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mutually agree to a longer time period for reaching a decision, and additional supporting documentation may be submitted by the applicant before a decision has been reached. The Administrator will notify the applicant of the decision in writing and specify such terms and conditions that are necessary to insure that emissions from the product will meet the emissions reductions specified in paragraph (a) of this section, and that such emissions reductions can be enforced.

(3) If an applicant has been granted an exemption to a State or local regulation for an innovative product by a State or local agency whose criteria for exemption meet or exceed those provided for in this section, the applicant may submit the factual basis for such an exemption as part of the documentation required under paragraph (d) of this section. In such case, the Administrator will make the determination required under this paragraph within 45 days after the application is considered complete.

(e) In granting an exemption for a product, the Administrator will establish conditions that are enforceable. These conditions may include the VOC content of the innovative product, dispensing rates, application rates, and any other parameters determined by the Administrator to be necessary. The Administrator will also specify the test methods for determining conformance to the conditions established, including criteria for reproducibility, accuracy, and sampling and laboratory procedures.

(f) For any product for which an exemption has been granted pursuant to this section, the regulated entity to whom the exemption was granted shall notify the Administrator in writing within 30 days after any change in the product formulation or recommended product usage directions, and shall also notify the Administrator within 30 days after the regulated entity learns of any information that would alter the emissions estimates submitted to the Administrator in support of the exemption application.

(g) If lower VOC content limits are promulgated for a product category through any subsequent rulemaking, all exemptions granted under this section for products in the product category shall no longer apply unless the innovative product has been demonstrated to have VOC emissions less than the applicable revised VOC content limits.

(h) If the Administrator determines that a consumer product for which an exemption has been granted no longer meets the VOC emissions criteria specified in paragraph (a) of this section for an innovative product, the Administrator may modify or revoke the exemption as necessary to assure that the product will meet these criteria. The Administrator will not modify or revoke an exemption without first affording the applicant an opportunity for a public hearing to determine if the exemption should be modified or revoked.

[63 FR 48815, Sept. 11, 1998; 63 FR 52319, Sept. 30, 1998]

§ 59.205 Labeling.

(a) The container or package of each consumer product that is subject to this subpart shall clearly display the day, month, and year on which the product was manufactured, or a code indicating such date. The requirements of this provision shall not apply to products that are offered to consumers free of charge for the purposes of sampling the product.

(b) In addition, the container or package for each charcoal lighter material that is subject to this subpart shall be labeled according to the provisions of § 59.203(d)(2).

§ 59.206 Variances.

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

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

(2) The proposed date(s) by which compliance with the provisions of this subpart will be achieved. Such date(s) shall be no later than 5 years after the issuance of a variance; and
§ 59.207  Test methods.

Each manufacturer or importer subject to the provisions of §59.203(a) shall demonstrate compliance with the requirements of this subpart through calculation of the VOC content using records of the amounts of constituents used to manufacture the product.

§ 59.208  Charcoal lighter material testing protocol.

(a) Each manufacturer or importer of charcoal lighter material subject to this subpart shall demonstrate compliance with the applicable requirements of §59.203(d) using the procedures specified in this section. Any lighter material that has received certification from California South Coast Air Quality Management District (SCAQMD) under their Rule 1174, Ignition Method Compliance Certification Testing Protocol, will be considered as having demonstrated compliance with the applicable requirements of this subpart using the procedures in this section.

(b) The manufacturer or importer shall obtain from the testing laboratory conducting the testing, a report of findings, including all raw data sheets/charts and laboratory analytical data. The testing must demonstrate that VOC emissions resulting from the ignition of the barbecue charcoal are, on average, less than or equal to 9 grams per start. The manufacturer or importer shall maintain the report of findings.

(c) When a charcoal lighter material does not fall within the testing guidelines of this protocol, the protocol may be modified following a determination by the Administrator that the modified protocol is an acceptable alternative to the method described in this section and written approval of the Administrator.

(d) Meteorological and environmental criteria. (1) Testing shall be conducted under the following conditions:

(i) Inlet combustion air temperature is 16 to 27 degrees Celsius (60 to 80 degrees Fahrenheit) with a relative humidity of 20 to 80 percent;

(ii) The charcoal and lighter material are stored 72 hours before testing in a