

Environmental Risk Overview



Tank Cleaning Contractors

The environmental risk for tank cleaning contractors can be significant. Work can include handling, removing, transporting and disposing of tank contents that may be hazardous or may have flammable and gaseous residues such as petroleum, chemicals and acids. Cleaning processes that involve hydro-cleaning can generate contaminated wastewater that must be properly contained, transported and disposed. A release of a hazardous material or wastewater can contaminate soil and water systems or result in hazardous air emissions and lead to cleanup and third-party liability. Chemicals and solvents found in cleaning products and disinfectants can also create liability from a spill or leak, if used or mixed improperly or from improper disposal.

Environmental Exposures May Include

- Tank cleaning can include flushing and removing contents that may contain hazardous materials, residues or vapors. This can include petroleum products, chemicals, pesticides, benzene, polycyclic aromatic hydrocarbons, vinyl chloride, hydrogen sulfide, sludge, microbials, sediments and naturally occurring radioactive material. Tank draining prior to cleaning by the tank owner could still leave large volumes of product on the floor of the tank below the suction line. Improper procedures for handling, removing, cleaning and containing product inside of tanks could result in the release of hazardous materials or toxic vapors that can contaminate soil, water systems and air emissions.
- Hydro-cleaning involves pressure-washing and hydro-blast application. Wastewater from these operations creates migratory pathways for contamination to flow on/offsite if containment is not in place or if the wastewater flows beyond recapture points. The primary pollutant output of tank cleaning operations is wastewater contaminated with tank residues (e.g., petroleum products, coal, chemicals, compressed gases, fertilizers, pesticides, food products, paints, inks, glues, soaps) and cleaning solutions.
- State and Federal regulations monitor the discharge of pollutants to surface waters or to publicly owned treatment works. The wastewater flows covered by the rule include all washwaters which have come into direct contact with the tank or container interior including pre-rinse cleaning solutions, chemical cleaning solutions and final rinse solutions. Additionally, the rule covers wastewater generated from washing vehicle exteriors, equipment and floor washings, and Transportation Equipment Cleaning (TEC) contaminated wastewater at those facilities subject to the TEC guidelines and standards.
- Atomized water drift is prevalent in these operations. Spray may drift beyond the area being cleaned and contain contaminants such as solvents, toxins, chemicals and petroleum. Human health impacts include inhaling vapors, neurological damage and eye and skin contact. Spray drift can also result in damage to soil, groundwater and natural resources.
- Industrial cleaners, solvents and scalers used for tank cleaning can pose hazards at the job site and during storage at the insured's facility. Cleaners or scale removal chemicals contain one or more acids, such as sulfuric, hydrofluoric, phosphoric or hydrochloric. Most solvents pose varying degrees of toxicity and may contain benzene, petroleum derivatives, perchlorate, tetrachloroethylene, heavy metals, degreasers and disinfectants. Improper use and mixing of these cleaners could result in a violent reaction, corrosive damage or release of toxic vapors. Storage container breaches, or leaks and spills caused during the transportation to and from job sites and loading and unloading could contaminate soil and groundwater or run off into sewer lines or storm drains.
- Vacuum trucks used to pump product, water rinse and sludge out of tanks or to respond to spills and cleanups may transport wastes offsite for disposal or recycling. Accidents, spills or leaks during transportation and loading and unloading of any hazardous or contaminated materials could lead to cleanup and third-party liability. Improper disposal of materials collected by the vacuum truck could also result in environmental liability.
- Cross contamination can occur from residual pollutants left on surfaces or in spreading contamination to previously unaffected areas. This can be especially problematic for tanks that are being cleaned to load a different and not compatible product. Improper cleaning procedures may also leave an unacceptable residue of cleaners and degreasers.
- Improper manifesting of contaminants including hazardous materials, cleaning fluids and wastewater may result in disposal liability. While the generator is responsible for their waste from "cradle to grave," a contractor may also be held liable in certain situations for improper manifesting and disposal. Contractors are also responsible for determining if their spent solvents are subject to the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Improper disposal could lead to cleanup and third-party liability, and there may be legal consequences for violating RCRA hazardous waste requirements.

