNINSURED LOSS

If contractors come in contact with mold while performing their work, or if their work causes a water leak which results in any amount of mold growth, this exclusion essentially voids out all of their GL policy including their defense coverage! The underlined parts of the exclusion above emphasize how far reaching the exclusions are. Mold only has to be involved with a loss, not just the proximate cause of the loss for this exclusion to take effect over the entire GL policy!

THE COVERAGE SOLUTION

The only solution to this coverage gap is placing the GL and Contractors Pollution Liability (CPL) policies with the same insurer. Purchasing a CPL policy alone does not fix the entire problem because the mold exclusion excludes more than the broadest CPL policy can cover. This is because the exclusion basically voids out the policy if mold in any quantity is even remotely involved with a loss. On the other hand, all CPL policies insure claims that are a result of the emission, discharge, release, or escape of mold as a "pollutant". Several insurers have the capability of writing both coverage lines for one insured. While this is an imperfect solution for the extremely broad GL mold exclusion, it is better than having separate insurance companies arguing which policy should pay a mold related loss in a classic "It is not my job" argument, or not having CPL at all.

INSURANCE PRODUCTION STRATEGY

Most contractors today are unaware of this coverage gap and most are totally uninsured for a risk that has the potential to bankrupt them. We recommend informing the contractor of the full effects of mold exclusion and its potential to void all GL coverage by pointing out the actual exclusion in their GL policy. Once the contractor realizes a simple water leak can potentially void out all their GL insurance, they should be concerned and request immediate action to rectify the coverage deficiency.

Because CPL insurance was not originally invented to insure contractors working in and on buildings, there are many hidden coverage defects in most policies sold today. Fixing these defects can be exploited to create a competitive advantage on new or existing CPL placements. Good quality CPL insurance that includes coverage for mold related damages are available for minimum premiums as low as \$5,000 from **ARMR.Network**. Call an **ARMR.Network** broker today to discuss this important coverage gap and how we can assist you in properly insuring your clients and prospects.