

New York State Department of Environmental Conservation

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Erin M. Crotty
Commissioner

OCT 28 2004

Agency Freedom of Information Office (2822T)
United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

**New York State Department of Environmental Conservation FOIA Request
for 40 CFR Part 59 Subpart D Variance Reports**

To Whom It May Concern:

In July 2004, the New York State Department of Environmental Conservation (Department) staff consulted with Dave Salmon (Research Triangle Park) about obtaining the variance reports submitted pursuant to 40 CFR Part 59 Subpart D - the Architectural Coatings regulation, including the exceedance fee reports and the tonnage exemption reports.

In furtherance of these discussions, the Department is submitting this request pursuant to the Freedom of Information Law, 5 U.S.C. §552, to obtain the variance reports submitted to the United States Environmental Protection Agency (EPA) from the following paint manufacturers for the years 2002 to the present:

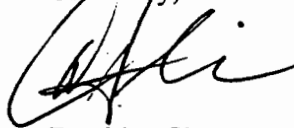
1. Harco Chemical Coatings
2. Waterlox Coatings Corp.
3. Passonno Paints
4. Harrison Paint Co.
5. Absolute Coatings
6. Professional Products of Kansas
7. PPG Industries
8. Rustoleum Corp.
9. Tnemec Company
10. ICI Paints
11. Sherwin-Williams
12. Valspar
13. Mab Paints
14. Bonakemi USA, Inc.
15. INSL-X Products Corp.
16. GE Plastics
17. WM Zinsser & Co.
18. Glidden
19. Behr
20. Benjamine Moore Co.
21. Duron
22. Minwax

2.

In early September, Mr. Salmon acquired all but a few of the requested variance reports from the EPA regional offices. It is our understanding that information contained in the variance reports consists of the company name, mailing address, phone number, coating name, annual volume manufactured, Volatile Organic Compound (VOC) content, and coating category. The Department believes that this information is not trade secret or proprietary and can be readily disclosed. Since copies of the documents have now already been collected and stored at EPA's Research Triangle Park office, the Department would like to arrange for the production of the requested documents on or before November 15, 2004.

The Department is willing to pay reasonable document reproduction costs. We appreciate your assistance and cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Shaw", written over a horizontal line.

David J. Shaw
Director, Division of Air Resources

cc: David Salmon, EPA Research Triangle Park
John J. Sipos, Esq. New York State Assistant Attorney General

BAQP46/EPAvariance.wpd
DB:sl