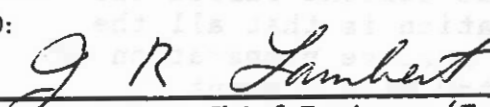


TO: SUPERSEDED BY EI 93-007 EFFECTIVE 11/18/93	<h2 style="text-align: center;">ENGINEERING INSTRUCTION</h2> <p style="text-align: center;">NEW YORK STATE DEPARTMENT OF TRANSPORTATION</p> <p>SUBJECT: PAINT REMOVAL WASTE</p> <p>Subject Code: 7.27-3-570</p>
Distribution: 30 Main Office 32 Regions 34 Special	Code: <u>EI 90-30</u> Date: <u>8-20-90</u>
APPROVED:  J.R. Lambert, Deputy Chief Engineer (Facilities Design Division)	Supersedes: EI 89-33

Summary. This instruction supersedes EI 89-33, disapproves pay item 15570.11XXXX Disposal of Paint Removal Waste, and issues the attached new item 18570.1291XX Treatment and Disposal of Paint Removal Waste. Item 18570.1290XX Treatment and Disposal of Paint Removal Waste is also disapproved by this instruction.

Background. EI 89-33, issued 12/13/89, required that all lead paint removal waste be disposed of by the generating painting or bridge rehabilitation contractor as though it were hazardous waste. The hazardous waste regulations in effect at the time required the disposal of the paint removal waste only at a permitted hazardous waste disposal facility, typically a landfill.

The Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act required the Environmental Protection Agency to promulgate regulations prohibiting the direct land disposal of hazardous wastes. The statutory deadline for promulgation of the regulations relative to characteristic hazardous wastes was May 8, 1990. The EPA has now promulgated such regulations prohibiting the land disposal of characteristic hazardous wastes unless they are treated to diminish the toxicity of the waste or substantially reduce the likelihood of migration of the hazardous constituents from the waste. EPA also approved a 3 month variance so the effective date of the prohibition for characteristic hazardous wastes is August 8, 1990.

The treatment standard established by the regulation for a hazardous waste with the characteristic of lead is 5.0 parts per million in the waste treatment residual. This standard was adopted based on the presumption of stabilization of the waste with a binding agent such as portland cement or fly ash. The standard is applied by testing the waste residual following treatment at a permitted hazardous waste treatment facility. The treated waste may be land disposed if the leachable lead content is found to be less than 5.0 ppm when tested by the Extraction Procedure (EP) Toxicity test method.

Subject: PAINT REMOVAL WASTE

In another regulatory action, the EPA adopted the Toxic Characteristic Leaching Procedure (TCLP) as the standard method of determining the leachable level of toxic constituents in a solid waste in order to determine if the waste is a hazardous waste. The effective date of the regulation is September 25, 1990. In tests performed on samples of paint removal waste, all the samples which passed the existing EP Toxicity test for lead content failed the TCLP test. The effect of this regulation is that all the paint removal waste generated by the surface preparation of structural steel which has been painted with a paint containing lead pigments may be presumed to be a hazardous waste.

Policy. Due to the implementation of both the prohibition on land disposal of characteristic hazardous wastes and the TCLP test method for characterization of the waste, the Department will require on all future contracts that all paint removal waste be declared hazardous waste and that it be treated prior to disposal.

Implementation. To implement this policy, the Department has prepared item 18570.1291XX, Treatment and Disposal of Paint Removal Waste (CY).

Contracts starting with the April 12, 1990 letting have already been amended to include a similar specification, 18570.1290XX. Starting with the letting of June 7, 1990, it was printed in the proposals. Starting with the letting of October 25, 1990, proposals should include item 18570.1291XX Treatment and Disposal of Paint Removal Waste (CY) in their estimates. Initial indications are that the price will increase to approximately \$750/CY however wide variance in bidding may be expected. The specification will be a MO insert.

For ongoing contracts, Orders-on-Contract will be necessary to implement this policy. The Construction Division will issue guidance to the Regions regarding the changes required to existing contracts.

Finally, if the Contract is expected to generate less than 100kg of paint removal waste, per month, a special specification is available that may help to reduce project costs. Contact R. Ecuyer of the Structures Division @ (518) 454-4549. For other questions, contact Larry Brown @ 457-4093.

