

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 9, 1995.

William B. Hathaway,
Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(95) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(95) Alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park manufacturing complex submitted to the EPA by the Governor of Texas in a letter dated July 26, 1993.

(i) Incorporation by reference.

(A) TACB Order 93-11, as adopted by the TACB on June 18, 1993.

(B) SIP narrative entitled, "Site-Specific State Implementation Plan," section IV.H.1.b., attachment (4), entitled, "Alternate Emission Reduction ("Bubble") Plan Provisions for Uncontrolled Vacuum-Producing Vents, Shell Oil Company, Deer Park Manufacturing Complex, HG-0659-W," adopted by the TACB on June 18, 1993.

(ii) Additional material.

(A) SIP narrative entitled, "Site-Specific State Implementation Plan," section IV.H.1.b., adopted by the TACB on June 18, 1993.

(B) TACB certification letter dated July 5, 1993, and signed by William R. Campbell, Executive Director, TACB.

[FR Doc. 95-14852 Filed 6-16-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[OH50-3-7070; FRL-5222-9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency.

ACTION: Final rule; withdrawal.

SUMMARY: On May 2, 1995, the United States Environmental Protection Agency (USEPA) published a proposed rule (60 FR 21490) and a direct final rule (60 FR 21456) approving a request by Ohio to redesignate the Toledo ozone nonattainment area to attainment of the National Ambient Air Quality Standard for ozone, and also approving the State's maintenance plan for this area. Because comments adverse to the rulemaking were received, USEPA is withdrawing the direct final rule. In a final rule, USEPA will summarize and respond to the comments received and announce final rulemaking action on the redesignation request and maintenance plan as revisions to Ohio's State Implementation Plan. The approval of the maintenance plan for the Toledo area was also included in the codification in a direct final rule concerning the redesignation and maintenance plan approval for the Dayton area, published on May 5, 1995, (60 FR 22289). That codification of the Toledo maintenance plan approval is also withdrawn.

EFFECTIVE DATE: June 19, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Angela Lee, Regulation Development Section, Air Enforcement Branch (AE-17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 353-5142.

List of Subjects

40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: June 7, 1995.

Valdas V. Adamkus,
Regional Administrator.

Title 40 of the Code of Federal Regulations, Chapter I, Parts 52 and 81, are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. The amendments to add § 52.1870(c)(105) and § 52.1885(b)(5), published on May 2, 1995, at 60 FR 21463, are withdrawn.

3. The amendment to revise § 52.1885(b)(5) published on May 5, 1995, at 60 FR 22295, is withdrawn.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

5. The amendment to revise the entry in the ozone table in § 81.336, published on May 2, 1995, at 60 FR 21463, is withdrawn.

[FR Doc. 95-14850 Filed 6-16-95; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 61, 704, 710, 712, 762, 763, 766, 790, 795, 796, 797, 798, and 799]

[OPPTS-00168; FRL-4955-2]

Chemical Substances; Deletion of Certain Chemical Regulations; Technical Amendments to the Code of Federal Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is removing several provisions from the Code of Federal Regulations (CFR) that pertain to the Toxic Substances Control Act. These provisions are being removed from the CFR because they have no current legal effect. The removal of these provisions from the CFR and the technical changes that are being made are necessary to clarify the current status of the provisions for both the regulated

community and the public. EPA is also removing the text of two reporting forms, without making any substantive changes in the reporting requirements. **EFFECTIVE DATE:** This final rule takes effect on June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551, e-mail address: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995, to identify those rules that are obsolete, not in effect, unduly burdensome, or amenable to streamlining and simplification. The Office of Prevention, Pesticides and Toxic Substances has completed its initial page-by-page review of the CFR provisions within its purview--those issued under the Toxic Substances Control Act (TSCA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and certain sections of the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Federal Food, Drug and Cosmetic Act (FFDCA). Based on this initial review, EPA will be amending or eliminating several provisions in the CFR. This notice, which is one of several notices that are being issued at the same time, specifically involves the provisions associated with TSCA. Other notices, appearing elsewhere in this **Federal Register**, involve provisions associated with FFDCA and FIFRA.

The provisions that EPA is eliminating with this notice are not currently in effect because they have (1) expired by their own terms or by the terms of the statute, (2) become obsolete due to subsequent rulemakings, legislation, or policy decisions, or (3) because they have been otherwise identified as being unnecessary. Those provisions that are being amended with this notice reflect minor technical changes that are necessary as a result of the elimination of the provisions, are otherwise nonsubstantive corrections that are necessary, or involve the removal of the text of reporting forms without substantive changes to the reporting requirements.

The removal of these provisions from the CFR is not intended to affect the status of any civil or criminal actions

that were initiated prior to June 19, 1995 or which may be initiated in the future to redress violations of the rules that occurred when the rules were still legally in effect.

II. Good Cause Exemption from Rulemaking Procedures

The Administrative Procedure Act (APA) generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. 553(b). Similarly, the APA generally requires at least 30 days after publication before a rule can become effective. 5 U.S.C. 553(d). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment or delayed effectiveness are unnecessary. 5 U.S.C. 553(b)(3)(B) and (d)(3).

