Executive Order 13132. This action does not impose any new mandates on State or local governments. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have Tribal implications. It will not 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. Today's action does not have any direct effects on Indian Tribes. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Tribal governments, EPA specifically solicits additional comment on this proposed rule from Tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

While this proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, EPA has reason to believe that ozone has a disproportionate effect on active children who play outdoors (62 FR 38856; 38859, July 18, 1997). EPA has not identified any specific studies on whether or to what extent the chemical compound may affect children's health. EPA has placed the available data regarding the health effects of this chemical compound in Docket No. OAR–2005–0124. EPA invites the public to submit or identify peer-reviewed studies and data, of which EPA may not be aware, that assess results of early life exposure to the chemical compound HFE–7300.

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

This 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 Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d), (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 3, 2006.

Stephen L. Johnson,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS.

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7641q.

§ 51.100 [Amended]

2. Section 51.100 is amended at the end of paragraph (s)(1) introductory text by removing the words ''and methyl formate (HCOOCH3), and perfluorocarbon compounds which fall into these classes:'' and adding in their place the words; ''methyl formate ($HCOOCH_3$), 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300) and perfluorocarbon compounds which fall into these classes:''.

[FR Doc. E6–1800 Filed 2–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 707 and 799

[EPA–HQ–OPPT–2005–0058; FRL–7752–2]

RIN 2070–AJ01

Export Notification; Proposed Change to Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing amendments to the Toxic Substances Control Act (TSCA) section 12(b) export notification regulations at subpart D of 40 CFR part 707. One amendment would change the current annual notification requirement to a one-time requirement for exporters of chemical substances or mixtures (hereinafter referred to as ''chemicals'') for which certain actions have been taken under TSCA. Relatedly, for the same TSCA actions, EPA is proposing to change the current requirement that the Agency notify foreign governments annually after the Agency's receipt of export notifications from exporters to a requirement that the Agency notify foreign governments once after it

receives the first export notification from an exporter. EPA is also proposing de minimis concentration levels below which notification would not be required for the export of any chemical for which export notification under TSCA section 12(b) is otherwise required, proposing other minor amendments (to update the EPA addresses to which export notifications must be sent, to indicate that a single export notification may refer to more than one section of TSCA where the exported chemical is the subject of multiple TSCA actions, and to correct an error), and clarifying exporters' and EPA's obligations where an export notification-triggering action is taken with respect to a chemical previously or currently subject to export notification due to the existence of a previous triggering action.

DATES: Comments must be received on or before April 10, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2005–0058, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Agency Website*: 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.
- *E-mail*: *oppt.ncic@epa.gov*.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA–HQ–OPPT–2005–0058. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2005–0058. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm/*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OPPT Docket (EPA/DC), EPA West, Rm. 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 telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket 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: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; e-mail address: *moss.kenneth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you export or intend to export any chemical substance or mixture for which any of the following actions have been taken under TSCA with respect to that chemical substance or mixture: Data are required under TSCA section 4 or 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or an action is pending, or relief has been granted under TSCA section 5 or 7. Potentially affected entities may include, but are not limited to:

- Exporters of chemical substances or mixtures (NAICS codes 325 and 324110; e.g., chemical manufacturing and processing and petroleum refineries).

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 North American Industrial Classification System (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 707.60 for TSCA section 12(b)-related obligations. If you have any questions regarding the applicability of this action to a particular entity, consult the technical 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 the electronic docket, 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 both 40 CFR parts 707 and 799 are available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://*

www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

EPA is proposing amendments to TSCA section 12(b) export notification regulations at subpart D of 40 CFR part 707. The first amendment would change the current annual notification requirement for exporters of chemicals for which certain actions have been taken under TSCA. Currently, the TSCA section 12(b) regulations require exporters of chemicals to notify EPA of the first export or intended export to a particular country in a calendar year when data are required under TSCA section 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or an action is pending, or relief has been granted under TSCA section 5 or 7. For chemicals subject to a final TSCA section 4 action, exporters are currently required to submit an export notification only for the first export or intended export to a particular country. This proposed rule would change the current annual export notification requirement to a one-time requirement for each of the following TSCA section 12(b)-triggering actions per each destination country for each exporter of a chemical: An order issued, an action pending, or an action granting relief under TSCA section 5(e), a proposed or promulgated rule under TSCA section 5(a)(2), or an action requiring the submission of data under TSCA section 5(b). For exports of chemicals that are the subjects of TSCA section 12(b)-triggering actions under TSCA section 5(f), 6, or 7, however, each exporter would continue to be required to submit annual export notifications to EPA.

Relatedly, EPA is proposing a change in the frequency for which the Agency must notify foreign governments after the Agency's receipt of export notifications from exporters. Consistent with the current requirement that EPA notify foreign governments one time regarding the export of chemicals subject to final TSCA section 4 actions, EPA is proposing that the Agency provide a one-time (rather than the current annual) notice to each foreign government to which exported chemicals that are the subjects of any of the following actions are sent: An order issued, an action pending, or an action granting relief under TSCA section 5(e), a rule proposed or promulgated under TSCA section 5(a)(2), or an action requiring the submission of data under TSCA section 5(b). EPA would continue to notify each foreign government on an annual basis regarding the export of chemicals that are the subject of TSCA section 5(f), 6, or 7 actions.

EPA is also proposing de minimis concentration levels below which notification would not be required for the export of any chemical for which export notification under TSCA section 12(b) is otherwise required. Specifically, EPA is proposing that export notification would not be required for such chemicals if the chemical is being exported at a concentration of less than 1% (by weight or volume), unless that chemical is:

1. Listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens issued by the U.S. Department of Health and Human Services National Toxicology Program (NTP) (Ref. 1),

2. Classified as a Group 1, Group 2A, or Group 2B carcinogen by the World Health Organization International Agency for Research on Cancer (IARC) in the list of IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements (Ref. 2), or

3. Characterized as a carcinogen or potential carcinogen in the Occupational Safety and Health Administration's (OSHA's) regulations related to toxic and hazardous substances (29 CFR part 1910, subpart Z).

