COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

One South Station • Boston, MA 02110-2208
617-521-7794• FAX (617) 521-7475
Springfield Office (413) 785-5526
TTY/TDD (617) 521-7490
http://www.state.ma.us/doi

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

BETH LINDSTROM
DIRECTOR, CONSUMER AFFAIRS
AND BUSINESS REGULATION

JULIANNE M. BOWLER
COMMISSIONER OF INSURANCE

BULLETIN 2006-02

TO: **Insurers Offering, Issuing, or Renewing Property and Casualty Policies in Massachusetts**

FROM: **Julianne M. Bowler, Commissioner of Insurance** Julianne M Bowler

DATE: **January 31, 2006**

RE: **Fungus/Mold and Wet & Dry Rot Coverage Requirements**

The purpose of this bulletin is to notify insurance carriers that offer, issue, or renew personal property damage coverage that is included in homeowners, dwelling, condominium, mobile homeowners, renters, and farm owners policies, and carriers that offer, issue, or renew commercial property insurance policies - excluding those policies exempt under M.G.L. c. 175, §224 - of the coverage requirements for fungus/mold and wet & dry rot damages arising from otherwise covered perils. Please note that this bulletin does not apply to personal or commercial liability coverage; private passenger automobile or commercial automobile insurance; personal or commercial inland marine insurance; and excess/umbrella policies.

Carriers are hereby notified that all such policies offered, issued, or renewed on or after September 1, 2006 are to be consistent with the Division's requirement that carriers make coverage available for fungus/mold and wet & dry rot damages arising from otherwise covered perils. Carriers may include coverage for fungus/mold and wet & dry rot in their underlying forms or through endorsement or rider offered to the proposed purchaser or existing policyholder on an application or other suitable form. An example of a form that the Division would consider acceptable is attached.

If coverage is not provided in underlying forms, and the proposed purchaser or existing policyholder has declined an endorsement to such forms that would provide this coverage, the carrier is not required to make the coverage available at subsequent renewals. Denial of coverage can be demonstrated on the declaration page of the policy.

Definition of Terms

Carriers are to meet the following minimum requirements:

- Carriers are to define "fungus/mold" to include, at a minimum, "mold, fungus, mildew, and any mycotoxins, spores, scents or byproducts produced by the mold, fungus, wet & dry rot, or mildew." The definition of fungus/mold may exclude any fungi that are included in a good or product intended to be consumed; and
- It is at the carrier's discretion whether wet & dry rot are included in the definition of fungus/mold. If wet & dry rot is not included in the definition of fungus/mold, then optional coverage for wet & dry rot damage must also be made available. If wet & dry rot damage coverage is provided in a separate endorsement or rider, it is to be subject to the same coverage limit, reporting, and filing requirements as fungus/mold damages set forth in this bulletin.

Personal Lines Coverage Limits

- Coverage for fungus/mold and wet & dry rot damage shall include:
  - the cost of removal from covered property;
  - the cost of replacement or reparation of damages, as well as the cost to tear out and replace any part of covered properties as needed to gain access to the damage; and
  - the cost of the testing of air or property to confirm the absence, presence or level of fungus/mold or wet & dry rot damage **before, during, and after** removal, repair, restoration or replacement. The cost of testing will be provided only to the extent that there is reason to believe that there is the presence of fungus/mold or wet & dry rot.
- Carriers are to make coverage available at levels of at least $10,000 and such other higher amounts as approved by the Division, not to exceed the value of the property being insured. These coverage limits are sub-limits of the base coverage amount.

Commercial Lines Coverage Limits

- Coverage for fungus/mold and wet & dry rot damage shall include:
  - the cost of removal from covered property;
  - the cost of replacement or reparation of damages, as well as the cost to tear out and replace any part of covered properties as needed to gain access to the damage; and
  - the cost of the testing of air or property to confirm the absence, presence or level of fungus/mold or wet & dry rot damage **after** removal, repair, restoration or replacement. The cost of testing will be provided only to the extent that there is reason to believe that there is the presence of fungus/mold or wet & dry rot.
- Carriers are to make available coverage at levels of at least $15,000 and such other higher amounts as approved by the Division, not to exceed the value of the property being insured. These coverage limits are sub-limits of the base coverage amount.

Reporting Requirements

- Carriers may not implement a reporting requirement for covered damages that differs from other reporting periods for other damages covered under the policy; and
- The reporting requirement shall commence on the date that the policyholder discovers fungus/mold or wet & dry rot damage. In no event shall the reporting period exceed the reporting periods for other damages covered under the policy.

Filing Requirements

In order to comply with the requirement that all such policies offered, issued, or renewed on or after September 1, 2006 are consistent with this bulletin, carriers are required to make any necessary amendments to forms and rates on file with the Division of Insurance.

Please refer to http://www.mass.gov/doi/Companies/Checklists/commonrequirements.pdf for common filing requirements and applicable checklists. All rate filings should include sufficient documents to present the actuarial support for any rates that may be associated with the additional coverage. The Division will take steps to examine filings submitted on or before June 1, 2006 to meet the September 1, 2006 deadline.

If you have any questions about this bulletin, please contact Lorraine Young, Director of Policy Form Review, at (617) 521-7343 or lorraine.e.young@state.ma.us.

NOTIFICATION OF AVAILABILITY OF COVERAGE FOR FUNGUS/MOLD DAMAGE AS A RESULT OF OTHERWISE COVERED PERILS

The Massachusetts Division of Insurance requires that all residents and businesses of Massachusetts be provided the opportunity to purchase limited property insurance coverage for fungus/mold damages as a result of an otherwise covered peril.

The policy being offered, issued, or renewed may already provide this coverage. If this coverage is not already being provided to you it is available under a separate endorsement.

Please contact your insurance company or your agent to apply for this coverage.