

children. Also, the single study cited during public comment to indicate a potential effect on children has been reviewed during this petition process and found to be limited in design and execution. Consequently, EPA determined that the study was of insufficient quality to provide information regarding health risks (leukemia) of MEK to children. Also, EPA evaluated industry's submission to the first tier of the VCCEP program and has determined that there are no data which specifically indicate that the RfC will not be protective of children.

H. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The final rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 112(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) 915 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards. The final rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing today's final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on December 19, 2005.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 13, 2005.

Stephen L. Johnson,
Administrator.

- For the reasons set out in the preamble, part 63, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

- 1. The authority citation for part 63 continues to read as follows:

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

Subpart C—[Amended]

- 2. Subpart C is amended by adding § 63.61 to read as follows:

§ 63.61 Deletion of methyl ethyl ketone from the list of hazardous air pollutants.

The substance methyl ethyl ketone (MEK, 2-Butanone) (CAS Number 78–93–3) is deleted from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1).

[FR Doc. 05–24200 Filed 12–16–05; 8:45 am
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[EPA–HQ–OPPT–2004–0106; FRL–7743–9]

RIN 2070–AC61

TSCA Inventory Update Reporting Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the Toxic Substances Control Act (TSCA) section

8(a) Inventory Update Reporting (IUR) regulations. The IUR currently requires manufacturers (including importers) of certain chemical substances listed on the TSCA Chemical Substances Inventory to report data on chemical manufacturing, processing, and use every 4 years. In this amendment, EPA is extending the reporting cycle, modifying the timing of the submission period, further clarifying the new partial exemption for specific chemicals for which certain IUR data are of low current interest, amending the petroleum refinery process streams partial exemption, amending the list of consumer and commercial product categories, revising the manner in which production volume would be reported, restricting reporting of processing and use information to domestic processing and use activities only, clarifying the polymer exemption definition, and removing a provision regarding the confidentiality of production volume within specified ranges.

DATES: This final rule is effective on January 18, 2006.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2004–0106. All documents in the docket are listed on the www.regulations.gov web site. (EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at <http://www.regulations.gov>. Follow the on-line instructions.) Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will not be placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDocket or in hard copy at the OPPT Docket, EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566–0280.

FOR FURTHER INFORMATION CONTACT: For general information contact:

Colby Lintner, Regulatory Coordinator, Environmental Assistance

Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Susan Sharkey, Project Manager, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8789; e-mail address: *sharkey.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (defined by statute at 15 U.S.C. 2602(7) to include import) chemical substances, including inorganic chemical substances, subject to reporting under the TSCA Inventory Update Reporting (IUR) regulations at 40 CFR part 710. Any use of the term “manufacture” in this document will encompass “import,” unless otherwise stated. Potentially affected entities may include, but are not limited to:

Chemical manufacturers and importers, including chemical manufacturers and importers of inorganic chemical substances (North American Industrial Classification System (NAICS) codes 325, 32411).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions at 40 CFR 710.48. If you have any questions regarding the applicability of this action to a particular entity, consult the technical contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (<http://www.epa.gov/edocket>), you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A

frequently updated electronic version of 40 CFR part 710 is available on E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

II. Background

A. What Action is the Agency Taking?

Through this action, EPA is promulgating amendments to the IUR regulations that were proposed on January 26, 2005 (70 FR 3658) (FRL–7332–2), taking into consideration comments received on the proposed rule. The amendments to the IUR regulation that are contained in this final rule pertain to 40 CFR Part 710, Subpart C—Inventory Update Reporting for 2006 and Beyond. The following is a brief listing of the changes made to the IUR regulations via this rule. These changes are described in more detail in Unit II.D., along with a summary of the comments received and the Agency’s response to those comments.

First, EPA is amending 40 CFR 710.43, 40 CFR 710.46, 40 CFR 710.48, and 40 CFR 710.52 to change the reporting cycle from 4 years to 5 years.

Second, EPA is amending 40 CFR 710.53 to adjust the dates of the submission period within which manufacturers and importers must report IUR data to EPA. For data required to be submitted in 2006, the submission period remains August 25 to December 23, 2006. Beginning in 2010 and for each subsequent submission period, the submission period will begin June 1 and end September 30. EPA is also clarifying the recordkeeping requirements by identifying that the 5-year record retention period begins on the last day of the submission period.

Third, EPA is clarifying the partial exemption for petroleum process streams and amending 40 CFR 710.46(b)(1) to add certain petroleum process streams to the listing.

Fourth, EPA is amending 40 CFR 710.46(b)(2) to add an explanation that, for the partial exemption for chemicals for which the IUR processing and use information is of low current interest, petitions must include a written rationale for suggested additions of a chemical to or deletions of a chemical from the list of partially exempt chemical substances.

Fifth, EPA is further amending 40 CFR 710.46 to remove the references to the 1985 edition of the TSCA Inventory from paragraphs (a)(1)(i) and (ii).

Sixth, EPA is amending 40 CFR 710.52(c)(4)(ii)(A) to change the list of commercial and consumer product use categories by adding a new category.

Seventh, EPA is amending 40 CFR 710.52(c)(3)(iv) to require separate

reporting of manufacture and import volumes.

Eighth, EPA is amending 40 CFR 710.52(c)(4) to limit the reporting of processing and use information to domestic processing and use activities only.

Ninth, EPA is removing the provision regarding the confidentiality of production volume information within specified ranges (40 CFR 710.52(c)(3)(v)).

B. What is the Agency’s Authority for Taking this Action?

EPA is required under TSCA section 8(b), 15 U.S.C. 2607(b), to compile and keep current an inventory of chemical substances manufactured or processed in the United States. This inventory is known as the TSCA Chemical Substances Inventory (the TSCA Inventory). In 1977, EPA promulgated a rule (42 FR 64572, December 23, 1977) under TSCA section 8(a), 15 U.S.C. 2607(a), to compile an inventory of chemical substances in commerce at that time. In 1986, EPA promulgated the initial IUR regulation under TSCA section 8(a) at 40 CFR part 710 (51 FR 21438, June 12, 1986) to facilitate the periodic updating of the TSCA Inventory and to support activities associated with the implementation of TSCA. In 2003, EPA promulgated extensive amendments to the IUR regulation (68 FR 848, January 7, 2003) (FRL–6767–4) (2003 Amendments) to collect exposure-related information associated with the manufacturing, processing, and use of eligible chemical substances and to make certain other changes (Ref. 1).

TSCA section 8(a)(1) authorizes the EPA Administrator to promulgate rules under which manufacturers and processors of chemical substances and mixtures (referred to hereinafter as chemical substances) must maintain such records and submit such information as the Administrator may reasonably require. TSCA section 8(a) generally excludes small manufacturers and processors of chemical substances from the reporting requirements established in TSCA section 8(a). However, EPA is authorized by TSCA section 8(a)(3) to require TSCA section 8(a) reporting from small manufacturers and processors with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or that is the subject of an order under TSCA section 5(e), or that is the subject of relief that has been granted pursuant to a civil action under TSCA section 5 or 7. The standard for determining whether an entity qualifies as a small

manufacturer for purposes of 40 CFR part 710 generally is found at 40 CFR 704.3. Processors are not currently subject to the regulations at 40 CFR part 710.

