



**Department of Community
and Economic Development**

Division of Insurance

550 W. 7th Avenue, Suite 1560, Anchorage, AK 99501-3568

Telephone: (907) 269-7900 • Fax: (907) 269-7910 • Text Telephone: (907) 465-5437

Email: Insurance@dced.state.ak.us • Website: www.dced.state.ak.us/insurance/

BULLETIN B 04-07

TO: ALL PRODUCERS AND INSURERS AUTHORIZED TO TRANSACT INSURANCE
BUSINESS IN THE STATE OF ALASKA AND OTHER INTERESTED PARTIES

RE: MOLD/FUNGI COVERAGE

The Alaska Division of Insurance (division) has received endorsements to either exclude or limit coverage for losses due to mold, fungi, and related causes of loss (collectively referred to as “mold”). Many of these endorsements have not been approved because they do not comply with Alaska’s insurance laws. This bulletin provides guidance to insurers for preparing and submitting forms that limit coverage in property and liability filings so that the limitations comply with Alaska law.

Under AS 21.36.212, “[a]n insurer may not deny a claim if a risk, hazard, or contingency insured against is the dominant cause of a loss and the denial occurs because an excluded risk, hazard, or contingency is also in a chain of causes but operates on a secondary basis.”

Forms that attempt to limit or exclude coverage for mold damage resulting from an otherwise covered cause of loss violate this section of the Alaska Insurance Code.

The following are examples of language that has been approved by the division. Insurers wishing to limit their exposure to mold claims may do so by filing language that is no more restrictive than these examples.

PROPERTY COVERAGES

Example Exclusion Language

This insurance does not apply to loss or damage caused by mold. This exclusion does not apply to the extent the coverage is provided as an additional coverage under (*Refer to the appropriate section of the policy that contains language similar to that of Example A, B, or C*).

Example A

This policy is extended to cover the direct physical loss or damage to covered property caused by or resulting from mold when mold is the direct result of physical loss or damage by a peril otherwise covered by this policy and includes any cost or expense to clean up, remove, contain, treat, or neutralize mold from covered property resulting from such covered loss.

Example B

If mold is the result of a covered cause of loss, we will pay for

- (1) direct physical loss of or damage to covered property or property insured; or
- (2) your liability for property of others

at the premises shown in the declarations, caused by or resulting from mold. This includes the necessary and reasonable cost incurred to test for, contain, abate, mitigate, remove, dispose of, or neutralize mold.

Coverage provided by this extension includes:

- (1) the actual loss of business income you sustain;
- (2) the necessary extra expense you incur; or
- (3) ordinance or law coverage;

if these coverages are provided by the policy.

Example C

If a covered cause of loss results in mold and direct physical loss to covered property is caused by or results from the mold, we will pay:

- (1) the cost to remove the mold to the extent necessary to repair the damage from the covered cause of loss;
- (2) the direct physical loss to covered property caused by the mold to the extent it is damage from the covered cause of loss;
- (3) up to \$10,000 for the cost of testing for, treating, containing, or removing mold beyond that which is required to repair or replace the covered property damaged by the covered cause of loss.

LIABILITY COVERAGES

Example Exclusion Language

Option A

This insurance does not apply to

- (1) liability arising from the actual, alleged, or threatened contact with, exposure to, existence of, or ingestion of mold at any premises you own, rent, or occupy or previously owned, rented, or occupied;
- (2) liability arising from the actual, alleged, or threatened contact with, exposure to, existence of, or ingestion of mold at any premises that you contracted to build, remodel, or otherwise provide contracting services performed by any insured or any subcontractor working directly or indirectly for any insured.

These exclusions do not apply if the occurrence is caused by a peril that is not otherwise excluded.

Option B

This insurance does not apply to

- (1) bodily injury, property damage, personal, and advertising injury arising from the actual, alleged, or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any mold on or within a building or structure;
- (2) any loss, cost, or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation, or disposing of the effects of mold by any insured or by any other person or entity.

These exclusions do not apply if the occurrence is caused by a peril that is not otherwise excluded.

DEFINITION

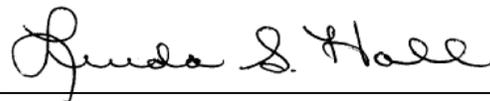
Example Definition Language

“Mold” means any type of fungus, including mildew, rusts, mushrooms, yeasts, and mycotoxins, spores, or scents, produced or released by the mold. This does not include fungi intended by the insured for consumption.

The definition of mold used in mold exclusions should not be expanded beyond the above. For example, bacteria, organic pathogens, or biological hazardous substances should not be included in the definition of mold. Broad definitions are misleading and subject to disapproval under AS 21.42.130(2) or (3).

If you have questions, please contact the Division of Insurance, P.O. Box 110805; Juneau, AK 99811-0805; (907) 465-2515; or via electronic mail at insurance@dced.state.ak.us

Dated this 20th day of May, 2004



Linda S. Hall
Director