

## PART 205

## ARCHITECTURAL SURFACE COATINGS

(Statutory authority: Environmental Conservation Law, §§ 3-0301, 19-0301)

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## Historical Note

Part (§§ 205.1-205.5) filed April 28, 1972; repealed, filed May 17, 1972; new (§§ 205.1-205.10) filed July 12, 1972; repealed, new (§§ 205.1-205.9) filed Nov. 29, 1973; repealed, new (§§ 205.1-205.5) filed Aug. 15, 1988 eff. 30 days after filing.

**Section 205.1 Definitions.** (a) For the purpose of this Part, the general definitions of Part 200 of this Title apply.

(b) For the purpose of this Part, the following definitions also apply:

(1) *Architectural coating.* Any coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

(2) *Bituminous coating.* A black or brownish coating material, soluble in carbon disulfide, consisting mainly of hydrocarbons and which is obtained from natural deposits or as residue from the distillation of crude petroleum oils or of low grades of coal.

(3) *Bond breaker.* A coating whose sole purpose, when applied between layers of concrete, is to prevent the freshly poured top layer of concrete from bonding to the substrate on which it is poured.

(4) *Concrete curing compound.* A coating whose sole purpose is to retard the evaporation of water from the surface of freshly cast concrete, thereby strengthening it.

(5) *Dry fog coating.* A spray coating which is formulated such that overspray droplets dry before falling on floors and other surfaces.

(6) *Fire retardant coating.* A transparent, translucent, or opaque coating which is designed to retard fire and which will significantly:

- (i) reduce the rate of flame spread on the surface of a substrate to which such coating has been applied;
- (ii) resist ignition when exposed to high temperatures; or
- (iii) insulate the substrate to which such a coating has been applied and prolong the time required to reach ignition temperatures.

(7) *Flat architectural coating.* A coating which registers a gloss of less than 15 or a gloss meter held at an 85° angle to the coated surface or less than 5 on a gloss meter held at a 60° angle, and which is identified on the label as a flat coating.

(8) *Graphic arts coating (sign paint).* A coating which is marketed solely for application to indoor and/or outdoor signs and includes lettering enamels, poster colors and bulletin colors.

(9) *High heat resistant coating.* A coating formulated specifically for use in high temperature applications. These coatings are designed to withstand temperatures in excess of 400°F.

(10) *Industrial maintenance primer.* A coating which is intended to be applied to the surface of a substrate, prior to the application of an industrial maintenance topcoat, to provide a firm bond between the substrate and subsequent coats.

(11) *Industrial maintenance topcoat.* A high performance coating which is formulated for the purpose of protecting against heavy abrasion and/or water immersion, and/or provides resistance to chemicals corrosion, temperature extremes, electric potential, or solvents.

(12) *Lacquer.* A clear or pigmented coating formulated with nitrocellulose or synthetic resins to dry by evaporation without chemical reaction and is intended to provide a quick drying solid protective film.

(13) *Mastic texture coating.* A coating, except waterproofing mastic coatings, which is formulated to cover holes and minor cracks and to conceal surface irregularities.

(14) *Metallic pigmented coating.* A coating which is formulated with a minimum of 0.4 pounds per gallon of metallic pigment.

(15) *Multicolored coating.* A coating which exhibits more than one color when applied and which is packaged in a single container and applied in a single coat.

(16) *Nonflat architectural coating.* A coating which registers a gloss of 15 or greater on a gloss meter held at an 85° angle to the coated surface or 5 or greater on a gloss meter held at a 60° angle.

(17) *Opaque stain.* All stains that are not classified as semitransparent stains.

(18) *Pesticide.* Any substance or a mixture of substances regulated as a pesticide under article 33 of the Environmental Conservation Law.

(19) *Primer, sealer and undercoater.* A coating which is intended to be applied to the surface of a substrate to perform one or more of the following functions:

- (i) provide a firm bond between the substrate and subsequent coats;
- (ii) protect porous substrates;
- (iii) prevent subsequent coatings from being absorbed by the substrate;
- (iv) prevent harm to subsequent coatings by materials in the substrate;
- (v) provide a smooth surface for subsequent coats;
- (vi) seal fire, smoke or water damage;
- (vii) neutralize odors;
- (viii) block stains;
- (ix) block efflorescence;
- (x) condition chalky surfaces;
- (xi) coat acoustical materials without affecting their acoustical properties.

(20) *Quick dry primer, sealer and undercoater.* A primer, sealer or undercoater which is intended to be applied to the surface of a substrate to perform one or more of the following functions: provide a firm bond between the substrate and subsequent coats; seals fire, smoke or water damage; blocks stains, and conditions porous surfaces. These coatings dry to touch in one-half hour and can be recoated in two hours, as determined by test methods acceptable to the commissioner.

