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Dated: January 21, 2005

Marybeth Peters,

Register of Copyrights.

[FR Doc. 05-1435 Filed 1-25-05; 8:45 am]

BILLING CODE 1410-33-S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R04-OAR-2004-SC-0002/0003-200421(b); FRL-7863-6]

#### Approval and Promulgation of Implementation Plans South Carolina: Definitions and General Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the State Implementation Plan (SIP) revisions submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on November 14, 2003, for the purpose of clarifying current regulations and ensuring consistency between State and Federal regulations. The proposed revisions consist of those published in the South Carolina State Register on August 28, 1998 and June 25, 1999, revising Regulation 61-62.1 Definitions and General Requirements. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before February 25, 2005.

**ADDRESSES:** Comments may be submitted by mail to: Nacosta C. Ward, Regulatory Development Section, Air

Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **ADDRESSES** section which is published in the Rules section of this **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9140. Ms. Ward can also be reached via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: January 7, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05-1373 Filed 1-25-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 710

[OPPT-2004-0106; FRL-7332-2]

RIN 2070-AC61

#### TSCA Inventory Update Reporting Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing amendments to the Toxic Substances Control Act (TSCA) section 8(a) Inventory Update Reporting (IUR) regulations. The IUR currently requires certain manufacturers (including importers) of certain chemical substances on the TSCA Chemical Substances Inventory to report data on chemical manufacturing, processing, and use every 4 years. EPA is proposing to extend the reporting cycle, modify the timing of the submission period, further clarify the new partial exemption for specific chemicals of low current interest, amend the petroleum refinery process streams partial exemption, amend the list of consumer

and commercial product categories, revise the manner in which production volume would be reported, restrict reporting of processing and use information to domestic processing and use activities only, edit the polymer exemption definition, and remove the requirement to determine confidentiality of production volume in ranges.

**DATES:** Comments, identified by docket identification (ID) number OPPT-2004-0106, must be received on or before February 25, 2005.

**ADDRESSES:** Submit your comments, identified by docket ID number OPPT-2004-0106, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov/>. Follow the on-line instructions for submitting comments.

- *Agency Website:* <http://www.epa.gov/edocket/>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail:* [oppt.ncic@epa.gov](mailto: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 OPPT-2004-0106. 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 OPPT-2004-0106. 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 <http://www.epa.gov/edocket/>, 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 EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the regulations.gov websites are "anonymous access" systems, 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 EDOCKET or 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 EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL-7181-7).

*Docket:* All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. 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, is not 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/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 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: [TSCAHotline@epa.gov](mailto:TSCAHotline@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](mailto: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 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. In the past, persons that only processed chemical substances have not been required to comply with the requirements of 40 CFR part 710. These proposed amendments do not change the status of processors under the regulations at 40 CFR part 710. Potentially affected entities may include, but are not limited to:

- Chemical manufacturers and importers, including chemical manufacturers and importers of inorganic chemical substances (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 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 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?

The following is a brief listing of the proposed changes to the IUR contained in this action, which are described in more detail in Unit II.D. EPA is proposing to:

- Change the reporting cycle from 4 years to 5 years.
- Move the submission period from the end of the calendar year (August 25 to December 23) to the beginning (January 1 to April 30).
- Further explain the partial exemption for chemicals for which the IUR processing and use information is of low current interest by clarifying that petitions must include a written rationale for changing the exemption chemical list.
- Clarify the petroleum process stream partial exemption by adding "refinery" to the name of the exemption and amend the partial exemption by adding certain petroleum process streams.
- Amend the list of commercial and consumer product use categories by combining two categories into one, adding a category, and deleting a category.
- Require separate reporting of manufacture and import volumes.
- Restrict the reporting of processing and use information to domestic processing and use activities only.
- Edit the polymer exemption definition to refer solely to chemical substance identification via the Master Inventory File, by removing the reference to the 1985 edition of the Inventory.
- Remove the requirement to determine confidentiality of production volume in ranges.

### 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 under TSCA section 8(a) at 40 CFR part 710 (51 FR 21447, 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 (68 FR 848, January 7, 2003) (FRL-6767-4) (2003 Amendments) to collect manufacturing, processing, and use exposure-related information, and to make certain other changes.