For paragraphs 1–3 of this unit, a de minimis concentration level of less than 0.1% (by weight or volume) would apply. For exports of polychlorinated biphenyls (PCBs), notification would not be required if such chemicals are being exported at a concentration of less than or equal to 50 parts per million (ppm) (by weight or volume).

EPA believes this proposed rule is needed to further focus importing governments' resources and attention on chemicals for which EPA has proposed to make or has made a finding under TSCA that a chemical substance or mixture ''presents or will present'' an unreasonable risk, and to reduce overall burden on exporters and the Agency. EPA requests comments on these proposed amendments, and is particularly interested in receiving comments discussing whether the proposed changes would continue to provide adequate notice and information to foreign governments about chemicals imported from the United States. EPA is also interested in receiving specific, well supported, information regarding how the proposed changes would affect exporters.

In this **Federal Register** document, EPA is also updating the instructions for the submission of export notifications to the Agency (40 CFR 707.65(c)), clarifying exporters' and EPA's obligations when subsequent TSCA section 12(b)-triggering actions are taken with respect to a chemical previously or currently subject to export notification due to a separate triggering action, indicating in 40 CFR 707.67 that a single export notification may refer to more than one section of TSCA where the exported chemical is the subject of multiple TSCA actions, and correcting 40 CFR 799.19 to make it clear that final multi-chemical TSCA section 4 rules also trigger export notification (see Unit IV.).

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

EPA is proposing these amendments pursuant to TSCA section 12(b), 15 U.S.C. 2611(b). Section 12(b) of TSCA requires that any person who exports or intends to export to a foreign country a chemical for which the submission of data is required under TSCA section 4 or 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or with respect to which an action is pending or relief has been granted under TSCA section 5 or 7 must notify the Administrator of EPA of such exportation or intent to export. Upon receipt of such notification, EPA must furnish the government of the importing country with:

1. Notice of the availability of data received pursuant to an action under TSCA section 4 or 5(b) or

2. Notice of such rule, order, action, or relief under TSCA section 5, 6, or 7.

C. History

In the **Federal Register** of December 16, 1980, EPA promulgated rules at 40 CFR part 707, subpart D, implementing TSCA section 12(b) (Ref. 3). Under these rules, exporters were required to submit a written notification to EPA for the first export or intended export to a particular country in a calendar year for any chemical that was the subject of a TSCA section 12(b)-triggering action. Upon receipt of such notification from an exporter, the implementing rules required (and still require) that EPA provide the importing country with, among other things, a summary of the action taken or an indication of the availability of data received pursuant to action under TSCA section 4 or 5(b) (see 40 CFR 707.70(b)).

To facilitate foreign governments' consideration of export notices for chemicals exported from the United States and to reduce the burden on EPA and exporters, EPA promulgated a rule in the **Federal Register** of July 27, 1993, that amended the regulations in 40 CFR part 707, subpart D (Ref. 4). The amendment limited the notification requirement for each exporter of chemicals subject to a final TSCA section 4 action to a one-time notification to EPA for the export of each such chemical to each particular country, instead of requiring annual notification to EPA for shipments of the chemical to that country. The amended rule also limited EPA's notice to foreign governments to one time for the export of each chemical subject to a final TSCA section 4 action. The 1993 amendment did not change the export notification requirements for chemicals that are the subject of an action under TSCA section 5, 6, or 7; that is, exporters are currently required to provide annual notification of the export of each chemical that is the subject of an action under TSCA section 5, 6, or 7. The 1993 amendment also did not change the frequency of EPA's notice to foreign governments for chemicals subject to TSCA section 5, 6, or 7; EPA notice is provided upon receipt of the first annual export notification for each such chemical to each country.

In support of the 1993 amendment, EPA indicated that an increase in the number of TSCA section 12(b) export notifications during the 1980s made import monitoring more difficult for many foreign countries, and imposed an increasing burden upon foreign governments, industry, and EPA resources. EPA had determined that much of the increase in notifications was associated with the export or intended export of chemicals subject to final TSCA section 4 actions. At the time, EPA believed that the increasing volume of notices made it difficult for foreign countries which receive a large number of notices to generally distinguish between those chemicals for which, for example, EPA had taken an action to restrict use and those chemicals for which EPA has required the generation of data but has not taken an action to restrict use. By decreasing the volume of notices importing countries receive on chemicals subject to final TSCA section 4 actions, EPA believed that the 1993 amendment could increase the relative effectiveness of notices by allowing foreign governments to better focus their efforts on notices for chemicals that are the subject of actions under TSCA section 5, 6, or 7.

To further reduce the information collection burden for TSCA section 12(b) export notification, EPA developed and periodically updates a website that provides a list of chemicals subject to TSCA section 12(b) export notification requirements (see ''Current List of Chemical Substances Subject to TSCA Section 12(b) Export Notification Requirements'' at *http://www.epa.gov/opptintr/chemtest/main12b.htm*). In addition, exporters' obligation to submit a one-time export notification to EPA for the export of a chemical subject to a final TSCA section 4 action terminates once the reimbursement period for that particular action expires. OPPT has made available a comprehensive listing of these ''sunset'' dates for all such chemicals (see ''Sunset Date/Status of TSCA Section 4 Testing, Reimbursement, and Reporting Requirements and TSCA Section 4-Triggered TSCA Section 12(b) Export Notification Requirements'' at *http://www.epa.gov/opptintr/chemtest/sunset.htm*). The regulated community has indicated that these lists serve as useful tools to assist exporters in complying with TSCA and EPA believes that they have resulted in an overall reduction of the information collection burden associated with TSCA section 12(b) export notification requirements.

