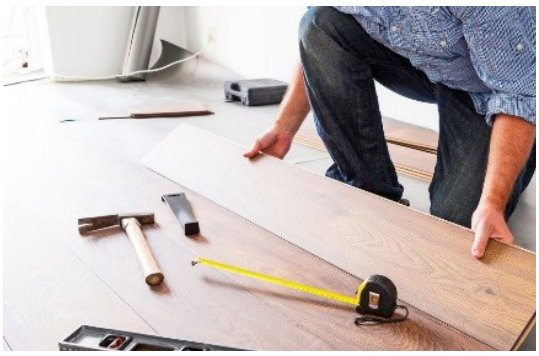
Environmental Risk Overview



Flooring Contractors

Flooring contractors are involved in a variety of construction projects spanning new construction, renovation and restoration. Operations may involve wood, vinyl, tile/stone, laminates and carpeting. These flooring materials along with the adhesives, sealants and caulking used, can contain toxic chemicals that emit hazardous air emissions and dusts during installation, removal and repair activities. Mold can also develop from improper installation or the installation of moisture exposed materials. Additional environmental risks include the inadvertent disturbance of existing pollutants, like asbestos, and the handling, transportation and disposal of typical chemicals, solvents, adhesives and cleaners.

Environmental Exposures May Include

- Typical adhesives, sealants and caulking used for installations contain solvents and certain carcinogens. Many of these volatilize off and are inhaled, causing building occupants to be exposed to agents that have effects on the nervous system, lungs and kidneys. They may include ammonia-based compounds, alkylated benzenes, petroleum distillates, carbon black, titanium dioxide, benzoate derivatives, silica, siloxanes and isocyanates.

- Asbestos can be found in flooring tiles and backing of vinyl sheet flooring. Sanding, sawing, drilling or tearing during repair or removal can disturbed the asbestos. Inadvertent disturbance can cause release and expose individuals to inhalable asbestos fibers that can cause serious health hazards or fatal diseases such as asbestosis, lung cancer, mesothelioma and other cancers.

- Moisture trapped below flooring materials can result in mold growth and the release of mold spores and mold metabolic products (microbial VOCs or MVOCs) into indoor air. Improper moisture control or failure to sufficiently cure and dry concrete before new flooring is installed on it, can create the potential for mold growth that could lead to cleanup and third party liability. Existing mold can also be inadvertently disturbed during removal and repair work and cause a release of mold spores that could impact building occupants.

- Accidental spills and leaks of adhesives, sealants, solvents and cleaners at the job site, location of storage and during transportation may cause third-party exposures and cleanup. Some products are flammable and may result in a fire that spreads and releases other contained materials and produces hazardous vapors.

- Improper disposal of chemicals, cleaners and solvents can lead to environmental tort liability and clean-up costs. Flooring contractors may dispose of material in job site dumpsters and inadvertently dispose of hazardous material improperly, such as asbestos in old flooring, which requires special disposal procedures.

- Many engineered woods and sheathing contain adhesives for binding wood fibers and maintaining structural properties. Sawing, planing, drilling and other abrasive manipulation of wood materials generates airborne particles. These not only impair air quality, but expose persons to inhalable particles containing toxic chemicals including formaldehyde, urea, phenols, melamine, isocyanates and urethanes as well as organic allergens. They may also reach levels for combustible dust hazards. Fires involving these woods release additional airborne particulates of heavy metals, cyanides, dioxin-like compounds and PAHs.

- When storing wood products at the equipment yard or job site, exposure to rain, moisture or flooding causes many of these compounds to leach into surrounding soils and shallow groundwater, and be carried in surface runoff with contaminated sediments to nearby surface water or storm drainage systems. At summer temperatures, a number of these chemicals will volatilize and may accumulate to levels in enclosed spaces which can impact the health of individuals present. Poor job site housekeeping, storing and stacking of materials can increase risk exposure. Any moisture added to the exposed wood may also lead to latent mold discovery post construction.

- Removal of old floor tiles, carpeting, base wallboard, insulation and other dry building materials can release dusts containing a large variety of allergenic or disease-causing contaminant particles/substances. Introduced contaminants may contain applied pesticides, cyanides/cyanates, petroleum aromatic hydrocarbons (PAHs) from fire by-products, dioxins/furans, molds, drug manufacturing residues and biocides. Contaminants native to the removed materials may include asbestos, lead, styrene, arsenic, other mineral salts, flame retardants and plasticizers. With improper containment of the workspace or improper cleanup, these particles can remain behind, enter HVAC systems, and even migrate into areas in which work was not conducted, which can expose property occupants during and after job completion.