C. What is the Inventory Update Reporting (IUR) Regulation?

The data reported pursuant to the IUR regulations are used to update the information maintained on the TSCA Inventory. EPA uses the TSCA Inventory and data reported under the IUR regulation to support many TSCA-related activities and to provide overall support for a number of EPA and other federal health, safety, and environmental protection activities. The IUR regulations, as amended by the 2003 Amendments (Ref. 1), require U.S. manufacturers (including importers) of chemicals listed on the TSCA Inventory to report to EPA every 4 years the identity of chemical substances manufactured (including imported) during the reporting year in quantities of 25,000 pounds or more at any single site they own or control (see 40 CFR part 710, subpart C). The IUR regulation generally excludes several groups of chemical substances from its reporting requirements, i.e., polymers, microorganisms, naturally occurring chemical substances, and certain natural gas substances (40 CFR 710.46). Persons manufacturing or importing chemical substances are required to report information such as company name, site location and other identifying information, production volume of the reportable chemical substance, and exposure-related information associated with the manufacture of each reportable chemical substance, including the physical form and maximum concentration of the chemical substance and the number of potentially exposed workers (40 CFR 710.52).

Manufacturers (including importers) of chemicals in larger volumes (i.e., 300,000 lbs. or more manufactured (including imported) during the reporting year at any single site) are additionally required to report certain processing and use information (40 CFR 710.52(c)(4)). This information includes process or use category, NAICS code, industrial function category, percent production volume associated with each process or use category, number of use sites, number of potentially exposed workers, and consumer/commercial information such as use category, use in or on products intended for use by children, and maximum concentration.

For the 2006 submission period, manufacturers (including importers) of inorganic chemical substances will be required to report for the first time.

However, for the 2006 submission period only, manufacturers (including importers) of inorganic chemical substances will be partially exempt from reporting under IUR regulations, regardless of production volume. A partial exemption means that a submitter is exempt from the processing and use reporting requirements described in 40 CFR 710.52(c)(4). After the 2006 submission period, the partial exemption for inorganic chemicals will no longer be applicable and submitters will fully report information on inorganic chemical substances, including information on processing and use (40 CFR 710.46(b)(3)). In addition, specifically listed petroleum process streams and other specifically listed chemical substances are partially exempt, and manufacturers of such substances are not required to report processing and use information during the 2006 or in any subsequent submission periods, for as long as the chemical substances remain on these partial exemption lists (40 CFR 710.46(b)(1) and (b)(2)).

D. What Changes are Being Made by the Agency to the IUR regulation?

1. *What changes are being made to the chemical substances covered by the IUR regulations?--a. Partially exempt petroleum process streams.* Certain petroleum process streams listed in 40 CFR 710.46(b)(1) are exempted from additional reporting requirements under the IUR regulations for chemical substances manufactured in amounts of 300,000 lbs. or more. EPA is adding chemicals to this list and is clarifying EPA's intention concerning the scope of this partial exemption. Additionally, EPA proposed changing the name of this partial exemption from "petroleum process streams" to "petroleum refinery process streams" to clarify the types of covered substances. EPA received comments which indicated that the proposed change was misunderstood; EPA, therefore, at this time, is retaining the name "petroleum process streams."

EPA is amending the list of partially exempt substances by adding the following 25 petroleum refinery process streams, listed by CAS registry number: 67254-74-4, 67891-81-0, 67891-86-5, 68476-27-7, 68477-98-5, 68477-99-6, 68478-31-9, 68513-03-1, 68514-39-6, 73138-65-5, 92045-43-7, 92045-58-4, 92062-09-4, 98859-55-3, 98859-56-4, 101316-73-8, 164907-78-2, 164907-79-3, 178603-63-9, 178603-64-0, 178603-65-1, 178603-66-2, 212210-93-0, 221120-39-4, and 445411-73-4. EPA also is adding the following two petroleum process streams listed by CAS registry number: 68919-16-4 and

61789-60-4. They were inadvertently left off the initial partial exemption list established by the 2003 Amendments.

The petroleum process stream partial exemption was established by the 2003 Amendments (Ref. 1). As described in the preamble to the 2003 Amendments, EPA established the exemption based upon expected exposures and uses of the listed chemical substances. In the 2003 Amendment preamble, EPA explained that these chemicals are frequently processed at the site where they are produced in vessels which are designed to minimize losses and, coincidentally, the potential for releases and exposure. Also, in many cases, the flammable nature of these products requires that they also be transported, processed, and stored in well controlled vessels. For these reasons, EPA believed worker exposure to the chemicals termed "petroleum process streams" for purposes of IUR was diminished and thus IUR processing and use reporting was not considered to be warranted at the time the 2003 Amendments were promulgated. The initial listing of chemical substances in 40 CFR 710.46(b)(1), was derived from the 1983 publication of the American Petroleum Institute (API) document entitled *Petroleum Process Stream Terms Included in the Chemical Substances Inventory Under the Toxic Substances Control Act (TSCA)* (API publication) (Ref. 2).

In developing the proposed IUR Revisions rule, EPA considered adding potential petroleum process streams, identified by API as having been added to the TSCA Inventory since the 1983 publication was compiled, to the 40 CFR 710.46(b)(1) listing. As noted in the proposed rule, in order to determine which of these substances qualified as petroleum process streams, EPA applied the criteria embodied in the Agency's petroleum stream descriptions contained in EPA's January 1978 Addendum I to the TSCA Candidate List of Chemical Substances, entitled *Generic Terms Covering Petroleum Refinery Process Streams* (Addendum I) (Ref. 3). Based on Addendum I, EPA described in the proposal the reasons why several of the suggested chemical substances were not considered to be petroleum process streams for IUR reporting purposes: (i) The chemical substance consists of a complex mixture of one class of hydrocarbons, e.g., all alkanes or all alkenes (with defined carbon number ranges) and aromatic hydrocarbons (without defined carbon number range), which do not specify petroleum as a source material in the chemical name; (ii) the chemical substance is a well defined

alkylbenzene, or is an alkylbenzene fractionation product or distillation residues. Alkylbenzenes are typical downstream petrochemical products that are made synthetically from benzene and paraffinic hydrocarbons in a chemical process that does not involve refinery processing; (iii) the chemical substance includes the chemical modification terms sulfated, bisulfited, sulfurized, sulfonated, esters, and reaction products etc., are not substances produced within the scope of petroleum refining operations, but rather they are considered to be products from other chemical manufacturing processes; or (iv) the chemical substance is derived using a chemical process (a Fischer-Tropsch process) from a non-petroleum source (Refs. 1 and 4).

There is one point regarding the petroleum process stream exemption that EPA wishes to clarify. In the proposed rule, EPA stated that the decision criteria used to develop both the initial list in 40 CFR 710.46(b)(1) and the then-proposed additions were applied in a consistent manner. The API document, used to compile the initial list, and EPA's Addendum I, used to compile today's additions, do vary in approach. The API document includes a number of substances that would not be included as petroleum process streams in Addendum I. For instance, the API publication contained individual light hydrocarbons and related gases (Class I substances) which were not identified in Addendum I. EPA intends to revisit the list in 40 CFR 710.46(b)(1) after the 2006 reporting cycle to ensure that all chemicals listed are consistent with Addendum I.

