

permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the three-year time period for processing the initial permit applications.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval of the State's program under section 112(l)(5) and 40 CFR 63.91 for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

The EPA's policy is to apply sanctions to State programs if the Governor fails to submit a corrected program within 18 months after the due date for the submittal. If the State fails to submit a corrected program for full approval by May 20, 1996, the EPA will start an 18-month clock for mandatory sanctions. If the State fails to submit a complete program before the expiration of the 18 month period, the EPA would impose sanctions. If the EPA disapproves a State's corrective program, and has not granted full approval within 18 months after the disapproval, then the EPA must impose mandatory sanctions. In both cases, if the State has not come into compliance within 6 months after EPA applies the first sanction, a second sanction is required. In addition, discretionary sanctions may be applied where warranted any time after the end of the interim approval period. If the EPA has not granted full approval to the State program by November 18, 1996, the EPA must promulgate, administer, and enforce a Federal operating permits program for the New Mexico Environment Department.

**III. Administrative Requirements**

**A. Docket**

Copies of the State's submittal and other information relied upon for the final interim approval, including four public comments received during the public comment period and two received after the close of the public comment period, are contained in

docket number FR Doc. 94-12246, maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

**B. Executive Order 12866**

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

**C. Regulatory Flexibility Act**

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

**List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 1, 1994.

Jane N. Saginaw,  
Regional Administrator (6A).

40 CFR part 70 is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

2. Appendix A to part 70 is amended by adding the entry for New Mexico in alphabetical order to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**New Mexico**

(a) Environment Department; submitted on November 15, 1993; Effective Date on December 19, 1994; Interim Approval Expires on December 19, 1996.

(b) [Reserved]

\* \* \* \* \*

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**40 CFR Part 799**

[OPPTS-42094C; FRL-4909-5]

RIN 2070-AB94

**Testing Consent Order for Cyclohexane**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Consent Agreement and Order.

**SUMMARY:** EPA has issued a Testing Consent Order (Order) that incorporates an Enforceable Consent Agreement (ECA) pursuant to the Toxic Substances Control Act (TSCA) with Chevron Chemical Company, CITGO Refining Chemicals, Inc., Sun Company, Inc., Kerr-McGee Refining Corporation, Huntsman Corporation, E.I. DuPont de Nemours Company, and Phillips Petroleum Company, (the Companies) who have agreed to perform certain health effects tests and an exposure evaluation test with cyclohexane (CAS No. 110-82-7). This document summarizes the ECA, and amends 40 CFR 799.5000 by adding cyclohexane to the list of chemical substances and mixtures subject to ECAs.

EFFECTIVE DATE: November 18, 1994.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** This document amends 40 CFR 799.5000 by adding cyclohexane to the list of chemical substances and mixtures subject to ECAs and export notification requirements.

**I. Background**

In its 17th Report to the Administrator of the Environmental Protection Agency, published in the **Federal Register** of November 19, 1985 (50 FR 47603), the Interagency Testing Committee (ITC) designated cyclohexane for priority testing consideration for certain health effects testing. The ITC recommended cyclohexane for testing for oncogenicity, reproductive toxicity, developmental toxicity, and neurotoxicity. The rationale for the original designation appeared in that Report. In the **Federal Register** of May 20, 1987 (52 FR 19096), EPA issued a proposed test rule for cyclohexane for health effects testing. EPA proposed cyclohexane be tested for subchronic toxicity, oncogenicity, reproductive toxicity, developmental

toxicity, neurotoxicity (schedule-controlled operant behavior, neuropathology, functional observation battery, and motor activity), developmental neurotoxicity, dermal absorption, and dermal sensitization.

On July 17, 1992, EPA published a notice in the **Federal Register** (57 FR 31714) declaring an "open season" for consent order negotiations for certain chemicals under testing consideration by EPA under section 4 of TSCA. These chemicals included cyclohexane. In a proposal dated September 15, 1992, the Cyclohexane Panel of the Chemical Manufacturers Association submitted a proposal for testing cyclohexane for potential health effects (Ref. 1). The Cyclohexane Panel's proposal included virtually all of EPA's proposed testing except for oncogenicity testing and developmental neurotoxicity. The Panel did not propose to do a developmental neurotoxicity test, believing it to be unwarranted due to data showing limited exposure. EPA disagrees with the Panel's ultimate conclusions on this testing and believes that such testing is supported by the exposure data. However, EPA also believes that this testing would best be considered after EPA receives and reviews the results of the neurotoxicity, reproductive and fertility tests required under the ECA described in this notice.

In accordance with 40 CFR 790.28, EPA issued an additional notice in the **Federal Register** of March 30, 1993 (58 FR 16669) announcing a public meeting and EPA's intent to negotiate with industry for a Testing Consent Order for cyclohexane based on the acceptance of

the Cyclohexane Panel's proposal as an adequate basis for negotiation. EPA published notices in the **Federal Register** of March 30, 1993 (58 FR 16669) and August 18, 1993 (58 FR 43893), requesting persons interested in participating in or monitoring testing negotiations on cyclohexane to contact EPA.

