

INDEPENDENT INSURANCE AGENTS & BROKERS OF LOUISIANA
9818 BLUEBONNET BOULEVARD
BATON ROUGE, LA 70810
PHONE: 225/819-8007
FAX: 225/819-8027
www.iiabl.com

Technical Advisory

TA 250

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Subject: CGL/BAP Mobile Equipment Changes and Louisiana Law

BACKGROUND: ISO has recently made significant changes in the 2004 CGL which will affect insureds with mobile equipment. While there has historically been an attempt to draw a bright line between CGL and BAP regarding vehicles and mobile equipment, there are nonetheless frequent situations of confusion and disagreement on specific risks.

One of the most perplexing changes is the revision to the CGL auto exclusion, as well as the definitions of “*auto*” and “*mobile equipment*,” to include “*any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is principally garaged.*”

MAIN POINTS: As the industry has begun to digest this change, much is being written and discussed about the potential implications, complications and benefits. There are two fundamental issues: (1) what vehicles or equipment are subject to state law; and (2) what course of action should agents take with insureds and markets, in dealing with risks impacted by the change. Each of these issues is addressed in separate parts of this article.

PART 1 – VEHICLES SUBJECT TO LOUISIANA LAW

In addition to grappling with the many coverage issues that are attendant to the changes, most of the expert articles being written also recognize that one of the biggest hurdles is the difficulty of sorting through the myriad state laws. Here are comments from two prominent national trade publications about the problems and complexities of trying to comprehend state laws that impact the CGL changes:

Comment #1: *“These auto statutes vary greatly from one jurisdiction to another, and it is important for insurers and insureds alike to understand at least some ramifications of the laws.*”

While it may sound simple to determine whether or not a motor vehicle is subject to one or more of these laws, such is not always the case. The applicability of auto insurance laws is typically linked to motor vehicle registration statutes; specifically, the section of the statute that sets out what motor vehicles are subject to registration in the state. While there is little question about whether a private passenger auto is subject to state registration, there is a great deal of variation between states as to how or even whether they address the issue of registration as respects certain other types of vehicles.

Compounding the problem in some state laws is the inclusion of definitions within the statutes that are sometimes inconsistent. To understand what is intended requires review of applicable motor vehicle registration statutes, including definitions of the terms used in the statutes, and also review of applicable auto insurance statutes, with the same attention to details of such. The process can be quite confusing and time-consuming.”

Comment #2: *“The motor vehicle laws of many, if not most, states not only are different, but also are not presented in an orderly fashion. One can take hours to go through these laws and never find the answers sought.”*

Of prime importance in understanding the impact of the CGL changes are two issues: (1) where is the mobile equipment *“principally garaged”*; and (2) what laws in that state fall into the category of *“compulsory or financial responsibility law or other motor vehicle insurance law.”*

The issue of *principally garaged* is in itself fraught with complications. Many types of mobile equipment are, well, mobile, and with a multi-state insured, any particular piece of equipment could be located in a wide variety of locations at any given time.

As to state laws of *compulsory or financial responsibility law or other motor vehicle insurance law,* the following are excerpts from Louisiana’s Financial Responsibility Law, and Compulsory Insurance Law. In addition, other state laws that seem to be relevant to the changes in the CGL are included. However, as the two comments from national trade publications quoted in the introduction suggest, there is no certainty that buried somewhere else in the statutes there isn’t some other provision relevant to the issues at hand.

1. Financial Responsibility Law. In 1952, Louisiana enacted the Motor Vehicle Safety Responsibility Law, R.S. 32:851-1043.

The law required owners and operator to show proof of insurance *after* an accident, but did not mandate compulsory insurance. That came along in 1977 – see discussion in #2 below.

