

BULLETIN 2002-3

DATE: March 15, 2002
TO: All property and casualty insurance companies
licensed to do business in Minnesota
FROM: Minnesota Department of Commerce (DOC),
Policy Analysis Division, Property & Casualty Section
RE: New filing review criteria for rate, rule, and form
filings excluding loss or damage caused by mold

Reason for Bulletin. The following information is being circulated to clarify and promulgate new Departmental review criteria pertaining to the hazard of mold. Please refer to DOC BULLETIN 96-3 (October 1, 1996) and DOC BULLETIN 2000-4 (effective September 1, 2000) for basic filing requirements. For exempted commercial lines, please see Minn. Rules 2700.2460-2700.2480 (distributed in DOC BULLETIN 95-2 (January 25, 1995)).

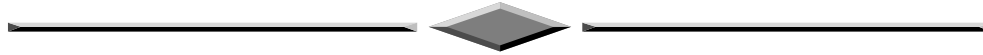
JAMES C. BERNSTEIN, Commissioner of Commerce

NEW FILING REVIEW CRITERIA: MOLD

EFFECTIVE IMMEDIATELY

Please be advised that the review criteria outlined in this bulletin are new and will be applicable to property and casualty lines of insurance, as indicated below, whether filed with the Department or exempted from regulatory review under Minnesota Administrative Rules.

The specific Departmental procedures detailed on the following pages will be followed in this regard.



Acknowledgment required. *An officer of the company must sign and date this page in the space indicated below and return a copy to the Department of Commerce within 15 days of its receipt. You may return the acknowledgment by either mail or FAX. If the company wishes to transmit its acknowledgment by FAX, it should be directed to the Minnesota Department of Commerce, Policy Analysis, Property & Casualty Section at (651) 284-4106.*

MINNESOTA DEPARTMENT OF COMMERCE

BULLETIN 2002-3

(New filing review criteria: Mold)

Receipt Acknowledged this _____ day of _____, 200__

Company: _____

Acknowledging Officer's

Title: _____

Officer's

Name: _____

Officer's

Signature: _____



NEW REVIEW CRITERIA FOR THE HAZARD OF MOLD

Definition.

“Mold” as used in this Bulletin refers to the following:

- ◆ Any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents, or by-products produced or released by a fungus.
- ◆ Wet or Dry Rot.
- ◆ Bacteria.

Property Coverages.

Applies to all commercial and personal lines of insurance covering real property.

Companies may NOT exclude coverage for loss or damage arising out of the peril of “mold” UNLESS an *unrestricted* exception is made for cases in which the loss or damage from “mold” directly ensues from a covered loss (i.e. a loss caused by a peril insured against). *Partial* or *restricted* exceptions that “cap” or “limit” the amount of coverage (expressed as a specific dollar amount or a percentage of the total limit) for ensuing losses are NOT permitted.

In most instances, these criteria simply represent a continuation of the current level of coverage afforded by property insurance policies. If a company already has an absolute exclusion for “mold” (i.e. without an exception for ensuing losses) or one containing only a *restricted* exception, such exclusion must either be withdrawn or revised to conform to the above criteria.

The Department’s recognizes that loss or damage from “mold” has become a general concern of the property and casualty insurance industry on a nationwide basis. However, the Department believes that the prevailing conditions found in certain states giving rise to this concern are not in evidence in Minnesota. Companies with actuarial experience to the contrary are encouraged to contact the Department.

Liability Coverage for Bodily Injury and Property Damage

Applies ONLY to the following lines of insurance: Homeowners, including Mobile Homeowners and Dwelling Owners, Personal Liability, and Farm Dwelling Liability.

Companies may NOT exclude coverage for bodily injury or property damage liability arising out of exposure to “mold.” However, such liability coverage may have a “cap” or “sub-limit” for the mold exposure, IF AND ONLY IF (1) such “sub-limit” does NOT also function as an annual aggregate limit AND (2) a corresponding rate reduction or credit is made. Such reductions must be actuarially sound. For lines of insurance that are required to be filed with the Department, rate reductions/credits must be reviewed and approved by a Departmental actuary prior to implementation.

If a company already has an absolute exclusion for “mold” (without a “cap” or “sub-limit”) or one containing a “cap” or “sub-limit” without a corresponding reduction in premium, such exclusion must either be withdrawn or revised to conform to the above criteria.

Further information.

For further information regarding other filing requirements, please consult the Department’s on-line Property & Casualty Policy Filing Manual. To access this manual, first go to the Department’s home page at the following address: <http://www.commerce.state.mn.us> Then, to access the on-line manual click as follows:

1. Utilizing the FAST FIND button in the upper right-hand corner of the home page, scroll down to “P & C Policy Filing Manual” (found under INSURANCE).
2. Click (or press the enter/return key).

Questions.

If you have questions regarding this Bulletin, please contact Thomas Baker, Director of Policy Analysis, Property Casualty and Self-Insurance at 651-297-2853 or at tom.baker@state.mn.us.