

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CHAPTER III. AIR RESOURCES  
SUBCHAPTER A. PREVENTION AND CONTROL OF AIR CONTAMINATION AND AIR POLLUTION  
PART 205: ARCHITECTURAL AND INDUSTRIAL MAINTENANCE (AIM) COATINGS

(Statutory authority: Environmental Conservation Law, §§ 1-0101, 3-0301, 3-0303, 19-0103, 19-0301, 19-0105, 19-0305)

[Amendment filed 9/21/10. Effective 1/1/11.]

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**§205.1 Applicability**

(a) Except as provided in subdivision (b) of this section, this rule is applicable to any person who supplies, sells, offers for sale, or manufacturers any architectural coating for use within the State of New York, as well as any person who applies or solicits the application of any architectural coating within the State of New York.

(b) This rule does not apply to:

- (1) any architectural coating that is sold or manufactured for use outside of the State of New York or for shipment to other manufacturers for reformulation or repackaging;
- (2) any aerosol coating product;
- (3) any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less; and
- (4) any asphalt pavement and asphalt based surface coating regulated under Part 241 of this Title.

**§205.2 Definitions**

(a) *Adhesive*. Any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

(b) *Aerosol coating product.* A pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

(c) *Antenna coating.* A coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

(d) *Antifouling coating.* A coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating must be registered with both the EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. section 136 *et. seq.*)(see Table 1, section 200.9 of this Title) and with the department pursuant to Part 326 of this Title.

(e) *Appurtenance.* Any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions; pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks; fire escapes; and window screens.

(f) *Architectural coating.* A coating to be applied to stationary structures and their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this rule.

(g) *Bitumens.* Black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.

(h) *Bituminous roof coating.* A coating which incorporates bitumens that is labeled and formulated exclusively for roofing.

(i) *Bituminous roof primer.* A primer which incorporates bitumens that is labeled and formulated exclusively for roofing.

(j) *Bond breaker.* A coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

(k) *Calcimine recoaters.* Flat solvent borne coatings formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.

(l) *Clear brushing lacquers.* Clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, which are intended exclusively for application by brush and which are labeled as specified in section 205.4(e) of this Part.

(m) *Clear wood coatings.* Clear and semi-transparent coatings, including lacquers and varnishes applied to wood substrates to provide a transparent or translucent solid film.

(n) *Coating.* A material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

(o) *Colorant.* A concentrated pigment dispersion in water, solvent, and/or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

(p) *Concrete curing compound.* A coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

(q) *Concrete surface retarders.* A mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

(r) *Conversion varnish.* A clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product. Conversion varnishes produce a hard, durable, clear finish designed for professional application to wood flooring. This film formation is the result of an acid-catalyzed condensation reaction, affecting a transesterification at the reactive ethers of the amino resins.

(s) *Dry fog coating.* A coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

(t) *Exempt compound.* A compound identified under the definition of volatile organic compound (VOC), section 200.1(cf) of this Title, as having negligible photochemical reactivity.

(u) *Faux finishing coating.* A coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

(v) *Fire-resistive coating.* An opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing assemblies of structural materials into compliance with Federal, State, and local building code requirements. The fire-resistive coating and the testing agency must be approved by building code officials. The fire-resistive coating shall be tested in accordance with American Society for Testing and Materials (ASTM) Designation E 119-00a (see Table 1, section 200.9 of this Title).

(w) *Fire-retardant coating.* A coating labeled and formulated to retard ignition and flame spread, that has been tested and rated by a testing agency approved by building code officials for use in bringing building and construction materials into compliance with Federal, State, and local building code requirements. The fire-retardant coating and the testing agency must be approved by building code officials. The fire-retardant coating shall be tested in accordance with ASTM Designation E 84-01 (see Table 1, section 200.9 of this Title).

(x) *Flat coating.* A coating that is not defined under any other definition in this rule and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM Designation D 523-89 (1999) (see Table 1, section 200.9 of this Title).

(y) *Floor coating.* An opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces which may be subjected to foot traffic.

