



Painting Contractors

Painting contractors face a number of environmental exposures. Many products such as paints, enamels, chemical strippers and rust removers can contain hazardous chemicals, toxic metals and solvents. Fumes from these products can create hazardous air emissions that impact third parties. Spills or leaks during storage or transport can lead to cleanup liability. Operations such as surface preparation or paint removal can create hazardous fugitive dusts or wastewater, or can inadvertently disturb existing lead-based paint or asbestos at the structure. Disposal liability is an exposure as materials such as paint products, soaked rags and job site waste or wastewater may contain hazardous materials and require special handling and disposal.

Environmental Exposures May Include

- Thousands of chemical compounds are used in paint products as pigments, extenders, binders, solvents and additives. Surface preparation products, rust converters and paint and rust removers also contain toxic solvents and corrosive chemicals. Asbestos was used as a filler in interior and exterior paints and textured surfacing materials until the early 1980s. The main organic solvents used in paints are toluene, xylene, aliphatic compounds, ketones, alcohols, esters and glycol ethers. Chemicals in paint can be toxic to humans and aquatic systems.
- Exposure to paint may irritate or burn the eyes, nose, throat and skin and cause reactions such as headaches, dizziness or nausea. Volatile Organic Compounds (VOCs) and exposure to some of the elements in paint, even for a short period of time, can cause severe and lasting impacts, such as kidney or liver damage or respiratory problems. Substances found in some oil-based paint, such as formaldehyde and benzene, are carcinogenic while others, such as heavy metals and phthalates, are human and ecosystem toxins.
- Painting and surface preparation can create hazardous air emissions and release fumes that can cause third party bodily injury liability. Hazardous components from paint materials can include metals such as lead and chromium and solvents and VOCS. The most important environmental impact from paints is the release of VOCs during the drying process after the coating is applied. Volatile chemicals off-gassing indoors can become entrained in the HVAC system and impact occupants throughout a building. Use of aerosol and spray paints can also lead to third-party liability exposure from overspray or spray drift.
- Accidental spills and leaks of materials such as paints, sealants, solvents and lacquers at the location of storage, at a job site, or during transportation or loading and unloading could contaminate soil and groundwater or runoff into storm water systems. This can lead to third-party liability and cleanup liability. Wastewater from equipment washing can also lead to a release or spill if not properly contained or handled.
- Sanding, needlegunning or abrasive blasting of surfaces can create harmful dusts or dislodge pollutant particles into the air. Surface preparation may disturb existing lead-based paint or asbestos-containing material and result in the release of inhalable particulate or fibers. Failure to perform proper assessment of the materials or contain the area could expose third parties to hazardous air emissions.
- Paint removal done by water blasting to residential, commercial or industrial structures requires proper containment systems to capture the resulting wastewater. Wastewater that is improperly contained has the potential to contaminate soil, groundwater and surface water. Paint chips and other solid debris should be separated from the wastewater, collected and properly managed.
- Housing built before 1978 may have lead-based paint (LBP) under more recent layers of applied paint. This paint may be dislodged, and lead particulates may be released into the surrounding environment during removal, repair or cleaning of painted building materials. Even accidental releases may occur during targeted abatement. Although LBP has been discontinued for general consumer use, lead-, cadmium-, and chromium-based paints continue to be available for use at commercial/industrial sites. Additional pollution risks and exposures may be present at these work sites and failure to adhere to protocols for heavy metal particulate containment, waste handling and disposal can increase risk exposure.
- Improper disposal of wastes can lead to off-site soil and groundwater contamination and environmental tort liability. Materials such as discarded paint products, non-empty aerosol cans, solvent soaked rags and wastewater from equipment washing or water blasting can be classified as hazardous waste and require special disposal procedures. Job site waste can also be considered hazardous if it contains asbestos or lead based paint. Businesses are required to determine whether the waste they generate is hazardous. Unlabeled or mislabeled containers can contribute to improper handling and disposal.

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
- Natural resource damage
- First-party emergency response costs
- Sudden and accidental coverage for owned/leased locations
- Mold, legionella, bacteria and fungi
- First and third-party transportation pollution liability
- Loading and unloading
- Non-owned disposal sites
- Lead and asbestos

Claims Scenarios & Examples

- A contractor was hired to paint the inside of a nursing home. In the course of the work, several of the residents sued the contractor, alleging that the area was not properly vented, and that they were overcome with fumes. The claim exceeded \$200,000.
- A painting contractor was removing lead-based paint on a bridge when the residents of a home that was located underneath the bridge alleged that the paint removal work was dropping lead-based paint on their property. The residents filed a lawsuit, claiming bodily injury and diminution of property value.
- A contractor was hired to repaint a dealership. The contractor used brushes and rollers, but last minute sprayed epoxy on a small area inside a service bay. Workers lifted the bay door just a little bit so as to help vent the fumes. The opening created a wind tunnel, and epoxy was blown throughout the property where 350 new and used cars were sitting.
- A painting contractor would save empty paint cans and then give them to a third party who then stored them for metal recycling. The cans began to seep the remnant latex paint into the ground that sloped into the city's storm sewer, and the city sued the contractor for cleanup costs. Rain only made the situation worse, as the water-soluble paint would collect with the rain and groundwater and contaminate the storm water runoff.
- The vehicle of a road painting crew overturned while transporting paint, spilling hundreds of gallons of the paint. The paint flowed into a nearby creek. Hazmat crews arrived on the scene and tried to limit the damage to natural resources and aquatic life.
- A painting contractor accidentally spilled a tote containing fluoro-silicic acid while moving it on a job site, resulting in cleanup costs and property damage. The General Contractor also faced a loss as a result due to the construction delay.
- When a bridge was prepped and painted with a protective coating, cars, buildings and large yachts that were nearby were hit with coating spray and sandblasting particulates. During surface prep, the lead-based paint also landed in the river. The painting contractor faced claims in the tens of millions of dollars.
- A truck carrying 400 gallons of paint was heading to a paint job when a car swerved in front of it, causing it to crash into a utility pole and fall into a lake. The hazmat crews tried to mitigate the leak as much as they could, but it was uncertain just how much paint released into the lake. An environmental cleanup company had to be hired to clear out the waste in the lake.
- A contractor was working on a residential building. The contractor removed paint with a solvent; however, they disposed of these materials improperly onsite. This caused a toxic vapor to be released and affected various parties and their health. A class action lawsuit was filed against the contractor for bodily injury stemming from toxic vapor inhalation.
- A painting company was hired as part of a post office renovation project. During the painting, 10 post office workers became sick and had to go to the hospital due to the toxic fumes, 25 others were treated on the scene by first responders for respiratory problems, and 400 others in the building were affected. The painters claimed that they didn't want to use the hazardous paint and had asked the architect if they could use something else instead. The architect told them to use the paint anyway.
- An apartment building that was constructed in the 1970s underwent some renovating. A child who lived in an apartment building was diagnosed with lead poisoning allegedly due to the painting contractor who was working on the renovation causing unsafe conditions. The child's parents filed a bodily injury claim against the contractor, and the painting contractor was held liable.
- A resort hired a contractor to complete a remodeling project. While moving a pallet of buckets of paint thinner with a forklift, the pallet fell onto the street and spilled about 150 gallons of paint thinner. The resort and immediate area surrounding the resort were forced to evacuate. The resort owner filed business interruption and cleanup claims against the contractor.
- A contractor was hired to paint a water tank at a farm. After the work was completed, the farm found that their produce was covered with paint flakes from over-spray of the painting project. The damage to the product resulted in losses and extensive cleanup.

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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