On February 17, 1994, EPA held a public meeting attended by representatives of interested parties. At the public meeting, the Cyclohexane Panel of CMA presented a proposed testing plan (Ref. 2) which would characterize the potential of cyclohexane's subchronic toxicity, reproductive toxicity, developmental toxicity, neurotoxicity (schedule-controlled operant behavior, neuropathology, functional observation battery, and motor activity), dermal absorption, and dermal sensitization. The Panel did not think that oncogenicity testing of cyclohexane was warranted at this time. EPA responded by noting the large emissions of cyclohexane reported on the Toxic Release Inventory (TRI). These emissions were reported by processors and users of cyclohexane, whereas the manufacturers reported relatively smaller releases. EPA requested that the manufacturers consider implementing, as part of their product stewardship activities, an emissions reduction program on cyclohexane targeted at their customers. In a letter dated March 17, 1994 (Ref. 3), CMA proposed language for an emissions reduction provision to be inserted into the ECA. In a letter dated April 14, 1994 (Ref. 4),

EPA responded by agreeing to defer oncogenicity testing pending prospective reductions in cyclohexane emissions. This provision provides that within 3 months after submission of the last study report required under the ECA, the Companies will submit a report to EPA summarizing the then current data on environmental releases of cyclohexane from facilities that manufacture, process or use cyclohexane. Upon reviewing the emissions data report submitted after completion of testing, as well as data from testing performed under this ECA, and other available exposure/emissions information, EPA may revisit the issue of the need for oncogenicity testing of cyclohexane.

**II. Exposure and Environmental Releases**

Approximately 2.4 billion pounds of cyclohexane was produced in 1989. Over 95 percent of cyclohexane produced is used as an intermediate in nylon production. EPA's best estimate of the number of workers occupationally exposed to cyclohexane is 12,076. Cyclohexane is found in a number of consumer products including spray paint and spray adhesives and is also available as a laboratory solvent. Toxic Release Inventory data indicate that about 17.2 million pounds of cyclohexane was released to the environment in 1991.

**III. Scope of Testing Program**

The Companies have agreed to complete the following testing.

TABLE—REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR CYCLOHEXANE

Test	Test standard (40 CFR citation)	Reporting deadline for final report <sup>1</sup> (months)	Interim reports (6 month) required
Health Effects.			
Subchronic: inhalation .....	40 CFR 798.2450	21	3
Reproductive effects.			
Inhalation .....	40 CFR 798.4700	29	4
Developmental toxicity.			
Inhalation .....	40 CFR 798.4350	15	2
Schedule-controlled operant behavior.			
Acute inhalation .....	1991 EPA Guideline	15	2
Functional observational battery.			
Subchronic inhalation .....	1991 EPA Guideline for neurotoxicity screening battery	21	3
Motor activity.			
Subchronic inhalation .....	1991 EPA Guideline for neurotoxicity screening battery	21	3
Neuropathology.			
Subchronic inhalation .....	1991 EPA Guideline for neurotoxicity screening battery	21	3
Dermal sensitization.			
Dermal .....	40 CFR 798.4100	12	1

TABLE—REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR CYCLOHEXANE—Continued

Test	Test standard (40 CFR citation)	Reporting deadline for final report <sup>1</sup> (months)	Interim reports (6 month) required
Dermal absorption test. Dermal and intravenous .....	Jeffcoat protocol	12	1

<sup>1</sup> Number of months after the effective date of the final rule.

In addition, the Companies have agreed that within 3 months following submission of the last study report required under this ECA, the Companies will submit a report to EPA summarizing the then current data on environmental releases of cyclohexane from facilities that manufacture, process or use cyclohexane.

#### IV. Export Notification

The issuance of the ECA and Order subjects any persons who export or intend to export the chemical substance, cyclohexane (CAS No. 110-82-7), of any purity, to the export notification requirements of section 12(b) of TSCA and the regulations promulgated pursuant to it at 40 CFR part 707. The listing of the chemical substance or mixture at 40 CFR 799.5000 serves as a notification to persons who intend to export such chemical substance or mixture that the substance or mixture is the subject of an ECA and Order and 40 CFR part 707 applies.

#### V. Withdrawal of Proposed Rule

EPA and the Companies have agreed that the cyclohexane testing requirements in the proposed rule will be met by implementing the Order and ECA, and the issuance of the Order and ECA by EPA constitutes final EPA action for purposes of 5 U.S.C. 704. Therefore, the proposed rule for cyclohexane, published at 52 FR 19026, May 20, 1987, is withdrawn. Any oncogenicity and developmental neurotoxicity testing requirements will be handled in separate actions.

