



## Know the Rules on Lead-Based Paint

Lead-based paint has long been considered hazardous, particularly to children. Common renovation activities in structures containing lead-based paint, such as sanding, cutting and demolition, can create hazardous lead dust and chips.

To protect against this risk, the Environmental Protection Agency (EPA) requires the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child-care facilities, and schools



built before 1978 must be certified by the EPA and be able to demonstrate that they use certified renovators who are trained in

lead-safe work practices under an EPA-approved program. Contractors must use lead-safe work practices and follow these three simple procedures:

- Contain the work area
- Minimize dust
- Clean up thoroughly.

For specific details on the rule, required certification

procedures and availability of approved training, go to [www.epa.gov/lead/pubs/renovation.htm#contractors](http://www.epa.gov/lead/pubs/renovation.htm#contractors).

## You May Have Pollution Liability Exposures

When the words “pollution coverage” appear, many immediately think of waste treatment facilities, oil tankers, and other heavily regulated industries. But many typical general contractors need to make pollution liability concerns part of their risk management program.

For example, in your contracting operations, do you:

- Use chemicals that may end up in the air, soil or groundwater?
- Do site preparation work?
- Use materials that give off fumes?

- Use portable ASTs (above-ground storage tanks) for refueling equipment or vehicles?

- Engage in demolition/renovation activities that could disturb asbestos or lead-based paint?

- Use subcontractors?

Any or all of these can represent a significant need for pollution liability coverage. Talk to our service team today about ways to effectively address such exposures existing in your contracting business.

## Eye Injuries a Daily Risk



Did you know that, of the 2,000 U.S. workers who suffer a job-related eye injury daily, one third require emergency room treatment, and 100 or more incidents result in at least one day of lost work?

According to the National Institute for Occupational Safety and Health (NIOSH), while many eye injuries arise from chemical burns, running into objects and occupational disease, the majority result from small particles, such as nails, staples, wood splinters or metal shavings. NIOSH recommends four key steps toward minimizing workplace eye injury exposures:

1. Wear personal protective eyewear: goggles, face shields, safety glasses.
2. Choose the protection to match the specific work situation, exposure and regulatory requirements.
3. Be certain the chosen protection fits properly and/or is adjustable to the specific wearer.
4. Make sure eyewear is comfortable and allows for sufficient peripheral vision.

## Disability Misunderstandings

If your employees are counting on workers compensation to come to the rescue if they become disabled, there are some statistics they need to be aware of. According to the Social Security Administration, 30% of workers between the ages of 35 and 65 will be out of work for three months or longer due to an accident or illness. What's more, the majority of disability claims are not work related. That means that workers compensation insurance will not cover the down time or recuperation costs.

A 2011 study by The Council for Disability Awareness found the following to be the most common causes of existing long-term disability claims:

- Musculoskeletal system and connective tissue (30.1% of all existing claims)
- Nervous system and sense organs (13.4%)

- Circulatory system (12.7%)
- Cancer (8.4%).

It appears that, while workers compensation is still the key coverage for on-the-job disability, there is a far greater risk that your employees may fail to understand: Their need for injury and illness prevention goes beyond the worksite. If they injure themselves off the job and then exacerbate that problem at work, they might not receive coverage under workers comp.

Disability insurance can protect your workforce from losses resulting from disabling injuries and illnesses that are not related to work. You can offer it as an employer-paid benefit or as a voluntary product. Either way, it can provide the safety net your workers need.

## When Adding Insureds, Review Your Limits

Contractors are routinely asked to add other parties to the contractor's insurance coverage as "additional insureds."

Yet when doing so, many overlook the fact that their liability policy will pay judgments and settlements only up to certain limits. While you may feel those limits are adequate to protect your interests, each time an additional insured is added to your policy, any claim against them covered by your policy will be charged against your policy limits. As such claims are paid, at some point the remaining coverage amounts may be insufficient to provide you the protection you originally thought adequate.

Adding additional insureds to your policy may either be unavoidable or just good business. But when doing so, be sure you are not inadvertently weakening your coverage levels. Meet with our professionals to review your current policy limits, discuss your available options for handling increased numbers of additional insureds, and modify your coverage to meet any need for increased limits.



## A Sloppy Worksite Is Unsafe

It's every homeowner's nightmare. The contractor who arrived bearing the dream of that new addition, replaced heating system or spiffy new paint job has left behind a path of destruction: damaged floors, stained carpets, paint splatters on furniture and enough dirt and dust to choke the central furnace and AC for the next two years.

Besides the dissatisfaction and perhaps threats of legal action from disappointed clients in such cases, contractors also need to be aware that such haphazard workplace behaviors are major safety concerns. The subcontractor or employee who isn't paying attention to quality workplace and service issues is also highly unlikely to be adhering to common-



sense safety procedures.

What you need is a COSP: Code of Standard Practices. These codes include such key workplace considerations as safety guidelines for operations, instructions for proper tool use, and proper procedures for protecting client property from

construction hazards. For example, for painters the guidelines would include covering floors with construction paper and drop cloths, containing work areas with plastic to keep the dust to a minimum, and shutting off the furnace while working to keep the dust from circulating to other areas of the house.

Your goal is to properly prepare the site, keep the site as clean and safe as possible, and overall make the project a positive experience for all parties involved. Naturally, your liability insurance needs to be up to date, as well, to cover any incidents that do occur as a result of your company's negligence or actions.

## Waivers of Subrogation Are Often Standard

Business contracts that assign one party or the other primary responsibility for providing the insurance also commonly include "waiver of subrogation" clauses. The purpose of the clause is to have the party carrying the insurance waive any rights of recovery against the other party for claims covered by the insurance. Legally, when the insured waives his rights against the other party, the insured's insurance carrier is also prohibited from trying to recover its money paid out in the claim, even if the other party was at fault. (The process of an insurance carrier paying a claim and then utilizing the insured's right to sue

the other party for causing the loss as a way to recover its funds is known as subrogation. Hence, the term "waiver of subrogation" clause.)

These clauses are intended to reinforce the contract's intent that one party should be financially responsible for the loss, primarily via the purchase of insurance. But there is also the possibility that, due to overly broad language in the contract, the insured may be agreeing to take on far more responsibility than is reasonable.

Whenever you are presented with a contract that requires you to purchase insurance for the interests of another and it

includes a waiver of subrogation, be certain to review the provisions with your legal counsel and your insurance representative. Your legal counsel can tell you if the contract wording goes beyond that which you should reasonably accept, and your insurance representative can tell you if your insurance coverage, either as currently written or with modifications, can cover you for the financial obligations you are being asked to assume.

Like any tool, a waiver of subrogation can either be a great idea or an inequitable burden. Be sure which it is before signing that next contract.

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business associates

## Pre-Height Checklist

No competent pilot would ever take off without completing a comprehensive pre-flight checklist. Crane operators have a similar need. Before getting up in the air, run a "pre-height" checklist.

An effective checklist should include visual inspection of all fluids and equipment, tests of gauges and indicators, and operational inspection of moving parts and safety features. Sample checklists are available from a multitude of sources, including OSHA and state construction regulators, crane equipment manufacturers and dealers, and many universities.

For one sample, check out the Hoisting and Rigging: Mobile Crane Pre-Use Inspection Form from Stanford University, located at <http://www-group.slac.stanford.edu/esh/forms/>.