



Module 6

Supervisory and Business Issues

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Lesson Overview

- Key supervisor responsibilities
- Benefits of performing work in a lead-safe manner
- Discussion: Next Steps

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- In addition to understanding how to perform renovation, remodeling, or painting work in a lead safe manner, supervisors must also be aware of a number of other issues. This module will highlight those issues as well as the benefits of performing work in a lead safe manner.



Key Supervisor Responsibilities

- Stay informed
- Ensure job performance
- Manage liability
- Manage workers
- Maintain records

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- Key supervisor responsibilities are discussed in detail on the following slides.



Stay Informed

- State and local regulations pertaining to LBP
- OSHA requirements for worker safety
- Waste management and disposal requirements

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State and Local Regulations

- As noted earlier, states and local jurisdictions (e.g., counties and cities) may have additional requirements for working on homes with lead-based paint. Supervisors must be familiar with these additional requirements to ensure that work is performed properly. The National Council of State Legislatures (NCSL) provides periodic updates to state laws affecting lead-based paint for all states. The 1999 compilation is located at: <http://www.ncsl.org/programs/ESNR/pblaw99.htm>

OSHA

- Although this training does not specifically address worker safety issues, supervisors are responsible for ensuring that their workers are properly trained and equipped to work on lead-based paint.

Waste Management and Disposal

- As indicated earlier in Module 4 (Cleanup and Disposal), state regulations for waste management and disposal vary and may be more stringent than federal requirements. Supervisors must be aware of state requirements. To find out about requirements, contact your state's department of environmental protection or equivalent. To access State hazardous waste websites go to <http://www.epa.gov/epaoswer/osw/stateweb.htm>. This website will point you to specific state sites.



Ensure Job Performance

- Skill building
- Tool kits
- Planning
- Client education

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Skill building

- Supervisors must ensure that their workers have the necessary skills to accomplish the tasks they are expected to perform. For working on homes with lead-based paint, workers need to know how to contain and cleanup lead dust created while working.

Tool kits

- Supervisors should ensure that their workers have access to the tools and supplies necessary to perform their jobs in a manner

Planning

- Supervisors must be able to plan work on homes with lead-based paint to be efficient in using workers with the background and skills to accomplish the job. This requires a different set of specs than other jobs. Know who is allowed in which spaces. Planning also, as we saw in Module 5 (Planning) requires practice and skill in estimating the cost of jobs and determining what tasks will need to be performed, how they will be performed, by whom, and how long it will take to accomplish.

Client education

- Using the pamphlet *Protect Your Family From Lead In Your Home* as an opportunity to explain to your clients how you will do your work and how that will benefit your client. This information will assist in educating the client about lead-based paint and help to inform their expectations of the work that you do.



Tool Kits

- Setup
- PPE
- Safe Work Practices
- Clean-Up

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Tool kit tips

- Keep kits in separate, labeled containers.
- The checklist of materials and supplies in the Module 5 exercise provides in one location a list of all tool kit items. Additional information on the tool kits can be found in this manual on pages 2-6, 3-8, 3-11, and 4-4.
- Tools can be purchased from wholesale tool suppliers, and vendors can be found by looking online and searching the Internet.
- Tool kit summary:
 - **Setup kit:** knives (e.g., utility knife), tape, protective sheeting, cones.
 - **PPE kit:** disposable coveralls, hat, gloves, respirators, first aid kit, shoe covers, safety glasses, ear protection for power tools.
 - **Safe work practices kit:** HEPA vacuum, other HEPA tools, box of brushes, wet/dry sandpaper.
 - **Clean-Up kit:** bottle mister, wet wipes, mop heads, mops, buckets, mop wringer.



Liability Management

– Four methods to limit liability

- Contract modifications
- Post clean-up testing
- Quality control
- Insurance

– Failure to comply with applicable regulations could expose contractors to liability

– Voluntary work practices presented in this training may create a new legal standard

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Liability Management

To avoid legal liability the supervisor should:

- Be familiar with industry standards and any applicable laws and regulations
- Train workers to handle LBP issues
- Provide explanation and records of work in written form, including any hazards to the client
- Give written job descriptions that specify tasks, methods, results, and time frame
- Be aware of new developments
- Provide close supervision of work site

Possible claimants include: clients, residents, health or regulatory agencies, workers and other contractors, and owners of neighboring properties.

Contract Modifications

Note that the work being performed is not abatement work. Contract modifications should be protective of contractor.

Contractors have a legal duty to

- Exercise reasonable care in performing work
- Warn clients of potential hazards
- Be informed about applicable standards and requirements

Supervisors have a duty to act as any reasonable, competent supervisor given the circumstances of the situation and in accordance with industry standards. Failure to do so can be used as evidence of negligence.



Scope of Work for Proposal

- Lead Paint Safety Field Guide
- Model Specifications
- HUD Guidelines
- Associations

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- Proposals for working in lead-safe manner will require a scope of work different from traditional jobs. The sources listed below can provide information about the activities for working in a home with lead-based paint that are different from working on traditional jobs in homes without lead-based paint.

Lead Paint Safety Field Guide

- The Field Guide can be found in Appendix 1 of this training. It will provide information that can help you identify the key activities to be performed when working on a home with lead-based paint.

