

**Subpart B—Specific Chemical Testing/Reporting Requirements**

**§ 766.20 Who must test.**

(a) Any person who manufactures, imports, or processes a chemical substance listed in § 766.25 must test that chemical substance and must submit appropriate information to EPA according to the schedules described in § 766.35. Chemical substances manufactured, imported or processed between January 1, 1984 and the date of promulgation of this part are subject to testing upon the effective date of this part. All other chemical substances are subject to testing immediately upon manufacture, import or processing. EPA expects that only manufacturers and importers will perform testing, and that the cost of testing will be passed on to processors through the pricing mechanism, thereby enabling them to share in the cost of testing. However, processors will be called upon to sponsor testing should manufacturers and importers fail to do so. A processor may apply for an exemption from testing upon certification to EPA that a manufacturer or importer is testing the chemical substance which that person processes.

(b) If no manufacturer or importer described in § 766.20 submits a letter of intent to perform testing within the period described under § 766.35(a), or an exemption application under § 790.45(a), or a request for an exclusion or waiver under § 766.32, EPA will issue a notice in the FEDERAL REGISTER to notify all processors of that chemical substance. The notice will state that EPA has not received any of the documents described in the previous sentence, and that current processors will have 30 days to submit either a letter of intent to perform the test or submit an exemption application.

(c) If no manufacturer, importer or processor submits a letter of intent to perform testing of a specific chemical substance produced by a specific process, EPA will notify all manufacturers, importers, and processors, either by notice in the FEDERAL REGISTER or by letter, that all exemption applications will be denied and that within 30 days all manufacturers, importers, and processors will be in violation of this part

until a proposed study plan is submitted for required testing.

(d) Manufacturers, importers, and processors who are subject to this part must comply with the test rule development and exemption procedures in part 790 of this chapter, except as modified in this part.

**§ 766.25 Chemical substances for testing.**

(a) *Listing of chemical substances.* Chemical substances required to be tested for HDDs/HDFs under this rule are listed in this section. The listing is by Chemical Abstracts Service (CAS) Number and common name.

NOTE: For purposes of guidance only, EPA lists the chemical substances subject to testing under this part in two classes—those known to be manufactured or imported between January 1, 1984, and promulgation of this part, and those not known to be manufactured or imported at the time of promulgation of this part.

(1) *Chemicals substances known to be manufactured between January 1, 1984 and date of promulgation of this part.*

| CAS No.    | Chemical name                                      |
|------------|--|
| 79-94-7    | Tetrabromobisphenol-A.                             |
| 118-75-2   | 2,3,5,6-Tetrachloro-2,5-cyclohexadiene-1,4-dione.  |
| 118-79-6   | 2,4,6-Tribromophenol.                              |
| 120-83-2   | 2,4-Dichlorophenol.                                |
| 1163-19-5  | Decabromodiphenyloxide.                            |
| 4162-45-2  | Tetrabromobisphenol-A-bisethoxylate.               |
| 21850-44-2 | Tetrabromobisphenol-A-bis-2,3-dibromopropyl ether. |
| 25327-89-3 | Allyl ether of tetrabromobisphenol-A.              |
| 32534-81-9 | Pentabromodiphenyloxide.                           |
| 32536-52-0 | Octabromodiphenyloxide.                            |
| 37853-59-1 | 1,2-Bis(tribromophenoxy)-ethane.                   |
| 55205-38-4 | Tetrabromobisphenol-A diacrylate.                  |

(2) *Chemicals not known to be manufactured between January 1, 1984 and the date of promulgation of this part.*

| CAS No.   | Chemical name                            |
|-----------|--|
| 79-95-8   | Tetrachlorobisphenol-A.                  |
| 87-10-5   | 3,4',5-Tribromosalicylanilide.           |
| 87-65-0   | 2,6-Dichlorophenol.                      |
| 95-77-2   | 3,4-Dichlorophenol.                      |
| 95-95-4   | 2,4,5-Trichlorophenol.                   |
| 99-28-5   | 2,6-Dibromo-4-nitrophenol.               |
| 120-36-5  | 2[2,4-(Dichlorophenoxy)]-propionic acid. |
| 320-72-9  | 3,5-Dichlorosalicylic acid.              |
| 488-47-1  | Tetrabromocatechol.                      |
| 576-24-9  | 2,3-Dichlorophenol.                      |
| 583-78-8  | 2,5-Dichlorophenol.                      |
| 608-71-9  | Pentabromophenol.                        |
| 615-58-7  | 2,4-Dibromophenol.                       |
| 933-75-5  | 2,3,6-Trichlorophenol.                   |
| 1940-42-7 | 4-Bromo-2,5-dichlorophenol.              |
| 2577-72-2 | 3,5-Dibromosalicylanilide.               |

| CAS No.    | Chemical name  |
|------------|--|
| 3772-94-9  | Pentachlorophenyl laurate.   |
| 37853-61-5 | Bismethylether of tetrabromobisphenol-A.<br>Alkylamine tetrachlorophenate.<br>Tetrabromobisphenol-B. |

(b) *Grade to be tested.* If the same process is used to manufacture all grades of the same chemical substance, only one grade need be tested. The grade to be tested must be the grade subject to the most intense heat and alkalinity for the longest duration of time, manufactured under each different process. If the heat, alkalinity and duration of reaction do not differ for various grades, the test substance must be the grade of chemical substance with the highest volume of sales.

