



Mold Abatement Contractors

Mold abatement contractors face many environmental exposures that could lead to bodily injury, property damage and cleanup liability. Failure to fully identify mold intrusion, contain the contamination and properly perform remediation could lead to health hazards and further mold growth. Many products used to disinfect and deodorize mold contamination contain chemicals that could be hazardous, and the handling, mixing and transporting of these materials could lead to environmental liability. Abatement work at job sites could disturb existing asbestos or lead-based paint. Damage to, or improper sealing of, plumbing and HVAC systems could lead to additional moisture intrusion and mold growth.

Environmental Exposures May Include

- Mold and fungi, and the spores they release as part of their reproductive process, are claimed to cause illness and injury to humans and damage property. Mold has been documented to weaken people's immune systems, leading to a variety of infections and health-related problems. Allergic reactions to mold are common and can be immediate or delayed. Allergic responses include hay fever-like symptoms such as headaches, sneezing, runny noses, red eyes and skin rashes (dermatitis). Molds can cause asthma attacks in people with asthma who are allergic to mold. In addition, molds can irritate the eyes, skin, nose, throat and lungs of individuals whether or not they are allergic to mold. Breathing in mold may also cause hypersensitivity pneumonitis, an uncommon disease that resembles bacterial pneumonia. Mold exposure may result in more serious infections in persons whose immune systems are weakened or suppressed.
- Failure to identify all contributing causes of mold growth, or locations of active or dormant growth, may result in incomplete recommendations and remedial actions. Improper seal off, clean up and decontamination at a job site, or use of equipment could cause release of mold or mold spores. This may lead to additional property damage and health issues.
- Failure to properly remediate and dry out mold intrusion or follow protocols for contaminated material removal may cause the mold to spread to previously non-contaminated areas and present serious long-term health risk to occupants. This can result in post remediation claims against the contractor.
- Sample collection may involve the disturbance of building materials, which could have asbestos-containing materials or lead-based paint. Asbestos can be found in many areas including around wiring, in wall cavities, insulation, ceiling and floor tiles. Failure to identify these materials or properly contain, handle and dispose of them could release hazardous inhalable fibers that can cause third party injury exposure and cleanup liability.
- A variety of chemicals, including quaternary ammonium compounds, peroxides, hypochlorites, glutaraldehyde and iodophors, may be found in products used at job sites such as antimicrobials, disinfectants, deodorizers, mold stain removers, fungicides and preventative coatings and sealers. Even "natural" botanical disinfectants and deodorizers (e.g., thymol) are toxic at certain concentrations. Chemicals used at improper application rates or concentrations, in combination with other chemicals, or with incorrect delivery systems can cause residues to remain in the building or create hazardous air emissions. Human health can be impacted by direct surface contact or inhalation.
- Spills or leaks during transportation, or loading and unloading, to and from job sites of chemicals, disinfectants, deodorizers, fungicides and coatings and sealers can lead to cleanup liability or contamination of soils and groundwater. Improper disposal of these materials, or of job site waste that is contaminated with mold, asbestos or lead-based paint, can lead to cleanup and environmental tort liability.
- Existing plumbing, refrigeration or HVAC systems may be disturbed during abatement activities. Improper repair, sealing or damage to these systems may result in small continuous water or air leaks in which moisture condenses, pools and accumulates in building materials to form new mold growth. Building HVAC systems could spread mold spores throughout the building and should be considered a high priority for investigation and repair. Ventilation system mold contamination should be mitigated as soon as possible in a manner that does not expose building occupants to dust and mold spores.
- Abatement contractors perform professional inspections and analysis. An error, omission, defect or deficiency in any test performed, or an inaccuracy in the preparation and performance of work plans, diagnostic lab testing or post-abatement certification could lead to tort liability and economic losses.