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 defined in 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 under the IUR are used to update the information maintained on the TSCA Inventory. EPA uses the TSCA Inventory and data reported under the IUR 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, as amended by the 2003 Amendments in January 2003, requires 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 during the reporting year in quantities of 25,000 pounds or more at any plant site they own or control. The IUR generally excludes several categories of substances from its reporting requirements, i.e., polymers, microorganisms, naturally occurring chemical substances, and certain natural gas substances. Plant sites are required to report information such as company name, plant site location and other identifying information, identity and production volume of the reportable chemical substance, manufacturing

exposure-related information associated with each reportable chemical substance, including the physical form and maximum concentration of the chemical substance and the number of potentially exposed workers.

Manufacturers (including importers) of larger volume chemicals (i.e., 300,000 lbs. or more manufactured (including imported) during the reporting year at any plant 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, inorganic chemicals, regardless of production volume, are partially exempt (i.e., submitters do not report processing and use information for inorganic chemicals). After the 2006 reporting period, the partial exemption for inorganic chemicals will no longer be applicable and submitters will fully report information on inorganic chemical substances. 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 submission period as well as subsequent submission periods.

#### *D. What Changes is the Agency Proposing to Make?*

Through this action, EPA is proposing to make further changes to the IUR. The following discussion describes the proposed changes to the IUR contained in this action.

1. *Reporting frequency and recordkeeping.* The IUR regulations require reporting every 4 years. The first submission period since the 2003 Amendments will occur in 2006, at which time submitters will report information generated during the 2005 reporting year. In this action, EPA is proposing to change the reporting frequency after the 2005 reporting year from every 4 years to every 5 years. This means that, instead of occurring in 2009, the second reporting year since the 2003 Amendments would be 2010 (i.e., 5 years after 2005) and would then occur every 5 years thereafter. The submission period would continue to occur in the year following the reporting year, i.e., 2011, 2016, etc.

EPA agreed to make the reporting frequency changes during interagency review of the 2003 Amendments, in an effort to further reduce the potential reporting burden. EPA estimates that a 5-year frequency would 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, and would still meet EPA's most critical data needs (Ref. 1).

Submitters currently are required to retain records related to and including their IUR submissions for a period of 5 years, beginning with the last day of the submission period (i.e., for a submission period ending April 30, 2006, based on the submission period proposed in Unit II.D.2., submitters would be required to retain records relevant to that submission until April 30, 2011). EPA is not proposing to change this requirement; however, the Agency encourages submitters to retain records longer than 5 years to ensure that past records are available as a reference when submitters are generating subsequent submissions.

2. *Submission period.* IUR submitters are required to report on a recurring basis from August 25 to December 23 every 4 years (40 CFR 710.53). EPA is proposing to change the submission period to occur from January 1 to April 30. This change is related to the reporting year change in the 2003 Amendments from fiscal year to calendar year.

The August to December submission period was originally used because many companies' fiscal years end in July, and starting the IUR submission period in late August meant that these companies reported their most current information as soon as possible after the end of the reporting year (i.e., the year during which the information to be reported was generated). However, under the amended regulations, submitters will now report on a calendar year basis, making an earlier submission period more appropriate because it would allow sites to submit their information to EPA closer in time to the period during which it was generated. This, in turn, would allow the Agency to obtain and process the information in a more timely manner, and therefore make the information available for use closer to the time period which the information describes and therefore making the information more timely. As the chemical industry is dynamic, information which is more timely is most likely to better describe the industry than information which is less timely.

EPA seeks comment on other possible submission periods and may adopt a submission period in the final rule that differs from the proposed January through April period. Suggested alternatives should be accompanied by an explanation indicating why the alternative period more appropriately meets submitters', the Agency's, and the public's best interests than the proposed submission period.

The submission period occurs in the year following the reporting year. As described in Unit II.D.1., EPA is proposing to change the reporting frequency from every 4 years to every 5 years, which means that the reporting year, and therefore the submission period, would occur every 5 years (i.e., after the 2006 submission period, the next submission period would occur in 2011).

3. *"Low current interest" partial exemption.* 40 CFR 710.46(b)(2) contains the requirements for the exemption of certain chemicals for which EPA has determined the IUR processing and use information to be of "low current interest" from reporting requirements listed in 40 CFR 710.52(c)(4). The public may ask EPA to change the list of chemicals partially exempt from reporting under 40 CFR 710.46(b)(2) (whether by adding or removing a chemical to or from the list). Currently, the request must be in writing, must identify the chemical in question, including a chemical identification number, and should include sufficient information for EPA to determine whether collection of the information in 40 CFR 710.52(c)(4) for the chemical in question is of low current interest.

