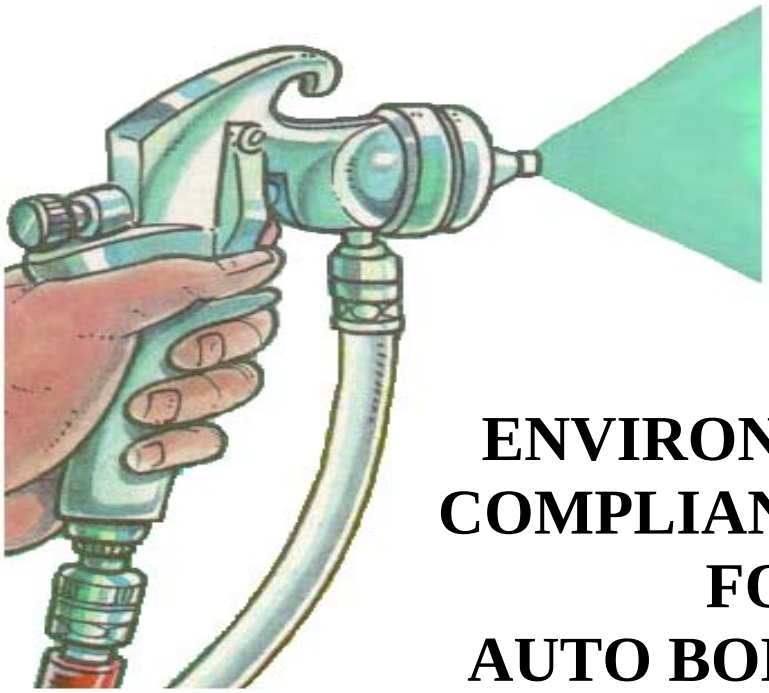
New York State Department
of Environmental Conservation



ENVIRONMENTAL COMPLIANCE GUIDE FOR AUTO BODY SHOPS

DECEMBER 2009

New York State
Small Business Sectors Environmental Results Program

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Acknowledgements

This guide was developed with assistance from the New York State Environmental Facilities Corporation and Empire State Development. NYSDEC also thanks the New York State Small Business Pollution Prevention/Compliance Assistance Council Members for their contributions to the content of this guide.

This guide borrows heavily from existing written materials developed by several other states to address the environmental concerns of auto body shops. We would like to recognize the Environmental Results Programs in Massachusetts, Rhode Island, Maine, Delaware, Virginia and Washington. The authors extend their thanks for the contributions of these other programs to this guide.

Please note: Environmental laws and regulations do occasionally change. If there are any regulatory changes that may affect auto body shops, an updated version of this guide will be posted on the NYSDEC website at: www.dec.ny.gov/chemical/54767.html.

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Section 1 - Introduction

All auto body shops must comply with many environmental laws and regulations that can be difficult to understand and that are often not written for any one particular industry. This guide has been written specifically for the auto body repair industry to help auto body shops understand and comply with these environmental laws and regulations. This guide also provides information regarding best management practices, pollution prevention and energy efficiency that can help shops further minimize human health risks and environmental impacts, and save money.

This guide is also designed to help auto body shops complete a new Environmental Report Form for Auto Body Shops required for most shops under a new program called the Auto Body Shops Environmental Results Program (ERP).

The Auto Body Shops ERP applies to shops that perform any of the following automobile refinishing operations:

Collision repair;
Vehicle painting, paint stripping or sanding;
Body work;
Antique auto restoration; and/or
Student training in any of the above areas.

A shop is considered an auto body shop even if it does other kinds of work along with auto body work. For example, dealers or general automotive repair shops that also do auto body repair are considered an auto body shop.

1.1 Who is required to submit the Environmental Report Form?

The Environmental Report Form for Auto Body Shops must be submitted by all auto body shops that:

1. generate any hazardous wastes such as some spent solvents, gun cleaner and waste fluorescent lamps; and/or
2. that are subject to the New York State air regulations for surface coating processes (6 NYCRR Part 228). A shop is exempt from 6 NYCRR Part 228 only if it complies with ALL of the following conditions:
    a. the shop uses a total quantity of no more than 55 gallons of coatings and cleaning solvents on an annual basis. (The shop must retain records of the quantities of coatings and cleaning solvents used on an annual basis for five years.);
    b. the shop applies coatings to work areas no larger than 9.0 square feet;
    c. the shop applies coatings only using high volume low pressure spraying with a maximum cap pressure of 10.0 psig;
    d. the shop cleans spray guns only using techniques that minimize VOC emissions;
    e. the shop uses only coatings that do not exceed the VOC content limits of 6 NYCRR Section 228.8 (these VOC content limits are listed in Section 4.3 of this guide); and
    f. the shop exhausts emissions into appropriate emission control equipment.

Shops that are exempt from 6 NYCRR Part 228, **and** that do not generate any hazardous waste, are not required to submit the Environmental Report Form, however, voluntary submittal of the Environmental Report Form is encouraged. Completing the form will help shops identify and correct areas not in compliance, and enable shops to be better prepared for random inspections by the New York State Department of Environmental Conservation (NYSDEC). Shops may also learn pollution prevention and energy efficiency practices that may help them to generate less waste and save money.

1.2 When must the Environmental Report Form be submitted?

In general, auto body shops will be given approximately 60 days from the mailing date of the form to return the completed form to NYSDEC. Shops will be advised of the exact due date of the completed form when the Environmental Report Form is mailed to them.

1.3 What benefits does a shop receive by completing the Environmental Report Form?

Compliance with environmental regulations is required of all auto body shops. Completing the form will help shops identify and correct areas not in compliance, and enable shops to be better prepared for random inspections by NYSDEC. Shops may also learn pollution prevention and energy efficiency practices that may help them to generate less waste and save money. Also, as set forth in NYSDEC's Small Business Self Disclosure Policy (see Appendix E), NYSDEC will eliminate or significantly reduce penalties for small businesses that detect, voluntarily disclose and expeditiously correct violations discovered through environmental audits or compliance assistance. Therefore, submitting the form gives shops the ability to correct environmental violations without penalties or with significantly reduced penalties.

1.4 What happens if a shop does not submit the Environmental Report Form?

Auto body shops that generate any hazardous waste or that are not exempt from 6 NYCRR Part 228 may be subject to enforcement action and penalties if they do not submit the Environmental Report Form.

1.5 Who can you call for help with the Environmental Report Form or this Guide?

If you need any assistance understanding the information provided in this guide or completing the Environmental Report Form, please contact the Small Business Environmental Assistance Program (SBEAP) at 1-800-780-7227. SBEAP is a non-regulatory program administered by the New York State Environmental Facilities Corporation, and provides *free* confidential technical assistance to help small businesses achieve voluntary compliance with environmental regulations.

New York State also offers Environmental Ombudsman services to businesses. If your business is subject to an enforcement action by NYSDEC, and you have questions, complaints or disputes regarding that action, call Empire State Development's Small Business Environmental Ombudsman (SBEO) toll free at 1-877-247-2329. SBEO will help determine which permits or registrations you may need, your rights and responsibilities, which regulations affect your business operations and how to comply with them. All SBEO services are *free* and confidential.

1.6 Where can you get additional copies of the Environmental Report Form?

Additional copies of this form can be obtained from NYSDEC at (518) 402-8629 or from the NYSDEC website at: www.dec.ny.gov/chemical/54767.html.

A note on inspections:
This program does not guarantee that your shop will not be subject to a random inspection, or an inspection prompted by a complaint. Both state and federal environmental agencies have the authority to perform such inspections. These inspections can result in enforcement actions against shops that are not in compliance. Completing the Environmental Report Form will help you identify and correct deficiencies, and prepare your shop in the event of an inspection. Keep a copy of your completed checklist to assist you in demonstrating compliance with applicable state and federal regulations.

Section 2 - Pollution Prevention and Energy Efficiency for Auto Body Shops

2.1 Pollution Prevention

Pollution prevention means reducing waste and reducing the use of pollutants in your shop. Pollution prevention (P2) is usually the easiest and cheapest way to protect the environment and maintain a safe, healthy environment for you, your workers, and your neighbors.

The following are pollution prevention tips for auto body shops. Be sure you also read the rest of this guide to understand any steps you must take to be in compliance with New York State and federal law.

1. **Use less toxic products.** Identify the toxic content of your materials by checking the Material Safety Data Sheets (MSDSs), product labels, or ask your materials supplier or SBEAP.
   - Use paint and coatings with the lowest volatile organic compound (VOC) content available. VOCs are chemicals that evaporate readily into the air from materials like paints and solvents. VOCs contribute to ground level ozone, which is a public health concern. See Section 4.4 of this guide for allowable VOC limits.
   - Consider using waterborne primer and basecoat. This technology is becoming more common in auto body shops as a way of replacing solvent-based paint systems. Though additional equipment is needed, waterborne coating technology can reduce pollution and make workplaces healthier.
   - Ask suppliers for coatings that do not contain toxic metals (chromium, lead, cadmium, nickel, and manganese
   - Use high-pressure water, or other non-VOC cleaning options to clean coating lines and containers when practical. Use non-toxic soaps to clean floors and vehicles instead of hazardous materials.
   - Eliminate methylene chloride paint strippers. The best way to avoid the risks and costs of dealing with methylene chloride is not to use it. If you have to use a chemical paint stripper, make sure it does not contain methylene chloride.

2. **Minimize waste generation.**
   - Keep your shop organized. Label all products and waste containers.
   - Keep inventory small, up to date, and properly stored to avoid having products that expire or become obsolete. Make sure materials that expire first, are used first.
   - Assign one person to be responsible for ordering materials and keeping track of inventories.
   - Use computerized mixing systems. Computerized mixing systems allow painters to mix smaller amounts of color and prevent waste when performing smaller jobs. They also provide an easy means to label excess coating for later use
   - Reuse excess coating. Use leftover paint as an undercoat or primer.

3. **Use less solvent.**
   - Use recycled solvent for gun cleaning.
   - Consider using a solvent distillation unit. Using a solvent distillation unit may help reduce the amount of hazardous waste generated by your shop, and give you a better hazardous waste generator status with fewer regulatory requirements.
   - Don't use solvents to clean hands or skin. Instead, use a commercial soap solution made for paint cleanup purposes.
   - Reduce your use of solvents for cleaning your paint spray booth. To clean up excess paint, scrape off as much as possible, and then use water-based or low VOC cleaners instead of concentrated solvent-based cleaners.

4. **Minimize exposures to auto body dust.**

- Close shop doors and windows when sanding to keep dust from being released from your shop.
- Sand in designated, controlled areas. Use room ventilation and filtration equipment in addition to dust collection systems to keep dust from escaping the shop.
- Use a ventilated sander (dustless vacuum) system. Vacuum units are the best dust-controlling devices — they can control up to 90% of dust generated from sanding operations.
- Inspect sanding equipment often. Make sure all collection systems are operating properly with no leaks or blockages in the system.

5. **Train shop employees.**

- Train employees to keep their work areas clean and to minimize chemical use.
- Provide training regarding how to properly handle hazardous waste, and the procedures to be followed in case of spills or emergencies.
- Train employees to avoid mixing wastes, to use funnels with lids that are kept closed when not in use, and to prevent spills by not overfilling containers.

6. **Implement waste reduction and recycling practices**.

- Purchase reusable products and supplies.
- Purchase items made from recycled material.
- Use reusable shipping containers and pallets.
- Recycle office paper, cardboard, glass, plastic and metal.
- Keep waste streams separated to increase their potential for reuse or recycling.

7. **Minimize wastewater generated at your shop.**

- Prevent drips and spills from reaching the floor. Clean up spills immediately with shop towels or mops. Never clean spills by hosing them down with water.
- Never pour solvents or flammable materials down a drain.
- Perform vehicle work in areas where there are no floor drains. If floor drains are present, seal them off during work to prevent spills from entering the drains.
- Never store hazardous materials in areas with unsealed floor drains.
- Keep all auto body materials (including waste) protected from rainwater, to prevent polluted runoff.
- Brush snow and ice off vehicles before bringing them into the shop for service.
- Train employees to prevent water pollution as part of their job duties.

8. **Conserve water.**

- Train employees to use water efficiently. Minimize use of wash water.
- Use dry floor cleaning methods including sweeping and vacuuming. Sweep floor with a broom or vacuum every day. Use a slightly damp mop for general cleanups, and after sweeping.
- Consider purchasing a water recycling unit for vehicle washing or wash vehicles at an offsite commercial car wash.

2.2 Energy Efficiency

Saving money is important to all businesses, but especially small businesses, like auto body shops, where the need to stay competitive is crucial for survival. One strategy for maintaining a competitive business is to implement energy efficiency and energy conservation practices. High-profile energy issues, such as the rising cost of oil, have increased everyone's concern over the stability of our energy sources. Conserving your energy usage can help decrease energy demand and pollution generation while saving your business money.

There are many energy saving things you can do that have little or no cost to you, but can save you hundreds to thousands of dollars every year. You can combine many of the efforts with standard maintenance projects like replacing light bulbs or buying new office equipment. In addition, many of the improvements you make have a very quick return on your investment. The following are some energy conservation tips to help you to conserve energy and save money:

- Turn off lights and equipment when they are not in use.
- Keep garage doors closed to save on heating and cooling costs.
- Use programmable thermostats or adjust thermostats when a space is unoccupied. Using a programmable thermostat can save you more than $100 in your yearly utility bills.
- Replace incandescent light bulbs with compact fluorescent bulbs, which last much longer and use much less energy. Compact fluorescent bulbs cost about 75 percent less to operate, and last about 10 times longer.
- Clean or replace your air filters in your heating and cooling systems, every three months, or monthly during peak heating and cooling periods.
- During hot weather, use fans to improve air circulation and employee comfort, instead of turning the thermostat down another degree. Each degree of higher temperature can save you about 3 percent on cooling costs.
- Install an ENERGY STAR ceiling fan to circulate air in summer and pull hot air down in winter. An ENERGY STAR ceiling fan is 20 percent more efficient than standard fans and can save you about $25 per year on running costs, in addition to the money it saves you in heating and cooling.
- Caulk and weather-strip windows and exterior doors to prevent leaks.
- Install motion-sensor lighting in areas used infrequently, such as bathrooms or break rooms.
- Use an energy efficient air compressor that shuts off when charged. Make sure air compressor lines don't leak air or oil.
- Consider using spray booths or prep stations that are insulated and install heat exchangers to recover heat from exhaust.
- When you buy new electrical equipment (e.g., computers or air conditioners), look for the ENERGY STAR symbol, which tells you that the equipment is energy efficient. For a complete listing of products, go to www.energystar.gov/products.

- Partner with the ENERGY STAR for Small Business program. It's free and they provide unbiased information and support. Go to www.energystar.gov/smallbiz for more information.
- Check out NYSERDA'S Energy Audit Program at: www.nyserda.org/programs/energyaudit.asp. This program will conduct energy audits for a fee at small businesses and other facilities to help them make informed electrical energy decisions and implement energy-efficiency strategies and improvements that that may yield substantial annual energy savings.

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Section 3 - Common Auto Body Shop Wastes

The section provides regulatory guidance and some pollution prevention tips for managing wastes that are commonly generated at auto body shops.

Absorbents and Floor Dry

A hazardous waste determination must be made on all absorbent pads or floor dry material that is used to clean up spills. If your shop has a spill that could be harmful to public health or the environment, you must contact NYSDEC immediately at 1-800-457-7362.

Aerosol Cans

Any "empty" aerosol may be put in the garbage. An aerosol can is considered "empty" **only** if it contains **no** discernible product. Body shops sometimes generate "non-empty" waste aerosol cans if a tip breaks or the can otherwise becomes inoperable. Materials such as carburetor cleaner, brake cleaner, or degreasers, can be hazardous. Therefore, for aerosol cans that are not empty, a hazardous waste determination must be made before disposal. This determination can be made either by knowledge (i.e., by using the MSDS) or by laboratory testing. (See Appendix C of this guide.) If the contents are hazardous, the cans must be managed as either hazardous waste or be returned to the manufacturer.

Antifreeze

Antifreeze may become contaminated with lead, fuel or solvents when circulating through the engine. Therefore, if you are disposing of used antifreeze, a hazardous waste determination must be made.

Brake Fluids

Brake fluids are considered used oil and can be combined with your used oil as long as they don't contain any solvents, brake cleaners or carburetor cleaners. Brake fluid contaminated with any of these materials could cause the brake fluid (and used oil) to become hazardous. If your shop still uses brake cleaners in an aerosol can, chances are they may contain chlorinated solvents which are a hazardous waste. Therefore, don't spray brake cleaner around brake fluid, and consider investing in an aqueous brake cleaning system which will not only be safer for employees, but could save the shop money. Never put brake fluid down any drain or on the ground.

Car Prep and Body Work Wastes

Paint stripping and sanding operations may generate hazardous waste if the paint being removed has a high metals content (this is common in older vehicles and military vehicles), and/or if any solvents used in stripping are hazardous (contain F-listed solvents such as toluene, xylene or methyl ethyl ketone). You must either apply knowledge or test body work wastes to determine whether they are hazardous waste.