TITLE 32
MOTOR VEHICLES AND TRAFFIC REGULATION
CHAPTER 5. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW
PART I. GENERAL PROVISIONS

§872. Security and proof of financial responsibility required unless evidence of insurance; when security determined; suspension; exception

A. If, twenty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to property of any one person in excess of five hundred dollars, or if the damage is to property owned by the state of Louisiana in an amount in excess of fifty dollars, the secretary does not have on file evidence satisfactory to him that the person who would otherwise be required to file security and give proof of financial responsibility under Subsection B of this Section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the secretary shall determine the amount of security which shall be sufficient in his judgment to satisfy any

judgment or judgments for damages resulting from such accidents as may be recovered against each operator or owner.

B. The commissioner shall suspend the license and all registrations of each operator and owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident, the privilege of operating a motor vehicle within this state, and, if such owner is a nonresident, the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner, or both, shall deposit security in the sum determined by the commissioner.

2. Compulsory Insurance Law. Louisiana enacted the Compulsory Motor Vehicle Liability Security in 1977 (Act 115) – R.S. 32:861-865.

TITLE 32
MOTOR VEHICLES AND TRAFFIC REGULATION
CHAPTER 5. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW
PART I-A. COMPULSORY MOTOR VEHICLE
LIABILITY SECURITY

§861. Security required

A.(1) Every self-propelled motor vehicle registered in this state except those motor vehicles used as agricultural or forest vehicles during seasons when they are not used on the highway, those used primarily for exhibit or kept primarily for use in parades, exhibits, or shows, and lease-bound mobile rig haulers as defined in Subsection D of this Section, shall be covered by an automobile liability policy with liability limits as defined by R.S. 32:900(B)(2) or 900(M), or a binder for same, or by a motor vehicle liability bond as defined by Subsection B of this Section, or by a certificate of the state treasurer stating that cash or securities have been deposited or securitized with said treasurer as provided by Subsection C of this Section, or by a certificate of self-insurance as provided by R.S. 32:1042.

The amount of required insurance in both the Motor Vehicle Safety Responsibility Law of 1952 and the Compulsory Motor Vehicle Liability Security of 1977 is set forth in Title 32, Chapter 5, section 32:900:

§900. "Motor Vehicle Liability Policy" defined

A. A "Motor Vehicle Liability Policy" as said term is used in this Chapter, shall mean an owner's or an operator's policy of liability insurance, certified as provided in R.S. 32:898 or 32:899 as proof of financial responsibility, and issued except as otherwise provided in R.S. 32:899, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

B. Such owner's policy of liability insurance:

(1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of

such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs with respect to each such motor vehicle as follows:

(a) Ten thousand dollars because of bodily injury to or death of one person in any one accident, and,

(b) Subject to said limit for one person, twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and

(c) Ten thousand dollars because of bodily injury to or destruction of property of others in any one accident.

(d) An owner may exclude a named person as an insured under a commercial policy if the owner obtains and maintains in force another policy of motor vehicle insurance which provides coverage for the person so excluded which is equal to that coverage provided in the policy for which the person was excluded. The alternative coverage is required for both primary and excess insurance.

C. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

D. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this Chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this Chapter.

E. Such motor vehicle liability policy need not insure any liability under any worker's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

In Title 32, Chapter 5, "motor vehicle" is defined:

§851. Definitions

The following words and phrases, when used in this Chapter, shall, for the purposes of this Chapter, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning.

(4) "Motor vehicle"--Every self-propelled vehicle (except traction engines; road rollers, farm tractors, tractor cranes, power shovels and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

In the Compulsory Motor Vehicle Liability Security of 1977, there is an exception in section 861 (text above) for *lease-bound mobile rig haulers as defined in Subsection D of this Section.* They are defined as:

D. "Lease-bound mobile rig hauler" as used in this Chapter means a winch or crew truck in excess of twenty-six thousand pounds which meets the following description:

(1) *The hauler is operated on the highways of Louisiana only for the purpose of hauling mobile workover rigs or any accessories for a mobile workover rig within a ten-mile radius of the operator's oil and gas lease.*

(2) *The haulers are covered under a general liability policy, issued by an insurance company authorized to do business in the state, with liability coverage and limits equal to or greater than those defined in R.S. 32:900(B)(2), and such proof of the coverage is provided to the secretary as he may, by rule, require.*

Note the reference in paragraph (2) that the haulers are covered by a general liability policy. Under the ISO changes, it appears that these vehicles would not be covered by a CGL policy.

