

Real Estate Risk Alert

Fentanyl and Synthetic Opioid Contamination Risks

Introduction

Exposure to Fentanyl and other synthetic opioids can cause injury to human health and pose a significant risk for the real estate industry. In addition to property exposures, property owners have a significant liability risk if Fentanyl dust migrates beyond their property boundaries. Fentanyl cleanup jobs can take anywhere from four to five days, sometimes weeks, depending on the size of the property. Who pays the bill? In many instances, the property owner.

What is Fentanyl?

Fentanyl is a synthetic opioid. It is an extremely potent drug that is 100 times more toxic than morphine and 50 times more potent than heroin. Fentanyl can be present in a variety of forms including powder, liquid, tablets or rocks. Because of the high potency, even small amounts of Fentanyl in the atmosphere can pose a health threat. Inhalation of powder form Fentanyl is the exposure method that is most likely to lead to harmful effects such as slow or no breathing, unresponsiveness and drowsiness and, potentially death.

The use of Fentanyl and other synthetic opioids is on the rise throughout the United States. There have been rapid increases in reported illegal Fentanyl manufacturing in the Northeast, Midwest and parts of Southern U.S. in the last three years; and, a significant increase in Fentanyl use throughout the entire United States.

How can Fentanyl contamination impact properties?

Fentanyl contamination within a building can be caused by manufacturing or even use of the drug. The fine dust created during the Fentanyl manufacturing phase is very difficult to remove completely, and even a small quantity of Fentanyl powder can be fatal. And, unlike heroin and other opioids, when used a certain way, Fentanyl can linger in the air and make the area hazardous to third parties.

When a Fentanyl release in a building is discovered, a hazmat cleanup is required. This involves properly trained and registered hazmat crews wearing Personal Protective Equipment (PPE), including dust resistant suits, gloves, respirators and face shields. All contents in the contaminated area will need to be removed and disposed of as hazardous waste.

It is important to understand that Fentanyl releases can happen anywhere, not just clandestine labs. Over the past year, Fentanyl releases requiring remediation have occurred in public restrooms at restaurants, supermarkets, office buildings and libraries as well as residential properties and hotels. Total costs for a Fentanyl cleanup vary widely based on property size and extent of the release. A typically Fentanyl cleanup will cost at a minimum, an average of several thousand dollars, and can easily exceed \$50,000 or more.

Currently, there are no regulatory cleanup standards for Fentanyl contamination. Massachusetts is the only state in the U.S. currently pursuing legislation to regulate Fentanyl cleanup. In many states, the impacted property is deemed condemned until cleaned. Therefore, the impacted property cannot be occupied, rented or sold until fully remediated.

Fentanyl contamination may result in significant impacts on the operations of residential and commercial properties such as apartments or condominiums, hotels, restaurants, office buildings, and public buildings to name a few. This includes, for example:

- Remediation Cost
- Decontamination Cost
- Business Interruption
- Third Party Bodily Injury
- Brand Impairment
- Civil Fines

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Claims Examples

Downtown Boston - Fentanyl cleanup at an upscale high-rise apartment building. On a weekday morning, a resident preparing to leave for work overdosed on cocaine laced with Fentanyl. Hazmat clean-up was required.

Alameda County, California - Sheriff's investigators responding to the scene of an overdose suffered from accidental exposure to Fentanyl dust cloud in a hotel room.

Chelsea, Massachusetts – Three police officers experienced effects of Fentanyl exposure after responding to an overdose.

New Haven, Connecticut – At least 76 people overdosed over the course of 36 hours after using synthetic marijuana laced with Fentanyl. At least two dozen of these overdoses occurred in a privately-owned park called the Green that is located in downtown New Haven and is bordered by commercial buildings and property owned by Yale University.

Calgary, Alberta Canada – One hazmat company in particular completed three Fentanyl lab cleanups in Calgary alone in 2017. In 2018, this same company has received a steady increase in calls from property owners responding to Fentanyl cleanups throughout Western Canada.

Standard GL/Property Coverage Pollution Exclusions

Coverage under traditional property and casualty insurance policies may not adequately protect members of the residential or commercial real estate industry from risks related to Fentanyl contamination. Like methamphetamine lab cleanups, Fentanyl cleanup is not likely to be covered by standard lines property or general liability policies because it is considered a pollutant.

Coverage Available Under Dedicated Environmental Products

In general, most environmental insurance policies do not have an exclusion for Fentanyl; and, in many cases, Fentanyl contamination conditions would fall under the environmental insurance policy's broad definition of pollution conditions. However, some policy terms, conditions or definitions structures could work to exclude coverage for Fentanyl.

Aon's Environmental Services Group can work with environmental insurers to provide affirmative coverage to address claims arising out of Fentanyl contamination by amending the policy definition of pollution conditions to explicitly include Fentanyl. We welcome the opportunity to meet with you and assist in the identification and analysis of risk as well as offer solutions to mitigate your organization's pollution-related risks.