



New York State
Department of Environmental Conservation

Management of Noncompliant Coatings Under Part 205 Guidance for Retailers

Architectural and Industrial Maintenance (AIM) Coatings are regulated under 6 NYCRR Part 205. AIM coatings and reducers/thinners typically contain some percentage of volatile organic compounds (VOC) that evaporate during the surface coating operations and contribute to air pollution problems such as the formation of ozone/smog and related public health problems. Part 205 establishes VOC content limits for coatings sold in New York State. Options for management of retailer inventories of the noncompliant (higher VOC) coatings before and after the regulatory “sell-through” date are outlined below. For information on the “sell through” date (**July 16, 2007**) contact the SBEAP at 1-800-780-7227.

Prior to the “sell-through” date:

The retailer may continue to sell coatings having a high VOC content and/or look into the possibility of returning them. Possible strategies to remove or minimize inventories of these items may include sale at discount prices to consumers, takeback or exchange programs by manufacturers, or arrangements with brokers to redistribute these materials to locations where their sale is not prohibited.

After the “sell-through” date:

Since selling coatings having a higher VOC content than allowed in New York would be a violation of Part 205, retailers who still have noncompliant AIM coatings in stock must find other ways to manage their remaining inventories of these coatings. There are several possibilities: Return, Redistribute, Reclaim, or Dispose.

A) Return

The retailer may utilize any return programs provided by manufacturers or distributors.

B) Redistribute

The coatings may be sold outside of New York State, provided that their sale is not prohibited in the new location. For companies having multi-state retail operations, this might be done by redistributing inventory within the company. Those companies operating only in New York may be able to sell the inventory to another company in an appropriate location, or to use the services of a broker.

C) Reclaim

The retailer may investigate the possibility of sending these materials to a reclaimer. If the materials will be legitimately reclaimed for recycling, they can be stored and managed as product and not as hazardous wastes.

D) Dispose

Once the coatings become a waste, a hazardous waste determination must be performed. Determinations may be done based on knowledge or testing. The Material Safety Data Sheet is often a good place to start, since it lists the properties and the chemical composition of the material. A waste is hazardous if it is listed (in the F,K,U or P list) or if it exhibits one or more characteristics (ignitability, corrosivity, reactivity, toxicity) of a hazardous waste.

Generator Category

If one or more of the coatings being discarded is a hazardous waste, then the retailer becomes a hazardous waste generator. Generator category depends on the sum of all hazardous wastes generated per month, not just coating wastes. A generator can be a:

CESQG - Conditionally Exempt Small Quantity Generator, who generates no more than 100 kilograms (220 lbs) of hazardous waste, including less than 1 kilogram (2.2 lbs) of acute hazardous waste, per month

SQG - Small Quantity Generator, generates more than 100 but less than 1,000 kilograms (2,200 lbs) of hazardous waste, including less than 1 kilogram (2.2 lbs) of acute hazardous waste, per month or

LQG - Large Quantity Generator, generates at least 1,000 kilograms (2,200 lbs) of hazardous waste or 1 kilogram (2.2 lbs) of acute hazardous waste per month.

Hazardous Waste Generator Requirements

Requirements differ, depending on generator category as CESQG, SQG, or LQG. Briefly, the requirements for the three generator categories are:

CESQG requires identification of wastes, accumulation of less than 1,000 kg (2,200 lbs) and less than 1 kg (2.2 lbs) of acute hazardous waste, disposal at an authorized facility, transportation by licensed hauler or by self-transport of up to 100 kg (220 lbs) at a time.

SQG requires accumulation of less than 6,000 kg (13,200 lbs) and less than 1 kg (2.2 lbs) of acute hazardous waste, an EPA identification number, an emergency response plan, storage for (usually) no more than 180 days on-site, shipping manifests, transportation by licensed hauler, disposal at an authorized facility and compliance with land disposal restrictions.

LQG requires on-site storage for no more than 90 days, an EPA identification number, a more comprehensive emergency response plan, formal training of staff, annual reports, shipping manifests, transportation by licensed hauler, disposal at an authorized facility and compliance with land disposal restrictions.

Things to Keep in Mind

It is important to remember that all transportation of coatings, whether for sale, reclaiming, or disposal, must conform to DOT requirements. The retailer may find it helpful to contact an environmental consultant or a waste management company to help manage and properly dispose of their hazardous wastes. Any shipment of coatings which are determined to be non-hazardous waste and in a container or aggregation of containers which contain more than 5 gallons of liquids is prohibited from being disposed in a solid waste landfill.

For further information regarding disposal, call the DEC Bureau of Hazardous Waste Regulation at (518)-402-8633.