D. Rotterdam Convention

EPA notes as further background the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention) (Ref. 5), a multi-lateral environmental agreement that the United States signed in September of 1998 but has not yet ratified (and thus is not a Party to). This Rotterdam Convention, which went into force in February of 2004, includes the following major obligations:

1. *Notification of control action and imposition of export notification requirement on exporters.* The Rotterdam Convention requires exporting parties to: Determine whether a pesticide or industrial chemical is ''banned'' or ''severely restricted'' (BSR); notify the Secretariat of that determination; and notify importing parties of the export of those chemicals from their country prior to their export after making the BSR determination and thereafter for the first export of every calendar year.

2. *Impose export restrictions consistent with importing parties response.* Once a BSR chemical (and its use category, i.e., use as a pesticide or industrial chemical) is, by consensus of the Parties, added to Annex III of the Rotterdam Convention, the Rotterdam Convention requires importing parties to identify any conditions/restrictions on the import of these substances and exporting parties to make sure exports occur consistent with conditions/restrictions identified by importing countries. Annex III of the Rotterdam Convention contains a list of chemicals that are subject to the Prior Informed Consent Procedures described by the Rotterdam Convention (Ref. 5).

3. *Label exported products.* For countries' domestic BSR chemicals and the Rotterdam Convention's Annex III chemicals, the Rotterdam Convention requires labeling to ''ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.'' For the Rotterdam Convention's Annex III chemicals, labels must also include a Harmonized

System Code if available (Ref. 6). For an exporting country's BSR chemicals and the Rotterdam Convention's Annex III chemicals that are to be used in an occupational setting, each exporting Party must send the most up-to-date safety data sheet for the chemical to each importer.

EPA believes the export notification mechanism in the Rotterdam Convention broadly reflects importing governments' interests and that this proposal to amend the TSCA section 12(b) export notification rule is not inconsistent with the export notification provisions of the Rotterdam Convention.

EPA wishes to note that the Administration is committed to the United States becoming a Party to the Rotterdam Convention, as well as two other chemicals-related multi-lateral environmental agreements: the Stockholm Convention on Persistent Organic Pollutants (POPs) (Stockholm Convention) (Ref. 7) and the POPs Protocol to the United Nations Economic Commission for Europe Convention on Long Range Transboundary Air Pollution (LRTAP) (Ref. 8). The Administration has been and intends to continue working with Congress to facilitate the development of legislation that would provide the authority needed for the United States to fully implement and become a Party to those agreements. If and when such legislation is enacted, and depending on the nature of the legislation, it may be appropriate or necessary to further amend the TSCA section 12(b) regulations.

III. Rationale for This Proposed Rule

EPA believes this proposed rule is a reasonable supplement to the 1993 amendments to EPA's export notification regulations because it would further reduce overall burden on exporters and the Agency and would further focus importing governments' resources and attention on chemicals for which EPA has proposed to make or has made a definitive finding that a chemical ''presents or will present'' an unreasonable risk to human health or the environment.

In the 1993 amendments, it was EPA's view that TSCA section 5(a)(2) and 5(e) actions, which are based on exposure or risk concerns for identified use scenarios, ''restrict'' in a limited sense, regulated uses. The 1993 amendments further stated that the Agency has authority to take follow-up action under TSCA section 5(a)(2) via TSCA section 5(e) and because there is no similar provision under TSCA section 4 (with the exception of a separate proceeding under TSCA section 6 or 7), there was a reasonable basis for treating the export notification requirement for chemicals regulated under TSCA sections 4 and 5 differently (Ref. 4, p. 40240). This proposed rule, however, would treat actions under TSCA sections 5(a)(2) and 5(e) similarly to final actions under TSCA section 4 for purposes of export notification, such that a one-time notice would be required. Although TSCA sections 5(a)(2) and 5(e) restrict use in some sense, the statutory finding for such actions is based on consideration of ''factors'' relating to a ''significant new use'' determination under TSCA section 5(a)(2) or, for TSCA section 5(e), the same ''may present an reasonable risk'' or ''substantial production/significant/substantial exposure'' findings required under TSCA section 4 rulemakings. EPA believes foreign governments will want to focus greater attention on chemicals for which the Agency has made a finding that a chemical ''presents or will present'' an unreasonable risk to human health or the environment (TSCA sections 5(f)(1), 6(a), and 7). This finding represents a definitive determination and thus is different from a finding that a chemical ''may present'' an unreasonable risk (TSCA sections 4(a)(1)(A)(i) and 5(e)(1)(A)(ii)(I)), substantial production and substantial or significant exposure/release findings (''exposure-based'' findings; TSCA sections 4(a)(1)(B)(i), 5(b)(4)(A)(i), and 5(e)(1)(A)(ii)(II)), or factors determining a significant new use (TSCA section 5(a)(2)). Because ''presents or will present'' an unreasonable risk to human health or the environment is a definitive risk determination, EPA believes that it is reasonable to require more frequent notification for those chemicals that are the subject of each export notification-triggering action under TSCA sections 5(f), 6, and 7. Therefore, EPA would continue to require annual export notification by exporters of chemicals that are the subject of each action under TSCA section 5(f), 6, or 7, and EPA is similarly amending the regulatory provision regarding EPA's notice to foreign governments to limit annual notices to chemicals that are the subject of each TSCA section 5(f), 6, or 7 action.

EPA is also proposing de minimis concentration levels below which notification would not be required for the export of any chemical that is the subject of an action under TSCA section 4, 5, 6, or 7. In 1993, EPA considered but did not adopt a de minimis concentration exemption from its TSCA section 12(b) regulations, although the Agency expected to re-examine that option if further experience indicated that such an exemption would be warranted. Accordingly, this proposed rule provides background on the use of de minimis concentration levels under an international chemical classification and labeling scheme as a basis for incorporation of a de minimis concentration level under TSCA section 12(b).