Model specifications

- The National Center for Lead-Safe Housing has model job and contract specifications for contractors working on homes with lead-based paint. Information on how to obtain these model specifications is available on the internet at http://www.lead safehousing.org/html/lead_specs.html

HUD Guidelines

- These guidelines, formally known as Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, are available on the internet at <http://www.hud.gov/lea/learules.html#download> or by searching on <http://www.hud.gov/offices/lead>.

Associations

- Home construction and similar trade or professional associations can provide assistance, especially if you are a member.
- For example, the National Association of Home Builders (NAHB) could provide assistance on developing a work scope that identifies critical aspects of working in homes with lead-based paint. NAHB is located on the internet at <http://www.nahb.com>



Insurance

– General liability insurance

- Certain state and local laws may require it
- Most policies contain a pollution exclusion clause

– Pollution liability insurance

– Errors and omissions insurance

- Typically for consultants, risk assessors, inspectors

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- See Appendix 4 Liability Insurance Summary Factsheet for a discussion of types and uses of insurance.

Commercial General Liability (CGL) Insurance

- CGL Exclusion Section F
- CGL policies are readily available at reasonable cost, but typically specifically exclude coverage of pollution-related claims.
- Should include premises and operations liability, contractual liability, independent contractor liability, and products and completed operations liability.
- Try to get the policy endorsed to modify or eliminate the “pollution exclusion”
- The policy should be written on an “occurrence” basis. Occurrence policies require that there be bodily injury or property damage caused by an accident during the policy period, including continuous or repeated exposure to harmful conditions. There are no restrictions on when a resulting claim or suit must be made or brought against the insured, as there is in a “claims-made” policy.

Errors and Omissions (E&O) Insurance

- Covers professional services rendered, such as by a certified lead-based paint inspector, or a consultant.

Pollution Liability Insurance

- Usually attached to CGL or E&O insurance as a policy rider or written as a separate insurance policy altogether.



Work Crew Management

- **Personal protection equipment**
- **Match work crew skills to job requirements**
 - Lead and non-lead work environments
- **Daily oversight**
 - Daily quality control
 - Daily checking on cleaning

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Personal Protection Equipment

- Includes respirators (such as an N-100), work suits, hats, shoe covers, etc.
- Not only will proper use of this equipment protect workers, but it will also protect clients and worker families from exposure to lead.
- Improper use of PPE can endanger workers.
- Proper training in use of personal protection equipment is essential to ensuring that the equipment will function as designed.

Skill Matching

- This includes ensuring that workers with specific types of training or skills are assigned to tasks that make use of those skills. For example, you would not assign sole responsibility for laying poly on the floor, covering vents, windows, and doors to a worker with no previous experience in setting up a room for renovation.

Daily Oversight

- Supervisors are responsible to make sure that workers at the work sites for which they are responsible are performing work in a manner consistent with containing dust and cleaning it up. Usually this involves spending time at the work site during the day to verify that work is progressing as planned.



Records Maintenance

– Pamphlet

- Record of providing *Protect Your Family From Lead In Your Home* pamphlet required under the 406(b) rule

– Recommend review with client the punch list of work completed

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Client review

- Keeping a record of client approval of work performed can assist in building client confidence in your work as a contractor and also in managing your liability. The act of obtaining client approval is an opportunity for a positive interaction with the client.
- May be useful for liability protection as proof that contractor completed job and client was satisfied.
- Sign-off not always practical: final check clearing bank is legal proof of completion.
- Cleanup to a standard of no visible dust may be included in the punch list, and punch list may be reviewed with client at end of job.

Pamphlet

- A copy of this pamphlet is in Appendix 2. Guidance on the 406(b) rule for contractors, property managers, and maintenance personnel is in Appendix 3. This consists of:
 - Part I (Revised June 25, 1999)
 - Correction and clarification of Part I regarding timing of pamphlet delivery (Jun 25, 1999)
 - Part II (October 15, 1999)
 - EPA Questions and Answers on the Pre-Renovation Lead Information Rule (TSCA 406(b)) (June 1998)



Benefits of Using LBP Safe Practices

- **Reduced liability exposure**
- **Increased employee morale**
 - Safer work sites
 - Better worker health
- **Marketing benefit**
 - Differentiation from other contractors
 - Generate positive word-of-mouth and publicity
 - Market as higher quality work
 - Provide clients with peace of mind

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Reduced Liability Exposure

- Using work practices that minimize generation of LBP, contain LBP that is generated, and clean up LBP after completing the work is a critical element in demonstrating that you have performed the work in a reasonable manner, therefore reducing potential liability.

Employee Morale

- Efforts to ensure safer work sites; by extension, better worker health can improve worker morale and productivity.

Marketing Benefit

- Relying on the work practices discussed in this training will lead to satisfied and knowledgeable customers who will be happy to tell their friends about the work you did. It also allows you to differentiate your business from other contractors. Word-of-mouth advertising and increased visibility are key elements in being able to attract new business.
- Remember: Your bid may be higher, so you should be prepared to discuss why it makes sense to hire a more knowledgeable and experienced worker to perform renovation, remodeling, or painting.



Discussion: Next Steps

— What can you do to make each of these happen?

- Prepare toolkits
- Set-up to contain lead dust
- Use safe work practices
- Clean up and check work
- Inform and educate clients about lead paint hazards
- Revise contract and work scope forms

— Other next steps?

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Thank You!

Thank you for your time and for attending
this training course!