ITEM 18570.1291XX TREATMENT AND DISPOSAL OF PAINT REMOVAL WASTE

DESCRIPTION. The work shall consist of accumulating, packaging, labeling, loading, transportating, treating, and disposing of paint removal waste declared to be a hazardous waste containing lead. Because of this requirement, prior to generating any paint removal waste, the Contractor shall supply the Engineer with a letter from a legally permitted Hazardous Waste Disposal Facility, stating that the Facility has agreed to accept the paint removal waste generated by the work requirements of this project; is authorized to accept paint removal waste under the laws of the State of residence; has the required capacity to treat and dispose of the material; and will provide, or assure the ultimate disposal method indicated on the Uniform Hazardous Waste Manifest. The letter shall be signed by a representative of the Disposal Facility who is legally authorized to sign such an agreement. The Engineer shall be given an original, signed letter. Facsimile copies will not be acceptable.

The Contractor shall also present evidence that they have a 6NYCRR Part 364 Waste Transporter Permit to haul to the selected facility or has contracted with a permitted Hazardous Waste Transporter to remove the waste to the selected facility.

For purposes of this item, paint removal waste is defined as removed paint particles combined with the material used to remove the paint. Paint removal waste will be referred to throughout the item text as 'waste'. Declaration of the waste as "hazardous" is based on the Department's knowledge that the waste contains lead.

All waste resulting from paint removal operations shall be in transit to the disposal site no later than 45 calendar days subsequent to generation or two weeks following demobilization of the site, whichever occurs first. Waste shall be accumulated, handled, packaged, loaded, transported, treated and disposed in accordance with all applicable Federal, State and Local laws, rules/regulations, and codes. The Contractor's failure to comply with the aforementioned deadlines may result in the actions described under "Basis of Payment".

The Contractor is hereby notified that this work requires the following as a minimum:

1. Waste transporter identification number issued by USEPA.
2. Disposal facility identification number issued by USEPA. (This will be supplied by the Disposal Facility).

ITEM 18570.1291XX TREATMENT AND DISPOSAL OF PAINT REMOVAL WASTE

3. Generator site identification number issued by USEPA.
(This will be supplied by the State through the Engineer).
4. Conformance to 6NYCRR364. Part 364 governs waste transporters. The Contractor shall furnish a copy of the Part 364 permit to the Engineer.
5. Conformance to 6NYCRR372. Part 372 governs manifest requirements.
6. Conformance to 6NYCRR373. Part 373 governs treatment, storage and disposal facilities.
7. Conformance to Federal regulations promulgated by the Environmental Protection Agency pursuant to the Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, Section 3004(g)(5). That law prohibits the land disposal of hazardous wastes unless they are treated to diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste.

NYCRR regulations are administered by the NYS Department of Environmental Conservation, Albany, NY. EPA regulations are administered by the US Environmental Protection Agency, Region II, N.Y. City, NY.

MATERIALS. The waste shall be accumulated in clean, dry, weatherproof, watertight containers or rollofs furnished by the Contractor. The Contractor shall furnish the Engineer with a signed statement from the Disposal Facility that the containers or rollofs proposed for use by the Contractor are acceptable to the Facility. The dry volume capacity of the container, in cubic yards or meters, shall be clearly marked upon each container, in a location easily readable by the Engineer.

All equipment and containers or rollofs shall be approved by the Engineer prior to use.

CONSTRUCTION DETAILS: All generated waste shall be deposited, and sealed, in containers or rollofs concurrent with generation. No container or rolloff shall be filled to a capacity in excess of that marked on the container or rolloff as the maximum dry volume capacity. No waste shall be left exposed to the elements at the end of the working day.

ITEM 18570.1291XX TREATMENT AND DISPOSAL OF PAINT REMOVAL WASTE

Each container or rolloff shall be labeled in accordance with US Department of Transportation regulations. Each container or rolloff shall be permanently labeled with 1" minimum height lettering in the following manner:

HAZARDOUS WASTE. Federal Law prohibits improper disposal. If found, contact the nearest police, or public safety authority, or the US Environmental Protection Agency.