The 1992 United Nations Conference on Environment and Development (Ref. 9), provided the international mandate for development of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) (Ref. 10). The GHS was adopted by the United Nations Economic and Social Council in July 2003 and is an internationally agreed upon tool for chemical hazard communication that incorporates a harmonized approach to hazard classification and provisions for standardized labels and safety data sheets. The GHS labeling is intended to provide a foundation for national programs to promote safer use, transport and disposal of chemicals, and to facilitate international trade in chemicals whose hazards have been properly assessed and identified based on internationally agreed upon criteria. As with TSCA section 12(b), one of the primary purposes of the GHS labeling scheme is to communicate information on chemicals to foreign governments. Accordingly, EPA believes it is appropriate to look to GHS for guidance on establishing a de minimis concentration exemption under TSCA section 12(b).

Classification of chemical mixtures under the GHS for several health and environmental hazard classes is triggered when generic cut-off values or concentration limits are exceeded, for example, ≥1.0% for target organ systemic toxicity, ≥0.1% for known or presumed human carcinogens, etc. (See Ref. 10, chapter 1.5. The cut-off levels for each hazard class are provided in chapters 3.1–3.10 and chapter 4.1 of Ref. 10.) When a chemical is present below these cut-off levels, the GHS does not require that the chemical appear on labeling or other information sources. The GHS represents international consensus on appropriate de minimis concentrations below which governments do not find information useful for hazard communication on chemicals in international (or domestic) commerce. The focus of GHS is relevant to that of TSCA section 12(b), which is primarily intended to alert and inform foreign governments, in a general manner, of hazards that may be associated with a chemical substance or mixture. As a result, EPA believes it is logical to refer to GHS as a guide to

implementation of TSCA section 12(b). EPA believes the inclusion of de minimis concentration thresholds in GHS is indicative of foreign governments' likely preference not to be notified by the United States about its export of chemicals present in low concentrations.

In order to implement an exemption from export notification requirements for chemicals exported in de minimis concentrations EPA is proposing de minimis concentration levels below which notification would not be required for the export of any chemical for which export notification under TSCA section 12(b) is otherwise required. Specifically, EPA is proposing that export notification would not be required for such chemicals if the chemical is being exported at a concentration of less than 1% (by weight or volume), with two exceptions. The first exception would be made for chemicals treated for export notification purposes as carcinogens or potential carcinogens. These chemicals would be identified in the regulation based on the three sources referred to in OSHA's regulations related to hazard communication (29 CFR 1910.1200(d)(4)), i.e.,:

1. Listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens issued by the U.S. Department of Health and Human Services National Toxicology Program (NTP) (Ref. 1),

2. Classified as a Group 1, Group 2A, or Group 2B carcinogen by the World Health Organization International Agency for Research on Cancer (IARC) in the list of IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements (Ref. 2), or

3. Characterized as a carcinogen or potential carcinogen in OSHA's regulations related to toxic and hazardous substances (29 CFR part 1910, subpart Z).

For paragraphs 1–3 of this unit, a de minimis concentration level of less than 0.1% (by weight or volume) would apply.

The NTP Report on Carcinogens is mandated by section 301(b)(4) of the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*), which stipulates that the Secretary of the Department of Health and Human Services shall publish an annual report which contains a list of all substances:

- Which either are known to be carcinogens in humans or may reasonably be anticipated to be human carcinogens.
- To which a significant number of persons residing in the United States are exposed.

In 1993, Public Law 95–622 was amended to change the frequency of publication of the NTP Report on Carcinogens from an annual to a biennial report.

The IARC Monographs on the Evaluation of Carcinogenic Risks to Humans are independent assessments prepared by international working groups of experts of the evidence on the carcinogenicity of a wide range of agents, mixtures, and exposures. The evaluations of IARC Working Groups are scientific, qualitative judgments on the evidence for or against carcinogenicity provided by the available data. The Monographs are used by national and international authorities to make risk assessments, formulate decisions concerning preventive measures, provide effective cancer control programs, and decide among alternative options for public health decisions.

Copies of the NTP and IARC lists referenced in this proposed rule have been placed in the public version of the official record for this rulemaking. In the final rule, EPA intends to seek approval from the Director of the Office of the Federal Register for the incorporation by reference of the NTP and IARC lists used in the final rule in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The third source of carcinogens or potential carcinogens which is referred to in OSHA's regulations related to hazard communication (29 CFR 1910.1200(d)(4)) is the group of carcinogens or potential carcinogens in OSHA's toxic and hazardous substances regulations (29 CFR part 1910, subpart Z). In lieu of referencing OSHA's regulations directly in the regulatory text of this proposed rule, this proposed rule republishes the two chemicals characterized by OSHA as carcinogens or potential carcinogens that are not already included on either the NTP or IARC lists referenced in this proposed rule. The rest of the chemicals characterized by OSHA as carcinogens or potential carcinogens are included on either or both the NTP and/or IARC lists.

EPA would update the lists of chemicals identified in its export notification regulation as carcinogens or potential carcinogens, as appropriate, in order to reflect changes made to the sources referred to in OSHA's hazard communication regulations at 29 CFR 1910.1200(d)(4).

Concentration threshold levels like those used in the GHS context are also generally accepted or recognized in other United States Federal regulatory contexts. OSHA has established 1.0% and 0.1% concentration thresholds as a basis for requiring the development of Material Safety Data Sheets (MSDSs) and workplace labeling under the OSHA's Hazard Communication (HAZCOM) Standard (29 CFR 1910.1200 and Ref. 11). The Emergency Planning and Community Right-to-Know Act, section 313 (Toxic Release Inventory (TRI)) regulations use the OSHA HAZCOM Standard for purposes of establishing a chemical's de minimis concentration as either 1.0% or 0.1% for chemical substances when present in a mixture (40 CFR 372.38(a)). EPA's TSCA New Chemicals Program also uses concentration limits of 1.0% and 0.1% in TSCA section 5(e) consent orders as thresholds for hazard communication and personal protective equipment requirements (Ref. 12).