(z) *Flow coating.* A coating labeled and formulated exclusively for use to maintain the protective coating systems present on utility transformer units.

(aa) *Form-release compound.* A coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal or some material other than concrete.

(ab) *Graphic arts coating or sign paint.* A coating labeled and formulated for hand-application using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.

(ac) *High temperature coating*. A high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204C (400F).

(ad) *Impacted immersion coating*. A high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage by floating ice or debris.

(ae) *Industrial maintenance coating*. A high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions listed in paragraphs (1)-(5) of this subdivision and labeled as specified in section 205.4(d) of this Part:

(1) immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;

(2) acute or chronic exposure to corrosive, caustic or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

(3) repeated exposure to temperatures above 121°C (250°F);

(4) repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or

(5) exterior exposure of metal structures and structural components.

(af) *Lacquer*. A clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

(ag) *Low solids coating*. A coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

(ah) *Magnesite cement coating*. A coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

(ai) *Manufacturer's formulation data*. Data on a material (such as a coating) that are supplied by the materials manufacturer based on the manufacturer's knowledge of the ingredients used to manufacture that material, rather than an EPA reference test method. Manufacturer's formulation data may include but are not limited to information on density, VOC content, and coating solids content.

(aj) *Mastic texture coating*. A coating labeled and formulated to cover holes and minor cracks and conceal surface irregularities, which is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

(ak) *Metallic pigmented coating*. A coating containing at least 48 grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with South Coast Air Quality Management District Method 318-95 (see Table 1, section 200.9 of this Title).

(al) *Multi-color coating*. A coating that is packaged in a single container and exhibits more than one color when applied in a single coat.

(am) *Nonflat coating*. A coating that is not defined under any other definition in this rule and registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM Designation D 523-89 (1999) (see Table 1, section 200.9 of this Title).

(an) *Nonflat - high gloss coating*. A nonflat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM Designation D 523-89 (1999) (see Table 1, section 200.9 of this Title).

(ao) *Nonindustrial use*. *Nonindustrial use* means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.

(ap) *Nuclear coating*. A protective coating formulated and recommended to seal porous surfaces such as steel (or concrete) that otherwise would be subject to intrusion by radioactive materials. These coatings must be resistant to long-term (service life) cumulative radiation exposure (ASTM Method D 4082-02, see Table 1, section 200.9 of this Title), relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed ASTM Method D 3912-95 (2001) (see Table 1, section 200.9 of this Title).

(aq) *Post-consumer coating*. A finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

(ar) *Pre-treatment wash primer*. A primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM Designation D 1613-96 (1999) (see Table 1, section 200.9 of this Title), that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

(as) *Primer*. A coating labeled and formulated for application to a substrate to provide a firm bond between the substrate and subsequent coats.

(at) *Quick-dry enamel*. A nonflat coating that is labeled as specified in section 205.4(h) of this Part and that is formulated to have the following characteristics:

(1) is capable of being applied directly from the container under normal conditions with ambient temperatures between 16°C and 27°C (60°F and 80°F);

(2) when tested in accordance with ASTM Designation D 1640-95 (1999) (see Table 1, section 200.9 of this Title), sets to touch in two hours or less, is tack free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and

(3) has a dried film gloss of 70 or above on a 60-degree meter.

(au) *Quick-dry primer sealer and undercoater*. A primer sealer or undercoater that is dry to the touch in 30 minutes and can be relocated in two hours when tested in accordance with ASTM Designation D 1640-95 (1999) (see Table 1, section 200.9 of this Title).

(av) *Recycled coating*. An architectural coating formulated such that not less than 50 percent of the weight consists of secondary and post-consumer coating, with not less than 10 percent of the total weight consisting of post-consumer coating.

(aw) *Residence*. Areas where people reside or lodge, including, but not limited to, single and multiple-family dwellings, condominiums, mobile homes, apartment complexes, motels and hotels.

