

EPA'S MEMO ON RESIDENTIAL WASTE



EPA

United States
Environmental Protection Agency

Office of Pollution Prevention
and Toxics

**Lead-based Paint for Residential Contractors.
Lead-Based Paint is Household Waste.**

August 2000

Agency Policy

Aiming to further reduce lead poisoning in children, the Environmental Protection Agency (EPA) clarified that contractors can manage residential lead-based paint (LBP) waste as household waste. Allowing LBP waste to be managed this way makes it more affordable for people to reduce lead in and around their homes.

Contractor Waste

Residential contractors frequently work on residential dwellings like single family homes, apartment buildings, row houses, military barracks, or college dormitories. They routinely generate LBP waste during lead abatement, remodeling, or rehabilitation work on these residences. The waste consists mostly of building parts, such as doors, window frames, painted woodwork, and paint chips. Because the standards were unclear, contractors who needed to dispose of lead-based paint waste were uncertain about how to properly manage it.

EPA's policy statement allows contractor-generated LBP waste to be disposed of as household waste. Household waste is regular garbage or trash that is disposed of as municipal waste, and managed according to state and local requirements. Residents are already entitled to manage their own LBP waste in this manner. Extending this option to contractors simplifies abatement work and lowers its cost, which will allow more lead paint removal from more homes nationwide. Consequently, people's homes everywhere will be safer for both children and adults.

Safe Handling

EPA encourages everyone who handles lead-based paint to follow several common sense measures:

Collect paint chips, dust, dirt, and rubble in plastic trash bags for disposal. Store larger LBP building parts in containers until ready for disposal. If possible, use a covered mobile dumpster (such as a roll-off container) to store LBP debris until the job is done. Contact local solid waste authorities to determine where and how LBP debris can be disposed of.

The Toxic Substances Control Act (TSCA) contains training and certification requirements that contractors also should learn and follow. These requirements are under TSCA 402/404, and can be found on the Internet at <http://www.epa.gov/lead/leadcert.htm>. Note also that the US Department of Housing and Urban Development (HUD) established guidelines for contractors performing lead-based paint activities (see <http://www.hud.gov/lea/learules.html>).

Proposed TSCA Standards

EPA intends to pursue additional measures to promote LBP abatement activities. For example, in 1998 the Agency proposed new standards under TSCA that would replace existing Resource Conservation and Recovery Act (RCRA) hazardous waste regulations covering the disposal of LBP. This change, if adopted, would provide greater waste management flexibility and efficiency in numerous circumstances where lead-based paint is generated. Full details of the LBP proposal are available on the Internet at <http://www.epa.gov/lead>.

For More Information

For general information on lead-based paint and lead-based paint hazards, call the National Lead Information Center at 1 800 424 LEAD (5323). You may also obtain information by calling the RCRA Hotline. Callers within the Washington Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long-distance callers may call 1-800-424- 9346 or TDD 1-800-553-7672. The RCRA Hotline operates weekdays, 9:00 a.m. to 6:00 p.m. Write to the RCRA Information Center (5305W), US EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

July 31, 2000

MEMORANDUM

From: /s/ Elizabeth A. Cotsworth, Director
Office of Solid Waste

To: RCRA Senior Policy Advisors
EPA Regions 1 - 10

Subject: Regulatory Status of Waste Generated by Contractors and Residents from Lead-Based Paint Activities Conducted in Households

What is the purpose of this interpretation?

This memorandum clarifies the regulatory status of waste generated as a result of lead-based paint (LBP) activities (including abatement, renovation and remodeling) in homes and other residences. Since 1980, EPA has excluded "household waste" from the universe of RCRA hazardous wastes under 40 CFR 261.4(b)(1). In the 1998 temporary toxicity characteristic (TC) suspension proposal, we clarified that the household waste exclusion applies to "all LBP waste generated as a result of actions by residents of households (hereinafter referred to as "residents") to renovate, remodel or abate their homes on their own." 63 FR 70233, 70241 (Dec. 18, 1998). In this memorandum, EPA is explaining that we believe lead paint debris generated by contractors in households is also "household waste" and thus excluded from the RCRA Subtitle C hazardous waste regulations. Thus, the household exclusion applies to waste generated by either residents or contractors conducting LBP activities in residences.

What is the practical significance of classifying LBP waste as a household waste?