"Empty" Containers

Paint cans, disposable paint cups, or any other container, regardless of what it held, may be disposed of in the trash provided the container is considered "empty". A container is considered "empty" when as much product as possible has been removed by commonly employed practices (pouring, pumping, etc.), so there is no free-flowing liquid, and less than 1" of residue remains on the bottom of the container. If you can still pour liquid out the container, it is not considered empty and may not be placed into the trash until after the liquid is removed. The best way to drain containers is to turn them upside down over a funnel connected to a hazardous waste container.

If a container is not drained of all free flowing liquid, and you want to dispose of it, a hazardous waste determination must be made on the contents of the container. If the contents are hazardous, the containers must be managed as hazardous waste.

Gasoline

Waste or unused gasoline sent for disposal is regulated as a hazardous waste. It is not regulated as a hazardous waste if it is recycled or burned as a fuel. However, you cannot mix gasoline with used oil to burn in used oil space heaters. Waste gasoline should be stored in properly grounded, labeled and closed containers on an impermeable surface with proper containment.

Lead Acid Batteries

Lead-acid batteries that are reclaimed or that are managed as universal waste (see section 5.6 of this guide) are not counted as hazardous waste in determining your hazardous waste generator category. Lead acid batteries must be stored in a manner that prevents leakage of battery acid. If your lead acid batteries are not recycled, they must be managed and disposed of as hazardous waste.

Pollution Prevention Tips for Managing Lead-Acid Batteries

- ✓ Store batteries inside in a cool location in a vented, nonmetal container such as a plastic bucket or sturdy cardboard box.
- ✓ Inspect battery containers regularly to ensure they are not leaking or broken. Put batteries into new containers if you find that containers are leaking or broken.
- ✓ Prevent used batteries from short-circuiting by placing batteries in separate plastic bags or putting tape over the terminals.

Mercury Containing (Fluorescent) Lamps

Because of their mercury content, many waste fluorescent lamps are considered hazardous wastes. Other lamps that are commonly classified as hazardous waste include high-intensity discharge (HID), neon, mercury vapor, high pressure sodium, and metal halide lamps. To know for sure if waste lamps are hazardous, the lamps should be analyzed by the Toxicity Characteristic Leaching Procedure (TCLP) laboratory test.

Generators of hazardous waste lamps are able to choose between handling their lamps under the traditional hazardous waste regulations or under the universal waste rule. One benefit of managing waste lamps as universal waste is that the waste lamps do not count towards your monthly quantity of hazardous waste, and therefore do not affect your generator category. However, if your shop consistently generates less than 220 pounds of hazardous waste (including the waste lamps) per month, and your generator category is a conditionally exempt small quantity generator (CESQG), the traditional hazardous waste regulations for CESQGs are less stringent than the requirements under the universal waste rule.

If you choose to manage waste lamps as universal waste, you must, at a minimum, make sure to label them as “Universal Waste Lamps” or with a description of the waste that includes the words “used” or “waste”, and store them for no longer than one year. Please see Section 5.6 for additional requirements for managing Universal Waste.

Many major manufacturers are now producing a line of low-mercury or "green end cap" fluorescent lamps which they claim are non-hazardous. When these lamps are taken out of service, manufacturer's data may be used to help determine if they are a hazardous waste. Low-mercury or green end cap lamps that are determined to be non-hazardous waste are still subject to the Mercury-Added Consumer Products Law. Under this law, a small business (less than 100 employees) may dispose of no more than 15 non-hazardous lamps per month in the normal trash. The disposal of more than 15 non-hazardous mercury containing lamps per month by a small business is not allowed in the normal trash but must be managed by separate delivery to a solid waste management facility, recycling facility, authorized hazardous waste facility or at a municipally sponsored household hazardous waste collection program.

Pollution Prevention Tips for Managing Mercury-Containing Lamps

- ✓ NYSDEC strongly encourages the recycling of all lamps containing mercury. A list of lamp recyclers is available on the NYSDEC website at www.dec.ny.gov/chemical/9089.html or call 1-800-462-6553.
- ✓ When sending lamps for recycling, package them according to your recycler's instructions.
- ✓ If you are not provided with containers from your recycler or transporter, store light bulbs in the containers they were purchased in to prevent breakage. Do not tape light bulbs together for shipping, or overstuff or underfill light bulb shipping boxes.
- ✓ Never use a shop vacuum to clean up mercury spills or broken fluorescent light bulbs. Open windows to vent for at least 15 minutes. Use stiff paper or cardboard to pick up large pieces. Use duct tape to pick up small pieces and powder, and wipe the area clean with a damp paper towel or wet wipes. Place these materials in a sealed container or plastic bag, and dispose of as hazardous waste.

Paint Booth Filters

Spray booths with exhaust filters collect paint particles, thus preventing them from polluting the air or lodging in a worker's lungs. No matter which type of exhaust filter you use - wet or dry, fiberglass, paper, styrene or composite – a hazardous waste determination must be made prior to disposal to determine whether or not they became **hazardous** during use. A hazardous waste determination can be done two ways, either by knowledge or by laboratory testing:

Knowledge - You can use your knowledge of the materials used in your shop to determine if the filters are hazardous. If you know, based on written documentation, that you only use coatings that **do not** contain any of the following heavy metals: arsenic, barium, cadmium, chromium, lead, mercury, selenium or silver; then you can determine that the filters are not hazardous. Written documentation can include the product MSDS or a written statement from the paint manufacturer stating that the paint does not contain any of these metals.

Laboratory Testing – Laboratory testing means you send a representative sample of your waste paint filters to a certified testing lab for analysis. The lab will test the waste filters for ignitability and using the "Toxicity Characteristic Leaching Procedure" (TCLP). The TCLP should only need to test for the toxic chemicals (lead, chromium, cadmium, etc.) that you expect to find in your paint filter. Once you test the filters, you need to test them again if your process changes, for example if you change paints or solvents. Make sure to keep copies of the lab results on file at your facility. A list of certified state labs that can test your filters can be found at: http://www.wadsworth.org/labcert/elap/tclp.html or by contacting SBEAP at 1-800-780-7227.

Paint Waste

A hazardous waste determination must be made on waste paint and off-spec paint before disposal. Waste paint may be regulated as hazardous waste if it contain metals such as lead, arsenic, cadmium, barium or chromium that cause the paint to be toxic hazardous waste. Waste paint may also be a characteristic hazardous waste if it is an ignitable waste. An ignitable waste is a waste that has a flash point less than 140 degrees Fahrenheit. (The flash point is the temperature at which something catches on fire.). The material safety data sheet (MSDS) for the paint should list the flash point, and any metals if they are present in significant amounts. If a hazardous waste determination cannot be made based on knowledge (using the MSDS or other information provided by the manufacturer or supplier), then the waste paint must be tested by an analytical lab before disposal.

If the paint waste is not a hazardous waste, you can dispose of it with your trash if the paint is dry. To dry the non-hazardous paint, mix absorbent material into it to soak up all the liquid. Kitty litter and sawdust are good absorbents that are inexpensive.

Shop Towels

Rags, shop towels and other absorbents that are contaminated with listed hazardous waste or that exhibit a hazardous waste characteristic are regulated as hazardous wastes when they are disposed of. At no time is it appropriate for these contaminated towels to be placed in the trash. If rags contaminated with solvent are laundered, they are not considered to be wastes and thus are not regulated as hazardous wastes.

Shop towels, rags or clothing that have become contaminated with hazardous waste may be sent to industrial laundries as non-hazardous waste provided the following conditions are met:

- Towels/rags/clothing must be managed in accordance with the hazardous waste regulations (see Section 5 of this guide) until they are loaded onto a vehicle sent for laundering, and must be counted as wastes generated and accumulated for the purpose of determining your hazardous waste generator category.
- At the time the towels/rags/clothing are loaded onto the vehicle sent for laundering, the towels/rags/clothing must not be contaminated beyond saturation (must not contain free liquids), and no free liquids may be present in the containers holding these materials.
- Towels/rags/clothing containing flammable materials must be kept in fire proof containers until their arrival at the facility where the laundering will occur.

Solid Waste

Solid waste includes trash, garbage, rubbish, industrial and commercial waste that is not regulated as a hazardous waste. Auto body shops generate many types of solid waste, such as empty containers and drums, sanding dust, and even leftover lunches. Much of this material can be collected for recycling and reuse. Auto body shops must ensure that solid waste with no recycling value is disposed of properly. Do not burn solid waste, or dispose of solid waste on your property, on the ground, or in any surface water.

Solvents

Many waste solvents are hazardous wastes. Some spent solvents, such as toluene, xylene, or methyl ethyl ketone, are F-listed solvents, which means they are listed hazardous wastes. Spent solvents may also be hazardous waste because they exhibit hazardous characteristics such as ignitability or corrosivity. Some solvents or parts washer cleaners are non-hazardous as products, but become hazardous as waste because they are contaminated with hazardous materials such as lead, cadmium, or F-listed solvents during use.

Solvent Distillation Still Bottoms

On-site solvent distillation is a practical way to reclaim solvent and reduce spent solvent generation. Solvent is reclaimed by heating spent solvent to its boiling point in a "still" and then cooled, which produces nearly pure liquid solvent that can be reused. The spent solvent is only required to be counted toward your monthly generator status the first time that it is generated in a calendar month if it is reclaimed and reused on site. After the solvent is distilled, there will be some settled residue called still bottoms. The still bottoms may be hazardous waste depending on the type of solvent distilled.

If F-listed solvents (such as toluene, xylene or methyl ethyl ketone) are distilled in a solvent distillation unit, the still bottoms of the distillation unit are also an F-listed hazardous waste and cannot be thrown into the trash. If the spent solvents are counted, then still bottoms don't need to be counted for the purpose of determining generator category, but must be managed as a hazardous waste.

If a liquid composed of only mineral spirits is distilled in a solvent distillation unit, the mineral spirits may be hazardous due to ignitability, however, they are not F-listed waste. Therefore, if the still bottoms are dry, they can be disposed of in the trash. If the still bottoms are not dry, and they contain enough liquid, the still bottoms could be a characteristic hazardous waste due to ignitability.

Used Electronics

Some used electronics, such as computer monitors, printers and phones are considered hazardous waste under NYSDEC's hazardous waste requirements. However, such hazardous waste may be exempt from regulation under the scrap metal exemption, provided that they are managed in the specified way.

Scrap Metal Exemption

Most discarded electronics which would qualify as hazardous waste are considered to contain sufficient quantities of scrap metal parts that they can be regarded as scrap metal themselves, and, therefore, are exempted from regulation as hazardous waste if the following conditions are met:

- Prior notification. If you are a small quantity generator (SQG), you and any subsequent handlers in the recycling process in New York State are required to notify NYSDEC. This notification must include certain basic information, such as the locations of the generating and receiving facilities. Written concurrence from NYSDEC is not required, however, NYSDEC will provide one upon request (provided the electronics item, in fact, qualifies for the exemption).
- Scrap metal must ultimately be recycled. The scrap metal recycling exemption requires that scrap metal pieces actually be reclaimed from the hazardous electronics and that they be recycled. Note that the scrap metal exemption cannot apply to a part separated from the whole component unless that separated part independently contains scrap metal pieces that will ultimately be reclaimed. For example, an all-plastic case that was separated from a computer monitor could no longer qualify for the scrap metal exemption, nor could broken cathode ray tube (CRT) glass. Note that an item which qualifies as hazardous scrap metal is still a hazardous waste, but exempted from regulation if it will be recycled.

Resale, Donation and Repair of Electronic Units
With the exception of CRTs being directed for export, electronic products that are directly resold or even donated for continued use are not considered to be discarded, and are not subject to the solid or hazardous waste regulations (i.e., they are still "products"). Non-working electronic products that are serviced by repair shops, repaired, and then returned to the user are not considered to be wastes. If non-working electronic products are dismantled and some individual parts (e.g., disk drives) are found to be operative, reused or marketed for reuse, such parts are considered to be products reclaimed from waste. Therefore, they are no longer considered to be solid or hazardous waste. Any unusable components removed from the products as part of a repair process must be managed by the repair shop as "ordinary" solid or hazardous waste, unless the part qualifies for the scrap metal exemption. Please see the NYSDEC website: www.dec.ny.gov/chemical/8788.html for more information regarding the handling of used electronics.

Used Oil

Used oil is not regulated as a hazardous waste if it is recycled or burned for energy recovery. This means that your used oil, if not mixed or contaminated with hazardous waste, can be managed under the used oil regulations, 6 NYCRR Subparts 360-14 and 374-2. Used oil includes used crankcase oil, metal working oils, gear oil, transmission fluid, brake fluid, hydraulic fluid, dielectric fluid (excluding PCBs), and tank bottoms from used oil tanks only. If you are disposing of any used oil rather than recycling or burning for energy recovery (i.e., spills, soil contamination, cleanup), or your used oil is mixed with other wastes, then you must make a hazardous waste determination and comply with any applicable hazardous waste regulations.

Used Oil Storage

Used oil must be stored in sturdy, leakproof drums or tanks that are in compliance with State or local building and fire codes, and they must be clearly labeled "USED OIL." In addition, the label for aboveground tanks must include the design and working capacity of the tank. Underground tanks must be labeled at the fill port. All used oil tanks, regardless of size, are subject to the petroleum bulk storage registration requirements. Registration fees are not required for facilities where the combined storage capacity of all petroleum storage tanks is 1,100 gallons or less. Drums do not have to be registered. See Section 6.0 in this guide for further information.

Transporting Used Oil

Your shop must contract with a Part 364 permitted waste hauler to pick up your used oil for recycling or disposal. However, your shop can transport up to 500 pounds (roughly 55 gallons) of used oil, without a Part 364 permit but only to:

- A facility that is also owned by your company, or;
- A facility permitted by DEC to accept used oil directly from the generators of that oil.

Accepting Used Oil

New York State mandates that service and retail establishments accept up to 5 gallons per person per day of used oil at no charge from "do-it-yourself" oil changers. A "do-it- yourselfer" (DIY) is an individual who changes the oil of their own personal vehicles. You cannot take used oil from other businesses. A service establishment is a business that sells at least 500 gallons per year of new oil and performs servicing on vehicles. A retail establishment is a business that sells at least 1000 gallons of new oil per year, but doesn't perform any servicing of vehicles. Every service establishment and retail establishment must post a sign that is open to public view, stating: "WE ACCEPT USED OIL FOR RECYCLING AT NO CHARGE." The sign may also say that used oil is only accepted during normal business hours, and those hours may also be stated on the sign. Service establishments cannot charge either do-it-yourself oil changers, or customers that have their oil changed, for the used oil. Service and retail establishments may require that the used oil be brought in rigid, screw top containers; and may refuse to accept used oil from DIYs if the used oil is contaminated through other than normal and ordinary use.

Used Oil-Fired Space Heaters

Shops can burn their own used oil and used oil from DIYs in specially designed used oil-fired space heaters as long as the following requirements are met:

- The used oil originates from vehicles serviced at your shop or by DIYs.
- The space heater is rated at less than 0.5 Million British Thermal Units (BTUs) per hour. The space heater is vented to the outside.
- The used oil has not been mixed with any hazardous waste.
- The shop complies with the provisions of 6 NYCRR Part 225-2 – Waste Fuel. Contact the Regional Air Pollution Control Engineer at the NYSDEC Regional Office listed in Appendix A to ensure you are complying with these regulations.

Many shops purchase used oil-fired space heaters and then find out that they don't generate enough used oil to keep the space heater operating throughout the winter. Although it may seem desirable to receive used oil from other shops, both the used oil and air regulations impose significant requirements, such as recordkeeping and analytical testing, on this practice. If you wish to explore the possibility of burning used oil from other than your own shop, please contact the Bureau of Hazardous Waste Regulation at (518) 402-8633, or call the Regional NYSDEC office listed in Appendix A.

Pollution Prevention Tips for Managing Used Oil

- Do not mix hazardous waste with used oil.
- Make sure your used oil storage tanks or drums have proper containment in case there is a leak or spill.
- Use large drum funnels or fill tubes when filling used oil drums.
- Place drip pans underneath leaking vehicles to collect dripping oil. Don't forget to pour oil from the drip pan into the used oil drum.
- Try to prevent spills when servicing vehicles. If spills do occur, clean up oil spills with rags. After wringing out the saturated rag into the used oil drum, you can have the rags laundered. See section on Shop Towels for requirements.
- Send used oil for recycling.
- Inspect used oil from DIYs. Make sure there are no other wastes mixed in with their used oil, based on color and consistency. If you must refuse used oil from a DIY, as a public service you should provide the DIY with the phone number of the town or county recycling coordinator so that the DIY can contact that office for alternative disposal options; or you can have them call (800) 462-6553.