(ax) *Responsible official*. A president, vice president, secretary, treasurer, general partner, proprietor, principal executive officer, ranking elected official, or any other person who performs policy or decision making functions and is authorized to legally bind a corporation, partnership, sole proprietorship, or government entity which operates a facility that is subject to the provisions of this Part. Whenever the term *responsible official* is used in this Part or in

any other regulations implementing title V of the act, it shall be deemed to refer to the "designated representative" with regard to all matters under title IV of the act.

(ay) *Roof coating*. A non-bituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings which qualify as metallic pigmented coatings shall not be considered in this category, but shall be considered to be in the metallic pigmented coatings category.

(az) *Rust preventive coating*. A coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in section 205.4(f) of this Part.

(ba) *Sanding sealer*. A clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A sanding sealer that also meets the definition of a laquer is not included in this category, but it is included in the lacquer category.

(bb) *Sealer*. A coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

(bc) *Secondary coating (rework)*. A fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

(bd) *Shellac*. A clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol and formulated to dry by evaporation without a chemical reaction.

(be) *Shop application*. Application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

(bf) *Small AIM coatings manufacturer*. A manufacturer (including all subsidiaries of the manufacturer and any parent company of the manufacturer and all of its subsidiaries) of architectural and industrial maintenance (AIM) coatings that manufactures (regardless of location) an amount of less than 3,000,000 gallons per year of any and all of the coatings listed in section 205.3(a) of this Part regardless of whether for sale in New York State or elsewhere. This amount includes coatings produced by the manufacturer and sold under another label, but does not include coatings produced by another entity and sold under the small manufacturer's label.

(bg) *Solicit*. To require for use or to specify by written or oral contract.

(bh) *Specialty primer, sealer and undercoater*. A coating labeled as specified in section 205.4(g) of this Part and that is formulated for application to a substrate to seal fire, smoke or water damage, to condition excessively chalky surfaces, or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM Designation D 4214-98 (see Table 1, section 200.9 of this Title).

(bi) *Stain*. A clear semi-transparent or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

(bj) *Swimming pool coating*. A coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

(bk) *Swimming pool repair and maintenance coating*. A rubber based coating labeled and formulated to be used over existing rubber based coatings for the repair and maintenance of swimming pools.

(bl) *Temperature-indicator safety coating.* A coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

(bm) *Thermoplastic rubber coating and mastic.* A coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40 percent by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients including, but not limited to, fillers, pigments, and modifying resins.

(bn) *Tint base.* An architectural coating to which coloring is added after packaging in sale units to produce a desired color.

(bo) *Traffic marking coating.* A coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berms, driveways, parking lots, sidewalks and airport runways.

(bp) *Undercoater.* A coating labeled and formulated to provide a smooth surface for subsequent coatings.

(bq) *Varnish.* A clear or semi-transparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

(br) *VOC content.* The weight of VOC per volume of coating, calculated according to the procedures specified in section 205.6 of this Part.

(bs) *Waterproofing sealer.* A coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

(bt) *Waterproofing concrete/masonry sealer.* A clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, and staining.

(bu) *Wood preservative.* A coating labeled and formulated to protect exposed wood from decay or insect attack, that is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. section 136, *et. seq.* ) (see Table 1, section 200.9 of this Title) and with Part 326 of this Title.

### §205.3 Standards

(a) *VOC content limits.* Except as provided in subdivisions (b) and (g) of this section, no person shall manufacture, blend, or repack for sale within the State of New York, supply, sell, or offer for sale within the State of New York or solicit for application or apply within the State of New York any architectural coating manufactured on or after January 1, 2005 which contains volatile organic compounds in excess of the limits specified in the following Table of Standards. Limits are expressed in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. *Manufacturer's maximum recommendation* means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

| Table of Standards - VOC Content Limits For Architectural Coatings |  |
|--|--|
| <i>Coating category</i>  | <i>VOC content limit (grams per liter)</i> |

