

EPA Lead RRP Contractor Questions

Questions from Students in EPA/Lead/RRP Classes:

Question: 1. When is collection of power washing (pressure washing) waste liquid needed and 2. how does one contain it and 3. How does one handle the waste water?

Answer 1: The wastes from power washing must be collected and properly disposed of. The greatest environmental damage and greatest enforcement occur when the liquid waste from power washing can enter a storm drain or other water course. Power washing wastewater that enters storm drains flows directly into lakes, rivers, and streams. This water is not treated or cleaned to remove pollutants. Pollutants discharged to the storm drain harm fish and wildlife and contaminate recreational sites and drinking water supplies.

Discussion:

Attached in PDF form are a joint DEP/DPH/OSHA pamphlet, some applicable DEP regulations 22a430 1-4, and 6-8, and DEP guidance document on pressure washing and "misc guidance" which discusses the requirements to discharge in a sanitary sewer without a registration or permit.

This is an extremely complex subject. Call the DEP Water Program at (860) 424-3003 for further information and the pamphlet attached has other agency contact information. Also contact the local municipal Sewer Authority to find out about discharges into sanitary sewers. Properties located near public and private wells and other drinking water sources are likely to have further local restrictions.

Answer 2-3. How to collect and dispose of the waste:

Throughout the country liquids from power washing buildings are routinely collected. Many commercial setups are available.

The simplest approach is to use a plastic channel with the leading edge secured under the dripline and direct the water down hill to a sump. 6 mil or heavier poly plus studs or 4x4s can be used for the channel. The sump can be made from a 5 gallon pail dug into the ground at end of the channel to collect the liquid. (Depending on the volume, a larger container such tub or a 30 gal drum may be needed as the sump.) Loose soil can also be used to form a berm under the plastic at strategic locations, such as the uphill end of the channel. A pump and discharge hose of appropriate size are used to transfer the liquid. For small amounts, a wet vac is useful as well. Possible points of pump discharge are:

- a. POTW discharge (sanitary sewer) where permitted (Note 1)
- b. Or drums or other disposal vessel for collection by a licensed hauler.

At the end of the process, sweep down or hose down any solids remaining in the channel and collect these in the sump for proper disposal.

Under some circumstances, filtration of the wastes may be desirable. This can be done using an in-line pressure filter, finest porosity that the pump can handle. 10 and 25 micron in line filters are commonly available. If the effluent from the filter is hazy, then a 5 micron filter may be needed. The sediment on the filter may be a hazardous waste.

If the house has lead paint on the exterior, then the wastes must be evaluated by lab analysis for the TCLP test to determine if the waste is a Hazardous Waste as regulated by DEP and EPA regulations. If the extractable lead is 5 mg/liter or greater, then the waste is Hazardous.

If you dispose of the waste in the homeowners sanitary sewer line, do not use sinks or bathtubs; use toilets. Always get the owner's permission first.

More Discussion:

Beware of houses with pre-existing lead contamination in the soil. Most pre-1978 houses already have substantial amounts of lead dust within 2 ft of the dripline. A homeowner may claim you contaminated his soil by your painting-prep operation. With older houses, it is prudent to take a soil sample on each side by the dripline before your work, document the date and exact location of the samples. Put these samples with the documentation in the custody of a lab for possible future tests. If there is a complaint after your work claiming you contaminated the soil, then take after work samples in the same locations and have the lab run before vs after samples.

DEP is presently not enforcing where relatively uncontaminated power wash liquid waste from washing a home on residential property is allowed to percolate into the ground on the residential property as long as the waste stays on the property and does not enter a storm drain or water course. However, the joint pamphlet from the state does not mention this option and says it has to be collected. (See the attached pamphlet.)

Relatively uncontaminated means that this is not a lead painted house and at the most, that only some bleach or detergent was added to the wash liquid. Any water with hazardous contaminants such as acid added would need to be collected.

Discharges from commercial property, from washing vehicles, boats or from washing equipment could not be handled this way and would see stricter enforcement.

In most cases, the waste could be disposed of in a sanitary sewer (POTW). This waste would be classified as "miscellaneous wastewater"

****MISC Wastewater****

means a discharge to a sanitary sewer (and only to a sanitary sewer) of no more than 50,000 gallons per day (or up to 2% of the receiving POTWs design flow, whichever is less) of wastewater resulting from any of the following processes or activities: air compressor condensate, air compressor blowdown, building maintenance wastewater, contact cooling and heating wastewater, cutting and grinding wastewater, fire sprinkler system testwater, nondestruct testing rinsewater, and undesignated MISC wastewater. The PDF guidance document attached "misc guidance" has specs that the waste must conform to meet the misc requirements.

** Under CGS Section 22a-430, any person who wishes to discharge any type of wastewater to the waters of the state *i.e.*, surface waters, groundwaters or a Publicly Owned Treatment Works (or POTW, including its sanitary sewerage system) must first obtain a wastewater discharge permit from the Commissioner of the Department of Environmental Protection (DEP). To comply with this requirement, such persons may obtain either an *individual permit* or, as available, a *general permit*. An individual permit is issued to a specific facility at a specific site with terms and conditions specific to that permittee and is typically applied to the most significant discharges warranting a detailed application and review. By contrast, general permits are issued to authorize groupings or categories of wastewaters which are minor in nature, thereby limiting DEP involvement and streamlining the application process. A general permit is available for Miscellaneous Discharges of Sewer Compatible or MISC Wastewater. **? MISC Wastewater** means a discharge to a sanitary sewer (and only to a sanitary sewer) of no more than 50,000 gallons per day (or up to 2% of the receiving POTWs design flow, whichever is less) of wastewater resulting from any of the following processes or activities: air compressor condensate, air compressor blowdown, building maintenance wastewater, contact cooling and heating wastewater, cutting and grinding wastewater, fire sprinkler system testwater, nondestruct testing rinsewater, and undesignated MISC wastewater. These processes and activities are defined in Section 2 of the *General Permit for MISC Wastewater* and on the specification sheets included as Appendix B to this guidance document.