Generator's Name: NYS DOT

Manifest Document No. _____

Date: _____

BIN: _____

Note: The date shall be the generation date. It shall be entered by the Engineer using permanent marking material supplied by the Contractor.

All labeling, marking (except date mark), and placarding shall be the responsibility of the Contractor and shall be done under the supervision of the Engineer. This work shall be completed to the Engineer's satisfaction prior to the filling or transportation of any particular container or rolloff. All label markings shall be permanent, printed in English, displayed on a background of contrasting color unobscured by other labels, or attachments. Labeling shall be located away from other markings that could substantially reduce its effectiveness.

All document preparation and distribution, including the Uniform Hazardous Waste Manifest, shall be the responsibility of the Contractor. The Engineer will sign the Generator's Certification on the Uniform Hazardous Waste Manifest.

All containers or rolloffs shall be located in a place secured from traffic and in a manner acceptable to the Engineer.

All waste shall be documented, transported, treated, and disposed as required by the current Federal, State and Local laws, rules and codes.

The Contractor is responsible to ensure that only dry paint removal waste is deposited into the container or rolloffs.

ITEM 18570.1291XX TREATMENT AND DISPOSAL OF PAINT REMOVAL WASTE

Provided in the proposal is a note entitled "Typical Paint Removal Waste Composition" which provides typical chemical composition of paint removal waste based on previous chemical testing. The determination has been made that such waste contains less than 2% by weight of organic material.

The Contractor is specifically forewarned that disposal facilities perform spot tests and may refuse to accept waste in excess of 2% organic content or that is otherwise different than the Typical Paint Waste Composition. Waste contaminated in this manner will be the Contractor's responsibility. All penalties and costs associated with the refusal of a disposal facility to accept waste not meeting its requirements will be borne by the Contractor. All testing of the waste necessary to satisfy the requirements of the chosen Disposal Facility or Transporter shall be the responsibility of the Contractor.

For the purposes of this item, treatment of the paint removal waste as required by Federal regulations is presumed to require stabilization of the waste such as mixing it with portland cement as necessary at a permitted Hazardous Waste Treatment or Disposal Facility. The stabilized waste shall meet the treatment standards of the Federal regulations prior to disposal in a permitted Hazardous Waste Disposal Facility.

METHOD OF MEASUREMENT. The work will be measured as the number of dry cubic yards of waste accumulated, packaged, transported, treated, and disposed in accordance with the requirements of this item. If the container or rolloff capacity has been established by means of the cubic meter, a factor of 1.308 shall be applied to the container volume by the Engineer to convert the measurement to cubic yards. One cubic meter is equivalent to 1.308 cubic yards. The actual quantity within a single container or rolloff will be determined by the Engineer. Once the Engineer determines the quantity within a specific container or rolloff, that container or rolloff shall be properly sealed and not thereafter be tampered with. No additional waste shall be placed in it, nor shall any be removed from it. Under no circumstances will a container or rolloff be measured as containing more than the maximum dry volume capacity marked on it.

BASIS OF PAYMENT. The unit price bid per cubic yard shall include the cost of all labor, materials, equipment, sampling, testing, and fees necessary to complete the work based on the assumption that treatment by stabilization will satisfy the applicable Federal regulations. Should this prove not to be the

ITEM 18570.1291XX TREATMENT AND DISPOAL OF PAINT REMOVAL WASTE

case on an industry wide basis, as opposed to an individual Treatment or Disposal Facility, the difference in cost between the cost of treatment by stabilization and the method subsequently found to be necessary shall provide the basis for an order-on-contract. Only waste for which manifest copies are returned to the Engineer by the Contractor and Disposal Facility will be authorized for payment.

If the Department is fined or penalized as a result of the Contractor's performance or lack thereof on this item, in addition to other remedies the Department may possess, said fine or penalty will be deducted from the Contractor's payments on this item.

The extent of the Contractor's compliance with the provisions under timeliness of disposal will be considered as relevant in any future determination of an award to the Contractor as the lowest responsible bidder for any project under the supervision of the Department.

Payment will be made under:

18570.1291XX Treatment and Disposal of Paint Removal Waste.

NOTE: XX represents numbers assigned by the designer and keyed to a particular structure. See elsewhere in these contract documents for a list of structures and the numbers assigned to XX.