EPA has determined that providing prior notice and opportunity for comment on these changes to the CFR is unnecessary. For the reasons discussed in Units I and III of this preamble, a number of the rules are no longer legally in effect; thus, withdrawing them from the CFR has no legal impact and merely codifies the current legal status of the rules. The associated technical amendments are merely to correct cross-references to the rules that are being removed and related reorganizations resulting from the removal of these regulations. In addition, other technical changes include the removal of the text of reporting forms, without making any substantive changes to the reporting requirements. For the same reasons, EPA believes there is good cause for making these changes to the CFR immediately effective. See 5 U.S.C. 553(d).

III. Regulations Being Eliminated

A. Part 704, Subparts C and D - Reporting and Recordkeeping Requirement; Comprehensive Assessment Information Rule (CAIR)

Part 704 specifies the reporting and recordkeeping procedures under section 8(a) of TSCA for manufacturers, importers, and processors of chemical substances and mixtures that are identified in subpart B or D of part 704. The reporting and recordkeeping provisions in subpart A of part 704 apply throughout this part unless revised in any other subpart. Subpart C of part 704 sets out the general reporting provisions for the Comprehensive Assessment Information Rule (CAIR). CAIR was intended to standardize certain section 8(a) rules by: providing a set of uniform questions for EPA and other agencies to use in assembling specific reporting

requirements; requiring the submission of information on a standard reporting form; and establishing uniform reporting and recordkeeping provisions that supplement the reporting and recordkeeping provisions in subpart A of part 704. CAIR provisions apply only to those persons who manufacture, import, or process a substance identified in subpart D of part 704 during the time period for which reporting is required. Subpart D of part 704 contains a matrix that identifies the substances for which EPA requires reporting under subpart C, the persons who must report the information to EPA, the information that must be reported, the coverage period (as that term is defined in § 704.203), and the effective date of the final rule.

After the first use of the CAIR in 1989, a lawsuit resulted in a stay of the effectiveness of this regulation until EPA promulgates amendments. Although amendments to this regulation were proposed in 1993, the amendments have not been finalized and EPA does not anticipate taking action for some time as it reassesses its TSCA information needs. Given the current inactive status of this regulation, EPA has decided to remove subparts C and D of part 704 from the CFR. The requirements of subpart C and D are not in effect and their presence in the CFR is confusing to the public and the regulated community. At the time EPA decides to promulgate amendments to CAIR, EPA will repromulgate subparts C and D, as appropriate.

B. Part 710 - Inventory Reporting Regulations; Compilation of the Inventory

This part establishes regulations governing reporting by certain persons who manufacture, import, or process chemical substances subject to TSCA for commercial purposes. Subpart A of this regulation was issued pursuant to TSCA Section 8(b), which requires EPA to compile an inventory of chemical substances manufactured or processed for a commercial purpose. Following an initial reporting period, EPA was required to publish an initial inventory of chemical substances manufactured or imported for commercial purposes, with revised inventories published after supplemental reporting periods.

Subpart A mandated the reporting which was used to create the initial inventory. By the terms of the regulation itself, the initial reporting period closed in 1979, meriting the deletion of subpart A from the CFR. Nevertheless, some provisions of subpart A are referenced in the Inventory Update Rule of subpart B, and are extensively used in other TSCA regulatory contexts. For this

reason, only the provisions associated with the initial reporting period in subpart A are being removed. In addition, the headings for both subparts A and B are being removed so that part 710 no longer has any subpart designations. Coresponding references are also being corrected where necessary.

C. Part 712, Subpart B - Chemical Information Rules; Manufacturers Reporting - Preliminary Assessment Information

This part establishes procedures for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances. Subpart A establishes requirements that apply to all reporting under this part. Subpart B covers manufacturers' and processors' reporting. Section 712.28 requires manufacturers and importers subject to this subpart to submit a single EPA Form No. 7710-35, "Manufacturer's Report-Preliminary Assessment Information," for each plant site manufacturing or importing a chemical substance listed in § 712.30. The instructions and a facsimile of the form appear in § 712.28(d).

EPA is removing the instructions and facsimile of EPA Form No. 7710-35, entitled Manufacturer's Report-Preliminary Assessment Information from § 712.28(d). In addition, EPA is removing § 712.30(d)-(v) and each chemical listed in § 712.30(w) and (x) with a reporting date pre-1990. To accommodate these changes, EPA is also deleting the reference to subpart C which appears in the title for § 712.7; deleting the reference to subpart C in § 712.1(a) and § 712.7; is amending § 712.28(d) to delete and substitute language similar to § 704.216 with new mail code; and is redesignating § 712.30(w) and (x) as paragraphs (d) and (e), respectively.

D. Part 762 - Fully Halogenated Chlorofluoroalkanes

This part prohibits the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes for those aerosol propellant uses which are subject to TSCA, requires submission of annual reports, and lists the exemptions to the prohibitions. This prohibition has become obsolete because it has been superseded by a subsequent ban of CFC propellants under the Clean Air Act section 610 and implementing regulations at 40 CFR 82.64(c) and 82.66(d).

