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based on information required by this subpart or any other information available to the Administrator.

[63 FR 48815, Sept. 11, 1998; 63 FR 64761, Nov. 23, 1998]

§ 59.105 Reporting requirements.

(a) Each regulated entity must submit an initial report no later than January 11, 1999 or within 180 days of the date that the regulated entity first manufactures or imports automobile refinish coatings or coating components, whichever is later. The initial report must include the information in paragraphs (a)(1) through (a)(4) of this section.

(1) The name and mailing address of the regulated entity.

(2) An explanation of each date code, if such codes are used to represent the date of manufacture, as provided in § 59.103.

(3) The street address of each of the regulated entity's facilities in the United States that is producing, packaging, or importing automobile refinish coatings or coating components subject to the provisions of this subpart.

(4) A list of the categories from table 1 of this subpart for which the regulated entity recommends the use of automobile refinish coatings or coating components.

(b) Each regulated entity must submit an explanation of any new date codes used by the regulated entity no later than 30 days after products bearing the new date code are first introduced into commerce.

§ 59.106 Variance.

(a) Any regulated entity that cannot comply with the requirements of this subpart because of circumstances beyond its reasonable control may apply in writing to the Administrator for a temporary variance. The variance application must include the information specified in paragraphs (a)(1) through (a)(3).

(1) The specific grounds upon which the variance is sought.

(2) The proposed date(s) by which the regulated entity will achieve compliance with the provisions of this subpart. This date must be no later than 5 years after the issuance of a variance.

(3) A compliance plan detailing the method(s) by which the regulated entity will achieve compliance with the provisions of this subpart.

(b) Upon receipt of a variance application containing the information required in paragraph (a) of this section, the Administrator will publish a notice of such application in the FEDERAL REGISTER and, if requested by any party, will hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements of this subpart is necessary and will be granted. If requested, a hearing will be held no later than 75 days after receipt of a variance application. Notice of the time and place of the hearing will be sent to the applicant by certified mail not less than 30 days prior to the hearing. At least 30 days prior to the hearing, the variance application will be made available to the public for inspection. Information submitted to the Administrator by a variance applicant may be claimed as confidential. The Administrator may consider such confidential information in reaching a decision on a variance application. Interested members of the public will be allowed a reasonable opportunity to testify at the hearing.

(c) The Administrator will issue a variance if the criteria specified in paragraphs (c)(1) and (c)(2) are met to the satisfaction of the Administrator.

(1) If complying with the provisions of this subpart would not be technologically or economically feasible, and

(2) The compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(d) Any variance will specify dates by which the regulated entity will achieve increments of progress towards compliance, and will specify a final compliance date by which the regulated entity will achieve compliance with this subpart.

(e) A variance will cease to be effective upon failure of the party to whom the variance was issued to comply with any term or condition of the variance.

(f) Upon the application of any party, the Administrator may review and, for good cause, modify or revoke a variance after holding a public hearing in

accordance with the provisions of paragraph (b) of this section.

§ 59.107 Addresses of EPA Regional Offices.

All requests, reports, submittals, and other communications to the Administrator pursuant to this regulation shall be submitted to the Regional Office of the EPA which serves the State or territory in which the corporate headquarters of the regulated entity resides. These areas are indicated in the following list of EPA Regional Offices.

EPA Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Office of Environmental Stewardship, Mailcode: SAA, JFK Building, Boston, MA 02203.

EPA Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Division of Enforcement and Compliance Assistance, 290 Broadway, New York, NY 10007–1866.

EPA Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Air Protection Division, 1650 Arch Street, Philadelphia, PA 19103.

EPA Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air, Pesticides and Toxics, Management Division, 345 Courtland Street, NE., Atlanta, GA 30365.

EPA Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air and Radiation Division, 77 West Jackson Blvd., Chicago, IL 60604–3507.

EPA Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Director, Air, Pesticides and Toxics Division, 1445 Ross Avenue, Dallas, TX 75202–2733.

EPA Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air and Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101.

EPA Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Director, Air and Toxics Division, 999 18th Street, 1 Denver Place, Suite 500, Denver, Colorado 80202–2405.

EPA Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Director, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

EPA Region X (Alaska, Oregon, Idaho, Washington), Director, Air and Toxics Division, 1200 Sixth Avenue, Seattle, WA 98101.

§ 59.108 State Authority.

The provisions in this regulation shall not be construed in any manner to preclude any State or political subdivision thereof from:

(a) Adopting and enforcing any emission standard or limitation applicable to a manufacturer or importer of automobile refinish coatings or components in addition to the requirements of this subpart.

(b) Requiring the manufacturer or importer of automobile refinish coatings or components to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of a facility for manufacturing an automobile refinish coating component.

§ 59.109 Circumvention.

Each manufacturer and importer of any automobile refinish coating or component subject to the provisions of this subpart must not alter, destroy, or falsify any record or report, to conceal what would otherwise be noncompliance with this subpart. Such concealment includes, but is not limited to, refusing to provide the Administrator access to all required records and date-coding information, altering the VOC content of a coating or component batch, or altering the results of any required tests to determine VOC content.

§ 59.110 Incorporations by Reference.

(a) The following material is incorporated by reference in the paragraphs noted in § 59.104. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any changes in these materials will be published in the FEDERAL REGISTER.

(1) ASTM D 1613–96, Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products, IBR approved for § 59.104(d).

(2) ASTM D 523–89, Standard Test Method for Specular Gloss, IBR approved for § 59.104(e).

(b) The materials are available for inspection at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M St., SW., Washington, DC; and at the EPA Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina, or at the National Archives