In order to ensure that the public understands what requests need to contain, and to allow the Agency to make decisions about the listing/delisting of chemicals in the most expedient manner, EPA is clarifying that a request for listing/delisting must provide written rationale or justification for the request, accompanied by relevant documents, and including specific cites to information in those documents. The rationale needs to provide sufficient information upon which the Agency can assess the current need for IUR processing and use information and can make a decision concerning reporting of that information for the subject chemical. It is a petitioner's burden to demonstrate why a given chemical substance should be considered of low current interest.

In determining whether the partial exemption should apply to a particular chemical substance, EPA will consider the totality of information available for

the chemical substance in question, including but not limited to information associated with one or more of the following considerations listed in 40 CFR 710.46(b)(2)(ii). Additionally, EPA is clarifying consideration 6 by proposing to delete the phrase "by EPA or another agency or authority." EPA is proposing this deletion because the Agency did not intend to limit consideration 6 to Federal Government risk management actions. The amended considerations are:

(i) Whether the chemical qualifies or has qualified in past IUR collections for the reporting of the information described in 40 CFR 710.52(c)(4) (i.e., at least one site manufactures 300,000 pounds or more of the chemical).

(ii) The chemical substance's chemical and physical properties or potential for persistence, bioaccumulation, health effects, or environmental effects (considered independently or together).

(iii) The information needs of EPA, other federal agencies, tribes, states, and local governments, as well as members of the public.

(iv) The availability of other complementary risk screening information.

(v) The availability of comparable processing and use information.

(vi) Whether the potential risks of the chemical substance are adequately managed.

Petitioners should also include any additional information not specifically covered by the listed considerations that would inform the Agency's decision concerning current interest in the IUR processing and use information. For instance, a chemical's physical/chemical properties may be such that exposure is unlikely, and the IUR processing and use information is likely to be of low interest. In its review of the petition, the Agency will consider each petitioned chemical substance individually, will conduct a limited search for information not provided in the petition to see if there are additional concerns or issues, and will make a decision based upon the totality of information identified.

It is important to note that the addition of a chemical substance under this partial exemption will not necessarily be based on the potential risks of the chemical and that the Agency will not perform a formal risk analysis as part of the petition review, but that EPA's decision will be based on the Agency's current assessment of the need for collecting IUR processing and use information for that chemical, based upon the totality of information considered during the petition review

process. Additionally, interest in a chemical or a chemical's processing and use information may increase in the future, at which time EPA will reconsider the applicability of this partial exemption for those chemicals.

EPA is making this clarification in reaction to the first round of requests for consideration which were received by December 30, 2003. It was always EPA's intent that the requests contain supporting rationale associated with the request, and that the rationale specifically address at least the considerations outlined in 40 CFR 710.46(b)(2)(ii). Instead, EPA has received a number of requests that only cite the existence of another document, e.g., an Organization for Economic Cooperation and Development (OECD) Screening Information Data Set (SIDS) Initial Assessment Report (SIAR), as support, without any discussion of the document's relevance to the considerations or why the document supports a determination of low current interest. It is a requester's burden to demonstrate in a clear, well supported manner, why a given chemical substance should be considered of low current interest. EPA is today proposing to clarify the required contents of a petition for this exemption.

4. *Partially exempt petroleum refinery process streams.* Certain listed petroleum refinery process streams are partially exempt from reporting under IUR. Specifically, they are exempt from the downstream processing and use reporting requirements described in 40 CFR 710.52(c)(4) (see 40 CFR 710.46(b)(1)). This list of substances was derived from the 1983 publication of the American Petroleum Institute (API) entitled "Petroleum Process Stream Terms Included in the Chemical Substances Inventory Under the Toxic Substances Control Act (TSCA)" (Ref. 2). In order to update the list in 40 CFR 710.46(b)(1), and in response to suggestions from API (Ref. 3), EPA is proposing to change the exemption name by adding the term "refinery" and to amend the list to add certain petroleum process streams which have been added to the TSCA Inventory since the 1983 publication was compiled. Additionally, EPA is proposing to add two petroleum refinery process streams that were inadvertently left off the initial partial exemption list established by 68 FR 854 (CAS numbers: 68919-16-4 and 61789-60-4). The two substances are listed in the 1983 publication and meet the requirements for listing under this exemption.

EPA is proposing to change the name of the partial exemption to "petroleum refinery process streams" to clarify the

types of covered substances, which are restricted to petroleum refinery process streams. This change is consistent with 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. 4). The decision criteria used to develop both the current list in 40 CFR 710.46(b)(1) and the proposed additions to the list were applied in a manner consistent with Addendum I.