E. Part 763, Subpart D - Asbestos; Reporting Commercial and Industrial Uses of Asbestos

This rule required reporting by persons who manufacture, import, or process asbestos. Different reporting requirements were imposed depending on the person's activity. Manufacturers, importers and processors of commercial and industrial asbestos fiber were required to report quantity, use, and exposure information. Importers of mixtures and articles containing asbestos and processors of asbestos mixtures were required to report to EPA in two phases. They initially had to report limited information about processing or importation, and some were required to subsequently report additional information if they were selected as respondents in a sample survey.

This regulation includes a sunset provision at § 763.78, which specifies that all the requirements of this rule terminate 5 years after promulgation. Accordingly, this regulation sunsetted in 1987 and is now obsolete.

F. Part 763, Subpart E - Asbestos; Asbestos-Containing Materials in Schools (AHERA Rule)

At one of the OPPTS "Regulatory Review Stakeholders' Meeting" in April 1995, a commenter indicated that the OPPTS preliminary report missed two sections of the AHERA rule that have been superseded. Specifically, the commenter pointed out that 40 CFR 763.90(i)(4) gives the requirement for completion of a response action by TEM sampling. However, the rule allowed for a gradual phasing in of TEM and a phasing out of PCM in § 763.90(i)(6) and (7). As the commenter correctly noted, § 763.90(i)(6) and (7) have now expired, and are superseded by § 763.90(i)(4).

EPA is therefore removing § 763.90(i)(6) and (7), removing the citations to these sections which appear in § 763.90(i)(3), (4) and (8), and will redesignate § 763.90(i)(8) as § 763.90(i)(6).

G. Part 763, Subpart F - Asbestos; Friable Asbestos-Containing Materials in Schools

This rule requires local education agencies to identify friable asbestos-containing material in public and private schools by visually inspecting school buildings for friable materials, sampling such materials, and having samples analyzed by appropriate techniques referred to in the rule. In addition, the rule requires local education agencies to post a notice of the results of inspections and analyses.

The rule requires local education agencies to provide warnings on the health effects of asbestos and instructions on methods to avoid or reduce exposure to school employees of any school with friable asbestos-containing material and to notify parent-teacher associations of the results of inspections. The rule also includes recordkeeping requirements.

This regulation was superseded by the 1987 Asbestos in School Rule at 40 CFR part 763, subpart E, which implemented the Asbestos Hazard Emergency Response Act (AHERA), and is therefore no longer in effect. However, appendix A to subpart F, which provides EPA's regulatory method for analysis of building materials samples for the presence of asbestos, is cited by the AHERA rule as well as the Asbestos National Emission Standards Hazardous Air Pollutants (NESHAP) rule in 40 CFR part 61, subpart M. As such, although the subpart is no longer in effect and may be eliminated, appendix A is still in use and must be retained. To retain appendix A, EPA is moving appendix A of subpart F to subpart E (the AHERA Rule), as a new appendix E. Corresponding changes are also being made for the citations to appendix A in both the AHERA and NESHAP rules.

H. Part 766 - Dibenzo-para-dioxins/ Dibenzofurans

This part identifies requirements for testing under TSCA section 4 to ascertain whether certain specified chemical substances may be contaminated with halogenated dibenzodioxins (HDDs)/dibenzofurans (HDFs) as defined in § 766.3, and requirements for reporting results under TSCA section 8. This regulation is still in effect, and EPA continues to receive a few reports each year. EPA is deleting the Dioxin/Furan Reporting form (EPA 7710-51) from 40 CFR 766.35(d). The form is easily available from EPA.

I. Parts 795 through 798 - TSCA Testing Guidelines

TSCA Section 4(b)(1) specifies that test rules shall include standards for the development of test data. Certain test guidelines, which become test standards when promulgated in individual section 4 test rules, are currently published in parts 795-798 of the CFR. Codification of these test guidelines alone does not impose any regulatory obligation. This final rule deletes from the CFR those test guidelines that are not currently cited as test standards in any test rules.

J. Part 799 - Chemical Specific Test Rules

Part 799 identifies the chemical substances, mixtures, and categories of substances and mixtures for which data are to be developed, specifies the persons required to test, specifies the test substances in each case, prescribes the tests that are to be conducted, including test standards, and provides deadlines for the submission of reports and data to EPA. For several of the substances subject to testing under part 799, EPA has determined that the testing reimbursement period (as defined under 40 CFR 790.3 and 791.3) has terminated (sunset). This final rule removes from the CFR test rules and testing consent order listings under part 799 on substances for which the testing reimbursement periods have sunset.

For a given test rule, the reimbursement period is defined in TSCA section 4 and the associated regulations as the later of (1) the date 5 years after the date the data are submitted in accordance with the rule and (2) the period that begins on the date the data are submitted and equal to the time period that EPA determines was necessary to develop such data. Generally, the reimbursement period is 5 years from the date of submission of the data because EPA has not required any tests that take more than 5 years to develop data from the time data development begins. For all the test rules affected by today's action, EPA has determined that the period required for developing the data is less than or equal to 5 years (by using the dates for submission of data contained in the rules); thus the reimbursement period ends 5 years after submission of the data. For all of the rules being deleted today, over 5 years have passed since the last test data were submitted under that rule.

