

# AGC'S ENVIRONMENTAL OBSERVER

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## AN IN-DEPTH LOOK...

### **Overview of Federal Rules Governing the Management and Disposal of Lead-Based Paint Waste.**

Contractors may be exposed to harmful concentrations of lead when cutting, sanding, heating, burning, welding, or blasting items that are coated with lead-based paint, including metal bridges, and metal storage tanks. For example, lead-based paint (LBP) waste is routinely generated when a residence or building is renovated, remodeled, demolished, abated, or delead. Federal laws require contractors to take steps to ensure that workers are not exposed to lead and to prevent LBP waste from making its way into soil, potentially contaminating surface waters. *The discussion below explains how the federal rules governing the management and disposal of LBP waste differ depending on the type of waste and its source.*

**What Is Lead-Based Paint Waste?** LBP waste includes debris, paint chips and dust, leftover paint or paint thinners, sludges, solvents, vacuum filter materials, wash water, sandblasting materials, contaminated and decontaminated protective clothing and equipment, and lead-contaminated soil. LBP debris is any component, fixture, or portion of a residence or other building that is coated wholly or partly with LBP and separated from a building during renovation, remodeling, abatement, or demolition activities.

**Lead-Based Paint Waste Generated on Commercial or Industrial Sites.** Currently, the Resource Conservation and Recovery Act (RCRA) regulates the management and disposal of LBP waste from commercial and industrial sites. RCRA requires contractors who generate LBP waste to test it for toxicity characteristics. Waste that exhibits the toxicity characteristic for lead (that is, exceeds the regulatory limit of 5mg/L lead in waste leachate as established by the Toxicity Characteristic Leaching Procedure or a contractor's knowledge of the waste) is hazardous waste that must be managed and disposed of in accordance with the applicable RCRA requirements.

In general, if a representative sample of the LBP waste tests higher than the regulatory limit it must be disposed of in a hazardous waste landfill or treated to meet the RCRA land disposal restrictions. If the LBP waste tests under the regulatory limit for lead it can be disposed of as a regular non-hazardous waste in a municipal solid waste landfill or non-hazardous solid waste landfill (e.g., construction and demolition landfills). LBP waste may also be managed as a non-hazardous waste if: (1) the total quantity of all

hazardous waste you generate is less than 100 kg (i.e., approximately one 55-gallon drum/container) per month; and (2) you qualify as a conditionally-exempt small quantity generator (CESQG) of hazardous waste.

**Lead-based paint waste generated from removal or remediation activities** that exhibits the toxicity characteristic must also be managed and disposed of as a RCRA hazardous waste. *For a more detailed overview of how the RCRA law and its regulations apply to contractors who generate, transport, treat, store, and dispose of hazardous waste, see the "Observer" Issue No. 7-01 on the Internet at [www.constructionenvironment.org](http://www.constructionenvironment.org).*

**Lead-Based Paint Waste Generated on Residential Sites.** LBP waste that is generated by contractors who work on residential sites (like single family homes, apartment buildings, row houses, military barracks, or college dormitories) is excluded from the RCRA hazardous waste regulations. In other words, no RCRA hazardous waste determination is needed regardless of whether the waste exhibits the toxicity characteristic. Therefore, contractors may dispose of hazardous-LBP wastes from residential lead paint abatements as household garbage (i.e., municipal waste) subject to applicable state and local requirements. On October 23, 2001, EPA proposed a rule that would allow residential LBP waste to be disposed of in construction and demolition (C&D) landfills (66 FR 53566; see also "Observer" Issue. No. 11-01, p. 3). EPA predicts the proposal would save contractors money because C&D landfills are less expensive than municipal landfills.

Contractors should contact their state, local, and/or tribal government to determine whether any restrictions apply to the disposal of residential LBP waste. Under RCRA, states, local, and tribal governments can enforce regulations that are more stringent than the federal requirements. *EPA's policy on LBP waste generated by contractors working at residential sites is outlined in an August 2000 memorandum, which is available online at [www.epa.gov/lead/hhwmemo-july00fnl.pdf](http://www.epa.gov/lead/hhwmemo-july00fnl.pdf).*

**What Are the "Best Management Practices" for Handling LBP Waste?** Contractors who handle LBP waste—even if it is not technically considered a hazardous waste—should follow several guidelines to protect their health and safety:

- Collect paint chips, dust, dirt, and rubble in plastic trash bags for disposal.
- Store larger LBP building parts in containers until ready for disposal.