As a result of this clarification, contractors may dispose of hazardous-LBP wastes from residential lead paint abatements as household garbage subject to applicable State regulations. This practice will simplify many lead abatement activities and reduce their costs. In this way, the clarification in today's memorandum will facilitate additional residential abatement, renovation and remodeling, and rehabilitation activities, thus protecting children from continued exposure to lead paint in homes and making residential dwellings lead safe for children and adults.

LBP debris (such as architectural building components -- doors, window frames, painted wood work) that do not exhibit the TC for lead need not be managed as hazardous waste. However, LBP waste such as debris, paint chips, dust, and sludges generated from abatement and deleading activities that exhibit the TC for lead (that is, exceed the TC regulatory limit of 5 mg/L lead in the waste leachate), are hazardous wastes and must be managed and disposed of in accordance with the applicable RCRA subtitle C requirements (including land disposal restrictions) except when it is "household waste." Under 40 CFR 261.4(b)(1), household wastes are excluded from the hazardous waste management requirements. Today, EPA is clarifying that waste generated as part of LBP activities conducted at residences (which include single family homes, apartment buildings, public housing, and military barracks) is also household waste, that such wastes are no longer hazardous wastes and that such wastes thus are excluded from RCRA's hazardous

waste management and disposal regulations. Generators of residential LBP waste do not have to make a RCRA hazardous waste determination. This interpretation holds regardless of whether the waste exhibits the toxicity characteristic or whether the LBP activities were performed by the residents themselves or by a contractor.

Where can I dispose of my household LBP waste?

LBP waste from residences can be discarded in a municipal solid waste landfill (MSWLF) or a municipal solid waste combustor. Dumping and open burning of residential LBP waste is not allowed. Certain LBP waste (such as large quantities of concentrated lead paint waste -- paint chips, dust, or sludges) from residential deleading activities may be subject to more stringent requirements of State, local, and/or tribal authorities.

What is the basis for this interpretation?

The household waste exclusion implements Congress's intent that the hazardous waste regulations are "not to be used either to control the disposal of substances used in households or to extend control over general municipal wastes based on the presence of such substances." S. Rep. No. 94-988, 94th Cong., 2nd Sess., at 16. EPA regulations define "household waste" to include "any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas)." 40 CFR 261.4(b)(1). The Agency has applied two criteria to define the scope of the exclusion: (1) the waste must be generated by individuals on the premises of a household, and (2) the waste must be composed primarily of materials found in the wastes generated by consumers in their homes (49 FR 44978 and 63 FR 70241).

In 1998, EPA concluded that LBP waste resulting from renovation and remodeling efforts by residents of households met these criteria. (63 FR 70241-42, Dec. 18, 1998). In short, the Agency found that more and more residents are engaged in these activities and thus the waste can be considered to be generated by individuals in a household and of the type that consumers generate routinely in their homes. Wastes from LBP abatements performed by residents were also considered household wastes.

EPA clarifies that this interpretation also applies to contractor-generated LBP waste from renovations, remodeling and abatements in residences. Both the definition of household waste in section 261.4(b)(1) and the Agency's criteria for determining the scope of the exclusion focus on the type of waste generated and the place of generation rather than who generated the waste (e.g., a resident or a contractor). This approach is consistent with prior Agency policy.¹ Since

¹In the final rule establishing standards for the tracking and management of medical waste, EPA concluded that waste generated by health care providers (e.g., contractors) in private homes would be covered by the household waste exclusion. 54 FR 12326, 12339 (March 24, 1989). In the specific context of LBP, the Agency stated in a March 1990 "EPA Hotline Report" (RCRA Question 6) that lead paint chips and dust resulting from stripping and re-painting of residential walls by homeowner or contractors (as part of routine household maintenance) would be part of the household waste stream and not subject to RCRA Subtitle C regulations. Similarly, in a March 1995 memorandum on the "Applicability of the Household Waste Exclusion to Lead- Contaminated Soils," we found that if the source of the lead contamination was as a result of either routine residential maintenance or the weathering or chalking of lead-based paint from the residence, the hazardous waste regulations do not apply so long as the lead-contaminated soil is managed onsite or disposed offsite according to applicable solid waste regulations and/or State

contractor-generated LBP waste from residential renovations, remodeling, rehabilitation, and abatements are of the type generated by consumers in their homes, it is appropriate to conclude that such waste, whether generated by a resident or contractor, falls within the household waste exclusion. This clarification will facilitate lead abatements and deleading activities in target housing by reducing the costs of managing and disposing of LBP waste from residences.

What is the relationship of this interpretation to the on-going LBP debris rulemaking?