Section 4 test rules trigger export notification under TSCA section 12(b) (see 40 CFR part 707, subpart D). The period during which the export notification requirements apply for a particular chemical substance or mixture subject to a section 4 test rule ends when the reimbursement period ends. Thus, the obligation to submit section 12(b) export notices for the substances and mixtures subject to the test rules being deleted today has also terminated.

Additionally, this rule adds § 799.18; this new section lists in a table, substances and mixtures that are the subjects of test rules and/or consent orders for which the testing reimbursement period has sunset. "Sunset date," as the term is used in the

table at § 799.18, identifies the end of (1) the period during which TSCA section 4 test rule reporting requirements apply under the particular test rule (e.g., submission of exemption requests, notices of intent to conduct testing), and (2) the reimbursement period during which certain persons are subject to an obligation to reimburse test sponsors for their share of the costs (calculated using market share and other bases during the reimbursement period) associated with testing these chemicals (see 40 CFR part 791).

EPA intends to update the table at § 799.18 on a periodic basis.

IV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS-00168. A public version of the record, without any confidential business information is available in the TSCA Public Docket Office from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NEB-607, 401 M St., SW., Washington, DC.

V. Analyses under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act and the Paperwork Reduction Act

Because the withdrawal of these rules from the CFR merely reflects their current legal status, this action is not a "significant" regulatory action within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), and does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reasons, pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this action would not have a significant economic impact on a substantial number of small entities. In addition, because these rules are not currently in effect or are being eliminated, their deletion from the CFR does not affect requirements under the Paperwork Reduction Act, 44 U.S.C. 3501.

List of Subjects in 40 CFR Parts 61, 704, 710, and 762, 763, 766, 795, 796, 797, 798 and 799

Administrative practice and procedure, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Chemicals, Confidential business information, Dibenzo-para-dioxins, Dibenzofurans, Environmental protection, Fully halogenated chlorofluoroalkanes, Hazardous substances, Health, imports, Intergovernmental relations, Labeling,

Laboratories, Mercury, Occupational safety and health, Radionuclides, Radon, Reporting and recordkeeping requirements, School, Vinyl chloride.

Dated: June 14, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, title 40 of the Code of Federal Regulations, chapter I, is amended as follows:

1. In part 61:

PART 61—[AMENDED]

a. The authority citation for part 61 continues to read as follows:

Authority: Secs. 101, 112, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

§ 61.141 [Amended]

b. Section 61.141 is amended by replacing "appendix A, subpart F," with "appendix E, subpart E," in each of the following five definitions: "Category I non-friable asbestos-containing material (ACM);" "Category II nonfriable ACM"; "Friable asbestos material"; "Nonfriable asbestos-containing material"; and "Resilient floor covering".

§ 61.146 [Amended]

c. In § 61.146, paragraphs (a) and b are amended by replacing "appendix A, subpart F," with "appendix E, subpart E,".

§ 61.156 [Amended]

d. In § 61.156, Table 1 is amended by replacing in the "CFR citation" column "40 CFR 763, Subpart E, F" with "40 CFR part 763, subpart E".

Appendix A to Subpart M [Amended]

e. In subpart M, appendix A, section I.1.1. is amended by replacing "appendix A, subpart F," with "appendix E, subpart E,".

2. In part 704:

PART 704—[AMENDED]

a. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 704.1 [Amended]

b. Section 704.1 is amended in paragraph (a), in the first sentence, by removing the words "or D," and by removing paragraphs (c) and (d).

§ 704.104 [Amended]

c. Section 704.104(c)(3) is amended by removing the phrase "as required by § 712.30(d) of this chapter."

Subparts C and D [Removed]

d. Subparts C and D, consisting of § 704.200 through 704.225 are removed.
3. In part 710:

PART 710—[AMENDED]

a. The authority citation for part 710 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

Subparts A and B Headings [Removed]

b. By removing the subpart A and B headings.

c. In § 710.1, by revising paragraphs (a) and (c) to read as follows:

§ 710.1 Scope and compliance.

(a) This part establishes regulations governing reporting by certain persons who manufacture, import, or process chemical substances for commercial purposes under section 8(a) of the Toxic Substances Control Act (15 U.S.C. 2607(a)). Section 8(a) authorizes the Administrator to require reporting of information necessary for administration of the Act and requires EPA to issue regulations for the purpose of compiling an inventory of chemical substances manufactured or processed for a commercial purpose, as required by section 8(b) of the Act. Following an initial reporting period, EPA published an initial inventory of chemical substances manufactured, processed or imported for commercial purposes. In accordance with section 8(b), EPA periodically amends the inventory to include new chemical substances which are manufactured or imported for a commercial purpose and reported under section 5(a)(1) of the Act. EPA also revises the categories of chemical substances and makes other amendments as appropriate.