(21) *Roof coating*. A coating which is formulated for the sole purpose of preventing penetration of the substrate by water. These coatings include bituminous roof and waterproof mastic coatings.

(22) *Semitransparent stain*. A coating which is formulated to change the color of a surface but not conceal or change the texture of the surface.

(23) *Shellac*. A clear or pigmented coating formulated with natural resins (except nitrocellulose and gum resins), thinned with alcohol, which dries by evaporation without a chemical reaction.

(24) *Substrate*. Any material to which a coating is applied.

(25) *Swimming pool coating*. A coating used on the interior surface of swimming pools which is specially formulated to resist swimming pool chemicals.

(26) *Tile-like glaze coating*. A coating which is formulated to provide a tough, extra durable coating system, applied as a continuous (seamless) high-build firm, and which cures to a hard glaze finish.

(27) *Traffic coating*. A coating which is formulated to be applied to public streets, highways, and/or other surfaces, including but not limited to curbs, berms, driveways and parking lots.

(28) *Varnish*. A clear or pigmented coating formulated with various resins to dry by chemical reaction on exposure to air and intended to provide a durable transparent or translucent solid protective film.

(29) *Waterproofing mastic coating*. A weatherproof or waterproof coating which is formulated to cover holes and minor cracks and to conceal surface irregularities and which is to be applied in thickness of at least 15 mils.

(30) *Waterproofing sealer*. A coating which is formulated for the sole purpose of protecting porous substrates by preventing the penetration of water.

(31) *Wood preservative*. A coating which is formulated to protect wood from decay or insect attack and which is registered as a pesticide product with the United States Environmental Protection Agency.

#### Historical Note

Sec. filed April 28, 1972; repealed, filed May 17, 1972; new filed July 12, 1972; repealed, new filed: Nov. 29, 1973; Aug. 15, 1988 eff. 30 days after filing

**205.2 Applicability.** This Part applies to any person who sells, offers for sale, or applies any architectural coating within the New York City metropolitan area.

#### Historical Note

Sec. filed April 28, 1972; repealed, filed May 17, 1972; new filed July 12, 1972; repealed, new filed Nov. 29, 1973; and, filed July 24, 1979; repealed, new filed Aug. 15, 1988 eff. 30 days after filing.

**205.3 Exemptions.** (a) The requirements of section 205.4 of this Part do not apply to:

(1) architectural coatings sold in the New York City metropolitan area for shipment outside of the area or for shipment to other manufacturers for repackaging, where the seller can provide documentation that the product is to be subsequently marketed outside of the New York City metropolitan area;

(2) architectural coatings supplied in containers with a capacity of less than one quart; and

(3) architectural coatings sold in the New York City metropolitan area for use in a coating line subject to and meeting the requirements of 6 NYCRR Part 228.

(b) Any architectural coating that is registered with the United States Environmental Protection Agency (EPA) as a pesticide product is exempt from this Part until EPA approves whatever changes to the formulation and/or the package label are needed to comply with this Part, provided the manufacturer submits an application to EPA for an amended registration by July 1, 1989 and submits a copy of that application to the commissioner.

**Historical Note**

Sec. filed April 28, 1972; repealed, filed May 17, 1972; new filed July 12, 1972; repealed, new filed Nov. 29, 1973; Aug. 15, 1988 eff. 30 days after filing.

**205.4 Prohibitions and requirements.** (a) Except as provided in subdivisions (b) and (c) of this section, no person will sell, offer for sale, or apply any architectural coating manufactured after July 1, 1989, which:

(1) contains more than 250 grams of volatile organic compounds per liter (2.09 lbs/gal) of coating excluding water and any colorant added to tint bases; or

(2) is recommended for use as a bituminous pavement sealer, unless it is a water emulsion-type coating.

(b) Except as provided in subdivision (c) of this section, no person will sell, offer for sale, or apply any nonflat architectural coating manufactured after July 1, 1989, which contains more than 380 grams of volatile organic compounds per liter (3.17 lbs/gal) of coating excluding water and any colorant added to tint bases.