3. Other motor vehicle insurance laws – Uninsured Motorists coverage. The provisions of Louisiana's uninsured motorist law are found in Title 22, section 680.

22: §680. Uninsured motorist coverage

The following provisions shall govern the issuance of uninsured motorist coverage in this state:

(1)(a)(i) *No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle designed for use on public highways and required to be registered in this state or as provided in this Section unless coverage is provided therein or supplemental thereto, in not less than the limits of bodily injury liability provided by the policy, under provisions filed with and approved by the commissioner of insurance, for the protection of persons insured thereunder who are legally entitled to recover nonpunitive damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness, or disease, including death resulting therefrom; however, the coverage required under this Section is not applicable when any insured named in the policy either rejects coverage, selects lower limits, or selects economic-only coverage, in the manner provided in Item (1)(a)(ii) of this Section.*

Note the reference to “any motor vehicle designed for use on public highways and required to be registered in this state.” The dual stipulation of “designed for use... and required to be registered” could impact which vehicles or mobile equipment fall under the UM law, and thus the CGL changes. For example, a forklift working at a job site which momentarily drives into a roadway does not seem to fit the UM requirement for “designed for use and required to be registered.” By contrast, a mobile crane which is customarily driven down the highway (a CGL exposure, and most likely has a tag) would seem to fit the description, and thus might come under the UM law.

On that point, one other important provision of the UM law is that it applies to “*automobile liability insurance.*” Does that mean UM is provided only by a Personal Auto Policy or Business Auto Policy, or would the UM statute apply to other forms of insurance? That issue was resolved in the case of *Southern American Insurance v. Dobson*, 41 So.2d 1185, in which the Louisiana Supreme Court ruled that the UM law applied not just to an automobile liability policy, but to any policy providing automobile liability insurance. In the *Dobson* case, the issue was whether or not an excess or umbrella policy provided UM coverage (it does).

Thus, policies such as a CGL or BOP with Hired/Non-Owned Auto coverage could provide UM coverage, according to some legal experts. One cited case is *Magnon v. Collins*, 739 So.2d 191, and involved an employee who was struck by an uninsured motorist while he was loading some camera equipment into his car. The Court held that UM coverage was not mandatory because the plaintiff was not an insured for liability coverage. The decision clearly implies, according to some legal

authorities, that absent a valid waiver, UM coverage is mandatory for anyone entitled to liability coverage under the endorsement.

Another point of interest is that the Louisiana UM endorsement includes a definition of “uninsured motor vehicle” which does not appear in statute, and which seems to have some potential relevance to the CGL changes for mobile equipment. In endorsement CA 21 48, the following is found in the “Additional Definitions” section: *“However, ‘uninsured motor vehicle’ does not include any vehicle: b. Designed for use mainly off public roads while not on public roads.”*

It is worth noting that a number of experts have opined that it was the rise in UM claims paid under CGL for mobile equipment accidents that was one of the driving forces behind the current changes in CGL.

4. Other motor vehicle insurance laws – miscellaneous. As was suggested earlier, it is very difficult, if not near impossible, to comprehensively and fully compile and catalog every statute which might relate in some way to motor vehicles, including what in insurance we call “mobile equipment.”

For example, the principal Louisiana statute cited in this article is Title 32 – Motor Vehicles and Traffic Regulation, which includes Louisiana’s Financial Responsibility Law and Compulsory Insurance Law. However, it is worth noting that just the Table of Contents alone for Title 32 is 33 pages long! Chapter 5 contains both the Financial Responsibility Law and Compulsory Insurance Law. However, there are 18 chapters total in Title 32, and in various other chapters, there are numerous references to a wide variety of specialty vehicles, mostly related to registration and not insurance. But, a requirement to be registered does overlap with a requirement to be insured, in certain instances.