Used Oil Filters

Terne plated oil filters are generally a hazardous waste when disposed. Terne is an alloy of lead and tin, and the lead in the terne-plating can make the filters hazardous. Non-terne plated used oil filters are not a hazardous waste and can be disposed as a non-hazardous solid waste if the used oil is removed from the filter by one of the following methods:

- Puncturing the filter and hot draining for at least 12 hours at or near engine operating temperature (at least 60° F).
- Hot draining as above, and then crushing the filter.
- Hot draining as above, and dismantling the filter.
- Any other equivalent method that will remove used oil.

If one of the above methods has been performed, these used oil filters can be disposed of as a solid waste. However, recycling these filters is preferred over disposal. Check with the local scrap metal yard for more recycling information.

Waste Tires

When improperly managed, waste tire piles pose a threat to public health and the environment. They provide a breeding ground for mosquitos, which may carry disease, and are a serious fire hazard. Waste tires must be managed in accordance with the following:

- It is a violation to store more than 1000 tires on your premises at any one time without obtaining a NYSDEC permit. For counting purposes, tires still mounted on a vehicle are not considered waste tires until removed from the vehicle, at which point they become part of the tire count. Used tires that are being sold, whether stored inside or outside your shop, are included in your total tire count.
- Waste tires must be removed from your facility for disposal by either a permitted Part 364 Waste Transporter, or you can transport up to 500 pounds (about 25 tires) of used tires to an approved NYSDEC facility without obtaining a permit. If you use a waste hauler, make sure the hauler is authorized by NYSDEC to transport waste tires. Ask to see the hauler's license and find out where the tires are being taken. Please see www.dec.ny.gov/chemical/9079.html for a list of waste tire storage facilities located in New York State.
- Whole waste tires are prohibited from being landfilled in New York State.

Pollution Prevention Tips for Managing Waste Tires

- Send tires for recycling/retreading. Store as few tires as possible at your shop. Make sure your tires are hauled away on a regular basis.
- Store tires indoors, or keep tire piles covered in order to prevent entrapment of water.
- Keep tires on rims to reduce water collection.
- Store tires in one location, not scattered, off of grassy areas, and maintain a fire lane around tire piles.

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Section 4 - Air Pollution

Auto body shops have the potential to generate air pollutants that may impact human health and the environment if they are not controlled properly. These air pollutants include volatile organic compounds (VOCs), hazardous air pollutants (HAPs), and dust. To control adverse impacts from these pollutants, auto body shops are required to comply with the following regulations:

- New York State regulations for air permits and registrations contained in Title 6 New York Codes, Rules, and Regulations (6 NYCRR) Part 201;
- 6 NYCRR Part 228 Surface Coating Processes; and
- Federal regulation 40 CFR Part 63 Subpart HHHHHH (Subpart 6H) - National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources (referred to as Subpart 6H).

This section helps explain these regulations. If you need any assistance understanding the information provided in this section, please call the Small Business Environmental Assistance Program (SBEAP) at 1-800-780-7227 or the Small Business Environmental Ombudsman (SBEO) at 1-877-247-2329. SBEAP is a non-regulatory program that provides *free* confidential technical assistance to help small businesses achieve compliance with environmental regulations. SBEO is a *free*, confidential service of the New York State Department of Economic Development and will help determine which regulations and requirements affect your business operations and how to comply with them, and your rights and responsibilities once a permit or registration is issued.

4.1 Exemptions from Part 201 and Part 228 and Subpart 6H

Some auto body shops, depending on their location, operation, and quantity of coatings and solvents used, may be exempt from Part 201, Part 228 and/or Subpart 6H. Please be sure to read the conditions of three exemptions to determine whether your shop is exempt from any of these regulations.

6 NYCRR Part 201 Exemption

Pursuant to 6 NYCRR Part 201-3.2(c)(17), an auto body shop is exempt from the registration and permitting requirements of Part 201 if the shop meets all of the following conditions:

- the shop uses fewer than 25 gallons per month collectively of paints, lacquers, makeup solvents, and cleanup solvents,
- the shop performs all abrasive cleaning and surface coating operations in an enclosed building and the emissions are exhausted to appropriate emission control devices, and
- the shop is not located in the New York City Metropolitan Area or the Lower Orange County Metropolitan Area. The New York City Metropolitan Area consists of the City of New York, and Nassau, Suffolk, Rockland and Westchester Counties. The Lower Orange County Metropolitan Area consists of the Towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury.

If your auto body shop is NOT exempt from Part 201, and you do not have an air permit or registration please contact SBEAP at 1-800-780-7227 for assistance in obtaining an air registration or permit from NYSDEC. The NYSDEC air permit and registration thresholds are provided in Appendix B of this guide.

6 NYCRR Part 228 Exemption

Pursuant to 6 NYCRR Part 228.1(e)(17), an auto body shop is not subject to Part 228 if it is a shop that does ALL of the following:

a. applies coatings using high volume low pressure spraying with a maximum cap pressure of 10.0 psig;

b. cleans spray guns using techniques that minimize VOC emissions (see Section 4.6 of this guide);

c. uses coatings that do not exceed the appropriate VOC content limits of Section 228.8 (see Section 4.3 of this guide);

d. exhausts emissions into appropriate emission control equipment;

e. applies coatings to work areas that do not exceed 9.0 square feet; and

f. uses a quantity of coatings and cleaning solvents on an annual basis that does not exceed 55 gallons. The owner or operator of the facility must retain for five years records of the quantity of coatings and cleaning solvents used on an annual basis.

Subpart 6H Exemptions

Pursuant to 40 CFR Part 63.11169(d), Subpart 6H does not apply to the following activities:

a. surface coating performed on site at installations owned or operated by the Armed Forces of the United States;

b. surface coating of military munitions manufactured by or for the Armed Forces of the United States or equipment directly and exclusively used for the purposes of transporting military munitions;

c. surface coating performed by individuals on their personal vehicles, possessions, or property, either as a hobby or for maintenance of their personal vehicles, possessions or property; and

d. surface coating by individuals for others without compensation provided that surface coating is performed on no more than two motor vehicles or pieces of mobile equipment per year).

4.2 Subpart 6H Requirements

Subpart 6H is a new federal regulation that establishes national emission standards for target HAPs - compounds of cadmium (Cd), chromium (Cr), lead (Pb), manganese (Mn), and nickel (Ni) - that are components in many automotive coatings. Subpart 6H applies to all auto body shops that spray apply coatings containing target HAPs. You can determine if any spray coatings contain target HAPs by contacting your coating manufacturers, supply vendors or by reviewing the materials safety data sheets for each of the coatings.

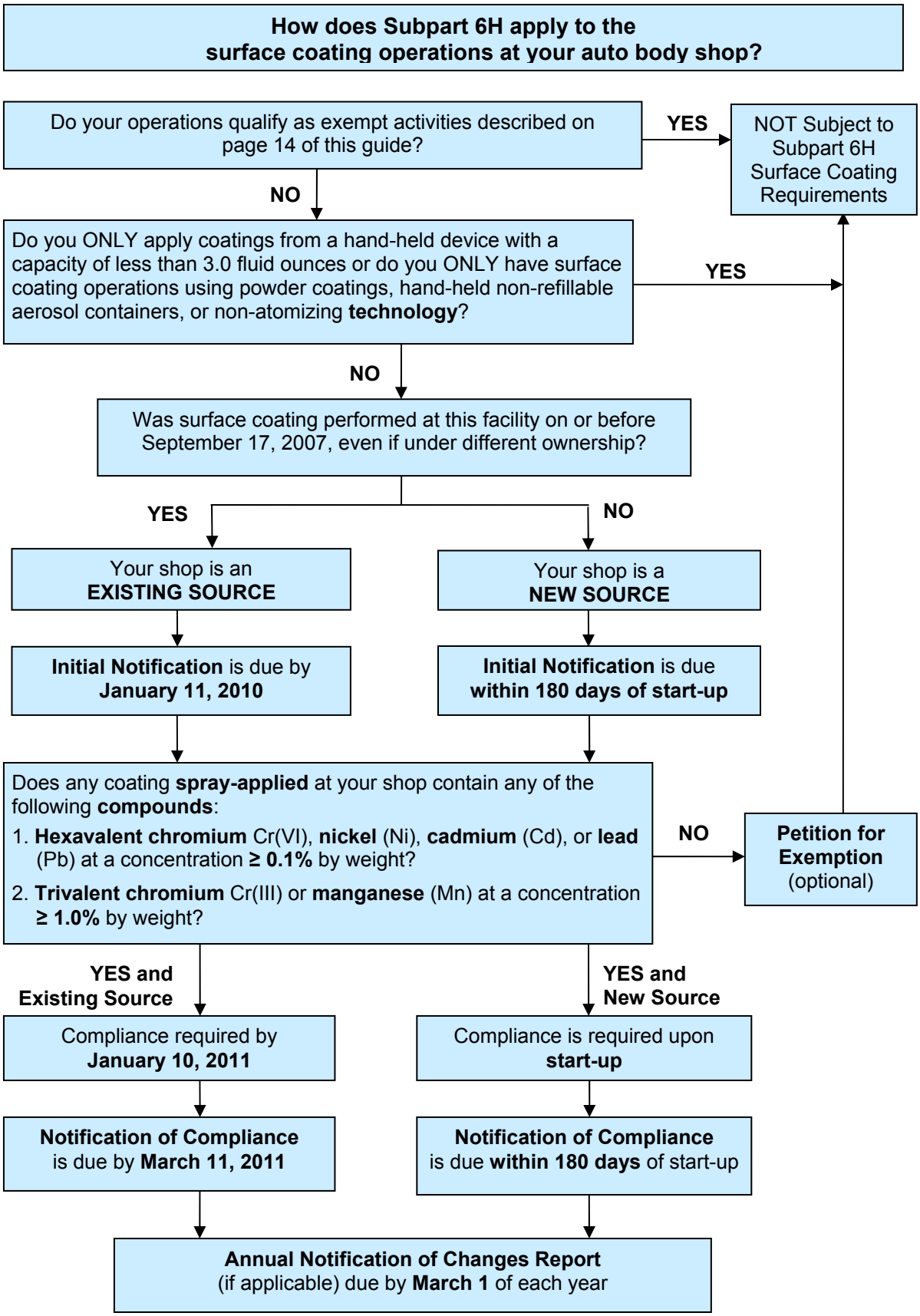
The date by which shops must comply with the 6H requirements depends on whether a shop is a new or existing source. Existing sources must file an Initial Notification by January 11, 2010, comply with these requirements by January 11, 2011, and submit a *Notice of Compliance* to EPA and NYSDEC by March 11, 2011. New sources must comply with these requirements on the date of initial startup, and submit a *Notice of Compliance* along with their *Initial Notification* to EPA and NYSDEC no later than 180 days after the initial startup date. (Please see the flow chart on the following page to determine whether your shop is a new or existing source.)

If you can certify that your shop does not spray coatings containing any target HAPs, you can petition EPA for an exemption from Subpart 6H. Please contact SBEAP at 1-800-780-7227 for assistance in submitting your petition to EPA.

In addition to submitting an *Initial Notification*, shops that spray apply even one coating with target HAPs must comply with the requirements listed below. Additional guidance on each of these requirements is provided in section 4.7 through 4.11 of this guide. You will find that many of the new federal requirements overlap existing New York State regulations for auto body shops.

Subpart 6H Requirements:

1. Spray-applied coatings must be applied with high volume, low pressure (HVLP) spray guns, electrostatic application, airless or air-assisted airless spray guns or equivalent technology. (see Section 4.7)
2. Filters achieving 98% capture efficiency must be installed on the exhaust of all spray operations. (see Section 4.10)
3. For body shops that refinish complete motor vehicles or other mobile equipment, spray painting operations must occur in a fully enclosed spray booth or station and operated under negative pressure. However, fully enclosed booths using an automatic pressure balancing system can be operated up to 0.05 inches water gauge positive pressure. (see Section 4.9)
4. For body shops that refinish parts, products or vehicle “subassemblies”, spray painting must occur in an area that has a full roof, at least three complete walls or side curtains and is vented to draw air through the area. (see Section 4.9)
5. Mobile spot repair operations must enclose the area being coated, capture paint overspray and filter the exhaust. (see Section 4.9)
6. Paint spray gun cleaning must be done so that an atomized mist or spray of the cleaning solvent is not created outside a container that collects used gun cleaning solvent. (see Section 4.8)
7. All personnel that spray-apply coatings must be trained and certified on spray gun equipment selection, spray techniques, maintenance, and environmental compliance. (see Section 4.11)
8. If there are any changes in an auto body shop’s compliance status during the calendar year, the shop must submit an *Annual Notification of Changes Report to EPA and NYSDEC* by March 1st of the following calendar year.


How does Subpart 6H apply to the surface coating operations at your auto body shop?
Do your operations qualify as exempt activities described on page 14 of this guide?
YES
NOT Subject to Subpart 6H Surface Coating Requirements
NO
Do you ONLY apply coatings from a hand-held device with a capacity of less than 3.0 fluid ounces or do you ONLY have surface coating operations using powder coatings, hand-held non-refillable aerosol containers, or non-atomizing technology?
YES
NO
Was surface coating performed at this facility on or before September 17, 2007, even if under different ownership?
YES
NO
Your shop is an EXISTING SOURCE
Your shop is a NEW SOURCE
Initial Notification is due by January 11, 2010
Initial Notification is due within 180 days of start-up
Does any coating spray-applied at your shop contain any of the following compounds:
1. Hexavalent chromium Cr(VI), nickel (Ni), cadmium (Cd), or lead (Pb) at a concentration ≥ 0.1% by weight?
2. Trivalent chromium Cr(III) or manganese (Mn) at a concentration ≥ 1.0% by weight?
NO
Petition for Exemption (optional)
YES and Existing Source
YES and New Source
Compliance required by January 10, 2011
Compliance is required upon start-up
Notification of Compliance is due by March 11, 2011
Notification of Compliance is due within 180 days of start-up
Annual Notification of Changes Report (if applicable) due by March 1 of each year

4.3 Record Keeping Requirements

New York State regulations require all auto body shops to maintain the following records on-site for five years:

- Records of the purchases and amounts of coatings and solvents used at the auto body shop; and
- Records verifying the actual VOC content of each coating as applied.

One of the easiest ways to maintain these records is to keep copies of your purchase receipts/invoices for all the paints, solvents, and coatings used by your shop, and keep a simple log of material usage on a monthly basis. You must also obtain material safety data sheets (MSDSs) or manufacturer product formulation data to verify the actual VOC content of all materials applied at your shop. MSDSs can be obtained from product manufacturers or distributors.

In addition, to show compliance with the new federal Subpart 6H requirements, auto body shops must also maintain the following records on-site for five years:

- All copies of all forms and notifications submitted to NYSDEC and EPA;
- Records of spray painter training certifications;
- Documentation on the spray booth filter efficiency; and
- Documentation on the spray gun transfer efficiency.

4.4 Compliant Coatings Requirements

Most paints, coatings and solvents contain volatile organic compounds (VOCs). When VOCs are emitted into the air and combine with sunlight, they produce ozone. High levels of ground-level ozone can endanger public health and the environment.

Part 228 requires the use of compliant coatings for all auto body shops. Compliant coatings have a lower solvent content, and were developed by paint and coatings manufacturers in response to federal and state requirements to reduce VOC emissions across the country. You can find the VOC content of products used in your shop on their material safety data sheets (MSDSs). If you specify to your vendor that you need compliant coatings, and mix them (use proper amount of reducer) according to the manufacturer's directions, you will meet VOC limits.

The maximum VOC content of compliant coatings are:

Table 1 VOC Content of Compliant Coatings

Coating Type	**Maximum permitted VOC content (minus water and excluded VOC) of coating at time of application (after mixing, thinning, etc.)**
Pretreatment primer	6.5 lb/gallon
Primer-surfacer	4.8 lb/gallon
Primer-sealer	4.6 lb/gallon
Automotive Topcoats:	
Single Stage-topcoat	5.0 lb/gallon
2-stage basecoat/clearcoat	5.0 lb/gallon
3 or 4-stage basecoat/clearcoat	5.2 lb/gallon
multi-colored	5.7 lb/gallon
Automotive Specialty	7.0 lb/gallon

If you need any help determining whether coatings comply with the above VOC limits, contact SBEAP at 1-800-780-7227 for assistance.

4.5 Requirements for Controlling Dust and Odor from Sanding and Painting

Dust and particulates come from sanding activities and paint over-spray, and can contain harmful chemicals and/or toxic metals. Refinishing operations can also create odors that may be harmful or offensive to your neighbors. New York State regulations require that you take reasonable precautions to prevent dust and odors from traveling beyond your shop boundaries, and prevent causing a nuisance or endangering the health of your neighbors.