|  |     |
|--|-----|
| Flat coatings  | 100 |
| Nonflat coatings                                       | 150 |
| Nonflat - high gloss coatings                          | 250 |
| Antenna coatings                                       | 530 |
| Antifouling coatings                                   | 400 |
| Bituminous roof coatings                               | 300 |
| Bituminous roof primers                                | 350 |
| Bond breakers  | 350 |
| Calcimine recoaters                                    | 475 |
| Clear wood coatings:                                   |     |
| • Clear brushing lacquers                              | 680 |
| • Lacquers (including lacquer sanding sealers)         | 550 |
| • Sanding sealers (other than lacquer sanding sealers) | 350 |
| • Varnishes  | 350 |
| • Conversion varnishes                                 | 725 |
| Concrete curing compounds                              | 350 |
| Concrete surface retarders                             | 780 |
| Dry fog coatings                                       | 400 |
| Faux finishing coatings                                | 350 |
| Fire resistive coatings                                | 350 |
| Fire-retardant coatings:                               |     |
| • Clear  | 650 |
| • Opaque   | 350 |
| Floor coatings   | 250 |
| Flow coatings  | 420 |
| Form-release compounds                                 | 250 |
| Graphic arts coatings (sign paints)                    | 500 |
| High temperature coatings                              | 420 |
| Impacted immersion coatings                            | 780 |
| Industrial maintenance coatings                        | 340 |
| Low solids coatings                                    | 120 |
| Magnesite cement coatings                              | 450 |
| Mastic texture coatings                                | 300 |
| Metallic pigmented coatings                            | 500 |
| Multi-color coatings                                   | 250 |

|  |     |
|--|-----|
| Nuclear coatings   | 450 |
| Pre-treatment wash primers   | 420 |
| Primers, sealers, and undercoaters                                       | 200 |
| Quick-dry enamels  | 250 |
| Quick-dry primers, sealers and undercoaters                              | 200 |
| Recycled coatings  | 250 |
| Roof coatings  | 250 |
| Rust preventive coatings   | 400 |
| Shellacs:  |     |
| • Clear  | 730 |
| • Opaque   | 550 |
| Specialty primers, sealers, and undercoaters                             | 350 |
| Stains   | 250 |
| Swimming pool coatings and swimming pool repair and maintenance coatings | 340 |
| Temperature-indicator safety coatings                                    | 550 |
| Thermoplastic rubber coatings and mastics                                | 550 |
| Traffic marking coatings   | 150 |
| Waterproofing sealers  | 250 |
| Waterproofing concrete/masonry sealers                                   | 400 |
| Wood preservatives   | 350 |

(b) Most restrictive VOC limit. If anywhere on the container of any architectural coating, or any label sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on the manufacturer's behalf, including retailers who sell under a private label, representation is made that the coating meets the definition of or is recommended for use or may be used for more than one of the coating categories listed in subdivision (a) of this section, then the most restrictive VOC content limit shall apply. This provision does not apply to the coating categories listed below in paragraphs (1)-(19) of this subdivision:

- (1) lacquer coatings (including lacquer sanding sealers);
- (2) metallic pigmented coatings;
- (3) shellacs;
- (4) fire-retardant coatings;
- (5) pretreatment wash primers;
- (6) industrial maintenance coatings;
- (7) low-solids coatings;

- (8) wood preservatives;
- (9) high temperature coatings;
- (10) temperature-indicator safety coatings;
- (11) antenna coatings;
- (12) antifouling coatings;
- (13) flow coatings;
- (14) bituminous roof primers;
- (15) thermoplastic rubber coatings and mastics;
- (16) specialty primers, sealers, and undercoaters;
- (17) calcimine recoaters;
- (18) impacted immersion coatings; and
- (19) nuclear coatings.

(c) *Painting practices.* Any person who applies architectural coatings shall ensure that all containers used to apply the contents therein to a surface directly from the container by pouring, siphoning brushing or rolling, padding, ragging or other means, shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

(d) *Thinning.* No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOC limit specified in subdivision (a) of this section.