* * * * *

(c) Each person who reports under these regulations shall maintain records that document information reported under these regulations and, in accordance with the Act, permit access to, and the copying of, such records by EPA officials.

d. In § 710.2 by revising the introductory text to read as follows:

§ 710.2 Definitions.

In addition to the definitions in § 704.3 of this chapter, the following definitions also apply to this part:

* * * * *

§ 710.3, 710.5, through 710.8 [Removed]

e. By removing § 710.3, and 710.5 through 710.8 .

§ 710.23 [Redesignated and Removed]

f. In § 710.23, by redesignating paragraphs (a), (b), and (c) as § 710.2 (dd), (ee), and (ff), respectively, and by removing the remainder of § 710.23.

§ 710.32 [Amended]

g. In § 710.32 introductory text, change the phrase "this subpart" to read "this part".

§ 710.35 [Amended]

h. In § 710.35 change the phrase "this subpart" to read "this part", each time the phrase appears.

§ 710.37 [Amended]

i. In § 710.37, in the first sentence, change the phrase "this subpart" to read "this part".

§ 710.38 [Amended]

j. In § 710.38 (a), (b), (c)(1)(i), and (d), change the phrase "this subpart" to read "this part", each time the phrase appears.

4. In part 712:

PART 712—[AMENDED]

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 712.1 [Amended]

b. In § 712.1(a) by revising the phrase "Subparts B and C, respectively, cover" to read "Subpart B covers".

§ 712.7 [Amended]

c. In § 712.7, the first sentence, by revising the phrase "Subparts B and C" to read "subpart B".

d. In § 712.28, paragraph (d) is revised to read as follows:

§ 712.28 Form and instructions.

* * * * *

(d) Form 7710-35, Manufacturer's Report--Preliminary Assessment Information or PAIR form and instructions may be obtained by telephoning or writing the Environmental Assistance Division. The telephone number and the address of the Environmental Assistance Division is: Phone Number (202) 554-1404, TDD (202) 554-0551. Address: Environmental Assistance Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

e. Section 712.30 is amended in paragraph (c) by changing the parenthetical "(TS-790), Rm. L-100," to read "(7409)", by removing paragraphs (d) through (v), by redesignating paragraphs (w) and (x) as paragraphs (d) and (e) and revising newly designated paragraph (d) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(d) Manufacturers and importers of the substances listed below must submit a Preliminary Assessment Information Manufacturer's Report for each site at which they manufacture or import each substance by the reporting date shown in the table below. The substances are listed in Chemical Abstracts Service Registry Number order. Typically EPA lists the trivial or common name first, then, following the symbol "- -", EPA lists the substance by its TSCA Chemical Substance Inventory name. Whenever EPA lists a single name, the name may be either the TSCA Chemical Substance Inventory name, a trivial name, or a common name. Generally, when a single name is listed, it is the TSCA Chemical Substances Inventory name.

CAS No.	Substance	Effective date	Reporting date
90-30-2	N-Phenyl-1-naphthylamine	9/30/91	11/27/91
100-40-3	4-Vinylcyclohexene	1/11/90	3/12/90
108-95-5	Thiophenol	1/26/94	3/28/94
118-79-6	2,4,6-tribromophenol	1/11/90	3/12/90
143-33-9	Sodium cyanide	10/29/90	12/27/90
632-79-1	Tetrabromophthalic anhydride	1/11/90	3/12/90
637-92-3	Ethyl tert-butyl ether	12/28/94	2/27/95
994-05-8	Tert-amyl methyl ether	12/28/94	2/27/95
1163-19-5	Decabromodiphenyl ether	1/11/90	3/12/90
3194-55-6	Hexabromocyclododecane	1/11/90	3/12/90
3296-90-0	Dibromoneopentyl glycol	1/11/90	3/12/90

CAS No.	Substance	Effective date	Reporting date
12185-10-3	White phosphorus	1/26/94	3/28/94
32534-81-9	Pentabromodiphenyl ether	1/11/90	3/12/90
32536-52-0	Octabromodiphenyl ether	1/11/90	3/12/90
32588-76-4	Ethylene Bis-(tetrabromophthalimide)	1/11/90	3/12/90
37853-59-1	1,2-Bis(tribromophenoxy) ethane	1/11/90	3/12/90
41291-34-3	Ethylene(5,6-dibromonorbornane-2,3-dicarboximide)	1/11/90	3/12/90
52907-07-0	Ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide)	1/26/94	3/28/94
57137-10-7	Tribrominated polystyrene	1/11/90	3/12/90
61262-53-1	Ethylene bis(pentabromophenoxide)	1/11/90	3/12/90

* * * * *

PART 762—[REMOVED]

- 5. By removing part 762.
- 6. In part 763:

PART 763—[AMENDED]

a. The authority citation for part 763 is revised to read as follows:

Authority: 15 U.S.C. 2605, 2607(c), 2643, and 2646

Subpart D [Removed and Reserved]

b. By removing and reserving subpart D, consisting of § 763.60 through 763.78.

§ 763.87 [Amended]

c. Section 763.87(b) is amended by changing the phrase "Appendix A to subpart F in 40 CFR Part 763," to read "appendix E to subpart E of this part."