4.6 Requirements for Minimizing Fumes, VOCs, and HAPs from Paints and Solvents

Part 228 requires auto body shops to comply with the following measures to minimize fumes generated from use of paints and solvents:

- Fresh and used coatings, thinners, and solvents must be stored in non-absorbent, non-leaking containers with closed lids.
- Containers used to store fresh and used coatings, thinners, and solvents must be kept closed at all times except when filling or emptying.
- Cloth and paper, or other absorbent applicators, moistened with coatings, solvents, or cleaning solvents must also be stored in closed, non-absorbent, non-leaking containers.
- Shops must only purchase coatings that comply with VOC content limits listed in Section 4.4 of this guide.
- Spray guns must be cleaned in compliance with the requirements listed under Section 4.8 of this guide.

4.7 Spray Gun Requirements

Efficient painting techniques help reduce air emissions from your shop, and can also save you money and improve worker health and safety.

Pursuant to Part 228 and Subpart 6H, spray-applied coatings must be applied using only the following:

- High Volume Low Pressure (HVLP) spray gun;
- Any non-atomized application technique (e.g., flow/curtain coating, dip coating, roller coating, brush coating, cotton-tipped swab application coating, electro- deposition coating, etc.);
- Electrostatic application;
- Airless or air-assisted airless spray gun; or
- Equivalent technology approved by NYSDEC. At the time of publication, the following non-HVLP spray guns have been approved for use at auto body shops:
    - SATAjet RP (digital and non-digital)
    - ITW DeVilbiss GFG-670(Plus)
    - 3M Graco 3M-PP
    - Anest Iwata W400-LV
    - DeVilbiss CVI Spray Gun with #510 Air Cap
    - DeVillbiss GTI Pro Spray Gun with T2 Air Cap
    - ITW Tekna Spray Gun with & 7E7 Air Cap
    - SATAjet 3000 B RP(digital and non-digital).

The following application techniques are exempt from regulatory requirements:

- Airbrush application methods for graphics, stenciling, lettering, and other identification markings;
- Application of coatings sold in non-refillable aerosol containers; and
- Application of automotive touch-up repair finishes materials.

4.8 Requirements for Cleaning Spray Guns, Metal Parts and Equipment

The approved methods specified under 6 NYCRR Part 228 Surface Coating Processes, and 6 NYCRR Part 226 Solvent Metal Cleaning Processes must be used for cleaning spray guns and cleaning/degreasing metal parts. Please see Section 5.0 of this guide for guidance on managing any hazardous waste generated from cleaning spray guns, metal parts and other equipment.

All auto body shops must use only the following methods to clean spray guns:

- An enclosed spray gun cleaning system that is kept closed when not in use. (Enclosed spray gun cleaning machines use less solvent than traditional methods and reduce spent solvent disposal costs.)
- An unatomized discharge of solvent into a paint waste container that is kept closed when not in use.
- Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use.
- Atomized spray into a paint waste container that is fitted with a device designed to capture atomized solvent emissions.

All auto body shops must comply with the following to perform parts cleaning/degreasing:

- Use solvents in the parts washer having a vapor pressure of 1.0 mmHg or less, at 20° C.
- Do not use hazardous chlorinated solvents for parts washing (as defined above in 40 CFR Part 63, Subpart T).
- Close the lid on the metal parts washer when not in use.

4.9 Subpart 6H Spray Booth Requirements

All existing sources must comply with the following requirements by January 10, 2011. New sources must comply with these requirements on the date of initial startup. (Please see the flow chart on page 18 to determine whether your shop is a new or existing source.)

- Spray booths and preparation stations used to refinish complete motor vehicles or mobile equipment must be fully enclosed with a full roof, and four complete walls or complete side curtains, and must be ventilated at negative pressure so that air is drawn into any openings in the booth walls or preparation station curtains. However, if a spray booth is fully enclosed and has seals on all doors and other openings and has an automatic pressure balancing system, it may be operated at up to, but not more than, 0.05 inches water gauge positive pressure.
- Spray booths and preparation stations that are used to coat miscellaneous parts and products or vehicle subassemblies must have a full roof, at least three complete walls or complete side curtains, and must be ventilated so that air is drawn into the booth. The walls and roof of a booth may have openings, if needed, to allow for conveyors and parts to pass through the booth during the coating process.
- Mobile ventilated enclosures that are used to perform spot repairs must enclose and, if necessary, seal against the surface around the area being coated such that paint overspray is retained within the enclosure and directed to a filter to capture paint overspray.

4.10 Subpart 6H Filter Requirements

By January 10, 2011, all spray booths, preparation stations, and mobile enclosures at existing sources must be ventilated so that the exhaust passes through filters that are at least 98 percent efficient. Owners and operators may use published filter efficiency data provided by vendors to show compliance with this requirement and are not required to perform this measurement. All new sources must comply with this requirement on the date of initial startup. (Please see the flow chart on page 18 to determine whether your shop is a new or existing source.)

4.11 Subpart 6H Training Requirements

All new and existing personnel who spray apply surface coatings must be certified that they have completed hands-on and classroom training in the proper spray application of surface coatings and the proper setup and maintenance of spray equipment. At existing sources, all existing personnel must be trained and certified by January 10, 2011, and all new personnel must be trained no later than 180 days after hiring. At new sources, all personnel must be trained and certified no later than 180 days after hiring. (Please see the flow chart on page 18 to determine whether your shop is a new or existing source.) Refresher training and re-certification is required every five years.

The training program must include, at a minimum, the following items:

- Spray gun equipment selection, set up, and operation, including measuring coating viscosity, selecting the proper fluid tip or nozzle, and achieving the proper spray pattern, air pressure and volume, and fluid delivery rate.
- Spray technique for different types of coatings to improve transfer efficiency and minimize coating usage and overspray, including maintaining the correct spray gun distance and angle to the part, using proper banding and overlap, and reducing lead and lag spraying at the beginning and end of each stroke
- Routine spray booth and filter maintenance, including filter selection and installation.

4.12 Requirements for Servicing Vehicle Air Conditioning Systems

Vehicle air conditioners use refrigerants which are made from a group of chemicals called chlorofluorocarbons (CFCs). If CFCs evaporate or vent from your shop, they rise into the upper atmosphere and destroy the ozone layer, which protects the earth from ultraviolet (UV) radiation. Because of the ozone-depleting nature of air conditioner refrigerants, federal law prohibits the venting of any refrigerants to the atmosphere, and requires shops that repair, service, or replace air conditioning systems to capture and recycle all refrigerants.

- All employees who handle refrigerants must be trained and certified by an EPA-accredited program. A list of approved certification organizations can be obtained by calling EPA Stratospheric Ozone Hotline at 1-800-296-1996, or at: www.epa.gov/ozone/title6/609.
- Allow only EPA-certified technicians to remove refrigerants. Maintain copies of technician and equipment certifications in the shop records.
- Use only your EPA-certified technician to purchase refrigerants, unless your shop is an EPA authorized reclaiming facility.
- Recycle refrigerant for reuse on-site or send recovered refrigerant to an EPA-approved reclaimer.
- Use only EPA-approved/certified recycling/recovery equipment, and label the equipment properly. A list of the EPA-approved/certified equipment can be obtained by calling the Ozone Hotline.
- Keep a copy of the EPA certification of your equipment and your EPA certification to operate recovery and recycling devices.
- Maintain records of off-site reclamation, including volume and final destination. You must keep all records of refrigerant purchase, sales, on-site recycling, and reclamation for three years.
- Don't evaporate or vent refrigerants to the atmosphere.

Section 5 - Hazardous Waste

Hazardous wastes are a group of wastes that are subject to special handling requirements because their mismanagement may lead to serious hazards to human health and the environment. New York State hazardous waste management regulations apply to any business that generates hazardous waste. Under New York State law, if you generate hazardous waste you have "cradle-to-grave liability," which means you retain responsibility even when other companies handle and dispose of your waste. As a business owner, it is your responsibility to:

- determine which of your wastes are considered "hazardous waste,"
- know what your hazardous waste generator status is, and
- properly handle, store, and dispose of hazardous waste in compliance with New York State hazardous waste management regulations.

5.1 What is Hazardous Waste?

A hazardous waste may be a solid, liquid or gaseous material that you no longer use, and either recycle, discard, or store until you have enough to dispose of properly. There are basically two types of hazardous waste:

1. **Characteristic Hazardous Wastes** - These wastes have one or more of the following characteristics: ignitability, corrosivity, reactivity or toxicity. These characteristics are further explained in Appendix C of this guide.
2. **Listed Hazardous Wastes** - These wastes are specifically identified in the 6 NYCRR Part 371 hazardous waste regulations. Many paints, solvents, thinners, degreasers and cleaners are listed wastes. Spent solvents such as toluene, acetone, methyl ethyl ketone are F-listed hazardous waste. These solvents are automatically considered hazardous waste when spent.

What is a Hazardous Waste Determination?
A hazardous waste determination is a procedure used to determine if a waste is hazardous. Auto body shops typically generate several kinds of potentially hazardous waste, including waste solvent and coatings, contaminated rags and wipes, spent spray booth filters, and fluorescent lamps. It is your responsibility to make a hazardous waste determination for all waste generated at your shop.

How Do I Conduct a Hazardous Waste Determination?
A hazardous waste determination can be made based on knowledge or by having the waste tested by a state certified laboratory.

If applying knowledge, you must be able to clearly demonstrate how the knowledge was correctly applied in making the determination. You may assume a waste is hazardous based on its characteristics or based on past laboratory analysis provided there is no change in how the waste was generated. In some cases, you may use your knowledge of a waste to make a determination as to whether the waste is a characteristic hazardous waste. If you use such information to classify a waste as non-hazardous, you must maintain documentation supporting this determination. If you are unsure, you can have the waste tested. Also, keep in mind that a non-hazardous waste may become hazardous if it is contaminated or mixed with other materials and re-testing may be required.

A detailed explanation of the hazardous waste determination process is provided in Appendix C.

If you need assistance making a hazardous waste determination, you can call NYSDEC hazardous Waste Hotline 1-800-462-6553, or SBEAP at 1-800-780-7227.

5.2 Determining How Much Hazardous Waste Is Generated at Your Shop

Generators of hazardous waste are subject to different requirements, depending on the amount of waste they generate and store on-site. Once you have determined which of your wastes are hazardous, you must then determine how much hazardous waste you generate each month, and how much hazardous waste you have stored at your shop. A Hazardous Waste Worksheet has been included in this section to help you calculate these quantities. When you have completed the worksheet, you should have a list of all hazardous wastes generated at your shop, and the amount of each one that is generated and stored at your shop. You should keep a copy of the completed worksheet at your shop. Remember, any changes in the materials you use or your shop's operations may change your waste, so you should re-evaluate your wastes whenever there are any changes in your auto body repair operations.

The following are step-by-step instructions for completing the Hazardous Waste Worksheet provided on page 25 of this guide.

Step 1: Identify which wastes you generate.
The worksheet includes a list of potentially hazardous wastes typically generated by auto body shops. Read down the column labeled "Waste item that is Potentially Hazardous Waste". Identify any waste that your shop generates, and place a check in Column 1 for each type of waste that your shop has generated in the previous 12 months. Blank rows are also included on this chart to allow you to add other wastes generated at your shop. For example, if your shop does not manage fluorescent lamps as universal waste, they should be added to the worksheet

Step 2: Designate the waste as hazardous or non-hazardous.
A hazardous waste determination must be made for all waste generated at your shop. For each of the wastes checked off in Step 1, mark down "Yes" in column 2 if you have determined that the waste is hazardous. If you have determined that the waste is not hazardous, mark down "No" and do not complete Step 3 for that waste.

Step 3: Record the maximum monthly amount of each hazardous waste generated and amount of hazardous waste accumulated on site.

Step 3a: For each type of hazardous waste you have generated, **enter the maximum amount you have generated in any single month within the past 12 months** in Column 3 of the worksheet. The maximum monthly amount should reflect the amount of hazardous waste you generate in peak months.

Your waste, including liquids, must be counted in pounds. If you know the quantity of your liquid waste in gallons, you can estimate the weight of your liquid waste in pounds by multiplying the quantity in gallons by 8. However, if you determine that the quantity generated at your shop is close to the threshold level for any generator status, you should use a more precise conversion factor to convert gallons to pounds. The product MSDS or the product manufacturer may provide the conversion factor, or you can call SBEAP at 1-800-780-7227 for assistance. For solid wastes, such as paint filters, still bottoms, and waste paint, you should weigh the waste. If you know the weight of the container, do not include it.

Step 3b: For each type of waste you have generated, enter the total amount of hazardous waste accumulated (or stored) on your property at any one time in Column 4. Again, if you have the accumulation quantity of liquid waste in gallons you can convert it to pounds by multiplying by 8. For solid wastes, weigh the waste, and do not include the weight of the container.

Step 4: Calculate the total quantity of hazardous waste generated monthly and accumulated at your shop. Total the maximum monthly amount generated and accumulated for all of your hazardous wastes in pounds in Rows 1-19 and enter the totals in Row 20. The total in Row 20 will be used to determine your shop's hazardous waste generator category in Table 2 of this guide (page 24).

Monthly Hazardous Waste Identification and Quantity Worksheet

	Waste Item That Is Potentially Hazardous Waste	Column 1 Does shop generate this waste? Check if YES	Column 2 Is waste classified as hazardous? YES or NO	Column 3 Maximum Monthly Generation Gallons		Lbs.	Column 4 Total Amount Accumulated On Site at Any One Time Gallons		Lbs.
1	Spent paint gun cleaning solvent				x8			x8	
2	Waste parts washing fluids				x8			x8	
3	Waste paint thinner				x8			x8	
4	Waste anti-freeze				x8			x8	
5	Waste masking tape or paper								
6	Waste paint booth filters								
7	Parts washer filters or sludge								
8	Solvent still bottoms or sludge								
9	Waste sanding dust								
10	Shop rags/ towels contaminated with hazardous waste								
11	Waste or expired oil- or solvent-based paint								
12	Absorbent materials, such as Speedi-Dry, contaminated with hazardous waste								
13	Waste aerosol cans (not empty) with residual contents of hazardous materials (brake cleaner, carburetor cleaner)								
14	Oil/water separator sludge								
15	*								
16	*								
17	*								
18									
19	*								
20	**Total Quantity of Hazardous Waste Generated and Accumulated** *(sum of amounts in column 3 and column 4 for Rows 1-19)*					Lbs.			Lbs.

**Include any additional wastes generated at your shop here. Also, waste lamps not managed as universal waste, and used electronics and lead-acid batteries that are not recycled, must be included on this chart.*

5.3 Determining Your Hazardous Waste Generator Category

The hazardous waste management requirements applicable to your shop are based on your hazardous waste generator category. Your hazardous waste generator category is determined from the quantity of hazardous waste generated per month and accumulated at your shop. These quantities can be determined by completing the Hazardous Waste Identification Worksheet on page 23 of this guide. After you have completed the worksheet, use the totals from line 20, and determine your shop's hazardous waste generator category based on the following:

Table 2
Hazardous Waste Generator Categories

If your shop :	Then your shop is a:
▪ Generates no more than 220 pounds (approximately 27 gallons) of hazardous waste per calendar month. ▪ Generates no more than 2.2 pounds of acute hazardous waste per calendar month, and ▪ Stores no more than 2,200 pounds (approximately 275 gallons) of hazardous waste or 2.2 pounds of acute hazardous waste on site at any time.	**Conditionally Exempt Small Quantity Generator (CESQG)** GO TO SECTION 5.4
▪ Generates more than 220 pounds but no more than 2,200 pounds of hazardous waste per calendar month; ▪ Generates no more than 2.2 pounds of acute hazardous waste per calendar month; ▪ Stores no more than 13,200 pounds (approximately 1650 gallons) of hazardous waste; and ▪ Stores no more than 2.2 pounds of acute hazardous waste on site at any time.	**Small Quantity Generator (SQG)** Call SBEAP at 1-800-780-7227 and request a copy of Appendix F of this guide.
▪ Generates more than 2,200 pounds per month of hazardous waste; ▪ Generates more than 2.2 pounds per month of acute hazardous waste; or ▪ Stores more than 2.2 pounds of acute hazardous waste.	**Large Quantity Generator (LQG)** **STOP –** This guide does not apply to you. Please contact NYSDEC for further information.

Please note, it is unlikely that your shop uses any chemicals classified as Acute Hazardous Waste mentioned in the table above. However, it is your responsibility to identify these wastes. Contact SBEAP at 1-800-780-7227 if you need any assistance identifying wastes generated at your shop.

What to do next:

- If your shop is a CESQG, the requirements for managing hazardous waste at your shop are explained in Section 5.4 of this guide.
- If your shop is an SQG, the requirements for managing hazardous waste at your shop are explained in a separate appendix to this guide. Please contact SBEAP at 1-800-780-7227, and request a copy of Appendix F if your shop is classified as an SQG,
- If you are a LQG, your regulatory requirements are not included in this guide. Please contact the NYSDEC at (518)402-8629 for additional assistance.

5.4 Requirements for Conditionally Exempt Small Quantity Generators (CESQGs)

A conditionally exempt small quantity generator (CESQG):

- generates no more than 220 pounds (approximately 27 gallons) of hazardous waste per calendar month,
- generates no more than 2.2 pounds of acute hazardous waste per calendar month, and
- stores no more than 2,200 pounds of hazardous waste or 2.2 pounds of acute hazardous waste on site at any time.