The Agency received many comments on the proposed changes to the petroleum process streams partial exemption. In general, the commenters supported adding chemicals to the partial exemption chemical list. One commenter felt that EPA's proposed change in the name of the partial exemption to "petroleum refinery process streams" was constricting. Another commenter stated that the scope of the proposed change excludes a variety of substances that are in fact petroleum process streams produced in a refinery.

EPA is not promulgating the name change and will retain "petroleum process streams" to describe the partial exemption. EPA's inclusion of the term "refinery" was intended to indicate that the streams were refining streams and to make the title consistent with terms used in EPA's Addendum I document. This name change was not intended to affect the scope of the partial exemption

nor was it intended to restrict substances to only those produced at a refinery. Although EPA acknowledges that petroleum process streams can be manufactured outside of a refinery, the Agency also notes that some substances produced in a refinery are petrochemicals and do not qualify as petroleum process streams.

Two commenters highlighted EPA's statement that "Qualifying petroleum process streams are produced only in a petroleum refinery, are further refined at the same site, and are processed and used in closed equipment, or are used as fuel." 70 FR 3662. According to these commenters, limiting the scope of the partial exemption to petroleum refineries was inappropriate because certain chemicals are produced in closed systems at production facilities other than refineries, in a manner similar to their production at refineries. One of the commenters stated that denying the partial exemption to all except petroleum refineries violates the Paperwork Reduction Act (PRA) and offers a competitive advantage to refineries. One commenter requested that, if EPA implements its proposed definition of petroleum process stream as a substance produced only in a petroleum refinery, further refined at the same site, and processed and used in closed equipment or used as fuel, the Agency should acknowledge that the definition is not intended for any purpose other than for identifying partially exempt chemicals for the IUR regulation.

The statement concerning qualifying petroleum process streams was included in the discussion describing the Agency's decision concerning whether or not to list certain substances suggested by the API. EPA did not intend the proposed change to alter the status of chemicals currently on the list nor did EPA intend to change the exemption to be based upon the location at which a substance is manufactured. A chemical substance listed by CAS Registry Number (CASRN) at 40 CFR 710.46(b)(1) is exempt from reporting requirements of 40 CFR 710.52(c)(4), unless the substance is ineligible because of exceptions noted in the introductory text of 40 CFR 710.46. For example, one of the commenters noted that calcined petroleum coke (CASRN 64743-05-1) can be manufactured either in a petroleum refinery or in another type of facility. This substance, since it is listed by CASRN at 40 CFR 710.46(b)(1), is exempted from reporting IUR processing and use information regardless of where it is manufactured. Therefore, refineries are not receiving any competitive advantage over other

manufacturers of these chemicals. As recognized by the commenters, EPA stated that qualifying petroleum process streams are produced only in a petroleum refinery. In light of the confusion identified by the comments, and to recognize that qualifying petroleum process streams may occur outside of a petroleum refinery, EPA is now stating that qualifying petroleum process streams to be added in 40 CFR 710.46(b)(1) are produced within the scope of petroleum refining operations. Additionally, while EPA did not define the term "petroleum process stream" in its proposal, the Agency agrees that the discussion included in the proposed revisions preamble is intended solely for reporting under the IUR regulations.

b. *"Low current interest" partial exemption.* 40 CFR 710.46(b)(2) exempts manufacturers (including importers) of certain chemical substances from reporting processing and use information under 40 CFR 710.52(c)(4) if EPA has determined that it has a "low current interest" in the IUR processing and use information for that chemical substance. The public may request EPA to add a substance to, or remove a substance from, the list of chemicals partially exempt from reporting by submitting a petition that addresses the considerations set forth in 40 CFR 710.46(b)(2)(ii).

In the proposed rule, the Agency sought to clarify the process for petitioning EPA to add a chemical to, or remove it from, the list at 40 CFR 710.46(b)(2)(iv). The revisions were intended to more clearly state that the burden is on the petitioner to demonstrate that the collection of information on the production and use of the chemical substance is or is not of low current interest. The proposed rule also clarified that it is the petitioner's obligation to address the considerations set forth in § 710.46(b)(2)(ii) by providing sufficient information, including documentation and relevant citations to supporting information. In addition, the proposed rule altered the consideration of whether a chemical substance was adequately managed by broadening it to include entities other than Federal agencies. (See 70 FR 3658).

Many persons commented that the proposed change would clarify the requirements for a petition for partial exemption under the IUR regulations and supported the change. In addition, one person commented that the proposed changes support the continued consideration of the totality of information available on a chemical in deciding to grant or deny a partial exemption. EPA is finalizing the

changes to this partial exemption as proposed.

Several comments addressed issues beyond the Agency's proposed actions, advocating substantive changes to the partial exemption. For example, two persons believed that EPA should provide additional certainty to the exemption process. Another commented that, while a formal risk assessment was not needed, review of requests for partial exemption must be objective. This commenter supported a delisting process that incorporated the criteria used for exempting petroleum streams, described by the commenter as exempting intermediates processed in closed equipment or burned as fuels. Another commenter suggested adding additional criteria which promoted pollution prevention and resource recovery and ongoing programs of other offices within EPA. Finally, one commenter advocated removing the partial exemption process entirely. EPA intends to further consider these suggestions concerning the "low current interest" partial exemption. If change is warranted, EPA will initiate a separate rulemaking.

2. How is this rule changing the data elements reported by all submitters?--a.
Production volume reporting. EPA is requiring that domestic production volume data be reported separately from import volume data. Prior to the 2003 Amendments, submitters were required to report the domestically manufactured volume data separate from the imported volume data for each reportable substance. With the 2003 Amendments, persons manufacturing and/or importing a reportable chemical substance were required to aggregate the amounts of a chemical imported and manufactured domestically and to report the total. In the proposed rule, EPA suggested a return to the previous method of reporting data on manufactured volumes separately from imported volumes. EPA explained that it is frequently useful to distinguish between the volume of a chemical manufactured in the United States and imported into this country to understand the nature of chemical production in the United States, characterize the markets for chemicals, and assess potential exposures during importation and domestic manufacture of chemical substances (See 70 FR 3658).

Several persons who commented on the proposed rule agreed with the proposed change. One person noted that separate reporting of the manufactured and imported volumes for chemical substances will allow the Agency to separately evaluate manufacturing and

import activities and assist the Agency in characterizing exposures to these chemical substances. EPA concurs with these observations and is promulgating the proposed change.

b. Production volume range confidentiality claims. EPA is removing the requirement that submitters who claim production volume as TSCA confidential business information (CBI) must indicate whether they are also claiming a specified range within which the production volume falls as confidential (40 CFR 710.52 (c)(3)(v)).

EPA received 11 comments on the proposed removal of the requirement that submitters indicate whether or not production volumes submitted in ranges should be treated as CBI. While one commenter supported this change, the others opposed it. Commenters that opposed the change expressed concern that such a change would decrease the protection of CBI, and several proposed that EPA simply adjust the ranges that it uses to publicly release aggregated production volume data to match those of the IUR regulation.

