Environmental Risk Overview

Restaurants

Restaurants face a number of environmental exposures. Grease traps are a leading cause of environmental liability, and leaks or improper maintenance can lead to contamination that impacts adjacent properties, sewer pipes and water systems. Wash water from cleaning equipment and exhaust systems can contain grease, fats and oils, as well as the cleaning chemicals. Improper containment, transportation and disposal of these wastes can lead to cleanup and environmental tort liability. Refrigeration systems and chillers also contain hazardous materials that can be released from leaks or improper maintenance and pose health risks to third parties.

Environmental Exposures May Include

- Poor maintenance of grease traps and leakage from grease traps are leading causes of environmental liability, regulatory fines and penalties for restaurants. Grease traps and interceptors must be properly sized, installed and maintained. Improper maintenance or containment of grease waste can result in a release that could contaminate an off-site adjacent property or enter a drain system. Storm drain and sewer pipes may directly lead to local water systems without treatment. Grease that enters sewer and storm drains can also cause a clog and result in a buildup of noxious hydrogen sulfide gas or a sewage backup spill.

- Exposures from grease waste can include soil or groundwater contamination, clogged drains or sewer lines, natural resource damage and exposure to bacteria and infectious disease to third parties that come in contact with it.

- Improper disposal and leaks or spills during the loading and unloading or transporting of grease waste or wash water are additional exposures that can lead to environmental cleanup and tort liability. The transportation and disposal or recycling of grease waste and wastewater may fall under environmental regulation. As the generator of waste, the restaurant retains liability from any improper or illegal disposal, whether a third party service is used or not.

- Refrigeration systems, chillers and walk-in coolers may use chemicals, such as ammonia, hydrofluorocarbons (HFCs) or chlorofluorocarbons (CFCs). Freon is the commercial name of a refrigerant gas containing halocarbons used with refrigeration systems. Anhydrous ammonia is a flammable gas and presents the potential for explosions and fire. Improperly operated, inspected or maintained systems can result in an accidental hazardous release of these chemicals. Refrigerants could be released during the service, repair, maintenance or disposal of units. Sources of leaks may be from seals, flange gaskets, open valves and sheared lines and can result in significant contamination of raw materials and finished goods. Exposure to humans, including workers, visitors and third parties, may result in death or other respiratory illnesses.

- Restaurants store and use a variety of cleaning chemicals and solvents, including ammonia, bleach, chlorine and degreasers. Leaks or spills from improper storage, containment breaches or during loading and unloading could enter drains that impact adjacent properties or water systems. Mishandling, spills or mixing of these chemicals could also result in a toxic vapor cloud that poses an inhalation hazard to third parties. These chemicals or spent solvents may fall under hazardous waste and require regulated disposal and recycling procedures. Improper management and disposal of these materials could lead to cleanup and third party liability.

- Wash water discharge from the cleaning of equipment, exhaust systems, filters and storage containers may contain contaminants such as grease, oil, fats, cleaning chemicals and solvents. This wastewater can be subject to environmental regulatory action and environmental fines & penalties. If it is not properly managed and contained it can enter drains and pollute storm sewers, streams or other water systems leading to cleanup, tort and natural resource damage liability. Grease, fats and oils in wastewater can cause blockages in on-site sewage disposal systems and public sewer systems. Wash water contaminated with cleaning chemicals and solvents can enter storm drains and cause serious pH or foaming problems in streams, lakes, ponds and other waters.

- Restaurants are susceptible to mold, virus and bacteria growth from a variety of sources including ice bins, from improper disinfection of equipment and leaks in appliances or plumbing systems. Ice Machines that are not cleaned regularly and thoroughly can cause the growth of mold and spread hazardous bacteria and viruses such as salmonella, listeria, norovirus and e. coli. Mold growth within the structure due to moisture intrusion can lead to cleanup and environmental tort liability.

- Improper use, storage or application of pesticides, insecticides and rodenticides can lead to environmental exposure. Leaks, spills or over-application can easily contaminate soil, surface or groundwater and impact adjacent properties and storm water runoff.

Environmental Pollution Liability Can Provide Coverage For

- On-site cleanup of new and preexisting pollution conditions
- Off-site cleanup of new and preexisting pollution conditions
- Third-party claims for bodily injury and property damage
- Third-party claims for cleanup
- Both sudden and gradual pollution conditions
- Aboveground and underground storage tanks
- Non-owned disposal sites
- Mold, bacteria, viruses, legionella and more
- Business interruption resulting from pollution conditions
- First and third party transportation pollution liability
- Loading and unloading
- Defense of third-party claims
- Illicit abandonment

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Claims Scenarios & Examples

- The grease interceptor of a restaurant steadily leaked grease, sewage and contaminated fluid into the ground and migrated to a nearby homeowner's property. The homeowner's property suffered quite a bit of damage, and the homeowner sought $800,000 from the restaurant for property damage and loss of use and enjoyment of the property.

- For the second time in three years, a bowling alley sued the restaurant located above their facility. The alley alleged that the restaurant's grease trap failed over and over, leaking thousands of gallons of grease, detergent and foul water onto the alley's equipment. After settling the first lawsuit, the restaurant had hired a plumbing expert; however, the alley was still flooded with water, grease and other unknown liquids from the grease trap and other kitchen equipment. The flooding equaled more than 1,000 gallons and damaged bowling equipment. Along with the equipment, the drywall in the ceiling and walls were also damaged in the alley and other tenant spaces below the restaurant. Damages were estimated at more than $75,000, and lost business expenses were another $25,000.

- A shopping center sued one of the restaurant tenants for restaurant grease and cooking oil that wound up in a nearby storm water retention pond. The shopping center sought to recover the $60,000 cleanup costs they spent. The restaurant argued that they were not at fault and that it was other restaurants as well.

- A disposal company was contracted to pick up grease trap waste from several restaurants and dispose of it. Instead of disposing of the waste properly, they dumped about 570,000 gallons into the city's sewer systems over a period of 4 years. The disposal company was sued, and the restaurants were brought into it as well as they were the original generators of the waste.

- After 18 people in a community contracted Legionnaires' disease, investigation was done to find the source. After finding common areas for all 18 patients, it was determined that a restaurant was the source of the outbreak. A small decorative fountain was found to have a strain of legionella.

- Two restaurants left their joint grease traps unattended for awhile, and excessive grease built up. The city's Environmental Service Department issued warnings that the grease traps needed to be cleaned, but didn't follow up. They were finally cleaned, but were done so in a negligent way. A man, who lived near the two restaurants, breathed in the noxious fumes from the grease traps, and suffered a heart attack. Both the restaurants and the Environmental Service Department were sued for compensation for past medical bills, future medical care and economic losses as the heart condition limited his future earnings. The lawsuit amounted to $1.7 million.

- A restaurant was sued by a next-door neighbor, the County, the state Commission on Environmental Quality and the state's Department of State Health Services for not having a proper septic system license and overflowing the septic system. As a result of the overflow, sewage migrated onto the neighbors property. The neighbor used to use their property for farming and ranching, but due to the contamination, they could no longer do so. The neighbor sued for more than $100,000 for monetary relief and asked that the restaurant be ordered to turn off its water supply until the septic issue could be resolved.

- A large ice cream retailer experienced an ammonia leak at one of their facilities. As a result, the facility and surrounding neighbors and businesses had to be evacuated for more than six hours. Business interruption and bodily injury claims were filed.

Final Consideration

Your business can be faced with the cost to defend itself 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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