Most auto body shops will qualify as CESQGs, which have the fewest requirements of the three hazardous waste generators.

Regulatory requirements for CESQGS

CESQGs must comply with the following regulatory requirements:

1. You must identify all hazardous waste generated at your shop.
2. You must comply with the maximum generation and storage quantity limits for CESQGs. You may not store more than 2200 pounds (about five 55 gallon drums) of hazardous waste on-site at any time. If you store more than this amount, your hazardous waste generator category will change and you will have to comply with more requirements. There are no time limits for storage.
3. You must ensure delivery of your hazardous waste to a NYSDEC-approved facility that is one of the following:
    - A state or federally regulated hazardous waste management treatment, storage, or disposal facility.
    - A facility permitted by NYS to manage municipal or industrial solid waste and authorized to receive CESQG hazardous waste. For example, some landfills will take dry paints and still bottoms. Municipal incinerators may be able to take waste materials such as paint thinners, and some solvent formulations. You must obtain prior approval from these facilities.
    - A facility that uses, reuses, or legitimately recycles the waste. If you are recycling or treating the waste yourself, please call NYSDEC at (518)402-8633 if you need more information on hazardous waste treatment or recycling.
    - A universal waste handler or destination facility subject to the universal waste requirements of 6 NYCRR Part 374-3. Universal wastes are wastes such as fluorescent lamps and ballasts, mercury-containing equipment, certain batteries, or recalled or collected pesticides.
    - A permitted household hazardous waste (HHW) collection facility that accepts CESQG waste. See the NYSDEC website at: http://www.dec.ny.gov/chemical/8780.html for a listing and phone numbers of HHW collection programs in your area.
4. You must ensure delivery of your hazardous waste to a NYSDEC-approved facility using one of the following options:
    a. You can use a 6 NYCRR Part 364 Permitted Hazardous Waste Hauler; or
    b. You can legally haul hazardous waste generated by your shop to a NYSDEC-approved facility provided certain conditions are met. A Part 364 permit is not required for CESQGs that transport wastes themselves to a NYSDEC-approved facility provided that less than a total of 220 pounds (about 27 gallons) of hazardous waste is transported per calendar month. Some localities may have additional requirements.

5.5 Best Management Practices for CESQGs

The following are recommended best management practices (BMPs) for CESQGs for managing hazardous waste containers and storage areas;

- ✓ Label each container “Hazardous Waste.”
- ✓ Label each container with the specific contents of each container, such as “Waste Paint Solvent.”
- ✓ Keep containers closed except when adding or removing waste. (New York State air regulations require all containers used to store fresh and used coatings, thinners, and solvents must be kept closed at all times except when filling or emptying. See Section 4.6.)
- ✓ Keep your storage containers in good shape, with no leaks, corrosion, rust, or bulges. If a container is not in good condition or is leaking, transfer the hazardous waste into a container that is in good condition.
- ✓ Open, handle and store hazardous waste containers carefully to prevent them from rupturing and to prevent the waste from leaking or spilling. Use caution when you move containers, and protect them from moving vehicles.
- ✓ Store incompatible hazardous wastes separately. Store each kind of waste in a different container. This will help you avoid putting incompatible wastes in the same container. Mixing wastes can cause dangerous reactions and makes waste disposal more expensive and difficult. For example, you should never store acids (like battery acid) and bases (like alkaline rust remover) in the same container or cabinet. Keep liquid wastes separate from other wastes.
- ✓ Store wastes in containers that are compatible with the waste (so the wastes will not dissolve, corrode, or react with the container itself), or use containers with compatible liners. Steel drums approved by the US Department of Transportation should be used for all paints, thinners, gun cleaners, and paint strippers. Acid wastes should be stored in plastic containers, not metal ones.
- ✓ Store rags and any other materials that may have touched solvents or paint strippers in closed, airtight containers. Leaving dirty, solvent-soaked rags lying around can cause a fire or explosion if fumes from the rags come in contact with a spark.
- ✓ Store all containers far enough apart so that you have room to inspect them thoroughly.
- ✓ Store containers on a surface that will contain spills and leaks, such as a small concrete pad and berm, or a commercially available containment pallet or tray.
- ✓ Store containers inside, in an area protected from the weather.
- ✓ Properly dispose of containers that have stored hazardous wastes you no longer generate and are not compatible with the hazardous wastes you are generating.
- ✓ Lock your storage area to keep it secure.
- ✓ Use a ground strap on metal drums storing flammable materials to avoid sparks from static electricity.
- ✓ Don’t allow hazardous waste storage containers to leak, rust, or get damaged.
- ✓ Don’t allow rainwater to accumulate on the top of drums.
- ✓ Don’t allow smoking near hazardous wastes.
- ✓ Have a written plan for how to prevent and respond to emergencies. Post a list of emergency phone numbers (i.e. fire and police departments, spill reporting number, name and phone number of person in charge in case of emergency) and the locations of emergency response equipment next to the telephone.
- ✓ Keep the following equipment in your shop:
  - A telephone in work area to call for help;
  - Fire extinguishers;
  - Materials to control spills (i.e. spill absorbents, extra 55 gallon drums to transfer wastes);
  - Decontamination supplies (i.e. neutralizing agents like lime).
- ✓ Don’t block emergency equipment. Keep aisle space free of clutter to allow people to get out in case of emergency.
- ✓ Provide employee training regarding how to properly handle hazardous waste, and the procedures to be followed in case of spills or emergencies.

5.6 Universal Waste

The Universal Waste Rule was put into place to ease the regulatory burden for businesses dealing with certain common hazardous wastes. For small quantity generators, it allows a longer collection time (one year) making recycling these wastes more feasible. The Universal Waste Rule also has fewer record keeping, training, and reporting requirements than the hazardous waste requirements for small quantity generators.

Many auto body shops generate waste included under the universal waste rule such as mercury-containing fluorescent lamps, high-intensity discharge (HID) lamps, and batteries. Shops that generate any of these wastes may choose to manage them as either "universal waste" or as hazardous waste. If you choose to manage any of these wastes as universal waste, you DO NOT include the quantity of the waste in determining your hazardous waste generator category. However, once you choose to manage any of these wastes as universal waste, you must continue to handle them as universal waste. Jumping back and forth between the traditional hazardous waste requirements and the Universal Waste Rule in order to avoid any requirements is prohibited.

Items included under universal waste include:

1. **Lamps** - Examples of common universal waste lamps include, but are not limited to, fluorescent lights, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.
2. **Mercury Containing Equipment** such as thermostats, thermometers, barometers, and mercury switches.
3. **Batteries** - Batteries included are nickel-cadmium (Ni-Cd), lithium, and small sealed lead-acid batteries, which are found in many common items in the business and home, including electronic equipment, mobile telephones, portable computers, and emergency backup lighting.
4. **Pesticides** - Agricultural pesticides that are recalled under certain conditions and unused pesticides that are collected and managed as part of a waste pesticide collection program.

Regulatory Requirements for Managing Universal Waste

- Universal waste must be stored in containers that remain closed, are structurally sound, are compatible with the waste, prevent breakage, and lack evidence of leakage or damage.
- Universal waste and/or universal waste containers must be **labeled** as follows:
  - ⇨ **Batteries** - “Universal Waste - Batteries,” “Waste Batteries,” “Used Batteries”.
  - ⇨ **Pesticides** - “Universal Waste - Pesticides” or “Waste Pesticides”.
  - ⇨ **Mercury Containing Equipment** - “Universal Waste - Mercury Containing Equipment”; “Waste Mercury-Containing Equipment”; or “Used Mercury-Containing Equipment”.
  - ⇨ **Universal Waste Lamps** - “Universal Waste - Lamps,” “Waste Lamps” or “Used Lamps”.
- Universal waste may not be accumulated for longer than one year from the date the waste is generated.
- You must be able to demonstrate the length of time that the universal waste has been accumulated by marking the date on the container, maintaining an inventory, or other method.
- All universal waste must be handled in a way that prevents release during accumulation, storage, and disposal.
- All releases of universal waste and other residues from universal waste must be immediately contained.
- All employees who handle or have responsibility for managing universal waste must be informed of the proper handling and emergency procedures for universal waste handled at your shop.
- All universal waste must be sent ONLY to another universal waste handler, a permitted facility, or a foreign destination.

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Section 6 - Bulk Storage and Spills

6.1 Petroleum Spill Reporting Requirements

Petroleum spills that occur within New York State must be reported to the New York State Spill Hotline at 1-800-457-7362 within 2 hours of discovery, **unless they meet all of the following criteria**:

1. The quantity of the spill is known to be less than 5 gallons;
2. The spill is contained and under the control of the spiller;
3. The spill has not and will not reach the State's water or any land; **and**
4. The spill is cleaned up within two hours of discovery.

A spill is considered to have not impacted land if it occurs on a paved surface such as asphalt or concrete and does not pass through to underlying soils. A spill in a dirt or gravel parking lot is considered to have impacted land and is reportable.

Other federal and local agencies may also need to be notified, including the National Response Center at 1-800-424-8802, and your local fire and emergency response corps.

6.2 Chemical (Hazardous Substances) Spill Reporting Requirements

Regulated chemicals or hazardous substances and their reportable quantities (RQ) are listed in 6 NYCRR Part 597. Any release, spill or overfill that equals or exceeds the "reportable quantity" of a regulated chemical, must be reported to NYSDEC. To report these events, call the NYSDEC Spill Response Hotline at 1-800-457-7362 within two hours of the release, spill or overfill.

In addition, releases of **any** amount of a regulated chemical (i.e., even if it is less than the "reportable quantity") must be reported to NYSDEC within two hours, if it is a release which may enter the environment and result in the following:

- a fire with off-site impacts,
- an explosion,
- violation of air quality standards,
- vapors, dust and/or gases that may cause illness or injury to people outside the shop; or
- runoff from fire control or dilution waters that may cause or contribute to a violation of water quality standards.

The owner or operator must also take immediate action to protect human health, safety and the environment. You are not required to notify NYSDEC within the two-hour time frame if a spill or overfill is captured in an appropriate secondary containment system, you contain the hazardous substance, and you expect to recover or account for the total volume of the spill within 24 hours. However, if the spill or overfill will not be completely contained and recovered or accounted for within 24 hours, or if the secondary containment allows the "reportable quantity" of chemical to reach the environment, NYSDEC must be notified within 24 hours from the time the spill or overfill occurred. Suspected or probable releases to the environment also must be reported to the NYSDEC hotline within 24 hours of discovery.

6.3 Petroleum and Chemical Bulk Storage Tank Requirements

All underground storage tanks (USTs) greater than 110 gallons (except those tanks used for on-site heating oil) must have been upgraded to meet EPA standards for corrosion protection and overfill and leak detection. Tanks that were not properly upgraded must be closed. If your shop has not upgraded or closed your underground storage tanks to meet EPA requirements you should contact your regional NYSDEC office listed in Appendix A.

NYSDEC has also established standards for both aboveground and underground petroleum storage facilities with one or more tanks having a combined capacity of more than 1,100 gallons and any tank whose capacity is greater than 110 gallons where 10% or more of the volume of the tank is underground in 6 NYCRR Parts 612-614. Petroleum is defined as: crude oil and any fraction thereof; any mixture containing crude oil or any fraction thereof; and synthetic forms of lubricating oil, dielectric oils, insulating oils, hydraulic oils and cutting oils. This includes crude oil, motor fuels, heating oils, lubricating and cutting oils, petroleum greases, petroleum spirits (mineral spirits, naphtha), mineral and insulating oils (and

products made from mineral oil including automatic transmission fluid), and used oil. Petroleum does not include hazardous waste, substances regulated under the chemical bulk storage program, animal or vegetable oils that do not contain crude oil or any fraction thereof, or products that are gases at 68 degrees Fahrenheit and one atmosphere pressure (e.g, propane). A property that includes a heating oil tank with a capacity less than 1,100 gallons that is used solely for on-premises consumption is not a "facility" unless the heating oil tank is on a site that otherwise meets the definition of facility (used to store more than 1,100 gallons of other petroleum or having an underground tank greater than 110 gallons).

All underground tanks and any stationary aboveground tanks of 185 gallons or more that store a hazardous substance, and non-stationary tanks storing 2,200 pounds or more of a hazardous substance, or a mixture thereof, for a period of 90 days or more are subject to the technical standards of 6 NYCRR Parts 598 and 599.

Installing a New System
In New York, new underground systems must be designed with at least a 30-year life expectancy and consist of a double-walled tank, piping made of fiberglass, cathodically protected steel or the new flexible piping system, a "spill bucket" at the fill pipe and an overfill alarm or prevention device.

Retrofitting Existing Systems
If you cannot afford a new tank or are planning to remove the tank from service within 5 or 10 years, retrofitting might be best for your shop. If you choose this option, you may either reline the tank, install cathodic protection for both the tank and piping, or do both. Before you have the contractor undertake any of this work, make sure he performs a tank inspection to ensure that no corrosion holes exist. If perforations or loose piping joints exist, you cannot retrofit.

Closing the Old System
If the existing tank and pipes are unsuitable for continued service and you do not wish to replace them, then you must close the system. Prior to closing your underground storage tank system, the owner/operator should contact the NYSDEC Regional Bulk Storage Representative (see Appendix A for NYSDEC Regional Offices). When you close your tank, you should keep these five requirements in mind:

- Notify NYSDEC ahead of time.
- Have the tank pumped free of product and cleaned.
- Remove it, or if left in place, fill it with an inert material such as sand or concrete slurry.
- To prevent accidental delivery, disconnect all piping, especially the fill pipe.
- Perform a site assessment. This is a written report that you keep on file to prove to future buyers, insurance companies, and NYSDEC that the site is clean.

6.4 Petroleum and Chemical Storage Tank Registration Requirements

Both petroleum and chemical (hazardous substance) tanks must be registered with NYSDEC. Registration forms can be obtained from the NYSDEC website at: www.dec.ny.gov/chemical/4767.html. If you need assistance in determining which tank(s) must be registered, or have other questions about Bulk Storage requirements, please call the Bulk Storage Helpline at (518) 402-9543.

Used Oil Tanks
All used oil tanks, regardless of size, are subject to the petroleum bulk storage registration requirements. Registration fees are not required for facilities where the combined storage capacity of all petroleum storage tanks is 1,100 gallons or less. Drums do not have to be registered. Used oil must be stored in sturdy, leakproof drums or tanks that are in compliance with State or local building and fire codes, and they must be clearly labeled "USED OIL." In addition, the label for aboveground tanks must include the design and working capacity of the tank. Underground tanks must be labeled at the fill port.

Antifreeze Tanks
There are two types of antifreeze: ethylene glycol antifreeze (a greenish-yellow chemical), and propylene glycol antifreeze, which is less toxic. Ethylene glycol is a regulated hazardous substance. Tanks greater than 185 gallons storing ethylene glycol antifreeze must be registered with NYSDEC under the chemical bulk storage program. Drums that are used to store antifreeze do not have to be registered.

Section 7 - Water Pollution

Auto body shops face two main issues with water pollution: proper management of industrial wastewater, and floor drains in the shop floor. Both the state and federal government have laws and regulations to protect the quality of our water. Discharges of untreated wastewater or contaminated stormwater can have a significant impact on the quality of both surface water and groundwater. Discharges from auto body repair shops are a concern because they may contain pollutants from sanding and paint wastes, solvents, parts washers, automotive fluids, vehicle wash water and other materials.

7.1 Types of Wastewater

Operators of auto body shops must know what types of wastewater discharges they have, where these discharges go, and what requirements are applicable to them. Wastewater is generated any time water is discarded. There are three kinds of wastewater:

1. **Domestic (or sanitary) wastewater** is generated from residential type sources such as using bathrooms, washing hands, showering, laundry and preparing food. Domestic wastewater is not the focus of this guide. Don't flush any industrial wastewater down bathroom or kitchen sinks, toilets, showers, or other places designed for domestic wastewater.
2. **Industrial wastewater** means all non-domestic wastewater discharges from any industry, trade or business. Industrial wastewater can contain a large variety of pollutants which have specific treatment requirements. Industrial wastewater at auto body repair shops includes water from washing vehicles, equipment washing, work area washing, and wet sanding. On-site wastewater treatment systems such as septic tanks are not designed to treat industrial wastewater from an auto body shop. Also, discharges from your shop to a municipal sewage treatment plant may have restrictions because certain materials are toxic, corrosive or flammable and can damage sewer systems or upset the operations at the treatment plant.
3. **Stormwater** is runoff from rain and melting snow. Stormwater can pick up pollutants such as oil, fuel, solvents or other materials from pavement or equipment and discharge them directly into streams, rivers, lakes, or groundwater. It is important to prevent contamination of stormwater by cleaning up spills, and not dumping wastewater or materials into storm drains or onto the ground. Your shop should store chemicals, and wastes in a manner that prevents rain and snow melt from coming into contact with these materials.

