Mold & IAQ Seminar
Regulatory vs. Practical Response

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Overview

- Regulatory requirements
- OSHA General Duty Clause
- NJ IAQ Standard
- Designated Person requirements
- WC and GL issues
- Practical response measures
- Assessing limitations to response
- Closing the complaint

Federal Regulations

- There are no Federal regulations (OSHA, EPA, NIOSH) for airborne concentrations of mold/mold spores or IAQ issues
- OSHA/PEOSH can cite the General Duty Clause for obvious health and safety issues, but application would be limited
- The General Duty Clause 5(a)(1) requires employers to provide a safe work environment free of recognized hazards that can cause death or serious physical harm
- There would need to be an obvious and generally unsafe condition to invoke this catch-all regulation
- There are no consensus industry standards on “acceptable” levels of various molds

NJ IAQ Standard-N.J.A.C. 12:100-13.4(c)

- Sets certain minimum requirements for controlling and responding to IAQ issues in the building
- Requires written IAQ Program that outlines protocols for duties, responsibilities, response procedures, maintenance and documentation
- Mandates assignment of a Designated Person to oversee all aspects of the NJIAQ Program
- Must maintain HVAC system to ensure proper functioning
- Must manage and control contaminants generated indoors and minimize infiltration of outdoor contaminants
- Must respond to and correct water intrusion issues and damage

Regulatory Response Requirements

- HVAC systems must operate properly to adequately control interior temperatures and fresh air circulation
- Fresh air supplies must not be contaminated
- If carbon dioxide levels exceed 1000 ppm, the HVAC system needs to be investigated to determine if there are any problems
- Water intrusion issues such as leaks, excess condensate, floods, back-ups etc. must be corrected promptly
- Water damaged materials and building components must be properly dried or replaced with 48 hours of discovery
- Take measures to remove visible microbial contamination when found during regular or emergency maintenance activities or visual inspections

Employee Complaint

- Must investigate employee complaints involving potential IAQ issues
- No specific course of action is mandated to complete investigation
- No mandatory requirement to take air samples or surface samples
- Must remove any visible mold using proper remediation techniques
- Must document investigation steps and findings
- Must take corrective action to resolve any adverse conditions
- If employee complaint was generated through PEOSH, written response to PEOSH is required
- These are the MINIMUM steps that must be taken, you will likely need to do more

Beyond the Minimum

- There are many practical reasons to do a thorough investigation and implement potential solutions
- Protection of the children, teachers and staff that go to the schools as well as damage to the building and equipment.
- You must be willing to invest the time necessary to do a proper and thorough investigation
- If employees feel their concerns are not being properly addressed, they may be likely to elevate the complaint and involve regulatory agencies
- While you should not fear regulatory involvement, it can be more time-consuming than dealing with the problem initially
- Involving key personnel and communicating effectively will help resolve the issue more quickly

Reasonable Response

- What is a “reasonable” response to a complaint will vary greatly
- Assess who is affected, the area involved and the potential seriousness of the complaint
- Make a list of all potential sources of the complaint and investigate each one thoroughly
- Correct what you can fix, even if you do not think it may be directly related to the issue. Sometimes it is a combination of events causing the problem. Follow a detailed preventative maintenance schedule.
- Solicit input from employees that work in the affected areas, even those that may not be having issues

What Can I Do?

- Inspect the affected areas for water intrusion. Look above ceilings, in vents and ventilators, under sinks, in closets, bookshelves, boxes, cabinets, desks and other hidden areas
- Look for contributing factors such as chemicals, waste, food products, plants, air fresheners and personal items
- Check the HVAC serving the affected areas
- Check areas immediately surrounding the affected room or area to see if contaminants may be migrating
- Check outside for possible contaminants such as standing water, trash, decaying materials and nearby activities

Evaluating Efforts

- Most problems will be resolved at this stage of the investigation
- Some issues may continue to linger. This may be a real problem or a perceived problem
- Remember that people are affected by different things in different ways. Some people are hyper-sensitive to certain allergens that may not affect others. Do not discount their concerns.
- At this point, you will need to make a decision about how much further you will go if the complaint persists.
- Communication is key to an amicable resolution

Next Steps

- There are no hard rules about where to go from here
- You will likely be asked to get an expert in to do air sampling
- While there are no regulations mandating environmental sampling, it can assist in identifying elusive problems and alleviating fears
- You should consider testing for airborne mold after a remediation project
- An experienced third party, such as a CIH, can offer guidance that helps to pinpoint possible solutions and minimize costs from the “sample everything” mentality.
- Air testing may or may not identify a potential problem.
- Remember that there are thousands of types of molds and no standards on acceptable levels of exposure since people are affected differently

Monitoring Mold Issues

- You must have identified and completely corrected the source of the water or moisture problem.
- Mold removal should be complete. Visible mold, mold-damaged materials, and moldy odors should no longer be present.
- Sampling, if conducted, should show that the level and types of mold and mold spores inside the building are similar to those found outside.
- You should revisit the site(s) after remediation, and it should show no signs of moldy or musty odors, water damage, or mold growth and employee complaints should be diminishing.

Other Solutions

- Do a thorough cleaning of the affected area during off-hours and allow to fully ventilate
- Fully clean HVAC components in the area: vents, air intakes, coils, pans, etc.
- Remove excessive storage, especially organic materials such as excess books, boxes, papers, plants, etc.
- Remove upholstered furniture, stuffed animals, beanbag chairs & rugs
- Thoroughly clean and dry any carpeted areas. You may wish to replace carpet with tile in affected areas if the problem persists
- Consider relocating the affected employee to another room or area if possible
- Use guidance documents from various sources such as EPA, CDC and DOH

Closing the Complaint

- Every complaint is unique and will require different responses
- Finalizing the response will be based on varying factors including time, expense, logistics and simply running out of possible solutions
- Open communication with all affected parties is critical to ensuring everyone understands the efforts that have been made and why the investigation was terminated
- You must be willing to accept that sometimes there are no solutions
- Never fear “threats” of someone calling in a regulatory agency. If you are truly trying to resolve the complaint, they can only assist and may also reinforce your previous efforts

Summary

- Treat every complaint as valid until proven otherwise
- Do a thorough investigation
- Use all available resources
- Call in outside assistance when warranted
- Keep lines of communication open with all involved parties
- Document all actions taken
- Monitor affected areas closely even after complaint has been resolved