Question 4: Does cleaning verification need to be done for demolition?

Answer 4: Yes. The regulation specifically includes “demolition” of painted surfaces. In this context the regulation is covering say demolition of a painted wall, painted woodwork, part of a building, etc. It does not give any wording to cover the demolition of an entire building, but if any portion of the building is to remain, then the clearance test should be done in the portion to remain.

As for the demolition of an entire building: It would not be possible to conduct a clearance test after the work as per the cleaning verification procedure, however, other regulations do apply to demolition. The PDF attachment in the “power washing” folder entitled “DEP Pressure Washing...” has a summary of these items. Certainly, at least notification to CT DPH, OSHA regulations, DEP disposal regulations and local ordinances would apply.

It is advised to verify the cleanliness of the remaining soil before and after the demolition to avoid exposure to regulatory and civil liability.

It is also extremely important to avoid contaminating the ground water and especially storm sewers and water courses. DPH asbestos regulations require notification of demolition of any facility, including a single family home. Also DPH lead regulations could apply if the building is already under a local health department abatement order.

Question 5: What about contractor Liability Insurance vs working with lead paint?

Answer 5: I am checking around with insurance experts to see what insurance is out there and will advise further. So far, it appears that some existing policies do have lead exclusions and some do not. One has to check with his individual insurance carrier to find out. Also, by formally recognizing that one is working with lead paint, the insurance company may raise the premium.

Note: Contractors already doing renovation and demolition in older homes and schools have been disturbing lead paint for years, but now the presence of lead paint is going to be recognized. Chances are that the general liability insurance the contractor is carrying has an exclusion for environmental hazards such as lead paint, but now it comes to the foreground. My guess so far is that the insurance companies will require additional insurance coverage.

Question 6: What about subcontractors working at a job site?

Answer 6:

In essence: The contractor or subcontractor doing the disturbance must comply with the RRP. See EPA guidance below for more information.

From the Federal Register

**Lead; Renovation, Repair, and Painting
EPA Guidance with Regulation published in Federal Register: April 22, 2008**

Where multiple contractors are involved in a renovation, any contractor who disturbs, or whose employees disturb, paint in excess of the minor maintenance exception is responsible for compliance with all of the requirements of this final rule. In this situation, renovation firms may find it advantageous to decide among themselves which firm will provide pre-renovation education to the owners and occupants, which firm will establish containment, and which firm will perform the post-renovation cleaning and cleaning verification. For example, a general contractor may be hired to conduct a multi-faceted project involving the large-scale disturbance of paint, which the general contractor then divides up among several subcontractors. In this situation, having the general contractor discharge the obligations of the Pre-Renovation Education Rule is likely to be the most efficient approach, since this only needs to be done once. With regard to containment, the general contractor may decide that it is most cost-effective to establish one large work area for the entire project. In this case, from the time that containment is established until post-renovation cleaning verification occurs, all general contractor and subcontractor personnel performing renovation tasks within the work area must be certified renovators or trained and directed by certified renovators in accordance with this rule. In addition, these personnel are responsible for ensuring the integrity of the containment barriers. The cleaning and post-renovation cleaning verification could be performed by any properly qualified individuals, without regard to whether they are employees of the general contractor or a subcontractor. However, all contractors involved in the disturbance of lead-based paint, or who perform work within the work area established for the containment of lead dust and debris, are responsible for compliance with this final rule, regardless of any agreements the contractors may have made among themselves.

Question 7: Understanding that these are new and developing directives from the EPA, it seems that these are many unanswered questions:

- a. Who will monitor these rules?**
- b. How will there be a clear path to compliance by all contractors who renovate?**
- c. Why is the process not described by local (State) building departments prior to a permit being issued?**
- d. Where is the press to notify the general public of these up and coming rules and regs by April 2010?**

Answer 7: a. US EPA region 1 in Boston is the usual enforcement arm for such regulations. There is also possible state involvement later on, depending on funding and whether the state wants to participate. CT State inspectors have been observing and taking our RRP courses, so we believe there is some interest there. So far, of all the states, only Wisconsin has started their own RRP program, but we believe others may follow.

Answers b, c and d. The EPA rules are reasonably clear. EPA has issued press releases, the actual regulations and guidance are available on the internet and other media, there is coverage in trade magazines and trade associations have also picked up on the new regulations and are getting their members trained in large numbers. Training providers are also advertising. Soon, contractors will be advertising that they are EPA Certified Renovators and those who have not picked up on this will become aware.

Historically, there is a communication lag when new regulations come out. In time, State and local agencies are likely to pick up on this as they did with the asbestos regulations that came out in 1988. Many local building departments are now requiring asbestos inspections before a demolition.

It takes time for this information to be widely reinforced by the press. I think they will start spreading the word when there is news about enforcement activities.

Ultimately, the best contractors will lead the way. As with asbestos regulations of 1988, these leading contractors got accredited early, followed the regulations and are successful today while contractors that did not comply are long gone.

Above is a simplification and not intended as legal advice. This information represents our understanding of current regulations and practices and is provided to our students at no cost. The reader is urged to read the regulations and consult with state and local authorities. In all cases, the possibility of civil liability exists for the contractor who may contaminate property which can not be anticipated in the guidance offered. Use of this information by the students and by 3rd parties is at their own risk. Practices and regulations may change and it is up to the student to stay abreast of the changes.