7.2 Wastewater Management Requirements

All auto body shops must identify where their shop discharges wastewater. All auto body shops must never allow wastewater to run off-site or soak into the ground. The specific requirements for managing your shop's wastewater discharges (including discharges from floor drains), and the authority that regulates your shop's wastewater discharges depend upon where these discharges go.

The possible discharge points are:

Discharges to a Municipal Sewage Treatment Plant

If you discharge wastewater to a municipal sanitary sewer system, your discharge goes to a municipal sewage treatment plant, which is also called a publicly owned treatment works (POTW). Sewage treatment plants are designed to treat sanitary wastewater and some types of industrial wastewater. Check with your POTW or local sewer authority to make sure you are complying with their requirements. Your local sewer authority may require a permit or pretreatment system designed to protect the sewage treatment plant. Requirements typically prohibit discharges of corrosive materials, flammables and other materials such as engine degreasers or solvents. Some POTWs may require an oil/water separator to be installed and maintained for industrial wastewater discharges.

Discharges to a Holding Tank
There are no permitting requirements if your shop discharges wastewater to a holding tank which is routinely collected and transported to a permitted wastewater treatment plant. Although a permit is not required, you will need to sample the contents of the holding tank to identify what chemicals are present so that the treatment plant can determine whether they can accept your wastewater. Your wastewater must be hauled away by waste transporter with a valid a 6 NYCRR Part 364 permit. Additionally, you must keep records of all hauling activities to document that you are responsibly managing your wastewater.

Discharges to a Septic Tank
When a municipal sanitary sewer system is not available, most facilities dispose of their domestic or sanitary wastewater to an on-site sewage disposal system. On-site sewage disposal systems consist of a septic tank and a leach field that are designed to capture solids and discharge the remaining wastewater to the ground and groundwater. Although on-site sewage disposal systems are appropriate to treat domestic sewage, these treatment systems are not effective at treating the types of contaminants found in wastewater from an auto body repair shop. Groundwater discharges are required to meet stringent groundwater standards. If you are discharging industrial wastewater into a septic system or into the ground, you must stop these discharge activities immediately, and find another way to manage your industrial wastewater.

Discharges to Surface Water
If your shop discharges wastewater to surface water then you are required to obtain a State Pollutant Discharge Elimination System (SPDES) Permit from the NYSDEC. The SPDES permit program is regulated under 6 NYCRR Part 750. A SPDES permit will list the pollutants that your shop is discharging and may contain limits, action levels and monitoring for each pollutant that NYSDEC determines necessary to address. Your shop will likely be required to install a treatment system, such as an oil/water separator, to meet your SPDES permit limits. To make certain you are complying with your permit limits, you will be required to sample your discharge and submit monitoring reports to the NYSDEC. Your SPDES permit will also contain permit conditions that prohibit certain discharges. For example, discharging engine degreasers, gasoline, anti-freeze or solvents to the oil/water separator would be prohibited. Additionally, car washing discharges might only be allowed if no detergents are used. This restriction may be imposed if your discharge goes to an oil/water separator because detergents would not be effectively treated by the separator and detergents can dissolve oils thus preventing the removal of oils through the separator. If you are discharging industrial wastewater to surface water, and you do not already have a SPDES permit for this activity, you must obtain one or find another way to manage your wastewater. Contact your Regional NYSDEC office (listed in Appendix A) for information on obtaining a SPDES permit and what type of treatment is necessary for your discharge.

Discharges to a Separate Storm Sewer System
Not all public sewer systems go to a wastewater treatment plant. Many municipalities have separate storm sewer systems that collect and convey stormwater to nearby surface water. You must check with the local sewer authority or municipality that maintains the sewers to determine what type of sewer your discharge goes to and whether the discharge is allowed. Storm sewer systems do not provide any treatment and a discharge to them would be considered as a surface water discharge subject to the SPDES permitting requirements as described in the “Discharges to Surface Water” section listed above.

7.3 Floor Drains

Floor drains are found at many auto body shops, and are an environmental concern because spills, leaks or material residues can be easily discharged along with washwater or snow melting from vehicles out the floor drain. You must know where all your shop floor drains discharge to, and comply with the environmental regulations that apply to your discharge activities. In New York State, it is illegal to discharge directly to ground or surface waters without a SPDES permit. If your floor drains are not connected to a publicly owned treatment works (POTW) or some type of holding tank, and you do not have a SPDES permit, you are in violation of the Environmental Conservation Law. If you have open floor drains at your shop that you are not using, consider having them capped or plugged. The mere existence of a floor drain at your shop could be regarded as an intention to discharge.

Never pour fluids like oil, solvents, paints or chemicals into a floor drain. This could contaminate your property and expose you to large fines and even larger clean up costs later.

Floor drains must comply with the regulatory requirements for possible discharge locations as explained in the previous section. If you do not know where your drains lead or if you are using floor drains improperly, you could be contaminating nearby surface waters or drinking water. The following is a brief summary of the regulatory requirements for discharges from floor drains:

- If you are using floor drains to discharge industrial wastewater into a septic system or into the ground, you must stop these discharge activities immediately, and find another way to manage your wastewater.

- If you are using floor drains to discharge industrial wastewater to surface water, and you do not already have a SPDES permit for this activity, you must obtain one or find another way to manage your wastewater. Most facilities have found that sealing their floor drains is the most effective solution to this situation.

- If you are using floor drains to discharge wastewater to a municipal sewer system or local wastewater treatment plant, you must make sure the local sewer authority is aware of this activity. You may need to get a permit for the discharge. Some POTWs may require an oil/water separator to be installed and maintained for a discharge from floor drains.

- If you are using floor drains to discharge wastewater to a holding tank, you must make sure that the wastewater is routinely collected and transported to a permitted wastewater treatment plant by waste transporter with a valid 6 NYCRR Part 364 permit.

7.4 Maintaining Your Wastewater Treatment System

Depending on where your industrial wastewater discharges, your shop may have a treatment system designed to treat or pre-treat your industrial wastewater. If your shop has a treatment system, it must be adequately maintained so that it operates as designed. For example, oil/water separators should be checked on a monthly basis to make sure they are working properly. Also, sludge should be removed at least annually. Prior to disposal, you must make a hazardous waste determination on the sludge, and dispose of it properly. Non-hazardous sludge can be hauled by a septic tank company, or if dry, taken to a landfill. If the sludge is determined to be hazardous, and you are a conditionally exempt small quantity generator (CESQG), you can transport this sludge to an approved disposal facility. This includes transporting dried sludge to your local landfill. Check with your local landfill for their requirements. Contact your regional NYSDEC office, listed in Appendix A, for an approved disposal facility.

7.5 Stormwater

The USEPA has established a program to address stormwater discharges associated with industrial activity. The term “industrial activities” refers to specific industries identified by federal regulations [40 CFR 122.26(b)(14)] that are required to develop a stormwater pollution prevention plan and obtain a permit for their stormwater discharges. The list of industries requiring a permit is based upon Standard Industrial Classification (SIC) codes and descriptions of several other industries. Facilities whose primary activities are described as Auto Body Repair Shops (SIC code 7532) or General Automotive Repair (SIC code 7538) are not included in the definition of industrial activities and are therefore not required to get a permit for stormwater.

If you have any questions on stormwater permitting, contact NYSDEC’s Bureau of Water, General Permit Section at (518) 402-8109.

APPENDICES

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Appendix A - Resource Guide

The following offices may be contacted for additional information about the regulations discussed in this guide:

A.1 - State Agencies

New York State Environmental Facilities Corporation
Small Business Environmental Assistance Program (SBEAP)
625 Broadway. Albany, NY 12207-2997.
(800) 780-7227 (within New York State) or (518) 402-7462.
SBEAP offers free, confidential technical assistance regarding all the regulations discussed in this work book.

Empire State Development
Small Business Environmental Ombudsman (SBEO)
633 Third Avenue, New York, NY 10017
(877) 247-2329.
The SBEO will help determine which regulations and requirements affect your business operations and how to comply with them, and your rights and responsibilities once a permit or registration is issued. The SBEO will work with your company to develop a plan of action and provide clear explanations to resolve environmental compliance issues. All SBEO services are free and confidential.

New York State Department of Environmental Conservation
625 Broadway, Albany, NY 12233

Division of Air Resources
Bureau of Stationary Sources
(518) 402-8403
Responsible for source review, permitting, MACT, NESHAP implementation, and air toxics assessments.

Division of Environmental Permits
Pollution Prevention Unit (PPU)
(518) 402-9469
This Unit is responsible for the development of outreach and compliance assistance programs and offers workshops, training, and publications.

Division of Solid & Hazardous Materials
Bureau of Hazardous Waste Management
(518) 402-8633
Responsible for making hazardous waste determinations, reviewing hazardous waste reduction plans, hazardous waste permitting, and used oil.

Hazardous Waste Hotline
(800) 462-6553
Provides technical assistance regarding hazardous waste determinations and hazardous waste management.

Bureau of Solid Waste, Reduction & Recycling
(518) 402-8678
Responsible for the waste transporter program, the waste tire program, the beneficial use program, composting programs, and other solid waste recycling and waste reduction issues.

Division of Water

Bureau of Water Permits
(518) 402-8111
Responsible for managing the State Pollutant Discharge Elimination System (SPDES) permits, the water resources programs, and the municipal water supply permits.

Division of Environmental Remediation

Petroleum and Chemical Bulk Storage
(518) 402-9549
Responsible for the registration of above/underground tanks, conducting workshops and training, and developing publications for the petroleum and chemical bulk storage program.

Spill Response Hotline
(800) 457-7362
To report releases of petroleum products or hazardous substances to air, land or water. Regulations require reporting within 2 hours if certain conditions are not met. Also, the National Response Center should be notified at (800) 424-8802.

Petroleum Bulk Storage Hotline
(518) 402-9549
Provides technical assistance on chemical and petroleum above/underground storage tanks.

A.2 - NYSDEC Regional Offices

REGION 1 - Nassau & Suffolk Counties
Building 40 SUNY at Stony Brook
Stony Brook, NY 11794
(631) 444-0230

REGION 2 - Bronx, Kings, New York, Queens and Richmond Counties
1 Hunters Point Plaza
Long Island City, NY 11101
(718) 482-4900

REGION 3 - Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester Counties
21 South Putt Corners Road
New Paltz, NY 12561-1696
(845) 256-3054

REGION 4 - Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady and Schoharie Counties
1150 North Westcott Road
Schenectady, NY 12306-2014
(518) 357-2234

REGION 5 - Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren and Washington Counties
Route 86
Ray Brook, NY 12977
(518) 897-1242

REGION 6 - Herkimer, Jefferson, Lewis, Oneida and St.Lawrence Counties
317 Washington Street
Watertown, NY 13601
(315) 785-2513

REGION 7 - Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga and Tompkins Counties
615 Erie Boulevard West
Syracuse, NY 13204-2400
(315) 426-7400

REGION 8 - Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne and Yates Counties
6274 East Avon-Lima Road
Avon, NY 14414
(585) 226-2466

REGION 9 - Allegany, Cattaraugus, Chautauqua, Erie, Niagara and Wyoming Counties
270 Michigan Avenue
Buffalo, NY 14203-2999
(716) 851-7220

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Appendix B - Air Permits and Registrations

If your shop is not exempt from Part 201 (see section 4.1 of this guide), either a NYSDEC air permit or air registration is required to operate your shop. If you do not have an air permit or registration please contact SBEAP at 1-800-780-7227 for assistance in obtaining an air registration or permit from NYSDEC. All air permit or registration applications must be submitted to the NYSDEC Regional Air Pollution Control Engineer. See Appendix A for the address of your local NYSDEC Regional Office.

B.1 - Determining Whether Your Shop Requires an Air Permit or Registration

The determination of whether an auto body shop requires an air permit or registration is based on the amount of VOC and HAP emissions from the shop, and whether the shop is located in the New York City and Lower Orange County Metropolitan Areas. Section B.2 provides a briefly explains how VOC emissions are calculated.

The New York City Metropolitan Area consists of the City of New York, and Nassau, Suffolk, Rockland and Westchester Counties. The Lower Orange County Metropolitan Area consists of the Towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury.

Air Registrations

Shops Located in New York City and Lower Orange County Metropolitan Areas
A Minor Facility Registration is required for all auto body shops located in the New York City and Lower Orange County Metropolitan Areas whose total annual actual VOC emissions are not greater than 12.5 tons per 12 month period; whose individual actual HAP emissions are not greater than 5 tons per 12 month period; and whose combined HAP emissions are not greater than 12.5 tons per 12 month period.

Shops Not Located in New York City and Lower Orange County Metropolitan Areas
For auto body shops located outside of the New York City and Lower Orange County Metropolitan Areas, a Minor Facility Registration is required for shops whose total annual VOC emissions are not greater than 25 tons per 12 month period; whose individual actual HAP emissions are not greater than 5 tons per 12 month period; and whose combined HAP emissions are not greater than 12.5 tons per 12 month period.

State Facility Air Permits

Shops Located in New York City and Lower Orange County Metropolitan Areas
In the New York City and Lower Orange County Metropolitan Areas, a State Facility Air Permit is required for auto body shops whose actual VOC emissions are under 25 tons per year but over 12.5 tons per year and require a permitting cap to limit them as such; whose individual and combined HAP emissions are below 10 tons and 25 tons per year, respectively.

Shops Not Located in New York City and Lower Orange County Metropolitan Areas
For auto body shops located outside of the New York City and Lower Orange County Metropolitan Areas, a State Facility Permit is required for businesses whose actual VOC emissions are under 50 tons per year but over 25 tons per year and require a permitting cap to limit them as such; and whose individual and combined HAP emissions are below 10 tons and 25 tons per year, respectively.

Local Agency Permits

Local county, city and town agencies may also have permitting requirements. You should contact your local government offices to determine if there are any local air permitting requirements. Shops located in the New York City Metropolitan area require, at a minimum, an air permit from the New York City Department of Environmental Protection (see www.nyc.gov/html/dep/html/businesses/smartbiz.shtml). Shops located in Westchester County must obtain an air permit from the Westchester County Department of Health (see www.co.westchester.ny.us/health/Air_Quality_Issues.htm).

B.2 - Calculating VOC Emissions

If an auto body shop is not exempt from 6 NYCRR Part 201, the total annual amount of VOC emissions from the shop is used to determine whether an air permit or an air registration is required for the shop to operate. Please call SBEAP at 1-800-780-7227 for assistance in computing the VOC emissions from your shop.

The following information is needed to calculate the total annual VOC emissions from an auto body shop:

1. The quantity in gallons of paints, solvents, primer, precoat, or any other coatings or additives containing VOCs that are used in the shop on an **annua**l basis. Purchase order records can be used to determine this amount.
2. The VOC content in lbs./gallon of paints, solvents, and coatings used in the shop. Most MSDSs provide the VOC content of paints and coatings as a percentage by weight, not in lbs./gallon. Therefore, the VOC content in lbs./gallon must be calculated as follows:

   VOC content (lbs./gallon) = (% VOC content /100) x density of paint or coating (lbs./gallon)

   If the VOC content is not provided in lbs./gallon, you can contact the product manufacturer for this information, or you can call SBEAP at 1-800-780-7227 for assistance in calculating your VOC emissions.

The total annual VOC emissions from the shop is equal to the annual usage (in gallons) of the materials applied times the VOC content.

Total Annual VOC Emissions = Annual Usage (gallons) x VOC Content

Example: Mr. Fix It Auto Body Shop uses 130 gallons a year of paints and lacquers, 52 gallons/year of thinners, and 20 gallons/year of cleanup solvents. The MSDSs list the VOC content at: paints and lacquers - 5.0 pounds/gallon, thinners - 6.5 pounds/gallon, and cleanup solvents - 7.0 pounds/gallon.

Paints and Lacquers
Annual Usage = 130 gallons VOC Content = 5.0 pounds/gallon
VOC Emissions = (130 gallons/year) x (5.0 pounds/gallon)
VOC Emissions = 650 pounds/year

Thinners
Annual Usage = 52 gallons VOC Content = 6.5 pounds/gallon
VOC Emissions = (52 gallons/year) x (6.5 pounds/gallon)
VOC Emissions = 338 pounds/year

Cleanup Solvents
Annual Usage = 20 gallons VOC Content = 7.0 pounds/gallon
VOC Emissions = (20 gallons/year) x (7.0 pounds/gallon)
VOC Emissions = 140 pounds/year

Total VOC Emissions
Mr. Fix It 's total annual VOC emissions = 650 + 338 + 140 = 1128 pounds.

You must also check the MSDS of primers, precoat or any other coating used at your shop for the VOC content of these materials.