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
- Defense of third-party claims
- First-party emergency response costs
- First and third-party transportation pollution liability
- Mold, legionella, bacteria and fungi
- Sudden and accidental coverage for owned/leased locations
- Abatement contractors are able to combine Commercial General Liability, Contractors Pollution Liability and Professional Liability into one package policy. Work Comp & Auto may be offered
- Loading and unloading
- Lead and asbestos
- Non-owned disposal sites

Claims Scenarios & Examples

- Allegations of environmental bodily injury and professional negligence were made against a restoration contractor who was hired to perform water and mold remediation at an apartment building. After the work was completed and tenants were told it was safe to reenter their apartments, a tenant of the building sued the property management company and the contractor due to illness and professional negligence resulting from the presence of mold.
- A couple returned to find their home flooded. Their insurance company referred them to two restoration contractors. The couple selected the approved restoration contractor who dropped off large dehumidifiers to dry out the damaged carpet and wallboard. The contractor assured the couple all restoration was complete. Within two weeks the couple began smelling musty odors. The loss occurred in the upstairs bathroom. The bathtub had not been removed, and water was trapped under it. Court documents allege that the contractor failed to remove the mold damage and sprayed Kilz over moldy areas in order to pass a mold test in areas that tested positive for mold. The couple sought payment for remediation for damaged property exacerbated by mold, medical and relocation costs.
- A fire and water restoration contractor was accused of failure to remediate mold at a residential home. The homeowner had other work performed that caused the mold but brought all contractors and sub-contractors into a lawsuit. The insured incurred costs to defend themselves against the groundless claim.
- A restoration contractor was hired to remediate mold but then the claimant alleged the remediation was not completed properly which led to additional mold problems. Claim reserves in excess of \$420,000.
- A restoration contractor and their insulation subcontractor were sued for bodily injury due to mold. The contractors were hired to clean up and remediate a condominium complex after a water pipe ruptured and caused water damage to many suites. The claim was made against the contractors for failure to remove wet insulation. The tenants sought to recover remediation costs, re-insulation and hospital related expenses for exposure and ongoing air monitoring.
- A music teacher was diagnosed with adult onset asthma and other pulmonary issues by her treating physician, conditions that were attributed to mold exposure. When these conditions persisted, despite the school district's efforts to remediate her classroom, the teacher reduced her work schedule from full time to part time, eventually limiting herself to working one day a week. The Judge ruled in favor of the teacher, awarding her \$1.8 million for medical expenses, lost wages and general damages. It is anticipated that the district will appeal the verdict. Civil litigation is pending against the mold abatement contractor.
- A dishwasher leak caused extensive water damage to a home, leading to mold growth. A mold abatement contractor was subsequently hired to remediate and restore the damaged area. The contractor failed to restore the damaged areas properly and left exposed cavities in the wall and ceiling. After the work was completed, major floor settling in the kitchen and large cracks in the foundation walls were observed. The chimney in the home broke away from the wall and collapsed. The house eventually had to be torn down, and the contractor faced significant legal costs.
- A restoration contractor was hired to cleanup and remediate a condominium complex after a water pipe ruptured and caused major water damage to many suites. Several months after the cleanup was completed, a tenant became ill and had difficulty breathing, allegedly from odors emanating from her suite. Upon investigation by the condominium committee, they discovered that areas of drywall and insulation were wet and covered with toxic mold. A claim was made against the restoration contractor alleging that he created a dangerous environment by failing to remove all water-damaged material, install proper equipment to prohibit high humidity levels, provide proper air circulation and prohibit the growth of mold. The tenant sought to recover costs associated with bodily injury from her exposure to mold.
- A city government brought charges against a construction company over a faulty job at the local elementary school. The suit stated that the company had rendered substandard services, including mold remediation at a middle school. As part of a settlement agreement reached, the construction company agreed to pay the city government \$3.1 million to resolve the allegations.

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.

This environmental risk overview has been developed by Environmental Risk Professionals on behalf of J. Loos & Associates. It is intended to provide the reader with a broad range of potential risks they may encounter and may not reflect all risks associated with their business. To verify available insurance coverage, please consult your insurance representative.

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