On December 18, 1998, EPA proposed new TSCA standards for management and disposal of LBP debris (63 FR 70190) and simultaneously proposed to suspend temporarily the applicability of the RCRA hazardous waste regulations that currently apply to LBP debris (63 FR 70233). This memorandum responds to stakeholders requests that EPA clarify whether the existing household waste exclusion applies to both homeowners and contractors conducting LBP activities in residences. While the Agency still intends to finalize aspects of the two proposals, we are making this clarification in advance of the final rule to facilitate LBP abatement in residences without unnecessary delay.

How does this interpretation affect EPA's enforcement authorities?

Under this clarification, LBP wastes generated by residents or contractors from the renovation, remodeling, rehabilitation, and/or abatement of residences are household wastes that are excluded from EPA's hazardous waste requirements in 40 CFR Parts 124, and 262 through 271. The household waste provision of 40 CFR 261.4(b)(1) only excludes such wastes from the RCRA regulatory requirements. However, it does not affect EPA's ability to reach those wastes under its statutory authorities, such as RCRA §3007 (inspection) and §7003 (imminent hazard). See 40 CFR §261.1(b).

What are the "best management practices" for handling residential LBP waste?

Although excluded from the hazardous waste regulations, EPA encourages residents and contractors managing LBP waste from households to take common sense measures to minimize the generation of lead dust, limit access to stored LBP wastes including debris, and maintain the integrity of waste packaging material during transfer of LBP waste. In particular, we continue to endorse the basic steps outlined in the 1998 proposals for the proper handling and disposal of LBP waste (63 FR 70242) as the best management practices (BMPs) including:

- Collect paint chips and dust, and dirt and rubble in plastic trash bags for disposal.
- Store larger LBP architectural debris pieces in containers until ready for disposal.
- Consider using a covered mobile dumpster (such as a roll-off container) for storage of LBP debris until the job is done.
- Contact local municipalities or county solid waste offices to determine where and how LBP debris can be disposed.

In addition, contractors working in residential dwellings are subject to either one or both of the following:

law mandated by RCRA.

The HUD Guidance for contractors doing publically-funded rehabilitation/renovation projects in public housing. (See Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing. U.S. Department of Housing and Urban Development, June 1995) The HUD guidelines can be accessed via the Internet at:
<http://www.hud.gov/lea/learules.html>

TSCA 402/404 training and certification requirements. (See 40 CFR Part 745; 61 FR 45778, August 29, 1996) and the proposed TSCA onsite management standards (See 40 CFR Part 745, Subpart P; 63 FR 70227 - 70230, Dec. 18, 1998). [EPA expects to issue the final rule next year.]

The above-mentioned BMPs for households are similar to those included in the HUD Guidelines for individuals controlling LBP hazards in housing. HUD requires that contractors using HUD funding adhere to LBP hazard control guidelines. Non-adherence to these guidelines can potentially result in the loss of funding.

Does this interpretation apply in my State and/or locality?

We encourage contractors and residents to contact their state, local and/or tribal government to determine whether any restrictions apply to the disposal of residential LBP waste. This verification is necessary since, under RCRA, States, local and tribal governments can enforce regulations that are more stringent or broader in scope than the federal requirements. Thus, under such circumstances, LBP waste from households may still be regulated as a hazardous waste as a matter of State regulations.

We are distributing this memorandum to all 56 States and Territories, and Tribal Programs and various trade associations. We encourage States to arrange for implementation of the interpretation discussed in this memo in their States to facilitate residential LBP abatements making residential dwellings lead-safe. We encourage trade associations to inform their memberships about this memo and instruct them about ways to manage residential LBP waste.

Whom should I contact for more information?

If you have additional questions concerning the regulatory status of waste generated from lead-based paint activities in residences, please contact Ms. Rajani D. Joglekar of my staff at 703/308-8806 or Mr. Malcolm Woolf of the EPA General Counsel's Office at 202/564-5526.

cc: Key RCRA Contacts, Regions 1 - 10
RCRA Regional Council Contacts, Regions 1 - 10
RCRA Enforcement Council Contacts, Regions 1 - 10
Association of State and Territorial Solid Waste Management Officials (ASTSWMO)

GA-EPD'S MEMO ON LBP WASTE DISPOSAL REQUIREMENTS

Georgia Department of Natural Resources

Environmental Protection Division
Lead-Based Paint & Asbestos Program
4244 International Parkway, Suite 104, Atlanta, Georgia 30354
Mark Williams, Commissioner
F. Allen Barnes, Director
(404) 363-7026