- Use a covered dumpster to store LBP debris until the job is completed.
- Contact your local solid waste agency to determine where and how to dispose of LBP debris.
- Do not smoke, eat, or drink around LBP work.
- Always wash your hands and face before smoking, eating, or drinking after working with LBP waste.
- Do not wear clothes home that have been exposed to LBP dust.

In addition, contractors involved in LBP activities may be subject to the following:

- The U.S. Department of Housing and Urban Development (HUD) Guidance for contractors doing publicly-funded rehabilitation/renovation projects in public housing. *The HUD guidelines can be accessed on the Internet at [www.hud.gov/lea/learules.html](http://www.hud.gov/lea/learules.html).*
- Toxic Substances Control Act (TSCA) Section 402/404 training and certification requirements for LBP activities conducted in “target housing” and child-occupied facilities (see 40 CFR Part 745; 61 FR 45778, August 29, 1996). *More information is available online on the Internet at [www.epa.gov/lead/leadcert.htm](http://www.epa.gov/lead/leadcert.htm).*
- Occupational Safety and Health Administration (OSHA) rules on hazard communication, personal protective equipment, testing of blood lead levels, and other special procedures. OSHA's lead standard (29 CFR 1926.62) for construction applies to any construction activity that *potentially* exposes workers to airborne concentrations of lead. *To learn more, check out “The OSHA Technical Manual, Section V: Chapter 3, Controlling Lead Exposures In The Construction Industry: Engineering And Work Practice Controls” at [www.osha-slc.gov/dts/osta/otm/otm\\_v/otm\\_v\\_3.html](http://www.osha-slc.gov/dts/osta/otm/otm_v/otm_v_3.html).*

**New Rules Covering Lead-Based Paint Activities To Be Final This Year.** In December 1998, EPA proposed new standards under the Toxic Substances Control Act (TSCA) for the management and disposal LBP debris that would replace the some of the existing RCRA regulations (63 FR 70189, December 18, 1998). The proposed standards would allow contractors who renovate, remodel,

demolish, abate, or delead residences or public and commercial buildings to dispose of LBP debris in a construction and demolition landfill or another specific alternative nonhazardous landfill. In addition, contractors generating LBP debris would no longer need to test the LBP debris for lead. EPA estimates that LBP debris tested and managed as hazardous waste can cost up to \$316 per ton. The Agency believes that it would cost significantly less to dispose of LBP debris in accordance with this proposal.

The proposal also would impose certain storage and access limitations to prevent the spread of LBP hazards from one place to another. In addition, LBP would need to be transported off site in covered receptacles.

LBP debris does NOT include paint chips and dust, leftover paint or paint thinners, sludges, solvents, vacuum filter materials, wash water, sandblasting materials, contaminated and decontaminated protective clothing and equipment, and lead-contaminated soil. These items would REMAIN subject to RCRA requirements, and they would NOT be covered under the proposal.

*According to EPA’s most recent regulatory agenda, this rule will be finalized by August 2002. Full details on the LBP debris proposal are available online at [www.epa.gov/lead/leaddebr.htm](http://www.epa.gov/lead/leaddebr.htm).*

**New Lead Reporting Procedures on the Way.** In related news, EPA seeks to establish reporting procedures to ensure that lead abatement professionals are trained and certified. A proposed rule issued January 22, 2001, includes procedures to notify the Agency: (1) prior to commencement of LBP abatement activities, (2) prior to providing LBP activities training, and (3) following completion of LBP activities training courses (66 FR 7207). These requirements are expected to be finalized early this year and would apply only in states without authorized lead programs. *More information is online at <http://www.epa.gov/lead/notification.nprm.fs.1-22.pdf>.*

**Where Can I Get More Information?** For general information on lead-based paint hazards, call the National Lead Information Center at (800) 424-LEAD and/or the RCRA Hotline at (800) 424-9346.