EPA believes that in the context of TSCA section 12(b) export notification, foreign governments would have little interest in notices regarding exports of chemicals present in de minimis concentrations, and that notices for such exports may divert attention from notices for exports of chemicals in higher concentrations that potentially may warrant more serious consideration. Thus, EPA believes that de minimis concentration thresholds are justified in the context of its TSCA section 12(b) regulations and is proposing that the export of chemicals present at a concentration below the specified de minimis concentration levels be exempt from notification requirements.

As EPA has noted in the past, some chemicals retain their toxic properties at levels less than the general thresholds proposed, so the de minimis concentration thresholds proposed in this TSCA section 12(b) context are not an indication that EPA has determined that chemicals are generally not toxic at lesser concentrations. The de minimis concentration exemption in this proposal is only a reflection of the circumstances under which EPA believes foreign governments want to receive information regarding chemicals imported into their countries.

In this proposed rule, the second exception to the proposed generally applicable de minimis concentration levels would be made for PCBs, which, when exported in a concentration of greater than 50 ppm, would require the submission of an export notification. EPA believes it is appropriate to include a different de minimis concentration level for PCBs in its TSCA section 12(b) regulations (i.e., levels less than or equal to 50 ppm versus the proposed general

1%/0.1% for carcinogens levels) after considering the coverage of PCBs under certain international treaties and/or guidance materials developed thereunder, including the Stockholm Convention and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) (Ref. 13). Note that the manufacture and distribution in commerce of PCBs for use within the United States or for export from the United States are generally prohibited, with certain exceptions (see, for example, 40 CFR 761.20(b) and (c)).

The Stockholm Convention, which entered into force on May 17, 2004, and for which there were 113 Parties and 151 Signatories as of November 2005 (the United States is a Signatory but not yet a Party), includes, among other things, provisions that require Parties to reduce and/or eliminate the production and use of listed intentionally produced chemicals or pesticides. Annex A of the Stockholm Convention lists chemicals subject to elimination, including PCBs which are listed with a specific exemption for ''articles in use in accordance with the provisions of Part II of this Annex.'' Part II of Annex A of the Stockholm Convention states, in part:

''Each Party shall:

(a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g., transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities . . .

(iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent [50 ppm] polychlorinated biphenyls and volumes greater than 0.05 litres

. . .

(d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;

(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6, as soon as possible but no later than 2028, subject to review by the Conference of the Parties;

(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g., cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;''

Annex A of the Stockholm Convention thus focuses attention on PCBs in equipment or articles where the PCBs are at a concentration of more than 50 ppm.

In addition, the Basel Convention, which entered into force on May 5, 1992, and for which there were 166 governments that were Parties as of November 2005 (the United States is a Signatory but not yet a Party), stipulates that any trans-boundary movement of wastes (export, import, or transit) is permitted only when the movement itself and the disposal of the concerned hazardous or other wastes are environmentally sound. The Stockholm Convention directs close cooperation with the Basel Convention to define a ''low POPs content'' for purposes of safe disposal of wastes contaminated with POPs. Under the Basel Convention, ''General Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Persistent Organic Pollutants'' (Basel POPs Guidelines) have been developed that provisionally identify the level of 50 milligrams/kilograms (mg/kg) (50 ppm) as ''low POPs content'' for PCBs (Ref. 14).

Because the 50 ppm level is used in the Stockholm Convention as a cut-off level for purposes of obligations associated with PCB-containing equipment and has been further supported by the Basel POPs Guidelines as a low level not warranting the attention and control required for higher PCB levels, EPA believes it reasonable to propose using it as the basis of a de minimis concentration level for PCBs under TSCA section 12(b). Thus, at this time, EPA believes importing governments would not desire export notices from the United States for PCBs at levels of 50 ppm or less. EPA specifically seeks comment on whether 50 ppm is a reasonable level for the purposes of TSCA section 12(b), and if not, what other, if any, level may be appropriate and why (see Unit VI.).

EPA believes that the most practical means of maintaining the quality of notification, of improving the scrutiny importing countries give to notices, and of reducing burden on both exporters and EPA, is to amend the TSCA section 12(b) regulations under 40 CFR part 707 to reduce the frequency of certain export notifications submitted by exporters to EPA as well as EPA notices sent to foreign governments. EPA's responsibility is both to alert and to make information and data available to the importing government. EPA believes that although the frequency of EPA's notices to foreign governments may be reduced by this rule, if finalized as proposed, the quality of the information provided to them would not be substantially affected.

IV. Additional Proposed Amendments and Clarifications

In addition to the proposed amendments to the TSCA section 12(b) regulations regarding the scope of exporters' and EPA's responsibilities, the Agency is proposing minor amendments to update the EPA addresses to which export notifications must be sent (40 CFR 707.65(c)), to indicate that a single export notification may refer to more than one section of TSCA where the exported chemical is the subject of multiple TSCA actions(40 CFR 707.67), and to correct an error in 40 CFR 799.19, which currently omits mentioning multi-chemical test rules as being among those final TSCA section 4 actions that trigger export notification.

