

# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 372

[FRL-5959-7]

### Technical Amendments to Hydrochloric Acid; Toxic Chemical Release Reporting; Community Right-to-Know; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction effective date under CRA.

**SUMMARY:** On July 25, 1996 (61 FR 38600), the Environmental Protection Agency published in the **Federal Register** a final rule modifying the listing for hydrochloric acid on the list of toxic chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, and section 6607 of the Pollution Prevention Act of 1990, which established an effective date of July 25, 1996. This document corrects the effective date of the rule to February 10, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

**EFFECTIVE DATE:** This rule is effective on February 10, 1998.

**FOR FURTHER INFORMATION CONTACT:** Angela Hofmann, OPPTS, at (202) 260-2922.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on July 25, 1996 (61 FR 38600) by operation of law, the rule did not take effect on July 25, 1996, as stated therein. Now the EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public

procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since July 25, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the July 25, 1996, **Federal Register** should be penalized if they were complying with the rule as promulgated.

#### II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 25, 1996, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of

Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 10, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

**Carol Browner,**  
Administrator.

[FR Doc. 98-3032 Filed 2-9-98; 8:45 am]

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# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 721

[FRL-5959-5]

### Technical Amendments to Cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo; Revocation of a Significant New Use Rule; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

**SUMMARY:** On June 27, 1996 (61 FR 33373), the Environmental Protection Agency published in the **Federal Register** a final rule revoking a significant new use rule promulgated under section 5(a)(2) of the Toxic Substances Control Act for cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo- based on receipt of new data, which established an effective date of July 29, 1996. This document corrects the effective date of the rule to February 10, 1998, to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

**EFFECTIVE DATE:** This rule is effective on February 10, 1998.

**FOR FURTHER INFORMATION CONTACT:** Angela Hofmann, OPPTS, at (202) 260-2922.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the

rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on June 27, 1996 (61 FR 33373) by operation of law, the rule did not take effect on July 29, 1996, as stated therein. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 27, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the June 27, 1996, **Federal Register** should be penalized if they were complying with the rule as promulgated.

## II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58093, October 28, 1993), or involve

special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in June 27, 1996, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 10, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

**Carol Browner,**

*Administrator.*

[FR Doc. 98-3026 Filed 2-9-98; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[ET Docket No. 97-157; FCC 97-421]

### Reallocation of TV Channels 60-69, the 746-806 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** By this *Report and Order* ("R&O"), the Commission reallocates the 746-806 MHz band, currently television (TV) channels 60-69, as proposed in the *Notice of Proposed Rule Making* ("Notice") in this proceeding. In consultation with the Secretary of Commerce and the Attorney General, we allocate 24 megahertz of this band, at 764-776 MHz and 794-806 MHz, on a primary basis to the fixed and mobile services, and designate this spectrum for public safety use. We allocate the remaining 36 megahertz of the band on

a primary basis to the fixed, mobile, and new broadcasting services for commercial use, to be assigned by auction. During the digital television ("DTV") transition period, TV channels 60-69 will continue to be used for analog and digital TV broadcasting. We are establishing policies for the protection of such stations during the DTV transition. We are also providing for continued use of TV channels 60-69 on a secondary basis for low power TV and translator stations until the end of the DTV transition period.

**EFFECTIVE DATE:** April 13, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Sean White, Office of Engineering and Technology, (202) 418-2453.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, ET Docket 97-157, FCC 97-421, adopted December 31, 1997, and released January 6, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, N.W. Washington, D.C. 20036.

### Summary of the Report and Order

1. This *Report and Order* reallocates the 746-806 MHz band, currently comprising television (TV) channels 60-69, as proposed in the Notice of Proposed Rule Making in this proceeding, 62 FR 41012, July 31, 1997. The Balanced Budget Act of 1997 (Budget Act) requires the allocation of 24 megahertz of spectrum for public safety from TV channels 60-69, in consultation with the Secretary of Commerce and the Attorney General, not later than January 1, 1998.<sup>1</sup> There is inadequate spectrum to meet the needs of many public safety organizations, particularly in major metropolitan regions. Public safety requires spectrum to facilitate interoperability and for new types of communications capabilities that will strengthen and enhance public safety. Therefore, as required by the Budget Act, after consulting with and considering the views of the Secretary of Commerce and the Attorney General, we are allocating 24 MHz of spectrum (TV Channels 63, 64, 68, and 69, or, in other words, the 764-776 MHz and 794-806 MHz bands) to the fixed and mobile services on a primary basis for public

<sup>1</sup> See Budget Act, section 3004 (adding new section 337 of the Communications Act).