Contractors Pollution Liability Can Provide Coverage For

- 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
- Sudden and accidental coverage for owned/leased locations
- Civil fines and penalties
- First and third-party transportation pollution liability
- Loading and unloading
- Non-owned disposal sites
- Natural Resource Damage
- Mold, legionella, bacteria and fungi
- Lead and asbestos

Claims Scenarios & Examples

- An industrial cleaning contractor was hired to clean a former petroleum storage tank. Plastic sheeting and an associated dike were placed to prevent runoff of contaminated rinse water, but they were improperly placed, allowing petroleum impacted wash water to migrate onto a neighboring property. The incident caused the adjacent property owner to file a suit for property damage and remediation costs related to the contaminated wash water.
- An oily sheen was observed on a local stream. It was traced back to discharge of water from a tank cleaning contractor. The contamination had impacted the stream for over five miles. The contractor was responsible for cleanup and Natural Resource Damages. The estimated total costs were in the hundreds of thousands of dollars.
- A tank cleaning firm was fined by the U.S. District Court for failing to report an acid spill. The incident occurred at the company's yard. A valve on a 275-gallon plastic container (tote) failed, spilling the contents of the tote onto the ground. The liquid pooled on the concrete at the facility and flowed through a hole at the base of the wall. The fluid ran down an alley at the rear of the facility (etching the concrete) and pooled along the curb in front of a nearby elementary school. The incident was reported by a nearby business two days later and the fire department responded to the scene. The company plead guilty to the Unlawful Discharge of Pollutants. They admitted that although they were aware the tank had leaked, no effort was made to contain the spill outside the facility. Failing to respond to the spill allowed the acid to enter the storm drain system and ultimately the waters of the United States. In addition to the fine, the company paid to clean up the spill and was ordered to repay the fire department for costs to respond.
- A vacuum truck exploded sending 15 people to the hospital for burns and inhalation of toxic fumes. Over 50 firefighters were called to the scene. A chemical substance was released after the initial explosion, causing various other explosions around the industrial yard.
- While cleaning out a rail car, a cleaning contractor accidentally released 3,800 gallons of liquid nitrogen. The contractor responded quickly, notifying state and federal agencies and worked to contain the spill. The incident resulted in significant damage. As part of a settlement reached, the contractor paid for remediation costs and in lieu of fines, agreed to pay \$40,000 into the attorney general's environmental protection fund.
- A lawsuit was filed against an industrial tank and container cleaning business demanding that the business stop the pollution and noxious odors that flowed from the facility. The attorney contended that these emissions and waste materials were causing neighbors to complain of nausea, headaches and burning eyes. The defendant cleans tanks and containers used in the transportation and storage of chemicals and regulated waste. Nearby residents complained about the smells coming from the tank cleaning operation, leading the county Pollution Control Department to cite the company on seven separate occasions for violating environmental and safety laws. According to the lawsuit the company allowed unauthorized air emissions, accepted chemical waste without a permit and allowed chemical waste to flow into the waterways. In addition to seeking a court order to require the company to follow health and safety laws, the County Attorney asked for civil penalties of up to \$25,000 for each day the company violated the law.
- Residents living near an industrial barrel cleaning plant sued the company, claiming that the facility released noxious fumes over their homes, diminishing their quality of life as well as their property values. The plant refurbishes 55-gallon steel drums and large plastic chemical containers, cleaning them for reuse or recycling. The suit proposed to allow any residents with similar complaints in a one-mile radius around the plant to join the suit, which sought unspecified damages.
- During the process of cleaning a tank, a tank cleaning contractor's pump blocked. Nearly 85 gallons of radioactive waste spilled when the contractor tried to unblock it by running it in reverse. The EPA fined the contractor and issued an order for clean-up.
- An industrial tank cleaning firm allegedly violated state and federal hazardous waste regulations by not properly labeling containers of hazardous waste and not properly treating and storing hazardous petroleum processing sludge. The EPA claimed the contractor violated the Resource Conservation and Recovery Act, and the contractor was ordered to pay the EPA a fine.
- An environmental services contractor was hired to perform tank cleaning services by their client, an industrial facility. While undertaking those services, a four inch hose connected to the insured's vacuum truck failed. Forty gallons of fuel oil was released onto the ground and flowed into an adjacent waterway. The insured's Contractors Pollution Legal Liability Policy paid for all costs and expenses associated with the release.

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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