EPA is also clarifying exporters' and EPA's obligations where a TSCA section 12(b)-triggering action is taken with respect to a chemical previously or currently subject to export notification due to the existence of a previous triggering action. EPA's intention is that exporters notify EPA with respect to each TSCA section 12(b)-triggering action to which the chemical becomes subject (as long as the exporter in fact still exports or intends to export the chemical to that country) even if they have previously notified EPA about the export of that chemical to that country as a result of an earlier TSCA section 12(b)-triggering action. Note that an export notification may indicate more than one triggering action, i.e., separate export notifications need not be submitted where the need for export notification as a result of more than one triggering action at the same time exists with respect to a given chemical. Similarly, EPA would notify a foreign government with respect to each TSCA section 12(b)-triggering action to which the chemical becomes subject (as long as the Agency continues to receive an export notification from any exporter for the export of the chemical to that country) even if it has previously notified that government about the export of the chemical as a result of an earlier TSCA section 12(b)-triggering action. In this proposed rule, EPA is amending 40 CFR 707.65 and 707.70 in order to make these obligations clear.

V. Economic Impact

EPA has evaluated the potential costs of these proposed amendments. The Agency anticipates that these proposed amendments would reduce the number of export notifications sent to EPA by exporters of chemicals that are the subject of actions under TSCA section 5(e), 5(a)(2), or 5(b), and that they would also eliminate the submission of export notifications from exporters of chemicals otherwise subject to TSCA section 12(b) where they are present at a concentration below the relevant de minimis concentration threshold. The amendments would also potentially reduce the number of export notices sent by EPA to foreign governments. These reductions would save both exporter and EPA resources.

For the period 1996–2004, EPA received an average of approximately 8,600 export notifications from exporters annually. On average, each year nearly 60% of those export notifications were for chemicals subject to final TSCA section 4 actions, 25% for chemicals that were the subject of actions under TSCA section 5, and the remainder were primarily for chemicals that were the subject of actions under TSCA section 6 and a very few for chemicals subject to actions under TSCA section 7. At this time, EPA is unable to predict with certainty the reduction in export notifications received by EPA from exporters due to the de minimis concentration exemption of this proposed rule, but based on personal communication with the American Chemistry Council (ACC) (Ref. 15), EPA is estimating a 5% across-the-board reduction in TSCA section 12(b) notification burden to exporters due to the de minimis concentration exemption. Based on historical reporting, EPA is able to estimate, after the first year, a 50% reduction in export notifications triggered by TSCA section 5(e), 5(a)(2), or 5(b) actions as a result of the one-time-only provision, if these amendments are finalized as proposed. Thus, EPA expects to receive roughly 8,170 export notifications in the first year, and 7,125 in all subsequent years. These reductions are expected to save the regulated community over $12,000 in the first year of the proposed rule (3%), and over $41,000 in subsequent years (12%). Over 20 years, if finalized as proposed, these proposed amendments would save the regulated community approximately $440,000 at a 7% discount rate, and over $600,000 at a 3% discount rate. See the Economic Analysis of the Proposed Change to TSCA Section 12(b) Export Notification Requirements (Ref. 16) for details on all cost and burden calculations.

The costs to EPA would also likely be reduced based on these proposed amendments, as EPA incurs costs for processing export notifications received, and for sending export notices to foreign governments. While EPA has been sending roughly 1,600 notices to foreign governments annually, that number is expected to drop as a result of these proposed amendments, if finalized as proposed, to an estimated 1,520 notice during the first year in which the rule is effective, and an estimated 980 notices sent in all subsequent years. These reductions are expected to save the Federal Government over $7,500 during the first year in which the rule is effective (4% of current costs), and over $43,000 in subsequent years (24% of current costs). Over 20 years, these proposed amendments, if finalized as proposed, would save the Federal Government approximately $450,000 at a 7% discount rate, and roughly $630,000 at a 3% discount rate.

VI. Request for Comment

The following is a list of issues on which the Agency is specifically requesting public comment. EPA encourages all interested persons to submit comments on these issues, and to identify any other relevant issues as well. This input will assist the Agency in developing a rule that successfully addresses information needs while minimizing potential reporting burdens associated with the rule. EPA requests that commenters making specific recommendations include supporting documentation where appropriate.

1. Based on certain international efforts, specifically GHS and the Stockholm Convention (and the Basel POPs Guidelines), EPA believes foreign governments would have little interest in TSCA section 12(b) notices regarding exports of chemicals present in low concentrations (i.e., 1%, 0.1%, or, for PCBs, 50 ppm or less). EPA specifically seeks comment on whether the proposed thresholds are set at a reasonable level for the purposes of TSCA section 12(b), and if not, what other, if any, level(s) may be appropriate and why.

2. This proposal makes the point that GHS represents international consensus on appropriate de minimis concentrations below which foreign governments do not find information useful for hazard communication on chemicals in international commerce. As with TSCA section 12(b), one of the primary purposes of the GHS labeling scheme is to communicate information on chemicals to foreign governments. Accordingly, EPA believes it is appropriate to look to GHS for guidance on establishing a de minimis concentration exemption under TSCA section 12(b). EPA is specifically seeking comment on the appropriateness of using GHS.

3. The proposal uses the Stockholm Convention as a basis for selecting a 50 ppm threshold for PCBs. Is this appropriate?

4. EPA estimates that the proposed de minimis concentration exemption would reduce the burden of TSCA section 12(b) reporting by 5%. However, since EPA does not currently require exporters to consider the concentration of chemicals they are exporting, the potential burden reduction is difficult to estimate. EPA is seeking information that might further inform the Agency's burden estimate.

VII. References

The official record for this proposed rule has been established under docket ID number EPA–HQ–OPPT–2005–0058, and the public version of the official record is available for inspection as specified under **ADDRESSES**. These references have been placed in the public docket.

1. Report on Carcinogens, Eleventh Edition; United States Department of Health and Human Services, Public Health Service, National Toxicology Program. Available online at *http://ntp.niehs.nih.gov/index.cfm?objectid=32BA9724-F1F6-975E-7FCE50709CB4C932*.