EPA believes that many of the objections to this proposed change result from a misunderstanding of EPA's intent in removing this requirement. As a general matter, EPA releases IUR production volume range information for a chemical only after aggregating the data across all reporting sites. In the 2003 Amendments, EPA included a provision requiring each IUR submitter to report whether its production volume, when considered in a range specified in § 710.52(c)(3)(v), should be treated as CBI. This amendment was included in the 2003 final rule as part of an effort to make available to the public site- and chemical-specific production volume range information from the IUR that was not claimed as CBI.

Upon consideration of various public comments and internal discussion, the Agency has decided that a submitter may no longer claim as CBI a specified production volume range that corresponded to the submitter's site-specific production volume data. Submitters will be able to continue to claim their actual production volume as CBI. EPA's decision not to allow confidentiality claims for the standardized production volume ranges in 40 CFR 710.52(c)(3)(v) is based on several concerns, most importantly issues inherent in releasing both aggregated data and site-specific production volume ranges. Because of this difficulty, the Agency has determined that this provision regarding the confidentiality of production volume information within specified

ranges is not likely to result in greater availability of production volume information to the public, which was the goal of this data element as expressed in the 2003 Amendments (Ref. 1). Additionally, several commenters suggested that EPA should not release these standardized production volume ranges. It is important to note that, by this change, EPA is not presuming consent to release these production volume ranges for site-specific production volume ranges or otherwise lessening any CBI protections. Any production volume information released to the public will be in the form of production volume data that is aggregated and ranged.

3. How have the data elements reported only by larger production volume manufacturers changed?--a.
Reporting processing and use information for domestic activities only. Persons manufacturing 300,000 lbs. or more of a reportable chemical substance were required to report processing and use information for that chemical substance to the extent that the information is readily obtainable. EPA is restricting the processing and use information reported under 40 CFR 710.52(c)(4) to domestic processing and use activities for two reasons. First, EPA is primarily focused on exposures to chemical substances resulting from domestic processing and use of the chemicals. Second, EPA anticipates that restricting the processing and use information that must be reported by larger production volume manufacturers to that associated with domestic activities will reduce the burden associated with reporting this information. The Agency estimates that the average burden for reporting the IUR processing and use information is reduced by about 15%, resulting in a total savings of approximately \$8 million per reporting period (Ref. 5).

Many commenters supported limiting reported processing and use information to that associated with domestic activities. Those commenters supported this proposal as narrowly tailored to satisfy the Agency's data needs while reducing the burden on entities subject to reporting under the IUR regulations. They noted that chemicals sold in international commerce are frequently distributed through brokers and as a consequence the information on processing and use of exported chemicals is, in their view, not readily obtainable. In addition, the commenters stated that information from foreign sources may be less easily verified and therefore could reduce the accuracy of the data collected. One person commented that tracking the processing

and use of domestically manufactured volumes separately from exported volumes would require separate tracking systems and would increase the burden associated with larger production volume manufacturers' reporting under the IUR regulations. EPA anticipates that, for most submitters, limiting the reporting of processing and use information to that associated with domestic activities will decrease the burden associated with reporting under the IUR regulation. For these reasons, EPA is finalizing the proposal to restrict information reported in response to 40 CFR 710.52(c)(4) to domestic processing and use of chemical substances.

b. *Consumer and commercial product categories.* Persons manufacturing 300,000 lbs. or more of a reportable chemical substance must report the commercial and consumer product category or categories that best describe the commercial and consumer products in which each reportable chemical substance is used (see 40 CFR 710.52(c)(4)(ii)(A)). EPA proposed the following changes to the list of categories:

(i) Combine the categories for "Soaps and Detergents" and "Polishes and Sanitation Goods" to form a new category called "Cleaning Products (non-pesticidal)."

These two categories are quite similar and this change was intended to assist submitters who might have difficulty differentiating between them. EPA believed that both categories relate, at least to a certain extent, to cleaning goods. EPA is not finalizing this proposed change.

EPA received comments supporting the consolidation of these two categories, however no specific reasons were provided for their support. EPA also received a comment stating that combining these categories will result in a loss of information. The latter commenter, Environmental Defense, et.al., (ED) provided specific information on the "Soaps and Detergents" and "Polishes and Sanitation Goods" categories, noting that these categories have distinct six-digit North American Industry Classification System (NAICS) codes and showing that these categories are readily distinguishable from each other. EPA found the same information provided by ED at the following U.S. Census Bureau's web site: <http://www.census.gov/epcd/naics02/def/NDEF325.HTM#N3256>. The website defines "soaps and detergents" and "polishes and sanitation goods" by further breaking those categories into more distinct subcategories, demonstrating that there are real

differences between those two categories. For instance, "Soaps and Detergents" contains bar soaps manufacturing; dentifrices manufacturing; dishwasher detergents manufacturing; hand soaps (e.g., hard, liquid, soft) manufacturing; toothpastes, gels, and tooth powders manufacturing; and other categories. "Polishes and Sanitation Goods" contains air fresheners manufacturing; ammonia, household-type, manufacturing; brass polishes manufacturing; floor polishes and waxes manufacturing; shoe polishes and cleaners manufacturing; wallpaper cleaners manufacturing; and other categories. Please note that, as described in the preamble to the 2003 Amendments, submitters under the IUR will not be required to report on non-TSCA downstream uses of the TSCA chemicals that they manufacture (See 68 FR 871, Unit III.B.3.b.).

Additionally, ED stated that "the two different types of uses may have significant implications for exposure patterns. For example, the former category primarily includes products that many people would use several times a day, while the latter includes products that most consumers would use considerably less frequently" (Ref. 6). EPA more carefully considered the way in which it would utilize these categories in a screening-level exposure assessment. While there are products in the "Polishes and Sanitation Goods" category that could be used on a daily basis in similar quantities as products in the "Soaps and Detergents" category, there are also products with very different use scenarios. For instance, EPA has developed default scenarios in the Agency's screening level Consumer Exposure Module, which is embedded into the Agency's Exposure, Fate Assessment Screening Tool (E-FAST) (see <http://www.epa.gov/opptintr/exposure/docs/efast.htm>), for laundry detergent (in the "Soap and Detergent" category) and for solid air fresheners (in the "Polishes and Sanitation Goods" category). These use scenarios are different from each other and therefore would generate different potential exposure results. Therefore, based upon a further analysis of the NAICS Index Entries and EPA's screening models, EPA has decided not to combine the two categories and will maintain separate reporting categories for "Soaps and Detergents" and "Polishes and Sanitation Goods."

(ii) Add a category called "Agricultural Products (non-pesticidal)." Comments addressing this addition were all favorable, and EPA is finalizing the addition of this category. Without this category, agricultural uses

of chemicals would have been reported under the miscellaneous "Other" category.

One commenter requested a definition for "non-pesticidal," which is used in the "Agricultural Products" category as well as the existing "Lawn and Garden Products (non-pesticidal)" category. For guidance as to what substances are considered to be "pesticides" and information as to what uses are considered to be pesticidal uses, refer to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) definition of "pesticide" (7 U.S.C. 136(u) or FIFRA section 2(u)), which generally defines the term as "(1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer . . ." If the subject persons find that the agricultural or lawn and garden product on which they are reporting does not meet the definition under FIFRA section 2(u), their product will fall into the "Agricultural Products (non-pesticidal)" or the "Lawn and Garden Products (non-pesticidal) category.