**§ 766.27 Congeners and LOQs for which quantitation is required.**

Quantitation at the target LOQ shown for each of the following HDDs/HDFs which may be present in the chemical substances is required for the chemical substances listed under § 766.25. Analysis must take place for either chlorinated or brominated dibenzodioxins or dibenzofurans, whichever is predominantly expected to occur in the chemical substance to be tested. Only chlorinated and brominated congeners need be quantified; for chemical substances containing predominantly chlorine atoms, only congeners totally chlorinated at the numbered positions need be quantified; for chemical substances containing predominantly bromine atoms, only congeners totally brominated at the numbered positions need be quantified.

| Chlorinated dioxins     | Brominated dioxins      | LOQ      |
|-------------------------|-------------------------|----------|
| 2,3,7,8-TCDD .....      | 2,3,7,8-TBDD .....      | 0.1 ppb. |
| 1,2,3,7,8-PeCDD .....   | 1,2,3,7,8-PeBDD .....   | 0.5 ppb. |
| 1,2,3,4,7,8-HxCDD ..... | 1,2,3,4,7,8-HxBDD ..... | 2.5 ppb. |
| 1,2,3,6,7,8-HxCDD ..... | 1,2,3,6,7,8-HxBDD ..... | 2.5 ppb. |
| 1,2,3,7,8,9-HxCDD ..... | 1,2,3,7,8,9-HxBDD ..... | 2.5 ppb. |
| 1,2,3,4,6,7,8-HpCDD ... | 1,2,3,4,6,7,8-HpBDD ... | 100 ppb. |
| 2,3,7,8-TCDF .....      | 2,3,7,8-TBDF .....      | 1 ppb.   |
| 1,2,3,7,8-PeCDF .....   | 1,2,3,7,8-PeBDF .....   | 5 ppb.   |
| 2,3,4,7,8-PeCDF .....   | 2,3,4,7,8-PeBDF .....   | 5 ppb.   |
| 1,2,3,4,7,8-HxCDF ..... | 1,2,3,4,7,8-HxBDF ..... | 25 ppb.  |
| 1,2,3,6,7,8-HxCDF ..... | 1,2,3,6,7,8-HxBDF ..... | 25 ppb.  |
| 1,2,3,7,8,9-HxCDF ..... | 1,2,3,7,8,9-HxBDF ..... | 25 ppb.  |
| 2,3,4,6,7,8-HxCDF ..... | 2,3,4,6,7,8-HxBDF ..... | 25 ppb.  |
| 1,2,3,4,6,7,8-HpCDF ... | 1,2,3,4,6,7,8-HpBDF ... | 1 ppm.   |
| 1,2,3,4,7,8,9-HpCDF ... | 1,2,3,4,7,8,9-HpBDF ... | 1 ppm.   |

**§ 766.28 Expert review of protocols.**

EPA will gather a panel of experts in analysis of chemical matrices for HDDs/HDFs to review the protocols for testing submitted to EPA. The panel members will be employees of EPA and/or of other U.S. Government agencies who have had experience in analysis of chemical matrices and/or chemical wastes for HDDs/HDFs. The panel will recommend to the Director, EPA Office of Pollution Prevention and Toxics, whether the protocol submitted is likely to allow analysis down to the target LOQs, or if not, whether the protocol represents a good faith effort on the part of the tester to achieve the lowest possible LOQs. The final determination to accept or reject the protocol will be made by the Director, Office of Pollution Prevention and Toxics. EPA will review the submitted protocols as rapidly as possible and will complete the review within 90 days after receipt. EPA may require submission of revised protocols. Comments and recommendations will be transmitted to the submitter, and if revisions are required, a final protocol must be submitted to EPA within 90 days after EPA transmits such recommendations.

**§ 766.32 Exclusions and waivers.**

(a) *Reasons for exclusions and waivers.* Any person subject to the testing requirements of this part may request an exclusion or waiver from testing for any one of the following reasons:

(1) *Exclusions may be granted if.* (i) Testing of the appropriate grade of the chemical substance has already been carried out, either analytical testing at the lowest LOQ possible, with appropriate QA/QC, or a well-designed bioassay with appropriate QA/QC or;

(ii) Process and reaction conditions of the chemical substance such that no HDDs/HDFs could be produced under those conditions;

(2) *Waivers may be granted if.* (i) A responsible company official certifies that the chemical substance is produced only in quantities of 100 kilograms or less per year, only for research and development purposes; or

(ii) In the judgement of EPA, the cost of testing would drive the chemical substance off the market, or prevent