API identified 125 potential petroleum refinery process streams that were on the TSCA Inventory as of July 2003, but were not included in the 1983 API publication. API stated that "the 1983 document comprised substances that were included in the original TSCA Inventory (May 1979) or in the Cumulative Supplement II (May 1982). In the over twenty years since then, petroleum refinery process streams have been added to the TSCA Inventory when companies have submitted premanufacture notifications (PMNs) and subsequent notices of commencement (NOCs) for new chemical substances" (Ref. 3).

EPA reviewed API's list of identified substances (Ref. 5), and determined that three are already included in the partial exemption for certain petroleum refinery process streams. The Chemical Abstract Service (CAS) numbers for these chemicals are: 68187-60-0, 68918-98-9, and 68921-09-5. The Agency has tentatively determined that the following 25 substances are considered petroleum refinery process streams for the purposes of reporting under IUR and is proposing to add these substances to the partial exemption list in 40 CFR 710.46(b)(1): 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 determined that the following 14 substances are already fully exempt from IUR reporting under the polymer exemption at 40 CFR 710.46(a)(1): 68911-05-7, 68938-55-6, 68952-09-0, 69430-34-8, 69430-35-9, 71302-83-5, 74552-82-2, 88526-47-0, 93685-79-1, 100815-94-9, 106233-12-9, 106233-13-0, 120928-15-6, and 163440-93-5.

The Agency has also tentatively determined that the remaining 83 substances are not considered petroleum refinery process streams for purposes of reporting under IUR and are

therefore not eligible for the partial exemption under 40 CFR 710.46(b)(1) (Ref 5). In making this determination, EPA would like to point out that petrochemicals are not considered petroleum process streams for the purposes of reporting under IUR. 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. Petrochemicals often have names sounding similar to petroleum refinery process streams, but can be made using a synthetic process such as a chemical reaction. A petrochemical encompasses a wide variety of chemical substances processed and used in a variety of venues, may be processed and used in different manners in the venues with differing likelihoods of exposure, and may be solids or otherwise not require that the equipment in which they are processed be closed. The petrochemical thereby may have a variety of uses and exposure scenarios, and is not limited to being site-limited or used as a fuel, as are the petroleum refinery process streams.

These 83 substances not being added to the petroleum refinery process streams exemption are identified by CAS number and fit into one or more of four categories (the substance is listed under the category most appropriate):

(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, CAS numbers: 68333-90-4, 68409-73-4, 68551-15-5, 68551-16-6, 68551-17-7, 68551-18-8, 68551-19-9, 68551-20-2, 68603-35-0, 68989-41-3, 68990-23-8, 70024-92-9, 72162-34-6, 73138-29-1, 74664-93-0, 90622-46-1, 93762-80-2, 93924-07-3, 93924-10-8, 93924-11-9, 129813-66-7, 129813-67-8, 131459-42-2, 289711-49-5, 289711-48-4, 329909-27-5, 426260-76-6.

(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, CAS numbers: 67774-74-7, 68855-24-3, 68936-98-1, 68936-99-2, 68987-40-6, 70356-32-0, 85117-41-5, 85117-43-7, 94094-93-6, 102783-85-7, 115733-08-9, 125025-88-9, 129813-59-8, 129813-60-1, 129813-61-2, 129813-62-

3, 129813-63-4, 146865-37-4, 148520-81-4, 151911-58-9, 151911-60-3, 151911-59-0, 156105-29-2.

(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, CAS numbers: 68131-94-2, 68131-95-3, 68131-96-4, 68131-97-5, 68201-32-1, 68201-54-7, 68425-32-1, 68442-08-0, 68477-23-6, 68478-11-5, 68603-04-3, 68603-05-4, 68603-06-5, 68603-07-6, 68606-23-5, 68606-38-2, 68649-47-8, 68649-48-9, 68649-49-0, 68814-88-0, 68815-10-1, 68920-58-1, 68990-36-3, 71820-39-8, 73138-64-4, 73665-18-6, 96471-07-7, 102479-87-8, 108083-43-8, 108083-44-9, 111163-74-7, 152699-00-8, 216977-01-4 (Ref. 5).

(iv) The chemical substance is derived using a chemical process (a Fischer-Tropsch process) from a non-petroleum source, CAS number: 277316-99-1 (Ref. 5).

