CAS No.	Chemical name
3772–94–9	Pentachlorophenyl laurate.
37853–61–5	Bismethylether of tetrabromobisphenol-A.
	Alkylamine tetrachlorophenate.
	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

resumption of manufacture or import of the chemical substance, if it is not currently manufactured, and the chemical substance will be produced so that no unreasonable risk will occur due to its manufacture, import, processing, distribution, use, or disposal. (In this case, the manufacturer must submit to EPA all data supporting the determination.)

(iii) Waivers may be appropriately conditioned with respect to such factors as time and conditions of manufacture or use. The grade of decabromodiphenyl oxide produced by Dow Chemical Company (Dow) for the National Toxicology Program (NTP) bioassay on that chemical is excluded from the testing requirement under this part. Provided, however, that this exclusion will not apply if Dow fails to supply to EPA within 60 days of the effective date of this section evidence showing which grade was used for the NTP bioassay.

(b) *Timing.* Exclusion or waiver requests and detailed supporting data must be submitted to EPA within 60 days from the effective date of this part for persons manufacturing, importing or processing a chemical substance as of the date of promulgation, or 60 days prior to the date of resumption of manufacture or import for a chemical substance produced by a specific process if the chemical substance is not manufactured, imported or processed as of the date of promulgation.

(c) *Publication.* Within 10 days of receipt of any exclusion or waiver request, EPA will issue in the FEDERAL REGISTER a notice of such receipt. EPA will also issue a notice of its decision on each exclusion or waiver request within 60 days of receipt.

(d) *Decision.* The EPA Director of the Office of Pollution Prevention and Toxics will make the decision to grant or deny waivers or exclusions.

§ 766.35 Reporting requirements.

(a) *Letters of intent, exemption applications, and protocols*—(1) *Letters of Intent.* (i) Persons who have manufactured or imported chemical substances listed under § 766.25 between January 1, 1984, and the effective date of this part are required to submit under § 790.45 of this chapter a letter of intent to test or an exemption application. These letters must be submitted no later than September 3, 1987.

(ii) Persons who commence manufacture, import or processing of a chemical substance listed under § 766.25 that has not been manufactured, imported or processed between January 1, 1984 and the effective date of this part must submit under § 790.45 of this chapter, within 60 days after the commencement of manufacture, import, or processing of the chemical substance, a letter of intent to test or an exemption application.

(iii) Persons who commence manufacture, import or processing of a chemical substance listed under § 766.25 between the effective date of this part and the end of the reimbursement period for that particular chemical substance produced by a specific process must submit under § 790.45 of this chapter, within 60 days after the commencement of manufacture, import or processing of the chemical substance, a letter of intent to test or an exemption application.

(2) *Protocols.* (i) Each person who is manufacturing or processing a chemical substance listed in § 766.25 as of the effective date of this part who submits a notice of intent to test under § 766.35(a)(1) must submit a protocol for the test as follows:

(A) The protocols for each chlorinated chemical substance produced by each process to be tested must be submitted to EPA no later than 12 months after the effective date of this part.

(B) The protocol for each brominated chemical substance produced by each process to be tested must be submitted to EPA no later than 24 months after the effective date of this part except for the following chemicals.

(*1*) The deadline for submitting the protocols for tetrabromobisphenol-A (CAS No. 79–94–7); 2,4,6 tribromophenol (CAS. No. 118–79–6); decabromodiphenyloxide (CAS No. 1163–19–5); and 1,2-bis(tribromophenoxy)-ethane (CAS No. 37853–59–1) is January 31, 1991.

(*2*) The deadline for submitting protocols for octabromodiphenyloxide (CAS No. 32536–52–0) and allyl ether of tetrabromobisphenol-A (CAS No. 25327–89–3) is January 31, 1991.