Contractors Pollution Liability Can Provide Coverage For

- Contracting operations done “by or on behalf of” the insured
- Contracting operations performed at a job site
- Third-party claims for bodily injury and property damage
- Third-party claims for cleanup
- Mold, legionella, bacteria and fungi
- Sudden and accidental coverage for owned/leased locations
- First-party emergency response costs
- Non-owned disposal sites
- First and third-party transportation pollution liability
- Loading and unloading
- Defense of third-party claims
- Lead and asbestos

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Claims Scenarios & Examples

- A flooring contractor installed new carpeting in an office building. One week after the installation, the owner of the office building informed the contractor that employees were complaining of headaches and dizziness. The contractor could not prove that the manufacturers of the carpet or the carpet adhesive were responsible. The contractor filed a claim with their general liability carrier. The claim was denied because the contractor brought the hazardous materials, such as formaldehyde and volatile organic compounds, onto the site.

- Families were told what they were smelling was a new home smell and not to worry, but then their eyes started burning. According to court documents against the manufacturers, homebuilder and flooring subcontractor, the cause as formaldehyde leaking out of floor joists (the support for floors). The company used a formaldehyde-based resin in a formula to improve fire resistance in their product. The manufacturer said about 2,200 homes were impacted nationwide. Multiple claims and cross claims have been filed.

- Seven people were taken to a hospital after they complained of headaches and breathing difficulties at a company. The employees were sickened by fumes when an outside contractor stripped and waxed floors in the first-floor lunchroom overnight.

- Several apartment tenants filed an environmental tort claim for health consequences as a result of a tiling contractor's application of grout sealant during bathroom renovations in several of the apartment complex units. Investigators learned that the sealer contained hydrocarbon-based chemicals that are toxic and can affect the respiratory system. Inhaling these chemicals can cause pneumonitis, damage to your lungs or even death. There were 28 confirmed reports of overexposure, resulting in respiratory symptoms for which medical attention was required for coughing, irritation, difficulty breathing, dizziness and disorientation. Thirteen residents had symptoms severe enough to warrant immediate medical treatment including overnight hospitalization.

- According to the EPA, a company violated certain requirements of the Asbestos NESHAP when they performed a flooring removal and replacement job at a middle school. The flooring consisted of vinyl asbestos tile. Specifically, the company failed to provide written notice to the EPA before starting the work of wetting the asbestos while stripping it and keeping it wet until collected and contained for disposal, and for also failing to properly handle and dispose of asbestos-containing waste that was generated.

- A flooring contractor was forced to pay a fine to settle EPA claims saying they violated the Clean Air Act and the National Emission Standard for Hazardous Air Pollutants for Asbestos, commonly known as the "Asbestos NESHAP" regulations.

- A flooring company was fined for performing an asbestos abatement project without a license. Workers for the company removed about 225 feet of sheet vinyl flooring as part of a commercial building renovation project. By not complying with asbestos regulations, the company likely caused the release of asbestos fibers into the atmosphere.

- Workers were sickened by inhalation exposure of flooring dust that got into the building ventilation system. A flooring contractor was sanding hardwood floors on the lower level of the building and had not properly set up dust control in their workspace. The workers sought reimbursement of medical costs including ongoing monitoring. The building owner was suing for costs to remove the dust from the building ventilation equipment. According to court documents the workers were allegedly exposed to certain nasal cancers as a direct result of exposure to the dust from specific timbers. These cancers can affect any of the passages around the upper respiratory tract including the throat and can be common with walnut and oak.

- A carpentry and home building company was ordered to pay $500,000 to a mother and two sons who fell ill from symptoms of nausea, headaches and vomiting. An investigation determined the cause of illness was mold that was discovered in their home attributable to the installation of wet building materials including sub-flooring. "They built it wet and sealed it off," the complainants stated at trial.

- A General Contractor (GC) was renovating an older apartment building when their flooring subcontractor noticed that there was old tile underlying a plywood sub floor. During the initial process of ripping up the sub floor, some of the tile underneath was disturbed. The project was stopped in order to test for possible asbestos in the tile. Subsequently, the analysis revealed the tile did contain asbestos and that the building had been contaminated. The project was immediately halted while an asbestos abatement contractor remediated the building due to the disturbed asbestos floor tile. The GC was responsible for the costs incurred in abating the asbestos its subcontractor had released and fortunately had environmental insurance to cover the costs.

Final Consideration

As a contractor you can be faced with the cost to defend yourself against allegations or legal action from pollution related events, regardless if you are at fault or not. Having the proper insurance coverage in place will help fund the expenses incurred to investigate or defend against a claim or suit and provide you with environmental claims handling expertise.

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