

Separating Mold From Water Loss Claims

By Jack L. Halliwell

In an effort to stem the rising tide of mold-related claim costs, most carriers have adopted mold exclusion language into their property, liability, and environmental policies.

Although this practice has been successful in reducing the number of mold claims, it has far from eliminated them. As a result, the task of separating excluded mold costs from covered water loss claims presents additional challenges to claim managers, adjusters, and consultants.

At the recent PLRB meeting in Chicago, a mold strategy forum was held to discuss moisture, mold, and specific coverage issues. The forum panel, comprising carrier representatives, adjusters, attorneys, engineering consultants, industrial hygienists, and restoration contractors, agreed that separating mold from moisture claims is complex. "Regardless of how robust the mold exclusion language is, the rules for interpreting those exclusions can vary as you go from state to state, and court to court," said Steve Couto, assistant vice president of Lexington Insurance. "Sub limits don't always solve the problem, either. If they don't cover the cost of the loss and the owner can't finish the project, the carrier still is faced with a water loss that has to be completed."

Much of the problem has to do with timing, response, and access to the claim, according to Jim McGovern, a service claim adjuster with McClarens Young. "In a catastrophe situation, access may be limited and response prevented beyond the 48 to 72 hours that it takes for mold growth to occur," he said.

Complications also can arise from related coverages. "You need to look at the total coverage and the impact that mold exclusions could have on claim costs," said Van Meredith, with GAB Robins. "Strict enforcement of excluding mold clean-up costs could have a negative impact on business interruption claim costs, if the insured is unable to restore operations due to the presence of mold growth."

In addition, mold exclusions have presented new hur-

dles for restoration contractors, noted Theresa Williams, executive vice president of Belfor USA. Decisions on project scope, tear out vs. dry down, project completion protocols, and varying interpretation of coverages have made the claim environment more challenging.

Claim Separation Strategies

Despite these challenges, strategies are emerging for mold exclusions that seem to work in most, if not all, cases. Wayne Harris, national cat director for AIG Technical Services, explained his group's parallel investigation approach. "What becomes important is to investigate the claim on two tracks: one for the causation (to include the cause of the water loss and/or moisture intrusion in the case of mold) and one for the amount of the damages."

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The panel also discussed how this could influence the selection of consultants for the claim investigation: using industrial hygienists for the mold track, and engineers for the moisture intrusion and building system analysis.

Separating moisture claims from mold costs also requires an increased focus on cause and origin analysis. Because it is not possible to date mold (to separate new mold from old), the claim investigation and analysis must focus on causation and covered perils. Consultants need to provide adjusters with clear evidence from their investigations as to whether the mold growth resulted from a covered peril or some other failure of the building's systems.

A two-track strategy for investigat-



ing moisture and mold claims requires a clearly defined scope of work for each track. Dividing the scope of work between industrial hygienists and engineers based upon their respective areas of expertise results in an investigation plan like the one in Figure 1.

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The key to investigating the cause and origin of excess moisture in buildings lies in understanding the two primary building systems that control moisture: the mechanical/HVAC system and the building envelope. Each system has specific performance criteria that must be met in order to control moisture (Figure 2). Knowing these performance requirements allows engineering consultants to analyze the performance of these two moisture control systems in order to ascertain whether the moisture and mold growth resulted from a covered peril or some other failure of these systems.

Finally, the determination of who may be at fault for the cause of the loss is of value in many investigations. The most effective method of determining where the responsibility lies for the excess moisture is to trace the cause and origin of the loss to the design, construction, or operation of the two primary moisture control systems. Design errors and omissions, construction defects, operational errors, and value engineering can be assessed for their contributions to the underlying causes of the excess moisture through a forensic engineering evaluation. This can be helpful in subrogation determinations, as well as in fine-tuning coverage issues.

Strategies for investigating and adjusting water loss claims that involve mold growth are still evolving. Mold exclusion language, while simple in concept, is not always easy to apply under varying loss conditions in the field. The strategies for separating mold from water loss claims require much closer coordination with and better defined investigation scopes and responsibilities for adjusters’ consultant teams in order for these exclusions to be effective. ▲



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Two Track Strategy For Moisture/Mold Investigations

FIGURE 1

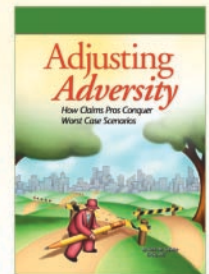
Investigation Track	Mold	Moisture: Cause and Origin
Expertise Required	Industrial Hygiene	Engineering/Building Systems
Targets	<ol style="list-style-type: none"> 1. Locations and extent of visible mold growth 2. Moisture mapping of buildings and materials 3. Mold manifestation date 4. Recommended scope of remediation and project controls 5. Estimated costs of remediation 	<ol style="list-style-type: none"> 1. Cause(s) of water intrusion and excess moisture 2. Identification of building systems that failed to control moisture, and why failure occurred 3. Date of origin of water loss 4. Recommended building system repairs/replacements to eliminate excess water/moisture 5. Estimated costs of repairs/replacement

Moisture Investigation Requirements

FIGURE 2

Building Envelope Performance	HVAC Systems Performance
<ol style="list-style-type: none"> 1. Prevents or retards waters, moisture, or air movement into the building 2. Allows accumulated water/moisture to be safely stored in the building 3. Allows accumulated water/moisture to drain or evaporate 	<ol style="list-style-type: none"> 1. Controls interior temperature 2. Controls interior humidity 3. Ventilates occupied areas 4. Pressurizes the building 5. Cleans the air

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