In addition, The Louisiana Department of Public Safety – Office of Motor Vehicles, has a memo posted on its website (“Vehicles Exempt From Registration,” Section IV- Motor Vehicle Registration Requirements, Number 1.00, Revised 11/12/02), which lists the several types of vehicles as being exempt from registration, as provided in Louisiana Statutes Title 47 – Revenue and Taxation. What effect, if any, any citation in Title 47 would have on the vehicle changes in CGL is unclear.

Note also that the Uninsured Motorist law appears in yet another part of Louisiana statutes: the Insurance Code – Title 22.

5. In summary. Having waded through this labyrinth of state motor vehicle laws, one can well appreciate the introductory comments by one industry expert: *“The motor vehicle laws of many, if not most, states not only are different, but also are not presented in an orderly fashion. One can take hours to go through these laws and never find the answers sought.”*

PART 2 – DEALING WITH INSUREDS AND MARKETS

The major change in the new 2004 CGL policy is the redefinition of mobile equipment subject to state motor vehicle laws as autos. In the past, such vehicles have been handled by endorsement under the CGL policy, but now will have to be covered under the Business Auto Policy using at least two additional endorsements. And that's just the beginning of what has the potential to be a tidal wave of coverage gaps and E&O claims.

The "Virtual University" of the Independent Insurance Agents & Brokers of America (IIABA) just published the following excellent article. In fact, the Virtual University has hundreds of such articles that are an excellent and valuable resource for all agency staff.

"Mobile Equipment vs. Autos in the 2004 CGL"

By Bill Wilson, CPCU, ARM, AIM, AAM

Director of IIABA Virtual University

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Note: The following article draws heavily from the 2004 CGL seminar of [John Eubank](#) and includes material copyrighted by Professional Insurance Education, Inc. and used with their permission.

ISO is revising the Aircraft, Auto Or Watercraft exclusion and the auto and mobile equipment definitions in the 2004 edition of their CGL program to exclude coverage for bodily injury and property damage arising out of the ownership, maintenance or use of **land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law**. Such laws typically require various auto coverages, such as Uninsured Motorists Coverage (UM), Underinsured Motorists Coverage (UIM), and Personal Injury Protection (PIP). This article focuses on the [CG 00 01 12 04](#).

Since 1941, the Commercial General Liability Coverage Form has provided coverage for bodily injury or property damage arising out of the ownership, maintenance, use or operation of "mobile equipment." The CG 99 01 11 85 endorsement has been available to provide liability coverage for mobile equipment required to be registered for public road use. That endorsement has now been withdrawn as part of the 2004 changes.

According to ISO, their research shows some states require mobile equipment to carry Personal Injury Protection coverage on all terrain vehicles or other types of mobile equipment, in part, due to a limited over-the-road exposure. Therefore, ISO is removing the over-the-road coverage from the CGL and moving it to the Business Auto Program (BAP).

ISO is revising the CGL Definitions section to amend the "auto" and "mobile equipment" definitions and the Aircraft, Auto or Watercraft exclusion under Section I - Coverage A. They are revising these definitions to state that mobile equipment subject to compulsory or financial responsibility laws or other motor vehicle insurance laws are now "autos." Statutory coverage needs for such vehicles may be handled by an ISO Business Auto Policy for their over-the-road exposure.

Revised 2004 CGL definitions (changes in red):

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.**

However, "auto" does not include "mobile equipment".

12. **"Mobile equipment" means** any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached machinery or equipment are not "mobile equipment" but **will be considered "autos"**:

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

Revised 2004 CGL Exclusion g. Aircraft, Auto Or Watercraft (changes in red):

While the over-the-road exposure of certain mobile equipment will be covered under the BAP, **the OPERATION of that equipment will remain covered under the CGL** by adding the following exception to Exclusion g.:

This exclusion does not apply to:....

- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
 - (b) the operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

Revised 2004 CGL "Who Is An Insured" provision (changes in gray to denote deletion):

ISO is also **deleting paragraph 3.** under Section II - Who Is An Insured in the CGL Coverage Part since, with these changes, mobile equipment registered under any motor vehicle insurance law will now be considered an "auto." The deleted paragraph currently says:

3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

2004 Business Auto Program Changes

For consistency with ISO's 2004 General Liability Division and in order to track the changes made to the definitions of "auto" and "mobile equipment" in the CGL program, ISO has developed mandatory endorsement [CA 00 51 12 04 - Changes In Coverage Forms - Mobile Equipment Subject To Motor Vehicle Insurance Laws](#).

Under this endorsement, mobile equipment that meets the requirements for compulsory financial responsibility or other motor vehicle insurance laws will be considered an "auto". In addition, the Operations exclusion in the BAP liability coverages is being amended to exclude bodily injury, property damage and covered pollution cost or expense arising from the operation of any machinery or equipment that is on, attached to or part of these vehicles since that exposure will continue to be covered under the CGL.

Finally, the [CA 20 15 12 04 - Mobile Equipment](#) endorsement has been modified slightly and continues to be used to schedule mobile equipment for coverage under the BAP.

Commentary

Nikita Kruschev once defined a politician as someone who would build a bridge where there was no river. Likewise, at least at first glance, this change appears to be a solution to a problem that doesn't exist. It also appears to be a response to a perceived need to garner more premium for the over-the-road ME exposure, as opposed to providing a superior coverage solution. How mobile equipment subject to MV laws has been handled in the past seems to have worked, from a coverage standpoint, quite well.

This change may significantly increase the opportunity for coverage gaps and will almost certainly require increased diligence and time in evaluating exposures on the part of insureds, agents and underwriters. Therefore, it is critical that this change be discussed with agency and company personnel to minimize the chances of coverage gaps.

Below are some of the issues raised by the VU faculty. Unfortunately, at this time, we have more questions and caveats than we do solutions.

Multi-State Operations and Changes in MV Laws. One of the biggest logistical problems will be in complying with varying and changing state MV laws. For example, in my state, financial responsibility laws apply to "every vehicle driven on the highways" (TCA 55-12-139) except for "devices moved by human power or used exclusively upon stationary rails or tracks" (TCA 55-1-103). If a piece of mobile equipment is EVER driven on a highway, it is "subject to" (as the new language says) financial responsibility laws at that time and, as a result, an "auto."

It would seem that, if there is ANY chance a piece of mobile equipment might be driven on a public road, it had better be covered under the BAP to avoid a coverage gap. As a result, the insured could be locked into paying a class-rated premium based almost exclusively on over-the-road use although such use is minimal. By the same token, the underwriter might want the predominantly CGL exposure to be reflected in the CGL premium, thus creating the potential for an excessive premium for the overall exposure.

Also what if MV laws change mid-term during the policy? Since coverages and exclusions are based on whether or not the equipment is "subject to" MV laws, must every inventory of mobile equipment in the state be reviewed whenever a MV changes. And how are agents expected to monitor and interpret such changes? Similarly, what if the garaging of mobile equipment moves from one state to another? Must agents not only be familiar with insurance laws and regulations in all states where insureds have operations, but also with all relevant motor vehicle laws?

Different Carriers, Different Forms. If the CGL and BAP are in different carriers, it is critical that the forms be concurrent. If the CGL is the 2004 edition, the BAP must have the CA 00 51. If the CGL is a pre-2004 edition, the BAP

must NOT include the CA 00 51. Again, this can vary by state so that a multi-state insured could have several CGL and BAP forms and different endorsements, with mobile equipment covered differently in different states. As note above, if mobile equipment is garaged in a different state, what was covered before may not be covered when moved.