(e) *Rust preventive coatings.* No person shall apply or solicit the application of any rust preventive coating for industrial use, unless such a rust preventive coating complies with the industrial maintenance coating VOC limit specified in subdivision (a) of this section.

(f) *Coatings not listed in subdivision (a) of this section.* For any coating that does not meet any of the definitions for the specialty coatings categories listed in subdivision (a) of this section, the VOC content limit shall be determined by classifying the coating as a flat coating, nonflat coating, or nonflat-high gloss coating as those terms are defined in sections 205.2(x), (am) and (an) of this Part and the corresponding flat or nonflat coating limit shall apply.

(g) *Sell Through of Coatings.* A coating manufactured prior to January 1, 2005, or previously granted an exemption pursuant to Section 205.7 of this Part, may be sold, supplied, or offered for sale until May 15, 2007, so long as the coating complied with standards in effect at the time the coating was manufactured.

#### §205.4 Container labeling requirements

Each manufacturer of any architectural coatings subject to this rule manufactured on or after January 1, 2005 shall display the information listed in subdivisions (a)-(i) of this section on the coating container (or label affixed there to) in which the coating is sold or distributed.

(a) *Date code.* The date the coating was manufactured, or a date code representing the date, shall be indicated on the label, lid, or bottom of the container. If the manufacturer uses a date code for any coating, the manufacturer shall file an explanation of each code with the director, Division of Air Resources, Department of Environmental Conservation by January 1, 2005 or within 90 days of making the product available for sale in New York State.

(b) *Thinning recommendations.* A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container. This requirement does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation must specify that the coating is to be applied without thinning.

(c) *VOC content.* Each container of any coating subject to this rule shall display either the maximum or the actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer. VOC content shall be displayed in grams of VOC per liter of coating. VOC content displayed shall be calculated using manufacturer's formulation data, or shall be determined using the test methods in section 205.6(b) of this Part. The equations in section 205.6(a) of this Part shall be used to calculate VOC content.

(d) *Industrial maintenance coatings.* In addition to the information specified in subdivisions (a)-(c) of this section, each manufacturer of any industrial maintenance coating subject to this rule shall display on the label or the lid of the container in which the coating is sold or distributed one or more of the descriptions listed below in paragraphs (1)-(3) of this subdivision.

(1) "For industrial use only."

(2) "For professional use only."

(3) "Not for residential use" or "Not intended for residential use."

(e) *Clear brushing lacquers.* The labels of all clear brushing lacquers shall prominently display the statements "For brush application only," and "This product must not be thinned or sprayed."

(f) *Rust preventive coatings.* The labels of all rust preventive coatings shall prominently display the statement "For metal substrates only."

(g) *Specialty primers, sealers and undercoaters.* The labels of all specialty primers, sealers and undercoaters shall prominently display one or more of the descriptions listed paragraphs in (1)-(5) of this subdivision.

(1) "For blocking stains."

(2) "For fire-damaged substrates."

(3) "For smoke-damaged substrates."

(4) "For water-damaged substrates."

(5) "For excessively chalky substrates."

(h) *Quick dry enamels.* The labels of all quick dry enamels shall prominently display the words "Quick dry" and the dry hard time.

(i) *Non-flat high-gloss coatings.* The labels of all non-flat high-gloss coatings shall prominently display the words "High gloss."

### **§205.5 Reporting requirements**

(a) Each manufacturer of a product subject to a VOC content limit in section 205.3(a) of this Part shall keep records demonstrating compliance with the VOC content limits. Such records shall clearly list each product by name (and identifying number, if applicable) as shown on the product label and in applicable sales and technical literature, the VOC content as determined in section 205.6 of this Part, the name(s) and chemical abstract service (CAS) number of the VOC constituents in the product, the dates of the VOC content determinations, and the coating category and the applicable VOC content limit. These records shall be kept for a period not less than five years and shall be made available to the department within 90 days of request.

