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."