

**United States Environmental Protection Agency  
Region 5**

**IN THE MATTER OF:** )  
 )  
Lymtal International, Inc. ) **FINDING OF VIOLATION**  
Lake Orion, Michigan )  
 ) **EPA-5-04-MI-05**  
 )  
Proceedings Pursuant to )  
the Clean Air Act, )  
42 U.S.C. §§ 7401 et seq. )

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**FINDING OF VIOLATION**

The United States Environmental Protection Agency (U.S. EPA) finds that Lymtal International, Inc. (Lymtal) 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, Lymtal is violating the National Volatile Organic Compound Emission Standards for Architectural Coatings (Architectural Coatings Rule) as follows:

**Statutory and 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 volatile 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 the Architectural Coatings Rule. 63 *Fed Reg* 48848. This rule is 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 exceptions.
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; and that the maximum allowable VOC content for primers is 350 grams/liter.
6. 40 C.F.R. § 59.403(a) states, in part, that each manufacturer and importer of any architectural coating subject to this subpart may exceed the applicable VOC content limit in table 1 of Subpart D for the coating if the manufacturer or importer pays an annual exceedance fee, provided that certain requirements are met. 40 C.F.R. § 59.403(d) requires, in part, that any exceedance fee shall be paid by March 1 following the calendar year in which the coatings are manufactured or imported.
7. 40 CFR § 59.408(d) states, in part, that each manufacturer and importer that uses the exceedance fee provisions of this Subpart shall report that information no later than March 1 following the calendar year in which the coating is manufactured or imported.
8. 40 C.F.R. § 59.404 states, in part, that each manufacturer and importer of any architectural coating subject to Subpart D may designate a limited quantity of coatings to be exempt from the VOC content limits in table 1 of Subpart D and the exceedance fee provisions of 40 C.F.R. § 59.403, provided that certain requirements are met.
9. 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.
10. 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.

11. 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.
12. 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.
13. 40 C.F.R. § 59.401 defines "Primer" as a coating formulated and recommended for application to a substrate to provide a firm bond between the substrate and subsequent coatings.

#### **Factual Background**

14. Lymtal is the owner and operator of a coating manufacturing facility located at 4150 South Lapeer Road in Lake Orion, Michigan ("the Lake Orion facility").
15. At the Lake Orion facility, Lymtal manufactures and distributes architectural coatings, as defined in 40 C.F.R. § 59.401.
16. At the Lake Orion facility, Lymtal manufacturers and distributes, among others, two coatings identified as "Primer #750" and "Iso-Flex 630 Coating."
17. By letter to U.S. EPA of October 13, 2003, Lymtal stated that "Primer #750" and "Iso-Flex 630 Coating" have VOC contents of 400 grams/liter and 484 grams/liter, respectively.
18. "Primer #750" is a "primer," as defined in 40 C.F.R. § 59.401. "Iso-Flex 630 Coating" is a "floor coating," as defined in 40 C.F.R. § 59.401.
19. "Primer #750" and "Iso-Flex 630 Coating" are both

architectural coatings, as defined in 40 C.F.R. § 59.401.

20. Lymtal did not submit exceedance fees for the calendar year 2002.
21. Lymtal did not submit notification of coatings qualifying for the exceedance fee provisions for the calendar year 2002.
22. Lymtal did not submit notification of coatings qualifying for the tonnage exemption for the calendar years 1999/2000 and 2001.

**Violations**

23. Lymtal did not submit an initial notification report prior to September 13, 1999, in violation of 40 C.F.R. § 59.408(b).
24. The VOC contents of "Primer #750" and "Iso-Flex 630 Coating" exceed the applicable limits in Table 1 of Subpart D, in violation of 40 C.F.R. § 59.402.
25. Labels used by Lymtal do not contain the information on thinning requirements for the product or the actual VOC content or VOC content limit, in violation of 40 C.F.R. § 59.405(a).

3/29/09  
Date

  
Stephen Rothblatt, Director  
Air and Radiation

**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:

Francis M. Lymburner, Chief Executive  
Lyntal International, Inc.  
4150 S. Lapeer Road  
Orion, Michigan 48359

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:

Teresa Seidel, District Supervisor  
SE Michigan District Office  
Michigan Department of Environmental Quality  
Livonia, Michigan 48152-1006

Tom Hess, Enforcement Unit Chief  
Lansing District  
Michigan Department of Environmental Quality  
Lansing, Michigan 48909-7742

on the 30<sup>th</sup> day of March, 2004.

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

CERTIFIED MAIL RECEIPT NUMBER: 70010320000615648047