2. International Agency for Research on Cancer Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements. Available online at *http://www-cie.iarc.fr/monoeval/allmonos.html*.

3. EPA. 1980. Chemical Imports and Exports; Notification of Export. Final Rule. **Federal Register** (45 FR 82844, December 16, 1980). Available on-line at *http://www.heinonline.org/HOL/Index?index=fedreg/fedreg&collection=fedreg*.

4. EPA. 1993. Export Notification Requirement; Change to Reporting Requirements. Final Rule. **Federal Register** (58 FR 40238, July 27, 1993). Available on-line at *http://www.heinonline.org/HOL/Index?index=fedreg/fedreg&collection=fedreg*.

5. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. September, 1998 (amended September 2004). Available on-line at *http://www.pic.int/en/viewpage.asp?id_cat=0*. Annex III: Chemicals Subject to the Prior Informed

Consent Procedure. Available on-line at *http://www.pic.int/en/ViewPage.asp?id=104#III%20Annex*.

6. Harmonized System Convention, World Customs Organization (WCO). Available on-line at *http://www.wcoomd.org/ie/En/Topics_Issues/topics_issues.html*. June 14, 1983. The Harmonized Commodity Description and Coding System, generally referred to as ''Harmonized System'' or simply ''HS,'' is a multi-purpose international product nomenclature developed by the WCO.

7. Stockholm Convention on Persistent Organic Pollutants (POPs). May 22, 2001. Available on-line at *http://www.pops.int*.

8. United Nations Economic Commission for Europe Convention on Long Range Transboundary Air Pollution (LRTAP) Protocol on Persistent Organic Pollutants (POPs), June 24, 1998. Available on-line at *http://www.unece.org/env/lrtap/pops_h1.htm*.

9. United Nations Conference on Environment and Development (Earth Summit) Agenda 21; Chapter 19: Environmentally Sound Management of Toxic Chemicals, Including Prevention of Illegal International Traffic in Toxic and Dangerous Products. Rio de Janeiro, June 1992. Available on-line at *http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21chapter19.htm*.

10. GHS. Available on-line at *http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html*. United Nations, 2003. GHS Chapter 1.5: Hazard Communication: Safety Data Sheets Table 1.5.1: Cut-off values/concentration limits for each health and environmental hazard class. See *http://www.unece.org/trans/danger/publi/ghs/ghs_rev01/English/01e_part1.pdf*.GHS Chapter 1.3: Classification of Hazardous Substances and Mixtures Subparagraph 1.3.3.2: Use of cut-off values/concentration limits. See *http://www.unece.org/trans/danger/publi/ghs/ghs_rev00/English/GHS-PART-3e.pdf*.

11. OSHA. Hazard Communication, Final Rule. **Federal Register** (48 FR 53280–53348, November 25, 1983). For discussion of 1% and 0.1% concentration thresholds, see pages 53290–53293.

12. New Chemicals Program Boilerplate TSCA Section 5(e) Consent Orders. Available on-line at *http://www.epa.gov/opptintr/newchems/boilerpl.htm*.

13. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal Adopted by the Conference of the Plenipotentiaries March 22 1989. Entry into force May 1992.

14. Basel Convention General Technical Guidelines for Environmentally Sound Management of wastes consisting of, containing or contaminated with Persistent Organic Pollutants (POPs). April 2005. See *http://www.basel.int/techmatters/techguid/frsetmain.php*.

15. Personal Communication. James Miller, EPA Economist, and members of the American Chemistry Council's TSCA Action Group. November 15, 2005.

16. Economic and Policy Analysis Branch, Office of Pollution Prevention and Toxics, EPA. November 2005. Economic Analysis of the Proposed Change to TSCA Section 12(b) Export Notification Requirements.

VIII. 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 proposed rule is not a ''significant regulatory action'' under section 3(f) of the Executive Order.

In addition, EPA has prepared an economic assessment of the potential costs and benefits associated with this proposed action, which is contained in a document entitled *Economic Analysis of the Proposed Change to TSCA Section 12(b) Export Notification Requirements* (Ref. 16). This document is available in the docket, and is briefly summarized in Unit V.

B. Paperwork Reduction Act

This action does not impose any new information collection burden that would require additional approval by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. This rule is expected to reduce the existing burden that is approved under OMB Control No. 2070–0030 (EPA ICR No. 0795), which covers the information collection activities contained in the existing regulations at 40 CFR part 707, related to export notification under TSCA section 12(b).

The annual respondent burden for the collection of information currently approved by OMB is estimated to be about 1 hour per response. A copy of the OMB approved Information Collection Request (ICR) has been placed in the docket for this rulemaking, and the Agency's estimated burden reduction is presented in the *Economic Analysis* (Ref. 16) that has been prepared for this rule.

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Submit any comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, along with your comments on the proposed rule. The Agency will consider any comments related to the information collection requirements contained in this proposal as it develops a final rule. Any changes to the burden estimate for the ICR will be effectuated with the final rule.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq*., due to the burden-reducing nature of this rule, the Agency hereby certifies that this proposed rule will not have a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination is presented in the small entity impact analysis prepared as part of the *Economic Analysis* for this proposed rule (Ref. 16), which is summarized in Unit V., and a copy of which is available in the docket for this rulemaking. The

following is a brief summary of the factual basis for this certification.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as:

1. A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201 based on the applicable NAICS code for the business sector impacted.

2. A small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Available information indicates that small governmental jurisdictions and small not-for-profit organizations would not generally engage in the activities regulated. As such, the Agency assessed the impacts on small exporters of chemical substances or mixtures within NAICS codes 325 (chemical manufactures and processors) and 324110 (petroleum refineries).