5. *Consumer and commercial product categories.* Certain submitters must designate 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)(iii)(A)). Following promulgation of the 2003 Amendments, EPA had discussions with the American Chemistry Council, the Consumer Specialty Products Association, and The Fertilizer Institute about these categories. In light of these discussions and EPA's own research, the Agency is proposing the following changes to the list of categories:

(i) Combine the categories of "Soaps and Detergents" and "Polishes and Sanitation Goods" to form a new category called "Cleaning Products (non-pesticidal)." EPA further considered these two categories, and believes that manufacturers might have difficulty differentiating between downstream categories which are so similar. Both categories relate to cleaning goods. Combining the categories does not reduce the utility of the information to EPA, and it allows manufacturers to avoid making difficult distinctions.

(ii) Remove the category "Photographic chemicals." This deletion is in recognition of the changing photography industry. The Photo Marketing Association notes that traditional film photofinishing in the U.S. peaked in 2000, and has been declining since. Declines of 5-10%

annually should continue through at least 2006 (Ref. 6). EPA believes that this decline indicates that consumer/commercial exposure issues associated with photographic chemicals may be of diminished importance, and therefore proposes to eliminate "Photographic chemicals" as a category. As a result of this revision, photosensitive chemicals will be reported in the "Other" category, designated as U33. The Agency will be able to distinguish these chemicals by the distinctive NAICS numbers associated with use of these chemical substances.

(iii) Add a category called "Agricultural products (non-pesticidal)." The Fertilizer Institute identified that a major use of chemicals for consumer/commercial uses is in agriculture, an area not covered by the consumer/commercial categories. EPA is proposing to add a category for "agricultural products (non-pesticidal)" to ensure that this end use would not be combined into the "other" category.

6. *Production volume reporting.* Submitters are currently required to report the total production volume (i.e., the sum of manufactured and imported volumes) for each reportable chemical substance (40 CFR 710.52(c)(3)(iv)) and a statement indicating whether the substance is manufactured in the U.S., imported into the U.S., or both manufactured and imported into the U.S. (40 CFR 710.52(c)(3)(ii)). Prior to the 2003 Amendments, submitters were required to report the manufactured volume separately from the imported volume for each reportable chemical substance. EPA often has need for either import or domestic manufacture information on chemical substances, thus the Agency is proposing to return to the previous method of reporting manufactured volume separately from imported volume. As these volumes were previously reported separately, EPA expects that these values are reasonably ascertainable and that any increase in burden is negligible (Ref. 1).

Many chemicals are both manufactured domestically and imported at the same site. The ability to differentiate between domestically manufactured and imported volumes is important to understand the nature of chemical production in the U.S. This information is used to characterize the markets and structure of the chemical industry in the U.S., providing context for decision makers as they consider alternative policy choices. Additionally, the separation between domestically manufactured and imported volumes is important for initial exposure evaluations of a chemical and for

assessing international trade implications.

7. *Reporting processing and use information for domestic activities only.* Submitters with production volumes of 300,000 lbs. or greater for a reportable chemical substance are currently required to report processing and use information (i.e., the information to be reported under 40 CFR 710.52(c)(4)), without restrictions, to the extent the information is readily obtainable. EPA is proposing to limit the information to be reported under 40 CFR 710.52(c)(4) to domestic processing and use activities only. Submitters would not report on processing or use activities that occur outside the U.S. In other words, the industrial processing or use operations (40 CFR 710.52(c)(4)(i)(A)) and commercial and consumer uses (40 CFR 710.52(c)(4)(ii)(A)) reported by submitters would be domestic operations and uses. For example, if a manufacturer produces 350,000 lbs. of a reportable chemical substance, directly exports 100,000 lbs., and sells 250,000 lbs. within the U.S., the manufacturer would have to report processing and use information for the 250,000 lbs. sold within the U.S.

EPA is proposing to limit the reporting of information to domestic processing and use activities only for two main reasons. First, the IUR collection does not distinguish between domestic and foreign activities; there is no way to identify if the information submitted covers domestic or foreign activities. EPA generally has a stronger interest in domestic processing and use information. Second, removing the need to report on foreign processing and use activities reduces the burden associated with reporting to the IUR (Ref. 1).

8. *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. EPA is proposing to change the references included in the polymer definition from the "1985 edition of the Inventory or the Master Inventory File" to solely 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.

