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Pollution exclusion in your CGL insurance policy

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The standard Commercial General Liability (CGL) insurance policy includes a pollution exclusion. As a real estate owner or property manager, should you be concerned about the scope of the pollution exclusion found in your CGL policy?

Real estate owners and property managers increasingly face claims for carbon monoxide poisoning arising from the inhalation of carbon monoxide emitted into a building by faulty furnaces, water heaters or cooling systems.

The applicability of the CGL policy's pollution exclusion for bodily injury claims resulting from carbon monoxide escaping from defective furnaces and water heaters has been argued by several courts. Some courts have resolved such disputes in favor of coverage while others have not. How the exclusion will be applied, even with virtually identical facts, often depends on the jurisdiction where the claim is made.

Rather than taking a chance of having no coverage for injuries arising from carbon monoxide poisoning, building owners and managers should request that their CGL policy either maintain the standard pollution exclusion found in the 12 04 version of the ISO CG0001 policy; or if an "absolute" pollution exclusion must be added, that the underwriter uses the ISO Pollution endorsement CG 2165 which provides an exception for smoke, fumes, vapor, or soot from building heating, cooling, or humidifying equipment, or from water heaters. This exception was added to the ISO CGL policy in response to court decisions ruling that the on-premises pollution exclusion did apply to bodily injury claims arising from carbon monoxide releases from defective residential furnaces and similar equipment.

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