



Methamphetamine Lab Cleanup

By Josh Quinter

There can be no question that the war on drugs rages on in the United States. The latest front in that war—methamphetamine—has grown into a more significant problem in the last several years. Because the problems that result from the production of methamphetamine do not affect just the end user, this escalation has occurred in scale and complexity. Both the process by which methamphetamine is made, called cooking, and the crude laboratories in which the drug is manufactured combine to create a new and multi-faceted problem for HVAC contractors employed to assist in cleaning contaminated systems. Careful consideration should be given as to how to address the risks involved in such work.

The problem

Methamphetamine production produces a whole host of toxic biological and chemical byproducts which are dangerous to HVAC contractors. The two primary concerns are the physical health of those participating in the remediation and the company's exposure in working with environmentally hazardous materials. The level of danger

The largest obstacle to safe remediation of methamphetamine labs is a lack of knowledge about how the chemical byproducts react with people and the environment. This makes it nearly impossible to establish standards and guidelines for remediation. HVAC and other contractors tasked with eliminating the remnants of a methamphetamine lab are left with far more questions than answers. Can I work without a mask on? Can I treat the duct work or do I have to fully remove the entire system? Where do I dispose of the contaminated material? Because contamination levels at projects can range from minor to federal superfund level sites, the answers to pertinent questions such as these can differ depending on the conditions of the site itself.

The first step in addressing this problem on a large scale was recently taken. The House of Representatives considered and passed the Methamphetamine Remediation Research Act in 2005. The proposed statute did not establish the necessary standards, but it assigned various federal agencies, including the Environmental Protection Agency, to study the effects of methamphetamine labs on the buildings in which the labs were built. Funds were also designated to help state and local governments establish guidelines for remediation efforts. Unfortunately, the legislation has not yet become law and there is still much work to be done.

Some state and local governments have already initiated plans to assist HVAC contractors with clean-up efforts. Importantly however, these standards are technology based rather than health based. Reliance on them only provides guidance on use of the proper technology to remediate the lab. As with the now widely known problems surrounding working with asbestos, the health effects of remediating methamphetamine labs could be extreme but remain unknown. Further studies will be necessary and it could be some time before we can identify them with any assured level.

Given the current situation, every HVAC contractor should take several easy steps to prepare for a methamphetamine lab remediation project. Although the list is not exhaustive, the following things can be useful in limiting some of the potential problems.

the exact chemicals being used in the cooking process. Even if police officers or FBI agents are around by the time a remediation project starts, they often do not think to communicate information to the HVAC contractor performing that work. There may even be other sources of information.

The obvious starting point for such inquiries is the owner or contractor that hired you. If you cannot get sufficient answers from those sources, inquire with others such as law enforcement officials. An explanation as to your role at the site and your reasons for needing the information may be needed, but the knowledge you will obtain in return is worth the effort. If you cannot obtain sufficient information to determine at least the level of toxicity at the site, perhaps the job should be declined. No amount of money is worth risking exposure to superfund level toxicity without adequate protection.

2. Get help where it is possible

As stated above, there are a limited number of resources available through governmental entities that can be used to create a strategy for the safest remediation effort. A good starting point is the federal Environmental Protection Agency. The Resource Conservation and Recovery Act authorizes the EPA to regulate the generation, transportation, storage, and disposal of most hazardous waste. Rules promulgated by the EPA as a result of this statute may be useful. In addition, funding and other types of guidance are often available from the EPA. For example, the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) provides a potential source for financial assistance from the federal government to clean up specific types of contamination. CERCLA also allows the EPA to oversee some clean-up efforts and generate lists of dangerous and environmentally sensitive substances that can be consulted in considering your approach to the remediation effort.

Other secondary sources can be consulted to provide guidance as well. Although they do not have regulations directly relating to methamphetamine lab clean-up, the Occupational and Safety Administration may be able to

3. Make sure you are covered

Insurance is about risk. Many basic commercial general liability policies will not cover certain activities involving dangerous chemicals such as those found at former methamphetamine lab sites because the exposure for such involvement is much higher. While some policies may provide limited coverage for “clean-up” costs, these provisions often relate to remediation of a problem you created. Read your company’s insurance policies carefully and make sure the activity you are undertaking will be a covered loss. If you are unsure about this, consult with your insurance company or an attorney.

If you determine that you are not sufficiently covered after reviewing your policies, consider having coverage written for the work you are about to undertake. Amending your workers compensation, commercial general liability, or other policies will likely result in additional premiums, but given the unknown elements in methamphetamine lab remediation the security of insurance coverage makes a great deal of sense. The alternative if you end up unwittingly working on a federal superfund site that results in catastrophic illness to one or more employees or liability for improperly disposing of environmentally dangerous materials improperly could be costly.

4. Make the contract more specific

Remediation of a methamphetamine lab is not the usual project for an HVAC contractor, so it naturally deserves something more than the usual contract. The complications and risks presented by such a job obviously suggest that a higher price for the work is in order. However, there are several other issues that should be addressed in the contract at a minimum.

Any waivers of claims relating to personal injuries or defective work should be carefully reviewed. Without adequate standards a “perfect job” cannot occur. Certain personal injury waiver claims should be struck accordingly. To agree to such a waiver provision may prevent a sick employee from pursuing a building owner that fails to provide information relating to a potential

contractors may want a waiver as to defective work, as there is no way to ultimately determine whether the work was done “correctly.” Absent “completion” being defined in the contract or a waiver, endless litigation could result over whether an undefined standard has been met.

Given the potential financial exposure for mistakes in methamphetamine lab remediation, indemnification clauses should also be scrutinized. HVAC contractors certainly do not want to be responsible for damage caused by other contractors. In addition, working without guidelines or standards for methamphetamine remediation creates the potential for miscalculations and mistakes that compound already large problems. HVAC contractors should take care to avoid indemnification clauses that would expose them to larger claims as a result.

In addition to these, any other contractual clauses that are intended to shift risk from one party to another should be reviewed and carefully crafted. If they reallocate risk disproportionately or entirely, they should be amended. Absent this, perhaps the risk is too great to take the job.

These are just a few basic things to consider before undertaking a project to remediate a methamphetamine lab. As with any HVAC project, each job will entail specific parameters that could eliminate or add risk. In addition, each HVAC contractor will make every effort to stay true to its business plan, which often influences risk/reward analyses in evaluating potential projects. While it appears that we are still at least three or four years away from establishing better standards and guidelines to help HVAC contractors to safely and efficiently remediate methamphetamine labs, taking some of these simple steps can at least help to understand the risk being undertaken and make some simple adjustments to account for it. ●

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