September 2011

To: To All Regulated Parties
From: Lead-Based Paint & Asbestos Program
Subject: Georgia's Lead-Based Paint Waste Disposal Requirements

Legal Authority

- Georgia Department of Natural Resources Rules for Solid Waste Management, Chapter 391-3-4.
- Georgia Department of Natural Resources Rules for Hazardous Waste Management, Chapter 391-3-11.
- Georgia Department of Natural Resources Rules for Hazardous Site Response, Chapter 391-3-19.
- Georgia Department of Natural Resources Rules for Lead-Based Paint Hazard Management, Chapter 391-3-24.
- U. S. Environmental Protection Agency, Office of Solid Waste, Director's Memorandum, *Regulatory Status of Waste Generated by Contractors and Residents from Lead-Based Paint Activities Conducted in Households*, July 31, 2000.
- Georgia Environmental Protection Division, Hazardous Waste Management Branch, Branch Chief's Memorandum, *Lead Abatement Wastes*, March 31, 1994.

Purpose

This document provides guidance to Georgia certified lead-based paint abatement and renovation contractors, demolition contractors, structural and painting contractors, environmental consultants, environmental training providers, waste handling and disposal operators, and the general public to ensure compliance with the various Georgia environmental laws and rules governing lead-based paint wastes. The Georgia Environmental Protection Division (EPD) has been delegated by the U. S. Environmental Protection Agency (EPA) the various program activities providing compliance and enforcement under the authority of the laws of the State of Georgia. Since these program areas deal with lead as a potential environmental and health hazard, this document provides clarification to all concerned parties for a consistent regulatory response regarding lead-based paint waste in Georgia.

Definitions

Child-Occupied Facility means a building constructed prior to 1978, visited by the same child, six years of age or under, on at least two different days within the same week (Sunday through Saturday period), provided each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours. Child-occupied facilities include, but are not limited to, day-care centers, pre-schools and kindergarten classrooms. (*Chapter 391-3-24-.03(18)*)

Construction and Demolition Waste means waste building materials and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial building and other structures. Such waste include, but are not limited to asbestos containing waste, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill materials, and other nonputrescible wastes which have a low potential for groundwater contamination. (*Chapter 391-3-4-.01(14)*)

Hazardous Waste means any solid waste, which has been defined as a hazardous waste in regulations promulgated by the Georgia Board of Natural Resources. (*Chapter 391-3-11*)

Household Waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). (*Chapter 391-3-4-.01(24)*)

Lead-Based Paint Activities means lead-based paint inspection, lead-based paint risk assessment, and lead-based paint abatement for target housing and child occupied facilities. (*Chapter 391-3-4-.03(59)*)

Municipal Solid Waste means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family and multi-family residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings and commercial solid waste, but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations. (*Chapter 391-3-4-.01(37)*)

Target Housing means any residential dwelling constructed prior to 1978, except residential dwelling for the elderly or persons with disabilities (unless any child who is age 6 or under resides or is expected to reside in such residential dwelling for the elderly or persons with disabilities) or any 0-bedroom dwelling. (*Chapter 391-3-24-.03(89)*)

Toxicity Characteristic Leaching Procedure means Method No. 1311 as described in the *U. S. Environmental Protection Agency Test Methods for Evaluating Solid Waste, SW-846, Laboratory Manual. Physical/Chemical Methods, Vol1C: Chapter 8, Section 8.4.*

Guidance

Georgia EPD regulates the lead-based paint abatement and renovation industry in the areas of target housing and child-occupied facilities. The focus of the *Georgia Rules for Lead-Based Paint Hazard Management, Chapter 391-3-24*, is to regulate lead-based paint activities. While EPD regulates lead as a hazardous waste under the *Georgia Rules for Hazardous Waste Management, Chapter 391-3-11*, certain exemptions for hazardous waste disposal requirements exist. The *Georgia Rules for Solid Waste Management, Chapter 391-3-4* and the *Georgia Rules for Hazardous Waste Management*

provide for the exemption of hazardous waste disposal requirements, when the waste is generated from a household. This is called Household Waste or Municipal Solid Waste, depending upon the rules cited.

The EPA Office of Solid Waste Memorandum dated July 31, 2000, interpreted that waste generated from lead-based paint activities, including abatement, renovation, and remodeling in homes and other residences enjoy the household hazardous waste exemption status. The purpose was to reduce disposal costs for these contractors. The EPA Memorandum does not provide any hazardous waste disposal exemption if the lead-based paint waste is derived from abatement, renovation and remodeling in child-occupied facilities. The EPA Memorandum provides no interpretation regarding demolition of lead-based painted structures. EPD clarifies its position regarding these activities with a series of questions and answers.