§ 763.90 [Amended]

d. Section 763.90 is amended, in paragraph (i)(3) by changing the phrase "paragraphs (i)(4), (5), (6), or (7)" to read "paragraphs (i)(4), and (i)(5)," in paragraph (i)(4), last sentence, by changing the phrase "paragraph (i)(3), (5), (6), or (7)," to read "paragraph (i)(3) or (i)(5)," by removing paragraphs (i)(6) and (i)(7), by redesignating paragraph (i)(8) as paragraph (i)(6), and by changing the phrase "paragraphs (i)(5), (6), and (7)," to read "paragraph (i)(5)," each time this phrase appears.

Subpart E, Appendix C [Amended]

e. In Subpart E, Appendix C, section I.B.3.(l) "Regulatory review," revise the phrase "the Friable Asbestos in Schools Rule (40 CFR Part 763, Subpart F)" to read "the Asbestos-Containing Materials in Schools Rule (40 CFR Part 763, Subpart E)".

Appendix A to Subpart F [Redesignated]

f. In subpart F, by redesignating "Appendix A to Subpart F" as "Appendix E to Subpart E."

Subpart F [Removed and Reserved]

g. By removing the remainder of subpart F to part 763, consisting of

§ 763.100 through 763.119 and by reserving the subpart F designation.

7. In part 766:

PART 766—[AMENDED]

a. The authority citation for part 766 continues to read as follows:

Authority: 15 U.S.C. 2603 and 2607.

§ 766.7 [Amended]

b. In § 766.7, by changing "Document Control Office (TS- 790), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460" to read "Document Control Office, (7407), Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 , ATTN: Dioxin/Furan Report.

§ 766.12 [Amended]

c. In § 766.12, by changing "(TS-799)" to "(7408)", removing "(800-424-9065)" and "OPPTS," by changing "NE-G004" to "NEB-607", and by changing "8 a.m." to "12 noon".

d. In § 766.35, by revising paragraph (c)(1)(i), in paragraph (c)(2), the first sentence, by changing "EPA Form 7910-51 (appearing in § 766.35(d))" to "EPA Form 7710-51", and by removing and reserving paragraph (d), to read as follows

§ 766.35 Reporting requirements.

* * * * *

(c) * * *

(1)

(i) A completed form (EPA 7710-51) for that chemical substance. The form and instructions are available from the Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. One form must be submitted for each chemical substance for which a positive test result has been submitted.

* * * * *

§ 766.38 [Amended]

e. In § 766.38(c), by changing "Part II of form EPA 7910-51 (appearing at

§ 766.35(d) for each chemical product. A separate form EPA 7910-51 must" to "Part II of EPA Form 7710-51 for each chemical product. A separate EPA Form 7710-51 must", and by removing the parenthetical text at the end of the section.

8. In part 790:

PART 790—[AMENDED]

a. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 790.5 [Amended]

b. Section 790.5(a) is amended by removing the phrase "e.g., § 799.4400 1,1,1-Trichloroethane,".

9. In part 795:

PART 795—[AMENDED]

a. The authority citation for part 795 continues to read as follows:

Authority: 15 U.S.C. 2603.

§§ 795.45, 795.54, 795.223, 795.230, 795.235, 795.260, 795.285 [Removed]

b. By removing §§ 795.45, 795.54, 795.223, 795.230, 795.235, 795.260, 795.285.

10. In part 796:

PART 796—[AMENDED]

a. The authority citation for part 796 continues to read as follows:

Authority: 15 U.S.C. 2603.

§§ 796.1220, 796.1370, 796.1520, 796.1550, 796.1570, 796.1720, 796.1840, 796.1860, 796.2700, 796.3140, 796.3180, 796.3200, 796.3220, 796.3240, 796.3260, 796.3300, 796.3340, 796.3360, 796.3400, 796.3480, 796.3700, 796.3780, and 796.3800 [Removed]

b. By removing §§ 796.1220, 796.1370, 796.1520, 796.1550, 796.1570, 796.1720, 796.1840, 796.1860, 796.2700, 796.3140, 796.3180, 796.3200, 796.3220, 796.3240, 796.3260, 796.3300, 796.3340, 796.3360, 796.3400, 796.3480, 796.3700, 796.3780, and 796.3800.

11. In part 797:

PART 797—[AMENDED]

a. The authority citation for part 797 continues to read as follows:

Authority: 15 U.S.C. 2603.

§§ 797.1060, 797.1075, 797.1160, 797.1350, 797.1440, 797.1520, 797.1560, 797.1800, 797.1830, and 797.1970 [Removed]

b. By removing §§ 797.1060, 797.1075, 797.1160, 797.1350, 797.1440, 797.1520, 797.1560, 797.1800, 797.1830, and 797.1970.

Subpart C [Removed]

c. By removing subpart C, consisting of §§ 797.2050, 797.2130, 797.2150, 797.2175, 797.2750, 797.2800, and 797.2850.

12. In part 798:

PART 798—[AMENDED]

a. The authority citation for part 798 continues to read as follows:

Authority: 15 U.S.C. 2603.

