

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)
)
Carbit Paint Company) **FINDING OF VIOLATION**
Chicago, Illinois)
) **EPA-5-04-IL-18**
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)

FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) finds that Carbit Paint Company (Carbit) is violating Sections 183 and 111(e) of the Clean Air Act (Act), 42 U.S.C. §§ 7511b and 7411(e), and implementing regulations at 40 C.F.R. Part 59, Subpart D. Specifically, Carbit is violating the National Volatile Organic Compound Emission Standards for Architectural Coatings (Architectural Coatings Rule) as follows:

Regulatory Authority

1. Section 183(e) of the Act, 42 U.S.C. § 7511b(e), authorizes U.S. EPA to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of organic compounds (VOCs).
2. Pursuant to Section 183(e) of the Act, 42 U.S.C. § 7511b(e), on September 11, 1998, U.S. EPA promulgated National Volatile Organic Compound Emission Standards for Architectural Coatings. 63 *Fed Reg* 48848. These regulations are codified at 40 C.F.R. Part 59, Subpart D (40 C.F.R. §§ 59.400 through 59.413, and Appendix A.) The provisions of this rule apply to each architectural coating manufactured on or after September 9, 1999 for sale or distribution in the United States.
3. According to Section 183(e)(6) of the Act, 42 U.S.C. § 7511b(e), any regulations established under this subsection shall be treated, for purposes of enforcement, as a standard under Section 111 of the Act, 42 U.S.C. § 7411;

and any violation of such regulation shall be treated as a violation of a requirement under Section 111 of the Act.

4. 40 C.F.R. § 59.402(a) requires, in part, that each manufacturer and importer of any architectural coating subject to this subpart shall ensure that the VOC content of the coating does not exceed the applicable limit in Table 1 of Subpart D, with certain specified exemptions.
5. Table 1 to 40 C.F.R. Part 59 Subpart D - Volatile Organic Compound (VOC), Content Limits for Architectural Coatings, states that the maximum allowable VOC content for floor coatings is 400 grams/liter; the maximum allowable VOC content for nonflat interior coatings is 250 grams/liter; and the maximum allowable VOC content for zone marking coatings is 450 grams/liter.
6. 40 C.F.R. § 59.408(b) states, in part, that each manufacturer and importer of any architectural coating subject to the provisions of this subpart shall submit an initial notification report no later than the applicable compliance date specified in 40 C.F.R. § 59.400 or within 180 days after the date that the first architectural coating is manufactured or imported, whichever is later. 40 C.F.R. § 59.000 specifies an applicability date of September 13, 1999.
7. 40 CFR § 59.408(e) states, in part, that each manufacturer and importer of architectural coatings for which a tonnage exemption under this Subpart is claimed shall submit a report no later than March 1 of the following calendar year in which the exemption was claimed.
8. 40 C.F.R. § 59.401 defines "Architectural coating" as a coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements or to curbs.
9. 40 C.F.R. § 59.401 defines "Floor coating" as an opaque coating with a high degree of abrasion resistance that is formulated and recommended for application to flooring including, but not limited to, decks, porches, and steps in a residential setting.
10. 40 C.F.R. § 59.401 defines "Nonflat coating" as a coating that is not defined under any other definition and that registers a gloss of 15 or greater on an 85-degree meter or 5 or greater on a 60-degree meter according to ASTM

Method D 523-89, Standard Test Method for Specular Gloss.

11. 40 C.F.R. § 59.401 defines "Zone marking coating" as a coating formulated and recommended for marking and striping driveways, parking lots, sidewalks, curbs, or airport runways, and sold or distributed in a container with a volume of 19 liters (5 gallons) or less.

Factual Background

12. Carbit is the owner and operator of a coating manufacturing facility located at 927 W. Blackhawk Street in Chicago, Illinois ("the Chicago facility").
13. At the Chicago facility, Carbit manufactures and distributes architectural coatings, as defined in 40 C.F.R. § 59.401.
14. At the Chicago facility, Carbit manufactures and distributes multiple coatings identified by the following product numbers: 1132, 1189, 1301, 1302, 1501, 1502, 1503, 1702, SG111, SG113, SG152, SG181, SG230, and SG512 all as non-flat interior coatings, 83Y2LF as a zone marking coating, and 88R1, P220, P221, P250, P251, P261, P270, and P272 as floor coatings.
15. By letter of October 30, 2003, Carbit stated that: 1132 has a VOC content of 402 grams/liter, 1189 has a VOC content of 437 grams/liter, 1301 has a VOC content of 415 grams/liter, 1302 has a VOC content of 430 grams/liter, 1501 has a VOC content of 421 grams/liter, 1502 has a VOC content of 411 grams/liter, 1503 has a VOC content of 414 grams/liter, 1702 has a VOC content of 407 grams/liter, SG111 has a VOC content of 432 grams/liter, SG113 has a VOC content of 430 grams/liter, SG152 has a VOC content of 417 grams/liter, SG181 has a VOC content of 416 grams/liter, SG230 has a VOC content of 432 grams/liter, and SG512 has a VOC content of 433 grams/liter. Carbit characterizes these coatings as nonflat coatings.
16. By letter of October 30, 2003, Carbit stated that 83Y2LF has a VOC content of 663 grams/liter. Carbit characterizes this coating as a zone marking coating.
17. By letter of October 30, 2003, Carbit stated that: 88R1 has a VOC content of 564 grams/liter, P220 has a VOC content of 465 grams/liter, P221 has a VOC content of 465 grams/liter, P250 has a VOC content of 472 grams/liter, P251 has a VOC

CERTIFICATE OF MAILING

I, Shanee Rucker, do hereby certify that a Request For Information Pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

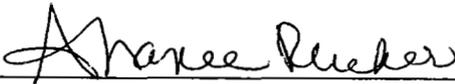
James S. Westerman, President
Carbit Paint Company
927 W. Blackhawk Street
Chicago, Illinois 60622

I also certify that I sent a copy of the Request For Information

Pursuant to the Clean Air Act was sent by First Class Mail to:

Julie Armatage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 30th day of March, 2004.



Shanee Rucker, Administrative Program
Assistant
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 00061564 8054