(c) No person will sell, offer for sale, or apply any specialty architectural coating, listed below, manufactured after July 1, 1989, which has a volatile organic compound content, expressed as grams of volatile organic compounds per liter of coating excluding water and any colorant added to tint bases, in excess of the following limits:

<i>Coating type</i>	<i>VOC content</i>	
Mastic texture coatings	200	(1.67 lbs/gal)
Fire retardant coatings:		
opaque	500	(4.17 lbs/gal)
transparent and translucent	850	(7.10 lbs/gal)
Traffic coatings	250	(2.09 lbs/gal)
Roof coatings	300	2.50 lbs/gal)
Waterproofing mastic coatings	300	(2.50 lbs/gal)
Varnish	450	(3.76 lbs/gal)
Wood preservatives	550	(4.59 lbs/gal)
Primers, sealers and undercoaters	350	(2.92 lbs/gal)
Quick dry primers, sealers and undercoaters	500	(4.17 lbs/gal)
Concrete curing compounds	350	(2.92 lbs/gal)
Waterproofing sealers	600	(5.01 lbs/gal)
Stains:		
semitransparent	550	(4.59 lbs/gal)
opaque	350	(2.92 lbs/gal)
Dry fog coatings	400	(3.34 lbs/gal)
Graphic arts coatings	450	(3.76 lbs/gal)
Multicolor coatings	600	(5.01 lbs/gal)
Tile-like glaze coatings	550	(4.59 lbs/gal)
Industrial maintenance primers and topcoats	450	(3.76 lbs/gal)

Coating type	VOC content	
Metallic pigmented coatings	500	(4.17 lbs/gal)
Shellac:		
clear	730	(6.09 lbs/gal)
pigmented	550	(4.59 lbs/gal)
Lacquer	680	(5.68 lbs/gal)
Bond breakers	600	(5.01 lbs/gal)
Swimming pool coatings	600	(5.01 lbs/gal)
High heat resistant coatings	650	(5.43 lbs/gal)

(d) If anywhere on the coating container, on any sticker or label affixed thereto or in any sales or advertising literature, any indication that more than one of the volatile organic compound limits set forth in subdivision (a), (b) or (c) of this section may be applicable to a specific coating, the most restrictive limit applies.

(e) Containers for all coatings subject to the requirements of subdivisions (a)-(c) of this section must display the date of manufacture of the contents or a code indicating the date of manufacture. The manufacturers of such coatings must file an explanation of each code with the commissioner by July 1, 1989, and any subsequent new codes must be filed within 30 days of their first use.

(f) Containers for all coatings subject to the requirements of subdivisions (a)-(c) of this section must carry a statement of the manufacturer's recommendation regarding thinning of the coating. This requirement does not apply to the thinning of architectural coatings with water. The amount of thinning recommended by the manufacturer for normal environmental and application conditions must not cause the coating to exceed its applicable VOC limit. If thinning of the coating prior to use for normal environmental and application conditions is not necessary, the recommendation must specify that the coating is to be applied without thinning under normal environmental and application conditions.

(g) Containers for all coatings subject to the requirements of subdivisions (a)-(c) of this section must display the maximum volatile organic compound content of the coating, expressed as grams of volatile organic compounds per liter of coating excluding water and any colorant added to tint bases. If any thinning is recommended on the label pursuant to subdivision (f) of this section, the maximum volatile organic compound content displayed must be that after the recommended thinning.

#### Historical Note

Sec. filed April 28, 1972; repealed, filed May 17, 1972, new filed July 12, 1972; repealed, new filed Nov. 29, 1973; Aug. 15, 1988 eff. 30 days after filing.

**205.5 Calculation of volatile organic compound (VOC) content.** (a) Maximum permitted grams of volatile organic compounds per liter of coating, minus water, for normal environmental and application conditions is calculated as follows:

$$(VOC)_a = \frac{(Dc)_a ((Wv)_a \cdot (Ww)_a \cdot (We)_a)}{1 - ((Vw)_a + (Ve)_a)}$$

where:

(VOC)<sub>a</sub> = VOC content of "as applied" coating, expressed as a mass of VOC, in grams, per volume of coating, in liters, minus water

(Dc)<sub>a</sub> = coating density as applied, in grams per liter

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(Wv)a = the weight fraction of total volatiles in the coating, as applied

(Ww)a = the weight fraction of water in the coating, as applied

(Vw)a = the volume fraction of water in the coating, as applied

(We)a = the weight fraction excluded VOC's in the coating, as applied

(Ve)a = the volume fraction of excluded VOC in the coating, as applied.

**Historical Note**

Sec. filed April 28, 1972; repealed, filed May 17, 1972; new filed July 12, 1972; repealed, new filed: Nov. 29, 1973; Aug. 15, 1988 eff. 30 days after filing.

**205.6-205.8**

**Historical Note**

Secs. filed July 12, 1972; repealed, new filed Nov. 29, 1973; repealed, filed Aug. 15, 1988 eff. 30 days after filing.

**205.9**

**Historical Note**

Sec. filed July 12, 1972; repealed, new filed Nov. 29, 1973; amd. filed July 24, 1979; repealed, filed Aug. 15, 1988 eff. 30 days after filing.

**205.10**

**Historical Note**

Sec. filed July 12, 1972; repealed, filed Nov. 29, 1973 eff. 60 days after filing.