

Out-of-State Paint Sales

Updated — July 2014



Purpose

This notice is to clarify that architectural paint products are excluded from a state's PaintCare program when they are to be delivered (or shipped) and used out of the state. Retailers of these products may remove the Assessment (PaintCare fee) from the purchase price of architectural paint (i.e., PaintCare products) in states with active PaintCare programs. If the paint's destination is in a state that also has a PaintCare program, the sales and fees are to be reported for the destination state.

Background

In order to assist companies with determining what products are architectural coatings subject to the PaintCare fee and what products are not, PaintCare developed a definition of architectural paint detailing what factors should be taken into consideration when making these determinations. In addition, the definition lists examples of PaintCare products and examples of non-PaintCare products (products that should not be assessed the fee). PaintCare relies on individual manufacturers to determine which, if any, of their products are part of the program. In some cases, PaintCare helps with this determination based on inquiries from a manufacturer. In the case of products that are to be used in a non-PaintCare state (a state that does not have an active paint stewardship program), it has come to our attention that manufacturers and retailers of these products desire clarification on when the fees may be removed and how to keep records.

In order to ensure that all manufacturers and retailers are on a level playing field and the PaintCare fee is placed on all products subject to the assessment, PaintCare herein clarifies that products used in non-PaintCare states are not considered PaintCare products and the PaintCare fee is not required to be assessed and remitted by manufacturers of these products. Furthermore, sales of paint from one PaintCare state into another PaintCare state must be tracked separately and the sales and fees should be attributed to the state in which the paint is delivered (or shipped) and to be used.

EXAMPLES:

- A paint store in California delivers paint to a job site in Nevada. California is a PaintCare state and Nevada is not. Fees do not apply.
- A paint store in Nevada delivers paint to a job site in California. California is a PaintCare state and Nevada is not. Fees apply.
- A paint store in Oregon delivers paint to a job site in California. Both states are PaintCare states. Sales and fees should be reported and attributed to California.
- A paint store in California sells paint to a customer heading to Mexico. The transaction and exchange of goods occurs on the U.S. side of the border, but the paint is immediately exported and the customer is a regular known customer. Fees do not apply.
- A paint distributor purchases paint in Oregon to be shipped to the Philippines. The paint is exported on a bill of lading, and the customer is a regular known customer. Fees do not apply.

Record-Keeping

Manufacturers and retailers may exclude the PaintCare fee from products shipped outside of a PaintCare state provided they keep records, subject to audit, to demonstrate that the fees were not charged for a valid reason, e.g., the retailer delivered to an out-of-state address, or the buyer is a regular customer known to be an exporter and has proven to the retailer via shipping papers or otherwise that the products are being exported. PaintCare does not have specific requirements about how these records are to be kept and leaves it up to the retailer and manufacturer to develop their own system. PaintCare suggests retailers and manufacturers work together to develop their own record keeping system, and that retailers at a minimum keep a file with copies of invoices showing products sold without the fee and notes regarding their customers.

More Information

For more information about the PaintCare program and the responsibilities of manufacturers and retailers, please visit www.paintcare.org or contact:

Taujuana Davis
Registration Coordinator for Manufacturers
tdavis@paint.org
(202) 232-2733

PaintCare
901 New York Ave NW Suite 300 West
Washington, DC 20001
www.paintcare.org