Subpart B [Removed and Reserved]

b. By removing subpart B, consisting of §§ 798.1100, 798.1150, and 798.1175 and designating subpart B as reserved.

§§ 798.2675, 798.4420, 798.4470, 798.4500, 798.5100, 798.5140, 798.5250, 798.5550, 798.5575, 798.5900, 798.5915, 798.6450, 798.6540, and 798.6850 [Removed]

c. By removing §§ 798.2675, 798.4420, 798.4470, 798.4500, 798.5100, 798.5140, 798.5250, 798.5550, 798.5575, 798.5900, 798.5915, 798.6450, 798.6540, and 798.6850.

Subpart H [Removed]

d. By removing subpart H, consisting of § 798.7100.

13. In part 799:

PART 799—[AMENDED]

a. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. Section 799.5 is amended by removing the parenthetical text "(e.g. § 799.4400 for 1,1,1-Trichloroethane)".

c. Section 799.18 is added to subpart A to read as follows:

§ 799.18 Chemicals subject of test rules or consent orders for which the testing reimbursement period has passed.

The following table lists substances and mixtures that have been the subjects

of section 4 testing actions and for which the testing reimbursement period has terminated (sunset). The **Federal Register** citation in the table is for the final rule/consent order that includes the particular substance for which the sunset date listed in the table below applies. Section 12(b) export notification is no longer required for these substances and mixtures. Substances that are the subjects of two or more section 4 testing actions may have section 4 reimbursement or section 12(b) export notification requirements that have not sunset; see subparts B, C, and D of this part to determine if certain other section 4 testing requirements apply. Additionally, section 12(b) export notification may also be triggered by proposed or final action under TSCA section 5, 6, or 7 (in addition to final actions under section 4); see 40 CFR part 707, subpart D for further information regarding the TSCA section 12(b) export notification requirements.

CAS No.	Chemical Name	FR cite	Sunset dates
	C-9 Aromatic Hydrocarbon Fraction ¹	50 FR 20662, 5/17/85	Aug 13, 1994
62-53-3	Aniline	53 FR 31804, 8/19/88	July 27, 1994
71-55-6	1,1,1-Trichloroethane	49 FR 39810, 10/10/84	June 29, 1992
75-56-9	Propylene oxide	50 FR 48762, 11/27/85	Dec,21, 1992
78-87-5	1,2-Dichloropropane	52 FR 37138, 10/5/87	April 17, 1995
79-94-7	Tetrabromobisphenol-A	52 FR 25219, 7/6/87	Aug 24, 1994
80-05-7	Bisphenol A	51 FR 33047, 9/18/86	April 6, 1993
84-65-1	Anthraquinone	52 FR 21018, 6/4/87	Aug 21,1994
87-61-6	1,2,3-trichlorobenzene	51 FR 11728,4/7/86	Nov 13, 1993
88-74-4	2-nitroaniline	53 FR 31804, 8/19/88	Sept 19, 1994
92-52-4	1,1-Biphenyl	50 FR 37182, 9/12/85	March 15,1994
95-48-7	Ortho-cresols AKA 2-methylphenol	51 FR 15771, 4/28/86	Dec. 6, 1994
95-50-1	1,2-dichlorobenzene	51 FR 24657, 7/8/86	April 27, 1994
95-51-2	2-chloroaniline	53 FR 31804, 8/19/88	Sept 6, 1994
95-76-1	3,4-dichloroaniline	53 FR 31804, 8/19/88	Oct 2, 1994
95-94-3	1,2,4,5-tetrachlorobenzene	51 FR 24657,7/8/86	April 27, 1994
97-02-9	2,4-dinitroaniline	53 FR 31804, 8/19/88	Oct 19, 1993
98-82-8	Cumene	53 FR 28195, 7/27/88	March 11, 1995
99-30-9	2,6-dichloro-4-nitroaniline	53 FR 31804, 8/19/88	Aug 6, 1994
100-01-6	4-nitroaniline	53 FR 31804, 8/19/88	Sept 19, 1994
106-44-5	Para-cresols AKA 4-methylphenol	51 FR 15771, 4/28/86	Dec. 6, 1994
106-46-7	1,4-dichlorobenzene	51 FR 24657, 7/8/86	Jan 22, 1994
106-47-8	4-chloroaniline	53 FR 31804, 8/19/88	Oct 19, 1993
108-39-4	Meta-cresols AKA 3-methylphenol	51 FR 15771, 4/28/86	Dec. 6, 1994
108-90-7	Monochlorobenzene	51 FR 24657, 7/8/86	Nov 13, 1991
112-90-3	Oleylamine	52 FR 31962, 8/24/87	Nov 28, 1994
116-14-3	Tetrafluoroethene	52 FR 21516, 6/8/87	May 19, 1993

CAS No.	Chemical Name	FR cite	Sunset dates
116-15-4	Hexafluoropropene	52 FR 21516, 6/8/87	Jan 22, 1994
123-31-9	Hydroquinone	50 FR 53145, 12/30/85	Dec. 11, 1994
149-57-5	2-Ethylhexanoic Acid	51 FR 40318, 11/6/86	June 19, 1993
328-84-7	3,4-Dichlorobenzotrifluoride	52 FR 23547, 6/23/87	Dec. 5, 1993
25550-98-5	Diisodecyl Phenyl Phosphite	54 FR 8112, 2/24/89	May 21, 1995

¹ Only substances obtained from the reforming of crude petroleum.

