

SPECIAL REPORT

SOME TOOLS TO DEFEAT A COVERAGE DENIAL BECAUSE OF A PROTECTIVE SAFEGUARD ENDORSEMENT

02/10/2017

This Special Report was written by Kenneth R. Hale, J.D., CPCU, AAI, LIC of Marsh & McLennan Agency LLC. Mr. Ken Hale can be contacted at 734-525-2412 or khale@mma-mi.com. More Special Reports are available at www.mma-mi.com.

We have been preaching for years that you should avoid at all costs a Protective Safeguard endorsement on a Property insurance policy.

In a nutshell, if your insurance carrier attaches an endorsement to your Property insurance policy titled “Protective Safeguard” and lists either/or alarm systems, sprinkler systems, dust collecting systems, etc., you need to be absolutely sure that these items are always maintained in good working order and that they are never impaired. If they are impaired or do not work properly, the insurance company could and likely will deny what could be a major claim.

This endorsement is a no-excuses endorsement, which means that even if you had nothing to do with the impairment, you still will not be paid your loss. For example, the sprinkler contractor might turn off the sprinkler valve and forgot to turn it back on. In this case, the endorsement still applies.

You first have to ask why you have this clause on your policy. Some insurance carriers will attempt to add these to even superior accounts just as a matter of course. You need to inform your insurance agent that this clause is not acceptable to you and that it needs to be removed from your current insurance policy or the insurance agent needs to find another insurance company that will insure you without this clause. The Protective Safeguard endorsement is that dangerous.

Certain accounts have less bargaining room due to the nature of their business. An example of this would be woodworking accounts where a dust collection system and a fire sprinkler system may be mandatory.

Also, insurance companies may not insure other types of higher risk accounts unless there is a sprinkler system and a Protective Safeguard clause on the policy.

If you are in that risk category, you have to be certain that there are absolute precautions in place so that you will have a better chance of blocking the insurance company's denial of a major claim because you failed to comply with the requirements of this endorsement.

Here are some suggestions:

1. Inform your maintenance person or your facilities manager that this clause exists and that compliance at all times is absolutely required.
2. Implement a weekly checklist signed by your maintenance person or your facilities manager to be certain that the system is fully operational and functional in its entirety.
3. If it is a fire sprinkler system, be certain that the sprinkler valve is open and chained open by way of a locking system.
4. Placard the sprinkler riser with a big sign indicating that the system cannot be shut down under any circumstances without first getting permission from your insurance carrier.
5. Be certain that the flow alarm is working properly so that a central station is notified if the sprinkler system is activated.
6. Contact the alarm company frequently, no less than once a month, and check to see if they are receiving a signal from your location to be sure that they are notified.
7. Have an independent sprinkler contractor or alarm contractor inspect your fire sprinkler system or alarm systems quarterly at a minimum and test the central station sprinkler alarm at the same time. Keep a record of all this and comply with all of their maintenance or repair requirements.

8. Request that your insurance company inspect the sprinkler system and that you comply with any recommendations that they may make.

Because most accounts will not have a loss, this type of clause will be forgotten unless top management maintains the system of checklists to be certain that it is operational and in good working order. The clause is a good example of when “**you snooze, you lose**” and in this case **you could lose your entire business.**

This document is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Marsh & McLennan Agency LLC shall have no obligation to update this publication and shall have no liability to you or any other party arising out of this publication or any matter contained herein. Any statements concerning actuarial, tax, accounting or legal matters are based solely on our experience as consultants and are not to be relied upon as actuarial, accounting, tax or legal advice, for which you should consult your own professional advisors. Any modeling analytics or projections are subject to inherent uncertainty and the analysis could be materially affected if any underlying assumptions, conditions, information or factors are inaccurate or incomplete or should change.