

Contractor Liability: Training Your Employees Is a Tall Order

By: Francis Xavier (Rich) Finigan

Liability lurks like an alligator waiting for trespassers to fall into its swamp. Many of you view the Environmental Protection Agency's RRP rule as a nuisance, at best, and at worst an opportunity to be sued or fined

Smart contractors have already skirted the first and most obvious liability sinkholes, by becoming individual Certified Renovators and earned an EPA firm certification. Next in the liability quagmire is training your employees.

As one of the 130 or so EPA-accredited RRP training providers, I have personally certified thousands of contractors across America after their completion of an 8-hour training course on lead-safe work practices. I recognized early on EPA's requirement that Certified Renovators must train their own employees in lead safe techniques, was a tall order. In short, you are expected to become overnight experts in teaching these lead safe work practices.

I've spoken about this dilemma with a number of attorneys. All agreed, if a Certified Renovator fails to train employees to use lead safe work practices or fails to document the training, then the contractor is vulnerable to law suits and EPA fines.

The risk comes in two forms. First is civil liability, which is when a customer, neighbor, or some other aggrieved party sues the contractor. Lawsuits will inevitably include statements like, "not only did the workers not utilize lead safe work practices, but they were never trained in lead safe work practices." Allegations like these add to the contractor's burden of proof. The contractor must convince the court that their employees and/or subcontractors, conducted the renovation in accordance with municipal, state, federal regulations, and accepted industry practices.

The second area of liability is EPA's power to levy fines against you for non compliance with the RRP rule. EPA responds to citizens' complaints and is proactively auditing contractors' records. Just this week, a contractor asked for my assistance at an EPA audit of their records. The agency asked my client for documentation proving they conducted their renovations in a lead-safe manner and provided pre renovation education with the Renovate Right pamphlet. Because RRP regulations went into effect under George W. Bush on April 22, 2008, my client's audit included renovation jobs that in were conducted between 2008 and 2010.

An important part of the documentation that protects contractors from EPA fines and civil lawsuits relates to employee training. Remember, you must train your employees, but you cannot train your subcontractors. They must be trained and certified by an EPA accredited training provider.

Proper documentation of an employee's training should include: worker's name, a description of the lead-safe work practices, and dates they were trained. Documents include a signed list of skill sets for; interior containment set up, interior cleaning with a HEPA vacuum that meets

EPA's definition of a HEPA vacuum, and knowledge of a two-bucket mop system. Training must include exterior containment techniques and cleanup. Workers must be trained in proper disposal techniques for waste, including how to dry decontaminate a goose necked bag and how to wrap large components. Last, but not least, the documentation must be signed by the Certified Renovator who conducted the training.

You may think training your employees and documenting the training is burdensome, but there are a couple of comprehensive and inexpensive training programs to assist you. One package is available online the other on DVD. Both of the educational offerings will no doubt train employees better, faster, and for less money than can be expected of someone whose experience might be limited to an eight-hour training program. Easy-to-complete training documentation forms are included with the employee training packages. The DVD is also an excellent "How To" reference tool for renovators already certified.

The DVD is offered through www.thehazmatstore.com. Please click the following link to see a brief video on what it contains <http://www.youtube.com/watch?v=0wZDrghK2cs>. The other package is an online training program. The online program is available from www.seminars-online.net. During the online training employees are quizzed after each chapter. If they pass the quizzes, the program issues them a certificate of successful completion. The certificate supplies solid proof for the contractor that the employees know the material. An exam is also available for DVD users.

Both training programs include professionally produced videos showing hands-on demonstrations of lead-safe work practices, and include tricks of the trade from contractors who are veterans in building containment.

There are two sides to every coin. Complying with government regulations to avoid liability is only one side. If, by *Renovating Right*, you successfully avoid liability, you will be rewarded by the coins shiny flip side... knowing you have protected families against lead poisoning!

Please stay tuned to our next letter for more tips on how to turn environmental liability into opportunity. Until then, work smarter, better, and good luck in good business.

****You can also purchase the training DVDs through the HBRA at a discounted rate. Please contact the HBRA office at 802-876-6200 x11 for more information or to order your DVD(s).**