Where can I dispose of my Lead-Based Paint abatement, renovation, remodeling, or demolition waste from residential projects?

1. When such debris from residential projects is architectural building components, such as doors, window frames, banisters, flooring, porch post and other painted woodwork, then the waste may be disposed in a permitted Municipal Solid Waste (MSW) Landfill or permitted Construction and Demolition (C&D) Landfill. Since this a residential project, no Toxicity Characteristic Leaching Procedure (TCLP) analysis is required to characterize Toxic Characteristic (TC) for the lead among the waste. This waste is considered household waste and is excluded from regulation as a hazardous waste. Good work practices must be taken to avoid lead contamination of the soil during removal.
2. When such debris from the residential projects consist of paint chips, dust, soil and/or sludge generated from the abatement, renovation, or remodeling project, then the waste may be disposed of in a permitted MSW Landfill with a liner and leachate collection system. This waste is considered a household waste and is excluded from regulation as a hazardous waste and requires no TCLP analysis. Due to the potentially higher concentration of lead among these wastes, the Division requires disposal in a lined MSW Landfill.

Where can I dispose of my Lead-Based Paint abatement, renovation, remodeling or demolition waste from other non-residential projects?

1. When the debris does not exhibit Toxic Characteristics (TC) for lead that exceeds the regulatory threshold of 5 milligrams per kilogram as a hazardous waste, then the waste may be disposed of in a permitted MSW Landfill or a permitted C&D Landfill, if from painted components. If the solid waste is composed of paint chips, dust, soil, and/or sludge, and the TC is less than 5 milligrams per liter, this waste portion may be disposed in a permitted MSW Landfill with a liner and leachate collection system.
2. When the debris exhibits the TC for lead that equals or exceeds the regulatory threshold of 5 milligrams per liter as a hazardous waste and in a quantity of 220 pounds or greater per month, then the waste must be disposed in a manner to comply with the *Georgia Rules for Hazardous Waste Management, Chapter 391-3-4*.
3. When the debris exhibits the TC for lead that equals or exceeds the regulatory threshold of 5 milligrams per liter as a hazardous waste and the total quantity of waste from the project site is less than 220 pounds per month, then the waste is classified as a Conditionally Exempt

Small Quantity Generator (CESQG) waste. Disposal in a MSW or C& D Landfill is permissible depending upon the waste form, as discussed in the earlier question.

Can any contractor or individual disturb lead-based paint through abatement, renovation, remodeling or demolition at any type facility and leave lead-based paint chips, dust or sludge on the ground?

No. Regardless of the lead content, open dumping of any solid waste is a prohibited act under the *Georgia Rules for Solid Waste Management*. No person may dispose of any solid waste in an open dump, nor may any person cause, suffer, allow, or permit open dumping on his property (*Rule 391-3-4-.04(4)(c)*). Furthermore, when the disturbance of lead-based paint through abatement, renovation, remodeling or demolition from any type of facility contaminates the soil with lead exceeding the TC regulatory threshold of 5 milligrams per liter for lead as a hazardous waste, then open dumped lead-based paint waste must be cleaned up.

What are the clean up standards for lead-based paint contaminated soil?

1. Lead-based paint contaminated soil must be cleaned up to background level in the soil. The Division must agree with the background level used for the clean up standard designated. If the soils lead content equals or exceeds 400 milligrams per kilogram, *Georgia Rules for Hazardous Site Response, Chapter 391-3-19-.04(3)(b)* requires clean up or notification to the Division within thirty (30) days.
2. If required by the Division, clean up of lead-based paint contaminated soil surrounding residential facilities must be conducted in such a manner to meet the abatement requirement of the *Georgia Rules for Lead-Based Paint Hazard Management, Chapter 391-3-24*.
3. If required by the Division, clean up of lead-based paint contaminated soil surrounding non-residential structures or facilities must be conducted in such a manner to meet the clean up requirements prescribed in the *Georgia Rules for Hazardous Waste Management and/or Georgia Rules for Hazardous Sites Response*.

Can Facility Owners adopt more stringent waste disposal criteria than required under federal or state rules for Contractors to comply under contract?

Yes. While Georgia EPD enforces the minimum requirements under Georgia laws and rules, Facility Owners may adopt more stringent contract specifications. EPD will not enforce these more stringent specifications, unless outlined in agreed terms in an order executed by the Director.