Appendix C - Making a Hazardous Waste Determination

A waste is hazardous if it exhibits a certain characteristic or it is listed as a hazardous waste in regulations, as described below:

- It is ignitable, corrosive, reactive or toxic.(These characteristics are explained under step 3, below.) This waste is classified as "**characteristic hazardous waste" ,** or
- The waste is a "**listed hazardous waste**" as listed in **6NYCRR Part 371.**

There are two methods for determining whether a waste is hazardous:

1. **Knowledge** - This method allows business owners to apply their knowledge of the products and processes used at their facility to determine whether or not the wastes generated are hazardous. You must have a basis for making this determination such as material safety data sheets (MSDSs) or past analytical results. MSDSs may contain important information such as ignitability (flashpoint), corrosivity, or reactivity for substances or chemicals that you use in your shop. Please note that MSDSs only describe the new product. During use, a non-hazardous product could become hazardous by mixing or contamination.

   When applying this method, remember:
   - Non-hazardous *products* can become hazardous as *wastes* depending on the process used at your shop.
   - Use each product's material safety data sheet (MSDS) to help identify ingredients that might cause the waste to exhibit the characteristic of a hazardous waste or if it contains listed wastes.
   - If applying knowledge, you must be able to clearly demonstrate how the knowledge was correctly applied in making the determination.
   - If you are certain that a specific waste that you generate is not a hazardous waste because of your knowledge about this waste, then you can dispose of this waste as a solid waste. However, it is your responsibility to make this determination, and you will be liable for any illegal disposal of hazardous waste if it turns out that the waste was, in fact, hazardous.

2. **Waste Analysis** — Business owners can have wastes tested by a certified lab to determine if the wastes exhibit characteristics of hazardous wastes or contain listed hazardous wastes. A list of New York State certified labs is available at: www.wadsworth.org/labcert/elap/elap.html.

The following steps will walk you through the hazardous waste determination process. That is, first identify all wastes generated at your facility, and then help you figure out which of those wastes, if any, are hazardous waste.

Step 1: Identify the waste generated at your shop.
Make a list of all waste generated at your shop. What does your business actually discard? Include all areas of your business in your list, inspect storage areas and dumpsters. Don't forget to include fluorescent lamps and computers. You may also wish to check incoming materials, and talk to your vendor to make sure all potential wastes have been identified. Use the Hazardous Waste Worksheet in Section 5 of this guide to assist in identifying waste streams.

Step 2: Gather available information about each waste.

- For each waste, check the raw materials that are used to generate the waste. A Material Safety Data Sheet (MSDS) may be useful for identifying the chemical components in the product. (Remember, an MSDS gives information about the material before use, not the waste.) In addition to using an MSDS, your vendors may also be helpful in providing information about their products.
- Identify what happens in the waste-producing process. Determine which contaminants, if any, could be picked up in the process.

Step 3: Review the MSDS or other information and classify the waste as non-hazardous or hazardous by answering the following questions:

1. **Is the waste a "listed hazardous waste" as listed in 6 NYCRR Part 371?** If a waste is listed in **6 NYCRR Part 371.4**, it is hazardous. The wastes listed in Part 371.4 are grouped into four lists: the F list, the K list, the P list and the U list. The complete list of listed hazardous wastes and their waste codes can be viewed at: www.dec.ny.gov/regs/14898.html. Use the product MSDS to identify the chemical components in the product. Next:

   • Compare the chemical names on the MSDS with those on the **F list**. Spent solvents are often F-listed wastes. Waste solvents appearing on the F list (F001 -F005) are the most commonly generated listed wastes. F-listed wastes also include many paint and lacquer thinners, solvents, and distillation bottoms.

   • Check the **P and U lists** if you are disposing of unused or unusable chemical products or spill residues. To be P- or U-listed, the P or U chemical must either comprise 100 percent of the waste or be the sole active ingredient. Wastes that are on the P list are called "acutely hazardous" and are regulated more strictly than the other types of hazardous waste.

   • Check the K list if the waste is the result of a specific industry process — such as wood preserving, manufacture of pesticides, explosives, inks, organic or inorganic chemicals and inorganic pigments, petroleum refining, and the iron and steel industries.

2. **Does the waste display a hazardous characteristic?** Having one or more of the following four characteristics makes a waste hazardous:

   - **Ignitability -** Ignitable waste catches fire easily. Ignitable waste is a liquid waste that has a flash point below 140° F (60° C) or a non-liquid waste able to spontaneously combust and burn persistently. Examples of ignitable waste include mineral spirits, most petroleum-based parts washer solvents, some solvents, paint wastes, and paint booth filters. The MSDS will give the flash point of the *product.* This will likely be close to the flash point of the waste unless the waste is contaminated with materials that have a very low flash point, such as gasoline. The waste code for ignitable wastes is D001.
   - **Corrosivity** - Corrosive wastes are wastes that have a pH of 2.0 or lower, or a pH of 12.5 or higher. They corrode metal, and burn skin. Corrosive wastes include battery acid, certain rust removers, and waste acid or alkaline cleaning fluids. The waste code for corrosive wastes is D002.
   - **Reactivity** - Reactive wastes are unstable and explode or produces toxic fumes, gases, and vapors when mixed with water or air. Examples are certain lithium-sulfur batteries and explosives. The waste code for reactive wastes is D003.
   - **Toxicity -** If your waste is not ignitable, corrosive or reactive, then it might have to be tested and analyzed for toxicity, using the toxicity characteristic leaching procedure (TCLP). In this procedure, if the waste releases any of the regulated hazardous contaminants at concentrations equal to or greater than the regulatory levels, then the waste exhibits the toxicity characteristic, and is a hazardous waste. The TCLP test is done by having a representative sample of the waste tested by a certified lab. Auto body wastes that may fail the TCLP test include: spray booth filters (if the filters are covered with a lot of overspray from paints that contain heavy metals such as lead, chromium, etc.), sanding dust, certain painting wastes, floor sweepings, used shop towels or rags, oily wastes, oil absorbents, floor drain and sump sludge, and used antifreeze. Toxic wastes have special waste codes (D004 to D043), depending on the contaminant present. For example, lead contaminated waste has the code D008. See www.dec.ny.gov/regs/14897.html for a complete list of toxic wastes and their waste codes.

3. Is the waste a mixture of a solid waste and a hazardous waste? If you mix any non-hazardous waste with a listed waste, all of it is hazardous, even if there is only a very small amount of listed hazardous waste in the mixture. Some examples are: brake cleaner mixed with parts washer solvent or used oil, cleaning rags that are wet with hazardous solvents, still bottoms from F-listed solvent recycling, kitty litter used to clean up a hazardous waste spill. Keep in mind that a non-hazardous waste may become hazardous if contaminated or mixed with hazardous waste. As a good management practice, you should always keep solid waste separate from your hazardous wastes. This will reduce or eliminate the mixing and/or contamination of wastes which could increase your disposal costs.

4. **Does the waste contain more than 50 ppm polychlorinated biphenyls (PCBs)?** Examples of PCB waste include many old fluorescent lamp ballasts, capacitors in older appliances, and oil from older utility transformers. Sometimes an MSDS for products containing PCBs may no longer be available, so you will need to test wastes that often contain PCBs or manage them as hazardous PCB waste.

Step 4: Classify the waste by testing. If you cannot classify the waste based on knowledge, have a sample of the waste tested at a state certified lab to get the information you need. A list of New York State certified labs is available at: www.wadsworth.org/labcert/elap/elap.html.

If you strongly suspect the waste is hazardous, coordinate with a hazardous waste disposal facility. Follow their sampling and testing protocol. By working with the disposal facility, the test results can also be used for waste acceptance approval if the waste is found to be hazardous (keep records). Save the test results because a hazardous waste inspector may want to know how you determined your waste was hazardous. **You are required to keep all records of laboratory analysis, knowledge of process demonstrations and disposal records for a minimum of three years from the date the waste is shipped off-site.**

Reevaluating your waste is not required unless you change materials or processes. These changes could alter the makeup of the resulting waste, and you are then required to re-evaluate it to ensure proper handling and disposal. Some transporters and disposal facilities may also require you to reevaluate your wastes each year.

Finally, if you determine your waste is not hazardous, this does not simply mean that the waste can go into a dumpster or down the drain. Non-hazardous wastes are subject to industrial solid waste rules, wastewater rules or both. Coordinate with the landfill, industrial burner or wastewater treatment plant operator before disposal. Never place industrial waste in a septic system.

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Appendix D - Hazardous Waste Codes and Sample Manifest Form

Hazardous waste codes (or numbers) are codes assigned by the US EPA and New York State to each type of characteristic hazardous waste and each listed hazardous waste. The codes consist of one letter and three numbers. You will need the hazardous waste codes for any hazardous waste generated at your shop when you request an EPA ID number and to complete your hazardous waste manifest, if necessary. This appendix provides the EPA Hazardous Waste Codes for hazardous wastes that may be generated by auto body shops. This list is not all inclusive. In those cases where more than one EPA Hazardous Waste Code is applicable, all should be used. If you have any questions, or are unable to determine the proper EPA Hazardous Waste Code for your waste, please contact the Technical Determination Section, Bureau of Hazardous Waste Management at (518) 402-8633. A sample copy of the hazardous waste manifest form is also provided on the last page of this appendix.

Characteristic Hazardous Wastes Codes

D001 Ignitable - A liquid that will ignite (flash point) at less than 140°F or a non liquid waste able to spontaneously combust and burn persistently Liquid that will ignite (flash point) at less than 140°F. Examples include mineral spirits , spent solvents, waste gasoline, solvent still bottoms, ignitable paint wastes (paint removers, brush cleaners and stripping agents), and epoxy resins and adhesives. Unless otherwise specified, all ignitable wastes have the EPA Hazardous Waste Code of D001.

Some commonly used ignitable compounds are:

Acetone - F003
Benzene - F005, D018
n-Butyl Alcohol - F003
Chlorobenzene - F002, D021
Cyclohexanone - F003
Ethyl Acetate - F003
Ethylbenzene - F003
Ethyl Ether - F003
Ethylene Dichloride - D001
Methanol - F003
Methyl Isobutyl Ketone - F003
Petroleum Distillates - D001
Xylene - F003

D002 Corrosive Wastes -Corrodes metals or is a strong acid or a strong base (pH less than 2 or greater than 12.5). Examples include rust remover, car battery acid, drain cleaner, muriatic acid, sulfuric acid, solutions of sodium hydroxide

D003 Reactive - Very unstable and readily undergoes violent change without detonating, reacts violently, forms a potentially explosive mixture, or generates a toxic gas when mixed with water.

D004 – D043
Waste materials exhibit the characteristic of toxicity and are considered hazardous if they fail the Toxicity Characteristic Leaching Procedure (TCLP) These wastes may include paint wastes and paint booth filters".

Arsenic D004	Hexachlorobenzene D032
Barium D005	Hexachlorobutadiene D033
Benzene D018	Hexachloroethane D034
Cadmium D006	**Lead D008**
Carbon tetrachloride D019	Lindane D013
Chlordane D020	**Mercury D009**
Chlorobenzene D022	Methoxychlor D014
Chloroform D021	Methyl ethyl ketone D035
Chromium D007	Nitrobenzene D036
o-Cresol D023	Pentrachlorophenol D037
m-Cresol D024	Pyridine D038
p-Cresol D025	**Selenium D010**
Cresol D026	**Silver D011**
2,4-D D016	Tetrachloroethylene D039
1,4-Dichlorobenzene D027	Toxaphene D015
1,2-Dichloroethane D028	Trichloroethylene D040
1,1-Dichloroethylene D029	2,4,5-Trichlorophenol D041
2,4-Dinitrotoluene D030	2,4,6-Trichlorophenol D042
Endrin D012	2,4,5-TP (Silvex) D017
Heptachlor (and its epoxide) D031	Vinyl chloride D043

Listed Hazardous Wastes Codes

Waste Code	Material	Examples
F001	spent solvents used in degreasing such as: tetrachloroethylene (also called perchlorethylene), trichloroethylene, methylene chloride, carbon tetrachloride, and chlorinated fluorocarbons	Degreasers, engine cleaner
F002	Tetrachloroethylene (also called perchlorethylene), trichloroethylene, methylene chloride, trichlorofluoromethane	Spent solvents, parts cleaner
F003	xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, methanol	Spent solvents, carburetor and fuel injector
F004	cresols, cresylic acid (cresylic acid) nitrobenzene	Spent solvents, carburetor dip cleaner
F005	toluene, methyl ethyl ketone, carbon disulfide, isobutanol cleaners (containing toluene), pyridine benzene, 2-ethoxyethanol, 2-nitropropane	Spent solvents, carburetor and fuel injector

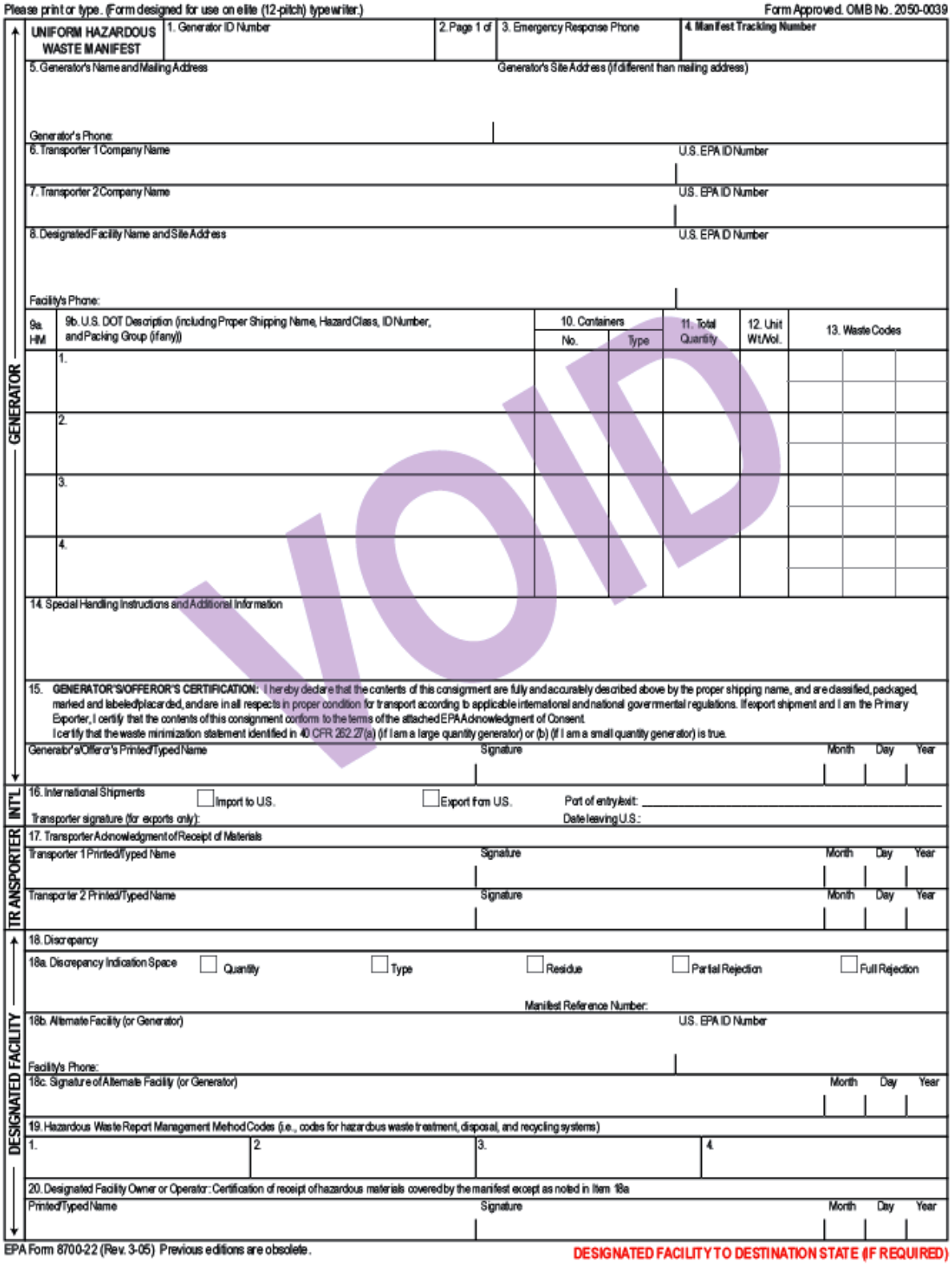
SOLVENTS
Certain solvents, spent solvents, solvent mixtures, or solvent still bottoms may be hazardous. This includes solvents used in degreasing (identified as F001) and paint brush cleaning and distillation residues from reclamation. The following are waste codes for some commonly used hazardous solvents:

Benzene - F005, D018
Carbon Disulfide - F005
Carbon Tetrachloride - F001, D019
Chlorobenzene - F002, F021
Cresols - F004, D026
Cresylic Acid - F002, D027
O-Dichlorobenzene - F002, D027
Ethanol - D001
2-Ethoxyethanol - F005
Ethylene Dichloride - D001
Isobutanol - F005
Isopropanol - D001
Kerosene - D001
Methyl Ethyl Ketone - F005, D035
Methylene Chloride - F001, F002
Naphtha - D001
Nitrobenzene - F004, D036
2-Nitrobenzene - F004
Petroleum Solvents - D001
Pyridine - F005, D038
1,1,1- Trichloroethane - F001, F002
1,1,2- Trichloroethane - F002
Tetrachloroethylene
(Perchloroethylene) F001, F002, D039
Toluene - F005
Trichloroethylene - F001, F002, D040
Trichlorofluoromethane - F002
Trichlorotrifluoromethane (Valclene)F002

Still residues containing petroleum solvents with a flashpoint less than 140°F are considered hazardous and have the EPA Hazardous Waste Code of D001.

