

Environmental Concerns: Past, Present and Future

10th ANNUAL MOLD, ENVIRONMENTAL & IAQ PRACTICES SEMINAR

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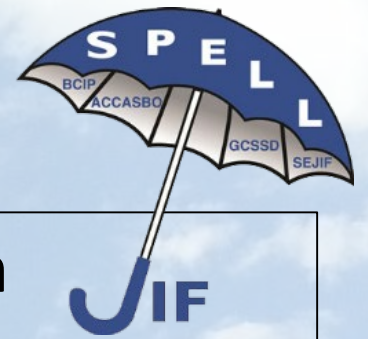
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Environmental Concerns – Past:



- Early Federal Environmental Laws => Insurance Industry Reaction
 - “Sudden & Accidental” Pollution Exclusion (1970s)
 - “Absolute” Pollution Exclusion (1980s)
 - “Total” Pollution Exclusion (1990s)
- Additional Changes to Law as well as Case Law has led to additional Exclusions:
 - Asbestos; Lead-Based Paint, Silica; EFIS; Mold; PFAS...What’s Next??
- Original site pollution liability policies offered only coverage for third-party claims arising from off-site contamination and limited defense coverage. Early on, only a few large carriers offered these policies.

Environmental Concerns – Past:



As actuarial data began to accumulate, new insurers entered the market, competition expanded...and so did coverage being offered:

- On-Site first-party (Insured) Cleanup of pollution
- Legal Expenses from Claims as well as Regulatory Cleanup
- Wide definition of “Pollutants” / “Pollution Condition”
 - Mold, Legionella, other IAQ exposures
 - Electromagnetic fields (EMF)
 - Medical, infectious, pathological waste
 - Virus and Bacteria (since pared back following COVID)
 - Methamphetamines labs
- Business Interruption
- Natural Resource Damages...to name a few

Environmental Concerns – Present:



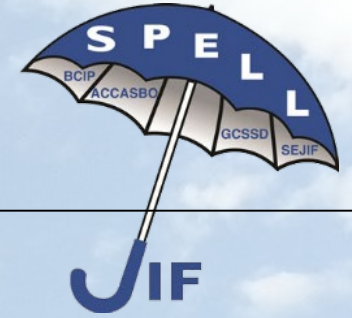
- Coverages continued to expand until a few years ago, but now:
- Most carriers are removing the term “virus” from the definition of “Pollutants” / “Pollution Condition”. This change is a result of the COVID-19 pandemic.
- Most carriers are adding a COVID-19 or communicable disease Exclusion.
- Coverage is getting more restrictive for:
 - Mold, especially at schools, residential and hospitality locations.
 - Underground storage tanks (USTs) older than 25 years.
 - Sites with planned renovations and/or redevelopment.

Environmental Concerns – Present:



- PFAS Exclusions being added to many policies.
- What is PFAS? Answer: a “class of chemicals” comprised of thousands of chemical formulations, with many hundreds of industrial, commercial, and consumer applications. They have been manufactured and widely used over the last 80 years in the U.S. to make products resistant to heat, oil, stains, grease, and water; as well as to reduce friction and to suppress fires.
- Some common uses include Teflon-coated cookware, food packaging, Scotchgard stain-resistant carpets and fabrics, Gore-Tex products, and Aqueous Fire Fighting Foam (AFFF).
- NJ set MCLs for 3 PFAS at 14 parts per trillion (ppt) and USEPA just set drinking water health advisory values in parts per quadrillion!

Environmental Concerns – Future:



- Claims Management/Reporting
 - The myth of “over” reporting claims
- Challenges of Environmental Underwriting
 - Sharing Volatile Risks
 - Environmental insurance is typically severity driven and very volatile
 - Premiums of the many pay for losses of the few

Environmental Concerns – Future:



Challenges of Environmental Underwriting (continued)

- Environmental insurance is impacted by systemic events and current events
 - Global Warming and Extreme Weather
 - Increased storm frequency and severity
 - Heat waves and high humidity
 - Coastal Exposure
 - Extended Power Outages
 - Older Building Systems not designed for weather of the future

Environmental Concerns – Future:



Challenges of Environmental Underwriting (continued)

- **PFOA/PFAS**
 - Rapidly evolving issue affecting sectors across the economy
 - Persistent, ubiquitous and expensive or impossible to cleanup
 - New Jersey is taking the regulatory lead

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Q & A