(b) A responsible official from each manufacturer shall upon request of the director, Division of Air Resources, Department of Environmental Conservation provide data concerning the distribution and sales of coatings subject to a VOC content limit in section 205.3(a) of this Part. The responsible official shall within 90 days provide information including, but not limited to:

- (1) the name and mailing address of the manufacturer;
- (2) the name, address and telephone number of a contact person;
- (3) the name of the product as it appears on the label and the coating category in section 205.3(a) under which it is regulated;
- (4) whether it is marketed for interior or exterior use or both;
- (5) the number of gallons sold in New York State in containers greater than one liter and less than one liter;
- (6) the actual VOC content and VOC content limit in grams per liter. If thinning is recommended, list the actual VOC content and VOC content limit after recommended thinning. If containers less than one liter have a different VOC content than containers greater than one liter, list separately;
- (7) the names and CAS number of the VOC constituents in the product; and
- (8) the names and CAS number of any compounds in the products specifically exempted under section 200.1(c) of this Title.

(c) *Toxic exempt compounds.* For each architectural coating that contains perchloroethylene or methylene chloride, the manufacturer shall, on or before April 1st of each calendar year beginning with the year 2006, report to the director, Division of Air Resources, Department of Environmental Conservation the following information for products sold in the State during the preceding year:

- (1) the product brand name and a copy of the product label with the legible usage instructions;
- (2) the product category listed in section 205.3(a) of this Part to which the coating belongs;

(3) the total sales in the State of New York during the calendar year to the nearest gallon; and

(4) the volume percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the coating.

(d) *Recycled coatings.* Manufacturers of recycled coatings must submit a letter signed by a responsible official to the director, Division of Air Resources, Department of Environmental Conservation certifying their status as a recycled paint manufacturer. The manufacturer shall, on or before April 1st of each calendar year beginning with the year 2006, submit an annual report to the director, Division of Air Resources, Department of Environmental Conservation. The report shall include for all recycled coatings the total number of gallons distributed in the State during the preceding year, and shall describe the method used by the manufacturer to calculate State distribution.

### **§205.6 Compliance provisions and test methods**

For the purpose of determining compliance with the VOC content limits in section 205.3(a) of this Part, the VOC content of a coating shall be determined by using the procedures described in paragraphs (a)(1) or (2) of this section, as appropriate. The VOC content of a tint base shall be determined prior to the addition of the colorant.

(a) *Calculation of VOC content.*

(1) With the exception of low solids coatings, determine the VOC content in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds. Determine the VOC content using the following equation:

$$\text{VOC Content} = \frac{(W_s - W_w - W_{ec})}{(V_m - V_w - V_{ec})}$$

where:

VOC content = grams of VOC per liter of coating

$W_s$  = weight of volatiles, in grams

$W_w$  = weight of water, in grams

$W_{ec}$  = weight of exempt compounds, in grams

$V_m$  = volume of coating, in liters

$V_w$  = volume of water, in liters

$V_{ec}$  = volume of exempt compounds, in liters

(2) For low solids coatings, determine the VOC content in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds. Determine the VOC content using the following equation:

$$\text{VOC Content (ls)} = \frac{(W_s - W_w - W_{ec})}{(V_m)}$$

where:

VOC Content (ls) = the VOC content of a low solids coating in grams per liter of coating