(iii) The Agency had also proposed removing the category "Photographic Chemicals," due to the expected decline in the traditional film photofinishing industry, which indicates that consumer/commercial exposure issues associated with photographic chemicals may be of diminished importance. Six commenters stated their general support of changes made to the commercial and consumer product categories, although no commenter specifically mentioned photographic chemicals or provided any specific reason for their support. One comment supported maintaining the "Photographic Chemicals" category, stating that any burden associated with the reporting of a category covering uses that are less prevalent over time ought to also decline, and that there are indications of a relatively stable remaining core of film users and therefore the associated chemicals will continue to be used. Upon further investigation, EPA has decided to maintain this category. According to several industry sources, despite the displacement of analog photography by digital imaging, U.S. consumption of film and paper chemicals is projected to remain relatively stable. Included in this category are many substances that have a role in digital as well as analog imaging. Also, toners and resins for copiers included in this category are continuing to increase in volume. Thus, while specific types of photographic

chemicals may decrease in use, it seems unlikely that use of chemical substances in the "Photographic Chemicals" category as a whole will drastically decrease, as EPA originally thought (Ref. 7).

4. What other changes are being made?--a. Reporting frequency and recordkeeping. The IUR regulations require reporting every 4 years. The first submission period to occur after the 2003 Amendments will be in 2006, at which time submitters will report information based on the 2005 reporting year. EPA proposed to change the reporting frequency so that, after the 2006 submission period, the reporting frequency will be every 5 years instead of every 4 years. This means that the second submission period after the 2003 Amendments would be 2011 (i.e., 5 years after 2006) and would then occur every 5 years thereafter. The reporting year would continue to occur in the calendar year immediately preceding the submission period, i.e., 2010, 2015, etc.

EPA received a variety of comments on the proposed change to the IUR reporting cycle from every 4 years to every 5 years. Several companies and trade associations supported this extension to the reporting cycle. Those who supported the change generally recognized that the extended reporting cycle would result in burden reduction, particularly in the wake of the amended reporting requirements promulgated in 2003 (68 FR 848, January 7, 2003), while agreeing that the extended reporting cycle would still meet EPA's data needs. Certain commenters correctly understood that the extended cycle would allow inorganic chemical manufacturers to become familiar with IUR reporting (which will be required for inorganic chemical substances for the first time as of the 2006 submission period) before having to report processing and use information during submission periods after 2006. One company indicated that, although it was supportive of changing from a 4-year to a 5-year reporting cycle, such a change would not result in a reduced (or increased) burden to industry because the 4-year reporting cycle has been in effect for some time, and companies have this frequency integrated into their regulatory compliance calendars.

Other commenters did not support the proposed change in reporting frequency. A group of organizations and individuals indicated that reporting every 5 years will not meet the Agency's and others' critical data needs. They suggested that the large fluctuation in the universe of high production volume chemicals from 1990–2002 indicates a

need for more frequent, rather than less frequent, reporting, and they also provided an analysis of publicly available IUR information to bolster the assertion that the chemical industry is dynamic and that production volumes change dramatically over the 4 years between reporting cycles. These commenters suggested that annual reporting of production volume data would be more appropriate, but if EPA chose not to require annual reporting of this data, it should require the reporting of yearly production volume data every 5 years. They also recognized that EPA bases many of its actions on information reported under the IUR regulation, and contended that more accurate reporting will lead to better risk management at a lower cost.

EPA intends to consider further the suggestion to adopt a provision requiring persons to report their annual production volumes for each of the 5 years preceding the submission period. If the reporting of annual volumes appears to be an appropriate change to the IUR regulations, EPA may initiate a separate rulemaking.

EPA recognizes that more frequent reporting could track more closely the actual amounts of IUR reportable chemical substances manufactured (including imported) in the U.S. In this rule, the Agency is incorporating its proposed change to IUR reporting frequency in an effort to reduce burden to industry while still meeting the Agency's basic information needs. The Agency believes that reporting every 5 years will meet EPA's most critical needs, particularly given that the information that will be reported under the newly amended IUR will be significantly more useful for exposure and risk screening purposes than the information that was reported under IUR in the past. EPA also agrees that the extended reporting cycle will allow increased time for industry (particularly inorganic chemical manufacturers) to learn how to comply with the amended IUR, and may result in submissions with fewer errors.

EPA disagrees with the comment that the change from a 4-year reporting cycle to a 5-year reporting cycle does not affect industry burden. Over a 20-year period, a 5-year frequency results in 4 submission periods while a 4-year frequency results in 5 submission periods. As a result of requiring one less submission period over the course of 20 years, EPA estimates that a 5-year frequency will save regulated entities from \$59.3 to \$75.7 million over 20 years at a 3% discount rate (about a 16% reduction), and from \$41.2 to \$52.6 million over 20 years at a 7% discount

rate (Ref. 5), and would still meet EPA's most critical data needs.

Currently, submitters are required to retain records relevant to reporting during a submission period for a period of 5 years beginning with the effective date of that submission period. EPA is clarifying this requirement by changing "beginning with the effective date" to "beginning on the last day" of that submission period (i.e., for a submission period ending December 23, 2006, submitters would be required to retain records relevant to that submission until December 23, 2011). EPA is also adding a sentence to the recordkeeping provisions to encourage submitters to retain records longer than 5 years to ensure that past records are available as a reference when submitters are generating subsequent submissions.

One commenter noted that, under the current IUR regulations, persons submitting their information at the beginning of the submission period rather than at the end will have to review their records twice, once in preparation for making the submission and then again for records retention purposes at the end of the submission period. The commenter stated that this could result in submitters who report early in the submission period keeping all IUR records from two submission periods for a period of time, even if the submitter determines the older records are not necessary to help guide subsequent reporting. The commenter suggests that to reduce burden and encourage early reporting, the required period for record retention be changed from 5 years from the last day of the submission period to "5 years or until the date of their next IUR submission to EPA, whichever is less." In addition to the submitter having its past records to refer to, EPA proposed the change from "beginning with the effective date" to "beginning on the last day" of the submission period to clarify the records retention requirement. EPA is concerned that following the commenter's suggestion would result in a lack of clarity concerning what date is considered the date of submission or when the 5-year period begins. Additionally, EPA suspects that most submitters review past submissions well before submitting their information to EPA. A submitter can identify records it no longer finds useful at the time of review for the current submission and will easily be able to later identify those records. EPA does not require that a submitter destroy records by a certain date, and believes the method and timing of such an action is entirely up to the submitter, as long as the IUR

regulations record retention requirement is met.

b. *Submission period.* Under the current IUR rule, submitters are required to report on a recurring basis every 4 years, and that report is required to be submitted to EPA during the period of August 25 through December 23 in the year immediately following each reporting year. In today's action, for the submission period in 2006, EPA is retaining August 25 through December 23 as the submission period, but for future submission periods beginning in 2011 and thereafter, the submission period will be moved up to June 1 through September 30. This means that in the next submission period in 2011, submitters are required to submit reports between June 1 and September 30, 2011.