What if the CGL renewed 12/01/04, but the BAP doesn't renew until 02/01/05? Will the agent or underwriter catch this and make the appropriate changes mid-term? What if forms between, or within, carriers are not ALL ISO forms? What if the auto exposure is currently written on a PAP? What if the insured only has a Hired and Nonowned auto exposure, perhaps written under an artisan contractor BOP policy?

Physical Damage Coverage. Although it may not be a major issue, consideration must be given to how physical damage will be provided on all mobile equipment. Will it be more cost effective or result in better or worse coverage if it is written under a BAP or an inland marine form?

Symbol 1. Will underwriters be willing to continue providing Symbol 1 liability coverage when the BAP could include various types of nontraditional auto acquisitions during the policy period? Will they even consider Symbols 2 or 4, or insist only on Symbol 7? Or, might they make use of the ISO [CA 99 54 -Covered Auto Designation Symbol](#) endorsement?

Pricing. Finally, how is this going to affect overall pricing in an already beleaguered contractors market? At this point there doesn't appear to be any plan to reduce CGL premiums, while one can almost certainly anticipate increased BAP premiums when mobile equipment are moved to the BAP for coverage.

Additional Reading:

["The New ISO Commercial General Liability Policy: A Summary of December 2004 Policy Changes"](#) by Craig Stanovich, from IRMI

["Decipher CGL Changes With Caution"](#) by Don Malecki, CPCU, from Rough Notes

As more information comes to light on this issue, we'll update this article. In addition, we'll post additional member/subscriber Q&A below.

Q.

Does this mean then that an insured who retains an old pickup truck - without any BAP - used solely for removing snow in his lot is not covered by the CGL? My question assumes an accident occurs in his lot while clearing snow. It also assumes the insured has no license plate for this vehicle which is never taken on the road. Thanks for the expert opinion.

A.

It's excluded only if the vehicle is "subject to" state MV laws. My assumption is that, if he is legally operating that vehicle on his own property and NEVER takes it onto a public road such that it is not required by law to meeting state requirements for financial responsibility, compulsory liability insurance, UM/UIM, PIP, etc., then the CGL would continue to provide coverage. Of course, the law may vary from state to state.

Additional commentary will be added on the member/subscriber version of this article at <http://www.iiaba.net/VU/Lib/Ins/CL/CGL/Wilson2004ME.htm>.

CONCLUSION

Additional issue #1 – New BAP symbol. In an upcoming 2006 filing, ISO will be introducing a new **symbol 19** for use with certain mobile equipment impacted by the 2004 CGL/BAP changes.

Additional issue #2 – contractors who lease equipment. Here is a suggestion from an industry expert.

Leased Mobile Equipment

With the new “mobile equipment” definition, contractors who lease equipment now defined as an “auto” have an additional concern with coverage for the physical damage to the equipment.

Here are a couple of ways to address the problem under the Business Auto policy.

If the policy has endorsement CA0051, add symbol 8 for comprehensive and collision. This will provide coverage for hired vehicles including “mobile equipment” defined as an “auto” up to the limit selected. The limit should be set high enough to cover the type of equipment leased by the insured.

If the policy does not have CA0051, then add symbol 19 for comprehensive and collision. This will provide coverage for “mobile equipment” now defined as an “auto”. Again the limit should be high enough to cover the types of equipment leased by the insured. If the equipment does not meet the new definition of “auto”, it is still “mobile equipment” and would not be covered by the Business Auto policy. So, physical damage coverage would need to be addressed under an inland marine or property policy or by purchasing coverage from the lessor

NECESSARY ACTION: Several courses of action are recommended for agencies. First, do your homework and get familiar with the ISO changes. Second, consult your CGL and BAP carriers, to determine their implementation dates for adopting the changes, and what procedures they have in place to resolve many of the anticipated issues in making the transition. Third, contact insureds who will be impacted by the changes, and develop a strategy for identifying vehicles and equipment affected by the changes. Fourth, develop a procedure within the agency for handling all affected accounts in a consistent and standardized manner.