#### VI. Rulemaking Record

EPA has established a record for this Consent Order under TSCA section 4, docket number OPPTS-42094C, which is available for inspection Monday through Friday, excluding legal holidays, in Rm. NE B607, 401 M St. SW., Washington, DC 20460 from 12 p.m. to 4 p.m. Confidential Business Information (CBI) while part of the record, is not available for public review. This record includes basic information considered by EPA in developing this ECA and Order and includes the following information:

(1) Testing Consent Order for Cyclohexane; with incorporated

Enforceable Consent Agreement and associated test standards attached as appendices.

(2) Federal Register notices pertaining to this notice and the Testing Consent Order incorporating the ECA and consisting of:

(a) Notice containing the ITC recommendation with intent to designate cyclohexane (50 FR 47603; November 19, 1985).

(b) Notice of Proposed Rulemaking, Cyclohexane (52 FR 19096, May 20, 1987).

(c) Notice of Opportunity to Initiate Negotiations for TSCA Section 4 Testing Consent Agreements (57 FR 31714, July 17, 1992).

(d) Notice of Testing Consent Agreement Development for Tier I Chemical Substances; Solicitation for Interested Parties (58 FR 16669, March 30, 1993).

(e) Notice of Testing Consent Agreement Development for Listed Chemical Substances; Solicitation for Interested Parties (58 FR 43893, August 18, 1993).

(3) Communications consisting of:

(a) Written letters.

(b) Contact reports of telephone summaries.

(c) Meeting summaries.

(4) Reports - published and unpublished factual materials.

#### B. References

(1) Chemical Manufacturers Association. Testing Proposal of the Cyclohexane Panel of the Chemical Manufacturers Association. September 15, 1992.

(2) Chemical Manufacturers Association. Letter to John Harris of EPA dated February 16, 1994.

(3) Chemical Manufacturers Association. Letter to Charles Auer of EPA dated March 17, 1994.

(4) EPA Letter to Jonathon Busch of the Chemical Manufacturers Association dated April 14, 1994.

#### VII. Regulatory Assessment Requirements

##### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of

Management and Budget (OMB)). Under section 3(f), the order defines "significant regulatory action" as action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

OMB has exempted this regulatory action from E.O. 12866 review because it is a consent agreement.

##### B. Paperwork Reduction

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this Order under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2070-0033.

Public reporting burden for this collection of information is estimated to average 586 hours per response. The estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information.

##### List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: November 3, 1994.

Lynn R. Goldman,  
Assistant Administrator for Prevention,  
Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I, subchapter R, part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation continues to read as follows:  
 Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding cyclohexane to the table in CAS Number order, to read as follows:  
 §799.5000 Testing Consent Orders for Substances and Mixtures with Chemical Abstract Service Registry Numbers.

CAS Number	Substance or mixture name	Testing	FR Publication Date
110-82-7	Cyclohexane	Health Effects and Environmental Releases Report	November 18, 1994

[FR Doc. 94-28552 Filed 11-17-94; 8:45 am]  
 BILLING CODE 6560-50-F

**INTERSTATE COMMERCE COMMISSION**

**49 CFR Part 1039**

[Ex Parte No. 346 (Sub-No. 32)]

**Rail General Exemption Authority; Exemption of Carbon Dioxide**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to its authority under 49 U.S.C. 10505, the Commission is exempting from regulation the transportation by rail of carbon dioxide (STCC No. 28-133). This commodity is added to the list of exempt commodities in 49 CFR Part 1039, as set forth below.

**EFFECTIVE DATE:** December 18, 1994.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927-5660. [TDD for hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** For further information, see the Commission's printed decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission, 1201

Constitution Ave. NW., Washington, DC 20423. Telephone (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services, (202) 927-5721.]

On October 21, 1993, at 58 FR 54323, we requested comments on a proposal by the Association of American Railroads (AAR) to exempt from regulation the railroad transportation of carbon dioxide. After receiving and analyzing the comments filed in this proceeding, we now approve AAR's proposal.

We reaffirm our initial finding that the exemption will not significantly affect either the quality of the human environment or the conservation of energy resources.

We also reaffirm our initial finding that the exemption will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 49 CFR Part 1039**

Intermodal transportation, Manufactured commodities, Railroads.

Decided: September 22, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioners Simmons and Morgan.

**Vernon A. Williams,**  
*Secretary.*

For the reasons set forth in the preamble, title 49, chapter X, part 1039

of the Code of Federal Regulations is amended as follows:

**PART 1039—EXEMPTIONS**

1. The authority citation for part 1039 continues to read as follows:

**Authority:** 49 U.S.C. 10321 and 10505; and 5 U.S.C. 553.

2. In § 1039.11, the table in paragraph (a) is amended by adding the following new entry to STCC Tariff 6001-V:

**§ 1039.11 Miscellaneous commodities exemptions.**

(a) \* \* \*

STCC No.	STCC Tariff 6001-V eff. 1-1-94	Commodity
28 133	.....do	Carbon dioxide.

[FR Doc. 94-28520 Filed 11-17-94; 8:45 am]  
 BILLING CODE 7035-01-P