In the proposed rule, EPA solicited comment on its proposal to move the submission period to January 1 through April 30 of the year following the reporting year. The 2003 amendment to the IUR regulation also changed the reporting year from the company's fiscal year to the calendar year beginning in 2005. Therefore, all of the information required to be submitted to EPA should be available early in 2006 for all companies. Moving the submission period to earlier in the calendar year would allow the Agency to obtain and process the information in a more timely manner, and therefore make the information available for use closer in time to the period in which it was generated.

The Agency received many comments on its proposal to move the submission period to a point earlier in the year. The majority of commenters opposed the change to the submission period, stating:

(1) The proposed submission period of January 1 to April 30 coincides with the time when many other reports must be filed, and the current period (August 25 through December 23) works well allowing reporting companies time to generate accurate data. A trade group indicated that all of its members surveyed reported to the IUR in December.

(2) It is unreasonable for EPA to shorten the submission period in light of the increased reporting requirements enacted by the 2003 Amendments to the IUR. Inorganic chemical producers, who will be reporting for the first time under the IUR regulation in 2006, felt that adjusting to the reporting requirements would take considerable time. Most suggested that respondents will struggle to collect the required data in time. Firms reporting on a large number of chemicals were of the opinion that the

complexity of their reporting would make meeting the April 30 deadline difficult due to obligations of other forms of regulatory compliance occurring early in the calendar year. Importers pointed out the complexity of their situation, especially because they will often have to rely on Customs Entry forms that can be delayed up to 30 days.

(3) Numerous other EPA reporting programs require reporting in the first half of the year, such as the Toxics Release Inventory (TRI), as do other state and federal environmental programs. This would strain staff responsible for reporting, and lead to inaccuracy. Some commenters identified approximately 30 additional federal, state and local reporting programs that require their attention. Other commenters stated that they believe the coordination of these IUR and TRI reporting deadlines may encourage submitters to coordinate their data collection processes.

(4) Several persons commenting on the proposal believed that delaying the reporting until later in calendar year 2006 would improve the accuracy of the information reported. These persons pointed out that import notifications are often delayed by up to 30 days after the chemical is imported thereby reducing the time available to incorporate this information into IUR reporting. In addition, those firms whose byproducts are either beneficially reused or disposed as wastes will need additional time to report because the determination of beneficial use may be made months after the byproducts are manufactured.

(5) Requiring accelerated submissions based on "timeliness" of the data is inconsistent with EPA's proposal to extend the reporting cycle from 4 to 5 years because a delay of several additional months is insignificant when compared to the extension of the reporting cycle by an additional year. Some commenters pointed out that by waiting an extra few months, EPA would collect more accurate data. One commenter questioned EPA's rationale for moving up the submission period to better coincide with the change of the reporting year from the fiscal year to the calendar year. This commenter suggested that EPA's reasoning was erroneous because many businesses, in their experience, had fiscal years ending significantly before July and therefore, for those companies, the period to prepare and submit IUR reports has been reduced from approximately 1 year (for companies with a fiscal year coinciding with the calendar year) to only 4 months.

(6) Almost all of the commenters objected to the change in the submission

period for the 2006 reporting cycle. Based on the comments, EPA believes these objections are due to the commenter's unfamiliarity with the new requirements imposed by the amended IUR regulations. Many commenters mentioned that EPA guidance for the 2006 reporting period is not yet available (though several mentioned and appreciated that EPA was conducting IUR training), noted that EPA's electronic reporting program for 2002 was flawed, and questioned whether the 2006 materials would be ready in time to be adequately tested before reporting is required. Others stated that they were already planning IUR information-gathering activities around the August-December timeframe.

Most commenters, while preferring that EPA retain the current submission period, suggested alternatives. These included deadlines of October 31, August 31, July 1 (to coincide with TRI reporting), and May 1, and a submission period from July 1 through October 31.

In response to the many objections to the proposed change to the submission period, EPA has reconsidered its proposal to move the submission period to January 1 through April 30. The proposed change was not intended to place additional burdens on industry, but to remove an unnecessary delay in collecting the IUR data. In light of the commenters' concerns about their ability to collect accurate data in a timely fashion and submit them during the proposed submission period, EPA will maintain the current submission period of August 25 through December 23 for the 2006 reporting cycle, and switch to a June 1 through September 30 submission period for all future reporting cycles beginning in 2011. Recognizing that companies may have already begun planning data collection activities around the August to December submission period for the 2006 reporting cycle, and that the data collection will include new requirements resulting from the 2003 Amendments, EPA recognizes that altering the 2006 IUR submission period at this time could be overly burdensome to some reporters. Beginning in 2011, and for all future reporting cycles thereafter, EPA believes that the June 1 through September 30 submission period balances industry's needs in collecting the data with EPA's desire to begin analyzing the data in a timely manner.

c. *Polymer exemption.* Chemical substances meeting the definition for polymers included in 40 CFR 710.46(a)(1) are fully exempt from reporting under the IUR regulations. EPA is changing the references included

in the polymer definition from the “1985 edition of the Inventory or the Master Inventory File” to the more general and current “Master Inventory File” by removing the reference to the 1985 edition of the Inventory. The Master Inventory File has been regularly updated since the 1985 edition of the Inventory was published, and is the more appropriate reference for use within the IUR polymer exemption. All who commented on this subject agreed with this change, and EPA is finalizing the definition as proposed.

III. Materials in the Rulemaking Record

An official docket was established under docket ID number EPA-HQ-OPPT-2004-0106. The official public docket includes information considered by EPA in developing this final rule, such as the documents specifically referenced in this action, any public comments received, and other information related to this action. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not physically located in the docket, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**. The official public docket is available for review as specified in **ADDRESSES**. The following is a listing of the documents referenced in this preamble that have been placed in the official docket for this final rule:

1. USEPA, “TSCA Inventory Update Rule Amendments” (68 FR 848, January 7, 2003) (FRL-6767-4).

2. American Petroleum Institute, “Petroleum Process Stream Terms Included in the Chemical Substances Inventory Under the Toxic Substances Control Act (TSCA),” Health and Safety Regulation Committee Task Force on Toxic Substances Control, February 1985.

3. USEPA, “Toxic Substances Control Act (TSCA) PL 94-469 Candidate List of Chemical Substances Addendum I Generic Terms Covering Petroleum Refinery Process Streams,” January 1978.

4. USEPA, “Technical Support Document Inventory Update Reporting Rule Petroleum Process Stream Partial Exemption Added Petroleum Process Chemicals” OPPT, April 17, 2004. Revised, July 6, 2005.

5. USEPA, “Economic Analysis of the IUR Revisions Final Rule,” Office of

Pollution Prevention and Toxics, July 2005.

6. Comment from Denison, Richard A., Environmental Defense, on Comments on Proposed Rule, TSCA Inventory Update Reporting Revisions (70 FR 3658, 26 January 2005). Submitted via EDOCKET on 18 February, 2005.

7. USEPA, “Summary of Information on Photographic Chemicals,” Office of Pollution Prevention and Toxics, July 2005.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this action is not a “significant regulatory action” subject to review by OMB because it does not meet the criteria in section 3(f) of the Executive Order.

EPA has prepared an economic analysis of the potential impacts of this action, which is contained in a document entitled *Economic Analysis of the IUR Revisions Final Rule* (Ref. 1). This document is available as a part of the public version of the official record for this action and is briefly summarized here.