As discussed in Unit V., this proposed rule, if finalized as proposed, will amend an existing requirement and result in a reduction of burden and costs for exporters, regardless of the size of the firm. As such, these amendments will not have a significant adverse economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, EPA has determined that this proposed rule, which would result in a burden reduction upon being finalized, 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 the private sector in any 1 year. It is estimated that the total cost reduction of the rule, which is summarized in Unit V. and presented in the *Economic Analysis* (Ref. 16), over 20 years, would be $440,000 to $600,000 to the regulated community and $450,000 to $630,000 to the Federal Government. In addition, based on EPA's experience with the TSCA 12(b) reporting, State, local, and tribal governments have not been affected by this reporting requirement, and EPA does not have any reason to believe that any State, local, or tribal government will be affected by these proposed amendments. As such, EPA has determined that this regulatory action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205.

E. Executive Order 13132

Pursuant to Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), EPA has determined that this proposed rule does not have ''federalism implications,'' because it will not have substantial direct effects on the 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 the Order. As indicated previously, EPA does not have any reason to believe that any State or local government will be affected by these proposed amendments. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order 13175

As required by Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), EPA has determined that this proposed rule does not have tribal implications because it will not have any affect on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in the Order. As indicated previously, EPA does not have any reason to believe that any tribal governments will be affected by these proposed amendments. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045

This proposed rule does not require special consideration pursuant to the terms of Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this proposed rule is not designated as an ''economically significant'' regulatory action as defined by Executive Order 12866, nor does it establish an environmental standard, or otherwise have a disproportionate effect on children.

H. Executive Order 13211

This proposed rule 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 it is not designated as an ''economically significant'' regulatory action as defined by Executive Order 12866, nor is it likely to have any significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not impose any technical standards that would require EPA to consider any voluntary consensus standards.

J. Executive Order 12898

This proposed rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency does not need to consider environmental justice-related issues.

List of Subjects in 40 CFR Parts 707 and 799

Environmental protection, Chemicals, Exports, Hazardous substances, Imports, Reporting and recordkeeping requirements.

Dated: January 31, 2006.

Susan B. Hazen,

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

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 707—[AMENDED]

1. The authority citation for part 707 continues to read as follows:

Authority: 15 U.S.C 2611(b) and 2612.

2. By redesignating paragraphs (c) through (e) of § 707.60 as paragraphs (d) through (f) of § 707.60.

3. By adding a new paragraph (c) to § 707.60 and revising newly

redesignated paragraph (d) of § 707.60 to read as follows:

§ 707.60 Applicability and compliance.

* * * * *

(c) No notice of export is required for the export of a chemical substance or mixture for which export notification is otherwise required, where such chemical substance or mixture is present in a concentration of less than 1% (by weight or volume), except that:

(1) No notice of export is required for the export of the following chemical substances or mixtures where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume) (The listed chemicals and mixtures are treated by EPA in paragraph (c)(1) of this section as carcinogens or potential carcinogens for the limited purpose of application of the 0.1% concentration export notification threshold.):

(i) A chemical substance or mixture listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens, Eleventh Edition issued by the U.S. Department of Health and Human Services National Toxicology Program,

(ii) A chemical substance or mixture classified as a Group 1, Group 2A, or Group 2B carcinogen by the World Health Organization International Agency for Research on Cancer (IARC) in the list of IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements, or

(iii) Alpha-naphthylamine (Chemical Abstract Service Registry Number (CAS No.) 134–32–7) or 4-nitrobiphenyl (CAS No. 92–93–3).

(2) No notice of export is required for the export of polychlorinated biphenyl chemicals (PCBs) (see definition in 40 CFR 761.3), where such chemical substances are present in a concentration of less than or equal to 50 ppm (by weight or volume).

(d) Any person who exports or intends to export PCBs or PCB articles (see definition in 40 CFR 761.3), for any purpose other than disposal, shall notify EPA of such intent or exportation under TSCA section 12(b), except as specified in § 707.60(c)(2).

* * * * *

4. By revising pragraph (a) introductory text, (a)(2), and (c) of § 707.65 to read as follows:

§ 707.65 Submission to agency.

(a) For each action under TSCA triggering export notification, exporters must notify EPA of their export or intended export of each subject chemical substance or mixture for which export notice is required under § 707.60 in accordance with the following:

* * * * *

(2) (i) The notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The notice must be for only the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under TSCA section 4 or 5(b).

* * * * *

(c) *Notices shall be marked ''TSCA Section 12(b) Notice'' and sent to EPA by mail or delivered by hand or courier.* Send notices by mail to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (Attention: TSCA Section 12(b) Notice). Hand delivery of TSCA section 12(b) notices should be made to: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC (Attention: TSCA Section 12(b) Notice). The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation.

5. By adding an ''and/'' in front of the ''or'' in the first sentence of paragraph (a) and paragraph (e) of § 707.67.

6. By revising paragraph (a) of § 707.70 to read as follows:

§ 707.70 EPA notice to foreign governments.

(a)(1) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first annual notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(2) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or for which the submission of data is required under TSCA section 4 or 5(b).

* * * * *

PART 799—[AMENDED]

7. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C 2603, 2611, 2625.

8. By revising § 799.19 to read as follows:

§ 799.19 Chemical imports and exports.

Persons who export or who intend to export chemical substances or mixtures listed in subpart B, subpart C, or subpart D of this part are subject to the requirements of part 707 of this title.

[FR Doc. E6–1797 Filed 2–8–06; 8:45am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2005–22895]

RIN 2127–AI53

Federal Motor Vehicle Safety Standards No. 111 Rearview Mirrors

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies the petition for rulemaking submitted by Mr. Bernard Cox, requesting that NHTSA amend the Federal Motor Vehicle Safety Standard for rearview mirrors to require manufacturers to install a mirror of unit magnification (a flat mirror) on the passenger's side of multipurpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or less when such vehicles are equipped with a tow hitch package. Accordingly, manufacturers of