$W_s$  = weight of volatile, in grams

$W_w$  = weight of water, in grams

$W_{ec}$  = weight of exempt compounds, in grams

$V_m$  = volume of coating, in liters

(b) *VOC content of coatings.* To determine the physical properties of a coating in order to perform the calculations in subdivision (a) of this section, the reference method for VOC content is found at 40 CFR part 60, appendix A, method 24 (2000) (see Table 1, section 200.9 of this Title), except as provided in subdivisions (c) and (d) of this section. An alternate method to determine the VOC content of coatings is South Coast Air Quality Management District Method 304-91 (Revised February 1996) (see Table 1, section 200.9 of this Title). The exempt compounds content shall be determined by South Coast Air Quality Management District Method 303-91 (Revised August 1996) (see Table 1, section 200.9 of this Title). To determine the VOC content of a coating, the manufacturer may use 40 CFR part 60, appendix A, method 24 (see Table 1, section 200.9 of this Title), or an alternative method, as provided in subdivision (c) of this section, manufacturer's formulation data, or any other reasonable means for predicting that the coating has been formulated as intended (e.g., quality assurance checks, recordkeeping). However, if there are any inconsistencies between the results of a 40 CFR part 60, appendix A, method 24 (see Table 1, section 200.9 of this Title) test and any other methods for determining VOC content, the 40 CFR part 60, appendix A, method 24 (see Table 1, section 200.9 of this Title) results will govern, except when an alternative method is approved as specified in subdivision (c) of this section. The director, Division of Air Resources, Department of Environmental Conservation may require the manufacturer to conduct a 40 CFR part 60, appendix A, method 24 (see Table 1, section 200.9 of this Title) analysis to determine the VOC content.

(c) *Alternative test methods.* Other test methods demonstrated to provide results that are acceptable for purposes of determining compliance with subdivision (b) of this section, after review and approval in writing by the director, Division of Air Resources, Department of Environmental Conservation and the EPA, may also be used.

(d) *Methacrylate traffic coating markings.* Analysis of methacrylate multicomponent coatings used as traffic marking coatings shall be conducted according to a modification of 40 CFR part 60, appendix A, method 24 found at 40 CFR part 59, subpart D, appendix A (see Table 1, section 200.9 of this Title). This method has not been approved for methacrylate multicomponent coatings used for other purposes than as traffic marking coatings or for other classes of multicomponent coatings.

### **§205.7 Limited exemption for small AIM coatings manufacturers**

(a) Small AIM coatings manufacturers may request for an exemption to the VOC content limits in section 205.3(a) of this Part. This request shall include a demonstration acceptable to the director, Division of Air Resources, Department of Environmental Conservation on the small manufacturers' inability to produce coatings that meet the VOC content limits based on economic and/or technical feasibility.

(b) The request shall at a minimum include the following small AIM coatings manufacturers' production and product information:

(1) The total quantity (gallons) and the VOC content of each and all of the coatings listed in section 205.3(a) of this Part manufactured by the company for each of the three previous years.

(2) Documentation and analysis supporting the economic or technical infeasibility of meeting the VOC content limits for each coating listed in section 205.3(a) of this Part requesting an exemption.

(3) A statement from a responsible official in the company certifying the accuracy and completeness of the information provided in the request.

(c) The request shall be made at least one year prior to the compliance date of January 1, 2005 and be made to the director, Division of Air Resources, Department of Environmental Conservation. The department reserves the right to request additional information from the responsible official.

(d) The director, Division of Air Resources, Department of Environmental Conservation shall grant or deny the limited exemption in its discretion based on the information supplied pursuant to subdivision (b) of this section at least six months prior to the compliance date of January 1, 2005.

(e) Small AIM coatings manufacturers that have been granted a limited exemption under subdivision (d) of this section shall submit, by April 1st of each year the exemption remains in effect, a report to the director, Division of Air Resources, Department of Environmental Conservation that includes the following manufacturing information from the previous calendar year:

(1) the quantity of the individual coatings listed under section 205.3(a) of this Part produced by the company and the VOC content of the coatings which have been granted an exemption from the VOC content limits in section 205.3(a) of this Part under this section;

(2) the quantity of coatings manufactured for each of the product names of the coatings which have been granted an exemption from the VOC content limits in section 205.3(a) of this Part under this section were marketed under; and

(3) a statement from a responsible official certifying the accuracy and completeness of the information provided in the report.

(f) Any exemption granted under subdivision (d) of this section may remain in effect no later than December 31, 2006.

(g) Limited exemptions for small AIM coatings manufacturers as approved by the director, Division of Air Resources, Department of Environmental Conservation under this Part, will be submitted to the EPA as State Implementation Plan revisions for approval.

### **§205.8 Severability**

Each section, or portion thereof, of this Part shall be deemed severable, and in the event that any section, or portion thereof, of this Part is held to be invalid, the remainder of this Part shall continue in full force and effect.