These revisions will reduce IUR reporting costs. The quantified portions of the rule are estimated to save \$6 million to \$7 million per year when annualized over the next 20 years at a 3% or a 7% discount rate. Most of the savings of these revisions will accrue to the chemical industry in the form of decreased costs of complying with the IUR regulations. There will also be some savings to EPA in the form of decreased costs to administer the regulation and maintain the collected data.

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations, after initial display in the **Federal Register** and in addition to its display on any related collection instrument, are listed in 40 CFR part 9.

The information collection requirements related to the IUR regulations have already been approved by OMB pursuant to the PRA under

OMB control number 2070-0162. This action would not impose any burden requiring additional OMB approval. Instead, this action would reduce reporting burden by 113,000 to 123,000 hours in the 2006 reporting cycle and 112,000 to 121,000 hours in subsequent reporting cycles. This reduction is out of a total burden of 1,300,000 to 1,658,000 hours in the 2006 reporting cycle, and 1,189,000 to 1,516,000 in future reporting cycles.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division (2822), Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that this action will not have a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency’s determination is summarized below.

The term “small entities” includes small businesses, small not-for profit organizations, and small governmental jurisdictions, but because not-for-profit organizations and governmental jurisdictions will not be affected by this rule, “small entity” in this analysis is synonymous with small business.

Small manufacturers that fully meet the 40 CFR 704.3 definition are generally exempt from reporting under the IUR regulations, and thus are not significantly impacted by IUR reporting. Nevertheless, this rulemaking is expected to reduce IUR reporting costs for businesses of all sizes. Thus, EPA concludes that these revisions will not result in significant adverse effects on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) (UMRA), EPA has determined that this regulatory action does not contain a Federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or for the private sector in any 1 year. As described in Unit IV.A., the rule is expected to decrease expenditures by \$6 million to \$7 million per year. EPA has

also determined that the rule would not significantly or uniquely affect small governments and is not subject to the requirements of sections 202, 203, 204, and 205 of UMRA.

E. Executive Order 13132

This rule will not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule will not have tribal implications because it is not expected to have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000).

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer Advancement Act

Since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not involve special considerations of environmental justice related issues as required by Executive Order 12898, entitled *Federal Actions to*

Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

K. Executive Order 12988

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 710

Environmental protection, Chemicals, Hazardous materials, Inventory Update Reporting, Reporting and recordkeeping requirements, TSCA.

Dated: December 5, 2005.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

- Therefore, 40 CFR chapter I is amended as follows:

PART 710—[AMENDED]

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

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

§ 710.43 [Amended]

- 2. Section 710.43 is amended by revising the phrase “4–year intervals” to read “5–year intervals” in the definition for “reporting year.”
- 3. Section 710.46 is amended as follows:
 - a. By removing the phrase “the 1985 edition of the Inventory or in” in paragraph (a)(1)(i).
 - b. By removing the phrase “the 1985 edition of the Inventory or” in paragraph (a)(1)(ii).
 - c. By relisting in ascending order the entries for 68514–36–3, 68514–37–4, 68514–38–5, 68814–87–9, and 68921–

09–5 and adding entries in ascending order to the table in paragraph (b)(1).

- d. By revising paragraph (b)(2)(ii)(F).
- e. By removing the third, fourth, and fifth sentences in paragraph (b)(2)(iii)(A) and adding a new third sentence.
- f. By revising the phrase “4–year intervals” to read “5–year intervals” in paragraph (b)(2)(iii)(C).

§ 710.46 Chemical substances for which information is not required.

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|-----|---|---|---|---|
| * | * | * | * | * |
| (b) | * | * | * | |
| (1) | * | * | * | |

CAS NUMBERS OF PARTIALLY EXEMPT SUBSTANCES TERMED “PETROLEUM PROCESS STREAMS” FOR PURPOSES OF INVENTORY UPDATE REPORTING

| CAS No. | Product |
|------------------|--|
| 61789–60–4 | Pitch |
| * * * | * * * |
| 67254–74–4 | Naphthenic oils |
| * * * | * * * |
| 67891–81–0 | Distillates (petroleum), oxidized light, potassium salts |
| * * * | * * * |
| 67891–86–5 | Hydrocarbon waxes (petroleum), oxidized, compds. with diisopropanolamine |
| * * * | * * * |
| 68476–27–7 | Fuel gases, amine system residues |
| * * * | * * * |
| 68477–98–5 | Gases (petroleum), hydrotreater blend oil recycle, hydrogen-nitrogen rich |
| 68477–99–6 | Gases (petroleum), isomerized naphtha fractionator, C4-rich, hydrogen sulfide-free |
| * * * | * * * |
| 68478–31–9 | Tail gas (petroleum), isomerized naphtha fractionates, hydrogen sulfide-free |
| * * * | * * * |
| 68513–03–1 | Naphtha (petroleum), light catalytic reformed, arom.-free |
| * * * | * * * |
| 68514–39–6 | Naphtha (petroleum), light steam-cracked, isoprene-rich |
| * * * | * * * |
| 68919–16–4 | Hydrocarbons, catalytic alkylation, by-products, C3-6 |
| * * * | * * * |
| 73138–65–5 | Hydrocarbon waxes (petroleum), oxidized, magnesium salts |

CAS NUMBERS OF PARTIALLY EXEMPT SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

| CAS No. | Product |
|-------------------|--|
| 92045–43–7 | Lubricating oils (petroleum), hydrocracked nonarom. solvent deparaffined |
| 92045–58–4 | Naphtha (petroleum), isomerization, C6-fraction |
| 92062–09–4 | Slack wax (petroleum), hydrotreated |
| * * * | * * |
| 98859–55–3 | Distillates (petroleum), oxidized heavy, compds. with diethanolamine |
| 98859–56–4 | Distillates (petroleum), oxidized heavy, sodium salts |
| 101316–73–8 | Lubricating oils (petroleum), used, noncatalytically refined |
| 164907–78–2 | Extracts (petroleum), asphaltene-low vacuum residue solvent |
| 164907–79–3 | Residues (petroleum), vacuum, asphaltene-low |
| 178603–63–9 | Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C10–25 |
| 178603–64–0 | Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C15–30, branched and cyclic |
| 178603–65–1 | Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C20–40, branched and cyclic |
| 178603–66–2 | Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C25–55, branched and cyclic |
| 212210–93–0 | Solvent naphtha (petroleum), heavy arom., distn. residues |
| 221120–39–4 | Distillates (petroleum), cracked steam-cracked, C5–12 fraction |

CAS NUMBERS OF PARTIALLY EXEMPT SUBSTANCES TERMED "PETROLEUM PROCESS STREAMS" FOR PURPOSES OF INVENTORY UPDATE REPORTING—Continued

| CAS No. | Product |
|-------------------|--|
| 445411–73–4 | Gas oils (petroleum), vacuum, hydrocracked, hydroisomerized, hydrogenated, C10–25, branched and cyclic |

| | | | | |
|---|---|---|---|---|
| * | * | * | * | * |
| (2) | * | * | * | |
| (ii) | * | * | * | |
| (F) Whether the potential risks of the chemical substance are adequately managed. | | | | |
| (iii) * * * | | | | |
| (A) * * * Requests must identify the chemical in question, as well as its CAS number or other chemical identification number as identified in § 710.52(c)(3)(i), and must contain a written rationale for the request that provides sufficient specific information, addressing the considerations listed in § 710.46(b)(2)(ii), including cites and relevant documents, to demonstrate to EPA that the collection of the information in § 710.52(c)(4) for the chemical in question either is or is not of low current interest. * * * | | | | |
| * * * * * | | | | |