§§ 799.500, 799.925, 799.940, 799.1051, 799.1052, 799.1054, 799.1250, 799.1285, 799.1550, 799.1650, 799.2175, 799.2200, 799.3175, 799.3450, 799.4000, 799.4400 [Removed]

d. Sections 799.500, 799.925, 799.940, 799.1051, 799.1052, 799.1054, 799.1250, 799.1285, 799.1550, 799.1650, 799.2175, 799.2200, 799.3175, 799.3450, 799.4000, and 799.4400 are removed.

§ 799.5000 [Amended]

e. Section 799.5000 is amended by removing from the table the complete entries for the following substances and/or mixtures: Aniline, 2-nitroaniline, 2-chloroaniline, 3,4-dichloroaniline, 2,4-dinitroaniline, 2,6-dichloro-4-nitroaniline, 4-nitroaniline, 4-chloroaniline, 3,4-dichlorobenzotrifluoride, and diisodecyl phenyl phosphite.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87-266; FCC 95-203]

Cross-Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has voted to adopt the tentative conclusion regarding the Commission's legal authority to grant waivers to telephone companies allowing them to provide video programming directly to subscribers in their telephone service areas. For "good cause" the Commission may waive Section 613(b) of the Communications Act, the cable-telco cross-ownership restriction, where a waiver is "justified by the particular circumstances." In response to the decisions of the Fourth and Ninth Circuits which found Section 613(b) unconstitutional on First Amendment grounds, the Commission concluded that under Section 613(b)(4), the waiver provision, it has the legal

authority to grant waivers to allow telephone companies to provide video programming in their telephone service areas on video dialtone networks. The Commission further concluded that waiving the restriction in that manner is fully consistent with the language of the statute and Section 613(b)'s underlying policy, and obviates the constitutional infirmities identified by the court of appeals. This order is intended to provide guidance to the public regarding the Commission's legal authority to grant waivers of the cable-telco cross-ownership rule to telephone companies seeking to provide video programming directly to subscribers in their telephone service areas.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Aliza Katz, Office of General Counsel, (202) 418-1720.

SUPPLEMENTARY INFORMATION: A summary of the Commission's *Third Report and Order* (TR&O), adopted May 16, 1995 and released May 16, 1995, is set forth below. The full text of this document is available for inspection and copying during normal business hours in the Administrative Law Division, Office of General Counsel (Room 616), 1919 M Street NW., Washington, DC. The full text may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Third Report and Order

Introduction. In this *Third Report and Order*, we adopt the tentative conclusion set forth in the *Fourth Further Notice of Proposed Rulemaking* ("*Fourth FNPRM*"), 60 FR 8996, February 16, 1995, in the above captioned docket regarding the Commission's legal authority to waive Section 613(b) of the Communications Act, 47 U.S.C. § 533(b). Section 613(b) generally prohibits telephone companies from providing "video programming directly to subscribers in the[ir] telephone service area." However, the statute expressly authorizes us to waive the restriction for

"good cause." We conclude that Section 613(b)(4) authorizes us to grant waivers to allow telephone companies to provide video programming directly to subscribers in their telephone service areas under certain conditions. In particular, in response to decisions of the Fourth and Ninth Circuits, we conclude that under Section 613(b)(4) we have the legal authority to grant waivers allowing telephone companies to provide video programming in their telephone service areas on video dialtone networks. We adopt that construction of the waiver provision because it is fully consistent with the language of the statute and Section 613(b)'s underlying policy, and because waiving the restriction in that manner obviates the constitutional infirmities identified by the courts of appeals.

2. *Background and Summary.* Section 613(b), the "cable-telco cross-ownership rule," prohibits a telephone company from operating a cable system where it has a monopoly on local telephone service. Although Section 613(b) does not bar a telephone company from acting as a conduit to carry video programming selected and provided by an unaffiliated party, it does generally bar a telephone company from selecting (or "exerting editorial control over") and providing the video programming carried over its wires in its local service area. Two counts of appeals, the Fourth and Ninth Circuits, have recently held Section 613(b) unconstitutional because it prohibits telephone companies from choosing the video programming to be provided in their local exchange telephone service areas *altogether*. See *US West, Inc. v. United States*, 48 F.3d 1092 (9th Cir. 1995) (US West); *Chesapeake and Potomac Tel. Co. v. United States*, 42 F.3d 181 (4th Cir. 1994) (C&P). In so holding, both courts referred to the Commission's 1992 recommendation to Congress is our video dialtone docket, a proposal that the Ninth Circuit described in *US West* as a "more speech-friendly plan" than the absolute ban contained in the statute. Under the Commission's legislative recommendations, as described by the Fourth Circuit in *C&P*, "telephone companies' editorial control