9. *Production volume range confidentiality claims.* Submitters who claim production volume as confidential are currently additionally required to 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 added this provision in the 2003 Amendments in an effort to promote the release of more general production volume information for an individual plant site. EPA is now proposing to remove this requirement. EPA currently releases aggregated, chemical-specific, TSCA production volume information in ranges that are similar to, but not the same as, the ranges specified in 40 CFR 710.52(c)(3)(v). The Agency has a concern that the existence of competing sets of ranges, some with confidentiality claims and some without, would complicate the release of aggregated production volume information and reduce the amount of useful information available to the public. As the intent in adding this provision in the 2003 Amendments was to increase the information available to the public, the Agency is proposing to remove this requirement (although specific production volumes could still be claimed as confidential). Information claimed as CBI under 40 CFR 710.58 will not be disclosed by EPA except in accordance with the procedures set forth at 40 CFR part 2.

### III. Materials in the Rulemaking Record

1. USEPA, "Economic Analysis of the IUR Revisions Proposed Rule," Office of Pollution Prevention and Toxics, September 2004.

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. E-mail from Glen Barrett, American Petroleum Institute, to Susan Sharkey, EPA, "Proposed Petroleum Refinery Process Streams to be Added to Streams Listed in the IURA Rule (i.e., CFR 710.46(b)(1))," February 25, 2004.

4. 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.

5. USEPA, "Technical Support Document Inventory Update Rule Petroleum Refinery Process Stream Partial Exemption Added Refinery Process Chemicals" OPPT, April 17, 2004.

6. Photo Marketing Association International, "Photo Industry 2004: Review and Forecast," February 2004, available at [http://www.pmai.org/new\\_pma/Marketing\\_Research/Photo%20Industry%202004.pdf](http://www.pmai.org/new_pma/Marketing_Research/Photo%20Industry%202004.pdf).

#### IV. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

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 Proposed 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. 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 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 promulgation of this action would 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 IUR, 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), 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 proposed rule, if finalized, would 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 proposed rule, if finalized, also would 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: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

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 proposed 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).

**List of Subjects in 40 CFR Part 710**

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements.

Dated: January 6, 2005.

**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 710—[AMENDED]**

1. The authority citation for part 710 would continue 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 revising the paragraph heading for paragraph (b)(1).

d. By revising the table title to the table in paragraph (b)(1).

e. 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).

f. By revising paragraph (b)(2)(ii)(F).

g. By removing the third, fourth, and fifth sentences in paragraph (b)(2)(iii)(A) and adding a new third sentence.

h. 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 must be reported.**

\* \* \* \* \*

(b) \* \* \*

(1) *Petroleum refinery process streams.* \* \* \*

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

CAS No.	Product
61789-60-4 .....	Pitch

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

CAS No.	Product
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 fractionater, 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
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

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

CAS No.	Product
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
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 reported in response to this paragraph is limited to domestic (i.e., within the United States) processing and use activities. \*

\* \* \* \* \*

(ii) \* \* \*

(A) \* \* \*

CODES FOR REPORTING COMMERCIAL AND CONSUMER PRODUCT CATEGORIES

Table with 2 columns: Codes and Category. Codes range from C01 to C18. Categories include Adhesives and sealants, Agricultural products (non-pesticidal), Artists' supplies, Automotive care products, Cleaning products (non-pesticidal), Electrical and electronic products, Fabrics, textiles and apparel, Glass and ceramic products, Lawn and garden products (non-pesticidal), Leather products, Lubricants, greases and fuel additives, Metal products, Paints and coatings, Paper products, Rubber and plastic products, Transportation products, Wood and wood furniture, 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 January 1, 2006, to April 30, 2006. Subsequent recurring submission periods are from January 1 to April 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. 05-1380 Filed 1-25-05; 8:45 am] BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-28, MB Docket No.05-4, RM-11133]

Radio Broadcasting Services; Hagerstown and Myersville, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on a petition for rulemaking filed by Manning Broadcasting, Inc., licensee of Station WARX (FM), Hagerstown, Maryland, proposing the reallocation of Channel 295B from Hagerstown to Myersville, Maryland, as the community's first local transmission service, and the modification of the license for Station WARX (FM) to reflect the new community. Channel 295B has been proposed to be reallocated at Myersville at a site 3.9 kilometers (2.4 miles) west of the community at coordinates 39-29-57 NL and 77-36-42 WL.

DATES: Comments or counterproposals must be filed on or before March 3, 2005, and reply comments on or before March 18, 2005.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: David D. Oxenford, Esq., Veronica D. McLaughlin-Tippett, Esq., Shaw Pittmann, LLP, 2300 N Street, NW., Washington, DC 20037-1128.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, MB Docket No. 05-4, adopted January 5, 2005, and released January 10, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445