§ 710.48 [Amended]

- 4. Section 710.48 is amended by revising the phrase “4–year intervals” to read “5–year intervals” in paragraph (a).
- 5. Section 710.52 is amended as follows:
 - a. By revising the phrase “4–year intervals” to read “5–year intervals” in the first and last sentences of the introductory text, and in the introductory text of paragraphs (c)(2), (c)(3), and (c)(4).
 - b. By revising paragraph (c)(3)(iv).
 - c. By removing paragraph (c)(3)(v) and redesignating existing paragraphs (c)(3)(vi), (c)(3)(vii), (c)(3)(viii), and (c)(3)(ix) as paragraphs (c)(3)(v), (c)(3)(vi), (c)(3)(vii), and (c)(3)(viii), respectively.
 - d. By revising the phrase “paragraph (c)(3)(viii)” to read “paragraph (c)(3)(vii)” in newly designated paragraph (c)(3)(viii).
 - e. By adding a sentence after the third sentence in paragraph (c)(4).
 - f. By revising the table in paragraph (c)(4)(ii)(A).

§ 710.52 Reporting information to EPA.

(c) * * *
(3) * * *

(iv) The total volume (in pounds) of each reportable chemical substance manufactured and imported at each site. The total manufactured volume (not including imported volume) and the total imported volume must be separately reported. This amount must be reported to two significant figures of accuracy provided that the reported figures are within ±10% of the actual volume.

* * * * *

(4) * * * * Information required to be reported under this paragraph is limited to domestic (i.e., within the custom territory of the United States) processing and use activities. * * *

* * * * *

(ii) * * *
(A) * * *

CODES FOR REPORTING COMMERCIAL AND CONSUMER PRODUCT CATEGORIES

| Codes | Category |
|-----------|---|
| C01 | Adhesives and sealants |
| C02 | Agricultural products (non-pesticidal) |
| C03 | Artists' supplies |
| C04 | Automotive care products |
| C05 | Electrical and electronic products |
| C06 | Fabrics, textiles and apparel |
| C07 | Glass and ceramic products |
| C08 | Lawn and garden products (non-pesticidal) |
| C09 | Leather products |
| C10 | Lubricants, greases and fuel additives |
| C11 | Metal products |
| C12 | Paints and coatings |
| C13 | Paper products |
| C14 | Photographic supplies |
| C15 | Polishes and sanitation goods |
| C16 | Rubber and plastic products |
| C17 | Soaps and detergents |
| C18 | Transportation products |
| C19 | Wood and wood furniture |
| C20 | Other |

* * * * *

- 6. By revising § 710.53 to read as follows:

§ 710.53 When to report.

All information reported to EPA in response to the requirements of this subpart must be submitted during an applicable submission period. The first submission period is from August 25, 2006, to December 23, 2006. Subsequent recurring submission periods are from June 1 to September 30 at 5-year intervals after the first submission period. Any person described in § 710.48(a) must report during each submission period for each chemical substance described in § 710.45 that the person manufactured (including imported) during the preceding calendar year (i.e., the “reporting year”).

■ 7. By revising § 710.57 to read as follows:

§ 710.57 Reporting requirements.

Each person who is subject to the reporting requirements of this subpart must retain records that document any information reported to EPA. Records relevant to reporting during a submission period must be retained for a period of 5 years beginning on the last day of the submission period. Submitters are encouraged to retain their records longer than 5 years to ensure that past records are available as a reference when new submissions are being generated.

[FR Doc. 05-24196 Filed 12-16-05; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02-278; CG Docket No. 05-338; FCC 05-206]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission released an Order delaying until January 9, 2006, the effective date of the Commission’s rule requiring the sender of a facsimile advertisement to obtain the recipient’s express permission in writing. The Junk Fax Prevention Act of 2005 was subsequently signed into law amending section 227 of the Communications Act of 1934 relating to unsolicited facsimile advertisements and requiring this Commission to issue regulations to implement the statute. Therefore, this document extends the stay of the Commission’s existing facsimile

advertising rules, until the conclusion of the Commission’s rulemaking.

DATES: The effective date of § 64.1200(a)(3)(i), published at 68 FR 44144, July 25, 2003, is delayed until further notice published in the **Federal Register**.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Erica McMahon or Richard Smith, Consumer & Governmental Affairs Bureau, (202) 418-2512.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Order*, CG Docket Nos. 02-278 and 05-338, FCC 05-206, adopted and released December 9, 2005. The *Order* further delays the effective date of a rule initially adopted in *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, (2003 TCPA Order), CG Docket No. 02-278, FCC 03-153, released July 3, 2003; published at 68 FR 44144, July 25, 2003. In association with this *Order*, the Commission released a *NPRM*, FCC 05-206, adopted and released December 9, 2005, that proposes amendments to its unsolicited facsimile advertising rules and seeks comment on related aspects of those rules. The *NPRM* also opens a new docket—CG Docket No. 05-338—for all filings in response to this document and those addressing the facsimile advertising rules generally.

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, it does not contain new or modified “information collection burdens for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, Room CY-A257, 445 12th Street, SW., Washington, DC 20054. The complete text of this decision may be purchased from the Commission’s duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission’s contractor at their Web site: www.bcpweb.com or call 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an

e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). The *Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb/policy>.

Synopsis

On June 27, 2005, the Commission released an order, CG Docket No. 02-278, published at 70 FR 37705, delaying until January 9, 2006, the effective date of the Commission’s determination that an established business relationship (EBR) will no longer be sufficient to show that an individual or business has given its permission to receive unsolicited facsimile advertisements. Consistent with the Junk Fax Prevention Act of 2005, the Commission extends the stay of the Commission’s existing facsimile advertising rules until the conclusion of this rulemaking. Specifically, the Commission delays until the conclusion of this rulemaking, the effective date of: (1) The Commission’s prior determination that an EBR will no longer be sufficient to show that an individual or business has given prior express permission to receive an unsolicited facsimile advertisement; (2) § 64.1200(a)(3)(i) of the Commission’s rules, which requires a person or entity sending a facsimile advertisement to obtain a prior signed, written statement as evidence of a facsimile recipient’s permission to receive the advertisement; and (3) the rule establishing the duration of an EBR as applied to the sending of unsolicited facsimile advertisements.

Regulatory Flexibility Act Analysis

The Commission notes that no Final Regulatory Flexibility Analysis is necessary for this *Order*. The Commission is not making any changes to the Commission’s rules; rather, we are simply delaying the effective date of a rule.

Congressional Review Act

The Commission will not send a copy of this *Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

Ordering Clauses

Pursuant to the authority contained in sections 1-4, 227, and 303(r), of the Communications Act of 1934, as amended; 47 U.S.C. 151-154, 227, and 303(r); the Junk Fax Prevention Act of 2005, and § 64.1200 of the Commission’s rules, 47 CFR 64.1200 and 64.2401, this *Order* in CG Docket 02-278 and 05-338 is adopted.