ACIDS/BASES
Acids, bases, or mixtures having a pH of 2 or less, or 12.5 or greater, are considered corrosive. For a complete description of corrosive wastes, see 6 NYCRR Part 371. All corrosive materials and solutions have the EPA Hazardous Waste Code D002. Some of the more commonly used corrosives are: Acetic Acid, Ammonium Hydroxide, Chromic Acid, Hydrobromic Acid, Hydrochloric Acid, Hydrofluoric Acid, Nitric Acid, Oleum, Perchloric Acid, Phosphoric Acid, Potassium Hydroxide, Sodium Hydroxide, Sulfuric Acid.

Sample Hazardous Waste Manifest Form



Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST

1. Generator ID Number | 2. Page 1 of | 3. Emergency Response Phone | 4. Manifest Tracking Number

GENERATOR

5. Generator's Name and Mailing Address — Generator's Site Address (if different than mailing address)

Generator's Phone:

6. Transporter 1 Company Name — U.S. EPA ID Number

7. Transporter 2 Company Name — U.S. EPA ID Number

8. Designated Facility Name and Site Address — U.S. EPA ID Number

Facility's Phone:

9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers No.	10. Containers Type	11. Total Quantity	12. Unit Wt/Vol.	13. Waste Codes
	1.					
	2.					
	3.					
	4.					

14. Special Handling Instructions and Additional Information

15. **GENERATOR'S/OFFEROR'S CERTIFICATION:** I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent.
I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.

Generator's/Offeror's Printed/Typed Name — Signature — Month — Day — Year

INT'L

16. International Shipments ☐ Import to U.S. ☐ Export from U.S. Port of entry/exit: _____

Transporter signature (for exports only): Date leaving U.S.:

TRANSPORTER

17. Transporter Acknowledgment of Receipt of Materials

Transporter 1 Printed/Typed Name — Signature — Month — Day — Year

Transporter 2 Printed/Typed Name — Signature — Month — Day — Year

DESIGNATED FACILITY

18. Discrepancy

18a. Discrepancy Indication Space ☐ Quantity ☐ Type ☐ Residue ☐ Partial Rejection ☐ Full Rejection

Manifest Reference Number:

18b. Alternate Facility (or Generator) — U.S. EPA ID Number

Facility's Phone:

18c. Signature of Alternate Facility (or Generator) — Month — Day — Year

19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

1. | 2. | 3. | 4.

20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a

Printed/Typed Name — Signature — Month — Day — Year

EPA Form 8700-22 (Rev. 3-05) Previous editions are obsolete.

DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

VOID

Appendix E – Small Business Self-Disclosure Policy

Commissioner Policy CP-19: Small Business Self-Disclosure Policy
Issuing Authority: John P. Cahill, Commissioner
Originating Unit: Environmental Enforcement, Compliance Assurance Bureau
Issuance Date: August 12, 1999

Consistent with the Civil Penalty Policy; Order on Consent Enforcement Policy; Record of Compliance; Natural Resource Damages and Small Business Self-Disclosure Policy:

1. The policies and procedures set out in this document are intended solely for the use and guidance of DEC personnel. They are not intended to create any substantive or procedural rights, enforceable by any party in administrative and judicial litigation with the State of New York. DEC reserves the right to act at variance with these policies and procedures.

2. Any penalty calculations undertaken hereunder by DEC in anticipation of litigation are exempt from disclosure under the Freedom of Information Law.

3. Pursuant to §4547 of the Civil Practice Law and Rules of the State of New York, all evidence or conduct of negotiations or settlement are inadmissible as evidence as proof of liability for or invalidity of the claim which is disputed as to either validity or amount of damages.

4. The penalty amounts calculated with the aid of this document in adjudicated cases must, on the average and consistent with consideration of fairness, be significantly higher than the penalty amounts which DEC accepts in consent orders which are entered into voluntarily by respondents.

Abstract: This document establishes the Department's policy for adjusting penalties where small businesses detect, voluntarily disclose and expeditiously correct certain violations discovered through environmental audits or formal compliance assistance programs. If a small business satisfies the Policy criteria, the Department will limit the penalty to any significant economic benefit.

I. Purpose

This document sets forth DEC's Policy for promoting environmental protection and improving compliance rates by establishing a process for adjusting penalties where small businesses detect, voluntarily disclose and expeditiously correct certain violations discovered through environmental audits or compliance assistance. This Policy will provide the regulated community with greater certainty regarding the Department's response to self disclosed violations. This enhanced certainty will reduce the fear associated with reporting violations and thereby foster compliance auditing and compliance assistance as set forth in this Policy, DEC will adjust penalties when a small business makes a good faith effort to comply with environmental requirements by conducting an appropriate audit or receiving compliance assistance and expeditiously disclosing and correcting all violations. The Department will eliminate the gravity component of any payable penalty where a small business satisfies the criteria in section III.B. of this Policy. If an entity satisfies this Policy's criteria but obtains a significant economic benefit, DEC will waive the gravity component of the penalty and limit the penalty to the economic benefit component. In accordance with Federal and State Civil Penalty Policies, the Department will continue to recover all instances of significant economic benefit. The penalty adjustment shall not apply to circumstances such as those involving intentional wrongdoing or significant threats to health, safety or the environment.

II. Background

In an effort to assist the regulated community in complying with environmental regulations, and to achieve health, safety and environmental benefits, the Department is adopting a broad policy for all regulatory programs, including air, water and solid and hazardous materials. This Policy builds upon the principles set forth in the USEPA Policy on Compliance Incentives for Small Businesses and the USEPA Incentives for Self-Policing; Discovery, Disclosure, Correction and Prevention of Violations and will be implemented in a manner consistent with the Department's Civil Penalty Policy issued on June 20, 1990. Specifically, this Policy supplements the penalty adjustment provisions of the Civil Penalty Policy and Enforcement Guidance Memoranda Series and formalizes the Department's practice of exercising its prosecutorial discretion by eliminating or mitigating penalty demands for certain types of violations. In addition, this Policy is an element of the Department's implementation of the State's Small Business Technical and Environmental Compliance Assistance Program (see Clean Air Act §507 and Environmental Conservation Law §§19-0313 and 19-0315). Although this Policy addresses regulated entities that detect, voluntarily disclose and expeditiously correct violations, the Department also encourages development of appropriate environmental management systems and implementation of pollution prevention measures wherever practical

III. Policy

A. APPLICABILITY

For purposes of this Policy, "small business" means any business that is independently owned and operated, not dominant in its field, and employs 100 or fewer individuals (across all facilities and operations owned by the entity).[(1)] State agencies, municipal corporations and public benefit corporations employing 100 or fewer people are also eligible for penalty mitigation in accordance with this Policy. Although this Policy is expressly limited to small business, agencies and municipal and public benefit corporations, it discusses factors that may be relevant when assessing penalties for violations self-disclosed by regulated entities of all sizes.

This Policy applies to all civil, judicial and administrative enforcement actions taken under the authority of the environmental statutes and regulations that DEC administers. This Policy applies to actions commenced after the effective date of this Policy, as well as pending cases in which the Department has not reached agreement with the alleged violator on the amount of the civil penalty. This Policy does not apply to criminal actions.

This Policy sets forth how the Department expects to exercise its enforcement discretion in deciding on an appropriate enforcement response and determining an appropriate civil settlement penalty for many types of violations. This Policy is not final agency action and is intended as guidance. It does not create any rights, duties, obligations or defenses, implied or otherwise, in any third parties. This Policy is to be used for settlement purposes only and is not intended for use in pleading or at hearing or trial. To the extent that this Policy may differ from the terms of the applicable enforcement response policies (including penalty policies) under media-specific programs, this document supersedes those policies. Any penalty mitigation, however, will be consistent with the Department's Civil Penalty Policy.

If a regulated entity does not satisfy all of the following criteria or does not meet the definition of small business, this Policy does not provide any special penalty mitigation. Good faith efforts to detect, voluntarily disclose and expeditiously correct all violations will, however, generally constitute violator cooperation and warrant a penalty adjustment in accordance with the Civil Penalty Policy and other applicable penalty guidance. This Policy does not limit DEC's discretion to use information on violations revealed through self disclosure or compliance assistance as evidence in subsequent enforcement proceedings that may be appropriate (*e.g.*, violations not corrected in a timely fashion).

B. CRITERIA FOR CIVIL PENALTY MITIGATION

DEC will eliminate the gravity component of any payable penalty in any enforcement proceeding where a small business satisfies all of the following criteria:

1. Good Faith Efforts

Good faith requires that an entity make reasonable efforts to assess compliance and promptly disclose and expeditiously correct all violations, including violations that may not qualify for penalty mitigation under this Policy. Facilities must also cooperate with DEC by providing information relevant to applicability of this Policy. A good faith effort to comply with applicable environmental requirements must be demonstrated by conducting an environmental audit or accepting compliance assistance. This Policy does not apply to violations revealed by legally mandated monitoring or sampling.

a. Qualifying Audit Programs. Violations identified through a qualifying audit program are eligible for penalty mitigation. Qualifying audit programs are limited to either (i) an environmental audit that is "systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements," or (ii) a documented, systematic procedure or practice which is an element of an appropriate due diligence program for preventing, detecting and correcting violations. *See* EPA's audit policy entitled, *Incentives for Self-Policing*, 60 F.R. 66706, 66711, December 22, 1995. The initial audit of a newly implemented self-audit program or outside party audit program qualifies.

b. Compliance Assistance. Entities may also demonstrate good faith by receiving compliance assistance from a government or government supported program that offers services to small businesses and promptly disclosing all violations detected during the compliance assistance by the regulated entity to DEC. Compliance assistance is information or assistance provided by DEC, a state or another government agency or government supported entity to help the regulated community comply with legally mandated environmental requirements. Compliance assistance does not include inspections or enforcement actions. The penalty mitigation provided by this Policy only applies to civil violations which are identified as part of an on-site compliance assistance visit to the facility or a State sponsored formal outreach program such as the Small Business Technical and Environmental Compliance Assistance Program (Program). Provided, however, the facility must also disclose all instances of known or suspected noncompliance, including requirements that may not be addressed through the outreach campaign or on-site assistance.

This Policy does not create any right or entitlement to compliance assistance, and a small business that requests on-site compliance assistance will not necessarily receive such assistance. State or Federal actions in providing, or not providing, compliance assistance are not a legal defense in any enforcement proceeding.

2. Compliance History
Regulated entities that have previously violated an order, stipulation, decree or agreement with the Department are not eligible for penalty mitigation. Facilities that have received a warning letter, notice of violation or field citation, or paid a penalty or executed an order, stipulation, decree or other agreement regarding a citizen suit or an enforcement action or proceeding by a government agency *for a violation of the requirement being disclosed* within five years are not eligible for penalty mitigation. The Department will generally decide not to adjust penalties where a facility has been subject to two or more penalty demands for alleged violations of *any* State or Federal environmental requirements in the past five years.

In the event that a facility changes ownership and management, and the new owners and managers have no relationship to the previous owners and managers, violations that occurred prior to the change will not disqualify a candidate.

3. Disclosure
All known or suspected violations must be fully disclosed in writing within 30 days after discovery and voluntarily disclosed before they are otherwise discovered by, or reported to, a regulatory agency. Violations must be disclosed prior to: (a) announcement, scheduling or commencement of a federal, state or local agency inspection or investigation, including but not limited to issuance of an information request to the regulated entity; (b) notice of a citizen suit; (c) filing of a complaint by a third party; (d) reporting of the violation to a government agency by anyone not officially authorized to speak on behalf of the regulated entity; or (e) other situation likely to result in discovery of the violation by a regulatory agency.[(2)]

The entity must disclose all instances of known or suspected noncompliance, including those that may not warrant any penalty adjustment. Violations required to be reported by statute, regulation or permit do not qualify for penalty mitigation.

4. Actual or Potential Harm
Violations that cause serious harm to public health, safety or the environment are not eligible for penalty mitigation. For example, violations which require significant remedial efforts or which result in exceedences of air or water quality standards (*e.g.*, 6 NYCRR Parts 257 and 703) typically will not qualify. Violations that present a significant threat to public health, safety or the environment are also excluded. For example, violations of 6 NYCRR §555.1, which prohibits the abandonment of an oil and gas well without properly plugging such well, may not qualify.

5. Culpability
Violations that the Department alleges were committed with any of the culpable mental states defined in Penal Law §15.05 (intent, knowledge, recklessness and criminal negligence) or gross negligence do not qualify for penalty mitigation. Referral for criminal prosecution is not necessary for culpability to disqualify a candidate.

6. Return to Compliance
All violations must be remedied within the shortest practicable period of time, not to exceed 180 days following detection of the violation, and in accordance with an acceptable compliance schedule and, if appropriate, work plan. In certain circumstances DEC may determine it is appropriate to authorize up to a period of one year from the date the violation is detected. Appropriate measures to prevent reoccurrence of such violations must be implemented in all circumstances.

IV. Responsibility
The Regional Enforcement Coordinators (RECs) will be responsible for: (i) assessing whether applicants meet the criteria set forth in this Policy; (ii) ensuring that all Staff approvals necessary for penalty mitigation are obtained; (iii) ensuring that violations disclosed pursuant to this Policy are corrected in accordance with the approved work plan; and (iv) providing the Division of Environmental Enforcement (DEE) Director and the Office of Regional Enforcement Coordination with quarterly reports regarding implementation of this Policy.

The Pollution Prevention Unit will be responsible for coordination of a comprehensive outreach effort regarding this Policy in conjunction with the Environmental Facilities Corporation's Small Business Assistance Program and Empire State Development's Environmental Ombudsman's Unit.

The DEE Director will be responsible for ensuring that this Policy is implemented consistently across the State and providing Executive Staff with an annual report on the implementation of this Policy by January 31 of each year.

V. Procedure

An applicant must submit the attached Violation Disclosure Form certifying that it is eligible for penalty mitigation pursuant to this Policy to the appropriate Regional Enforcement Coordinator. The REC will, in consultation with appropriate Department Staff and pursuant to procedures adopted by the Regional Director, promptly determine whether the disclosure satisfies the criteria of this Policy. The REC will provide the Regional Attorney, with a copy to the DEE Director, with a confidential memorandum proposing a response to the Violation Disclosure. This memorandum will explain why the application for penalty mitigation should be accepted or rejected. The assigned enforcement attorney will notify the applicant in writing of the Department's eligibility determination and promptly proceed in accordance with applicable guidance and procedures. Any questions regarding the Department's eligibility determination or interpretation of this Policy will be resolved by the General Counsel or designee.

1. The number of employees should be considered as full-time equivalents on an annual basis, including contract employees. Full-time equivalents means 2,000 hours per year of employment. (See CFR §372.3.)

2. Informational mailings to an industry sector regarding upcoming compliance requirements alone do not indicate likely discovery of violations.

VIOLATION DISCLOSURE FORM

Applicability

This disclosure form is submitted on behalf of , which is independently owned and operated, not dominant in its field, and employs 100 or fewer individuals (across all facilities and operations owned by the entity). This number of employees is based on full-time equivalents on an annual basis, including contract employees. This disclosure form is submitted regarding violations occurring at .

Criteria for Penalty Avoidance

1. The entity has made a good faith effort to assure compliance by either: i) performing a compliance audit (a systematic, documented, periodic and objective review of all operations and practices related to meeting environmental requirements); or, ii) receiving official on-site compliance assistance or formal outreach;

2. Within the past five (5) years, the facility has not been subject to a citizen suit or any government enforcement action, including issuance of a NOV, regarding the specific regulatory requirements disclosed, or subject to two or more penalty demands for any alleged environmental violations and the business has never violated an order, stipulation or agreement with the Department;

3. All known or suspected violations are being voluntarily disclosed within thirty days of discovery;

4. The violations did not cause serious harm to public health, safety or the environment. The violations did not present a significant threat or imminent danger to public health, safety or the environment;

5. The violations were not intentionally, knowingly or recklessly caused and were not the result of criminal negligence or gross negligence;

6. All violations have been corrected or will be corrected as indicated in the following table and in accordance with any attached compliance schedule or work plan. The stated schedule is the shortest practicable period of time for correcting the violations. Appropriate measures have been implemented to prevent reoccurrence of the disclosed violations; and

7. The violator did not derive any economic benefit from the violations; or any economic benefit was limited to _____-_____.

Certification

I , _____, certify that I am a responsible official of _____ and I am authorized to submit this form and the attached violation list and any attached work plan/compliance schedule to the New York State Department of Environmental Conservation.