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]

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 on 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) 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 (months) | Interim reports (6 month) required |
| Health Effects.                                |                                 |                                             |                               |
| Subchronic: inhalation                         | 40 CFR 798.2450                  | 21                                          | 3                             |
| Reproductive effects.                         | 40 CFR 798.4700                  | 29                                          | 4                             |
| Developmental toxicity.                       | 40 CFR 798.4350                  | 15                                          | 2                             |
| Schedule-controlled operant behavior.          |                                 |                                             |                               |
| Inhalation                                     | 1991 EPA Guideline               | 15                                          | 2                             |
| Functional observational battery.              |                                 |                                             |                               |
| Subchronic inhalation                          | 1991 EPA Guideline for neurotoxicity screening | 21                                          | 3                             |
| Motor activity.                                |                                 |                                             |                               |
| Subchronic inhalation                          | 1991 EPA Guideline for neurotoxicity screening | 21                                          | 3                             |
| Neuropathology.                                |                                 |                                             |                               |
| Subchronic inhalation                          | 1991 EPA Guideline for neurotoxicity screening | 21                                          | 3                             |
| Dermal sensitization.                          | 40 CFR 798.4100                  | 12                                          | 1                             |
TABLE—REQUIRED TESTING, TEST STANDARDS AND REPORTING REQUIREMENTS FOR CYCLOHEXANE—Continued

<table>
<thead>
<tr>
<th>Test</th>
<th>Test standard (40 CFR citation)</th>
<th>Reporting deadline for final report (months)</th>
<th>Interim reports (6 month) required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dermal absorption test.</td>
<td>Dermal and intravenous</td>
<td>Jefcoart protocol</td>
<td>12</td>
</tr>
</tbody>
</table>

1 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 surcharged 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 709.5000 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 Room 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 ITI recommendation with intent to designate cyclohexane (50 FR 47603; November 19, 1985).


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.

d. Reports - published and unpublished factual materials.

B. References


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 entitlements, 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.


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

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

Enforceable Consent Agreement and associated test standards attached as appendices.
PART 799—[AMENDED]

1. The authority citation continues to read as follows:

2. Section 799.5000 is amended by adding cyclohexane to the table in CAS Number order, to read as follows:

<table>
<thead>
<tr>
<th>CAS Number</th>
<th>Substance or mixture name</th>
<th>Testing</th>
</tr>
</thead>
<tbody>
<tr>
<td>110–82–7</td>
<td>Cyclohexane</td>
<td>Health Effects and Environmental Releases Report</td>
</tr>
</tbody>
</table>

PART 1039—EXEMPTIONS

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

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

<table>
<thead>
<tr>
<th>STCC No.</th>
<th>Commodity</th>
</tr>
</thead>
<tbody>
<tr>
<td>6001–V</td>
<td>Carbon dioxide.</td>
</tr>
</tbody>
</table>

List of Subjects in 49 CFR Part 1039

Intermodal transportation, Manufactured commodities, Railroads.


By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioner 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: