Column A	Column B	Column C
	(b) Dry cured pork products: Members of the National Country Ham Association.	Pork product facilities who are members of the Association.
	(c) Dry cured pork products: Members of the American Association of Meat Processors.	Pork product facilities who are members of the Association.
	(d) Dry cured pork products: Nahunta Pork Center.	For facilities owned by the company.
	(e) California entities storing walnuts, beans, dried plums, figs, raisins, and pistachios in California.	With a reasonable expectation that one or more of the following limiting critical conditions exists: rapid fumigation is required to meet a critical market window, such as during the holiday season; when a buyer provides short (2 days or less) notification for a purchase; or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives.
	(f) Growers and packers who are members of the California Date Commission, whose facilities are located in Riverside County.	With a reasonable expectation that one or more of the following limiting critical conditions exists: rapid fumigation is required to meet a critical market window, such as during the holiday season, when a buyer provides short (2 days or less) notification for a purchase, or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives.

[FR Doc. 05–23971 Filed 12–12–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 420

[Docket Number EPA–OW–2002–0027; FRL–8007–8]

RIN 2040–AE78

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Iron and Steel Manufacturing Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending certain provisions of the regulations establishing effluent limitations guidelines, pretreatment standards and new source performance standards for the Iron and Steel Manufacturing Point Source Category. In 2002, EPA also promulgated amendments to these regulations. The earlier regulations authorized for direct discharges of pollutants the establishment of limitations applicable to the total mass of a pollutant discharged from more than one outfall—a ''water bubble.'' The effect of such a water bubble was to allow a greater or lesser quantity of a particular pollutant to be discharged from any single outfall so long as the total quantity discharged from the combined outfalls did not exceed the allowed mass limitation. Among the changes adopted in the 2002 amendments was a provision that prohibited establishment of a water bubble for oil and grease effluent limitations. Based on consideration of new information and analysis, EPA is reinstating the provision authorizing alternative oil and grease limitations with certain restrictions. Today's final rule also corrects errors in the effective date of new source performance standards for direct and indirect discharges of pollutants.

DATES: This final rule is effective on January 12, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–OW–2002–0027. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., 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 through www.regulations.gov or in hard copy at the Water Docket, EPA Docket Center, EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC, 20460. 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 Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Elwood H. Forsht, Engineering and Analysis Division, Office of Water, Mail code 4303T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 202–566–1025; fax number: 202–566–1053; and e-mail address: *forsht.elwood@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially regulated by this action include facilities of the following types that discharge pollutants directly or indirectly to waters of the U.S.:

Category	Examples of regulated entities	NAICS codes
Industry ..	Discharges from existing and new facilities engaged in metallurgical cokemaking, sintering, ironmaking, steelmaking, direct reduced ironmaking, briquetting, and forging.	3311, 3312

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the definitions and applicability criteria in §§ 420.01,

420.10, 420.20, 420.30, 420.40, 420.50, 420.60, 420.70, 420.80, 420.90, 420.100, 420.110, 420.120, and 420.130 of title 40 of the Code of Federal Regulations. If you have questions about the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. EPA–OW–2002–0027. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Water Docket is (202) 566–2426. To view these docket materials, please call ahead to schedule an appointment. Every user is entitled to copy 266 pages per day before incurring a charge. The Docket may charge 15 cents a page for each page over the 266-page limit plus an administrative fee of $25.00.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

C. What Process Governs Judicial Review for Today's Final Rule?

In accordance with 40 CFR 23.2, today's rule is considered promulgated for the purposes of judicial review as of 1 p.m. Eastern Daylight Time, December 27, 2005. Under section 509(b)(1) of the Clean Water Act (CWA), judicial review of today's effluent limitations guidelines and standards may be obtained by filing a petition in the United States Circuit Court of Appeals for review within 120 days from the date of promulgation of these guidelines and standards. Under section 509(b)(2) of the CWA, the requirements of this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

II. Legal Authority

The U.S. Environmental Protection Agency is promulgating these regulations under the authorities of sections 301, 304, 306, 308, 402 and 501 of the Clean Water Act (CWA), 33 U.S.C. 1311, 1314, 1316, 1318, 1342 and 1361.

III. Overview of Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Industry

A. Legislative Background

Congress adopted the Clean Water Act (CWA) to Arestore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (section 101(a), 33 U.S.C. 1251(a)). To achieve this, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The CWA confronts the problem of water pollution on a number of different fronts. It relies primarily, however, on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Congress recognized that regulating only those sources that discharge effluent directly into the Nation's waters would not achieve the CWA's goals. Consequently, the CWA requires EPA to set nationally-applicable pretreatment standards that restrict pollutant discharges from those who discharge wastewater into sewers flowing to publicly-owned treatment works (POTWs) (section 307(b) and (c)). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers which may pass through, interfere with, or are otherwise incompatible with the operation of POTWs. Generally, pretreatment standards are designed to ensure that wastewater from direct and indirect industrial dischargers are subject to similar levels of treatment. The General Pretreatment Regulations, which set forth the framework for the implementation of national pretreatment standards, are found at 40 CFR part 403.

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits; indirect dischargers must comply with pretreatment standards. These limitations and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

B. Overview of 1982 Rule and 1984 Amendment

EPA promulgated effluent limitations guidelines and pretreatment standards for the Iron and Steel Point Source Category on May 27, 1982 (47 FR 23258), at 40 CFR part 420, and amended these regulations on May 17, 1984 (49 FR 21024). These actions established limitations and standards for three types of steel-making operations: Cokemaking, hot-end and finishing operations. Regulations at subpart A of part 420 cover cokemaking operations. Regulations at subpart B (sintering), subpart C (ironmaking), subpart D (steelmaking), subpart E (vacuum degassing), subpart F (continuous casting) and subpart G (hot forming) cover hot-end operations. Subpart H (salt bath descaling), subpart I (acid pickling), subpart J (cold forming), subpart K (alkaline cleaning) and subpart L (hot coating) cover finishing operations.

The 1984 amendment (49 FR 21028; May 17, 1984) also included a provision that would allow existing direct dischargers to qualify for ''alternative effluent limitations'' for a particular pollutant that was different from the otherwise applicable effluent limitation. These ''alternative'' limitations represented a mass limitation that would apply to a combination of outfalls. Thus, a facility with more than one outfall would be subject to a combined mass limitation for the grouped outfalls rather than subject to mass limitations for each individual outfall. This provision allowed for in-plant trading under a ''water bubble.'' The effect of this provision was to allow a facility to exceed the otherwise applicable effluent mass limitation for a particular outfall within a group of outfalls so long as the facility did not exceed the allowed mass limitations for the grouped outfalls. The provision prohibited establishing alternative effluent limitations for cokemaking (subpart A) and cold forming (subpart J) process wastewaters. See 40 CFR 420.03(b) (2001 ed.). The water bubble is a regulatory flexibility mechanism that allows trading of identical pollutants at any existing, direct discharging steel facility with multiple compliance points.

C. The Water Bubble Provisions in the 2002 Rule

On October 17, 2002, EPA promulgated amendments to the iron and steel regulations (67 FR 64216). In that action, EPA revised effluent limitations guidelines and standards for subpart A (cokemaking), subpart B

(sintering), subpart C (ironmaking), and subpart D (steelmaking), and promulgated new effluent limitations guidelines and standards for a new subpart, subpart M (other operations), that is also considered a hot-end operation. Subparts E through L remained unchanged.

At that time, EPA also amended the scope of § 420.03—the water bubble provision—to allow establishment of alternative mass limitations for facilities subject to new source standards and for cold rolling operations. At the same time, EPA excluded oil and grease (O&G) trading under the water bubble. 40 CFR 420.03(c); 67 FR 64261 (October 17, 2002).

EPA allowed trades involving cold forming operations (subpart J) because of process changes since promulgation of the 1984 amendments. The original prohibition of trades involving cold rolling operations was primarily based on concerns about discharges of naphthalene and tetrachloroethylene. Since the 1984 amendments, industry use of chlorinated solvents for equipment cleaning has virtually been eliminated and the use of naphthalene-based rolling solutions has been significantly reduced. (67 FR 64254) Consequently, EPA concluded that trading involving cold rolling operations could be authorized without adverse consequences to receiving waters.

Prior to the 2002 revision, described above, part 420 authorized the establishment of a single mass effluent limitation for O&G for multiple outfalls. There were three steel mills that had applied for and received alternative O&G limitations under § 420.03. In the 2002 rule, EPA explained that it had decided not to allow trades of O&G pollutant discharges among different outfalls because of differences in the types of oil and grease used among iron and steel operations. See 67 FR 64261, 64254 (October 17, 2002).

After publication of the 2002 amendment, representatives of steel mills affected by this change expressed concern about the prohibition on establishing alternative O&G effluent limitations under the water bubble and requested that EPA revise § 420.03 to reinstate O&G trading. The representatives asserted that EPA did not appropriately account for compliance costs for those facilities possessing permits with alternative O&G limitations when the Agency decided to prohibit oil and grease trading. They also asserted that these costs, due to the loss of the treatment flexibility provided by the water bubble, would be substantial. In August 2005, having reviewed the information provided concerning these facilities, EPA proposed to amend the regulation to restore the regulatory flexibility related to O&G trading for direct discharges of pollutants. EPA also proposed to correct typographical errors in the new source performance standards dates for direct and indirect discharges of pollutants. (70 FR 46459; August 10, 2005)

IV. Public Comment and Responses

EPA received four comments in response to the August 10, 2005, proposal. One trade association and one iron and steel company supported the proposal to reinstate the provision authorizing alternative oil and grease limitations with the associated restrictions. One commenter requested guidance on how the proposed changes would be implemented in the case of indirect dischargers. EPA notes that the I&S water bubble applies only to the direct discharge of process wastewater. Finally, one public interest group objected to the proposal contending that the proposal would allow excessive oil and grease discharges from single outfalls, as long as the overall permit limit was maintained. The commenter suggested the possibility that polynuclear aromatic hydrocarbons could accumulate in river sediment due to oil and grease loadings.

EPA disagrees that excessive amounts of oil and grease could be discharged to surface waters of the United States through the use of the water bubble. The total discharge of oil and grease from a facility (i.e., total allowable oil and grease from all outfalls at a facility), as allowed by 40 CFR part 420, would not change because of this amendment. This amendment would only authorize facilities to discharge varying amounts of oil and grease from individual outfalls, on the condition that the total oil and grease discharged from all of the outfalls of the facility does not exceed that allowed by 40 CFR part 420. In other words, the provision allows a facility to exceed the otherwise applicable effluent mass limitation for a particular outfall within a group of outfalls so long as the facility does not exceed the allowed mass limitations for the grouped outfalls. This provides facilities more economic flexibility to achieve compliance with limits, without increasing the amount of pollutants discharged to the environment. If there are any site-specific issues or water quality problems at one or more of these outfalls, the permitting authority could modify the application of the water bubble as needed to address the specific situation. Furthermore, the amendment retains the trading restriction on cokemaking operations which tend to be the source of polynuclear aromatic hydrocarbons in the iron and steel industry. (67 FR 64254; October 17, 2002) The cokemaking restriction in the water bubble (40 CFR 420.03(f)(1)) allows alternative limitations only if they are more stringent than the (oil and grease) limitations in the cokemaking subcategory. In this case, use of the water bubble could decrease the amount of polynuclear aromatics discharged to the surface waters of the United States.

After analysis and review of comments received on the proposed amendment, EPA has determined that it should adopt the proposed modifications to the current regulation.

V. Amendment To Restore Oil and Grease to the Water Bubble

Today, EPA is amending § 420.03 to reinstate O&G as a pollutant parameter for which alternative effluent limitations may be established with one exception. The amendment prohibits sintering process O&G trades unless one condition is met. When establishing alternative O&G mass limitations for combined outfalls that include outfalls with sintering process wastewater, the allocation for sintering process wastewater must be at least as stringent as otherwise required by subpart B. This restriction addresses the Agency's concern about the possibility of net increases in discharges of furans and dioxins. Sinter lines may receive wastes from all over the facility, from other facilities owned by the same company, and, in some cases, from other companies. Therefore, the sintering process O&G constituents are unpredictable and may contain solvents, a likely source material for furan and dioxin formation.

EPA anticipates no additional compliance costs for the three steel mills that have applied for and received alterative O&G limitations for multiple outfalls in the past. EPA anticipates that today's amendment presents opportunities for other facilities (through existing plant configurations or future expansions) to utilize the cost saving, regulatory flexibility provided by the provisions for establishing alternative O&G limitations under the water bubble.

VI. Corrections and Edits to 40 CFR Part 420

EPA is correcting typographical errors contained in the October 17, 2002, final rule (67 FR 64216). The Code of Federal Regulations (2004 ed.) contains an error for the new source performance standards dates at §§ 420.14(a)(1), 420.16(a)(1), 420.24(a), and 420.26(a)(1). As published, the dates used to

determine whether a facility must comply with new source requirements do not make sense, because the ''beginning date'' was later than the ''ending date.'' The first sentence in each of these citations is amended to read as follows: ''Any new source subject to the provisions of this section that commenced discharging after November 18, 1992 and before November 18, 2002, must continue to achieve the standards specified in § 420.14 of title 40 of the Code of Federal Regulations, revised as of July 1, 2001 * * *'' The November 18, 1992 date was incorrectly published as November 19, 2012.

In addition, the ''Authority'' citation is revised to conform to current guidance from the Office of the Federal Register.

VII. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 [58 FR 51735, (October 4, 1993)], the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action would not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The amendment would re-instate O&G as a pollutant parameter for which alternative effluent limitations and standards under the ''water bubble'' provision of the rule may be available and would correct a date for new source performance standards that was incorrectly transcribed from the version signed by the Administrator. Consequently, today's rule does not establish any new information collection burden on the regulated community.

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 unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business based on full time employees (FTEs) or annual revenues established by the Small Business Administration; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The amendment would re-instate O&G as a pollutant parameter for which alternative effluent limitations and standards may be established. These changes may reduce the economic impacts of the regulation on those entities, including small entities that have already elected or may elect to use the trading provisions of the water bubble for alternative O&G effluent limitations. The change in the compliance date for new source performance standards would result in no economic burden. The change would only correct a date for new source performance standards that was incorrectly transcribed from the version signed by the Administrator. EPA has therefore concluded that the rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-

effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule 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 one year. The amendment would re-instate O&G as a pollutant parameter for which alternative effluent limitations and standards may be established and would correct a date for new source performance standards that was incorrectly transcribed from the version signed by the Administrator. EPA has determined that this final rule will result in no additional costs. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The rule would not uniquely affect small governments because small and large governments are affected in the same way. Thus, today's rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This rule does not have federalism implications. 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 Executive Order 13132. The amendment would re-instate O&G as a pollutant parameter for which alternative effluent limitations and standards may be established and would correct a date for new source performance standards that was incorrectly transcribed from the version signed by the Administrator. EPA has determined that there are no iron and steel facilities owned and/or operated by State or local governments that would be subject to today's rule. Further, the rule would only incidentally affect State and local governments in their capacity as implementers of CWA NPDES permitting programs and approved pretreatment programs. Thus, Executive Order 13132 does not apply to this rule.

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 9, 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.''

This 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. The amendment would re-instate O&G as a pollutant parameter for which alternative effluent limitations and standards may be established and would correct a date for new source performance standards that was incorrectly transcribed from the version signed by the Administrator. EPA has not identified any iron and steel facilities covered by today's rule that are owned and/or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

This rule is not subject to E.O. 13045 because it is not economically significant as defined under Executive Order 12866. Further, this regulation does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

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

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

I. National Technology Transfer and Advancement Act

Section 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), 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, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any new voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on January 12, 2006.

List of Subjects in 40 CFR Part 420

Environmental protection, Iron, Steel, Waste treatment and disposal, Water pollution control.

Dated: December 7, 2005.

Stephen L. Johnson,

Administrator.

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

PART 420—IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

■ 1. The authority citation for part 420 is revised to read as follows:

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

■ 2. Section 420.03 is amended by removing and reserving paragraph (c), by removing the ''; and'' at the end of paragraph (f)(1) and adding a period in its place, and by adding paragraph (f)(3) to read as follows:

§ 420.03 Alternative effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available, best available technology economically achievable, best available demonstrated control technology, and best conventional pollutant control technology (the ''water bubble'').

* * * * *

(f) * * *

(3) There shall be no alternate effluent limitations for O&G in sintering process wastewater unless the alternative limitations are more stringent than the otherwise applicable limitations in subpart B of this part.

§ 420.14 [Amended]

■ 3. Section 420.14 is amended in paragraph (a)(1) by removing the date ''November 19, 2012'' and replacing it with the date ''November 18, 1992.''

§ 420.16 [Amended]

■ 4. Section 420.16 is amended in paragraph (a)(1) by removing the date ''November 19, 2012'' and replacing it with the date ''November 18, 1992.''

§ 420.24 [Amended]

■ 5. Section 420.24 is amended in paragraph (a) by removing the date ''November 19, 2012'' and replacing it with the date ''November 18, 1992.''

§ 420.26 [Amended]

■ 6. Section 420.26 is amended in paragraph (a)(1) by removing the date ''November 19, 2012'' and replacing it with the date ''November 18, 1992.''

[FR Doc. 05–23973 Filed 12–12–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 405

[CMS–1908–F]

RIN 0938–AN81

Medicare Program; Application of Inherent Reasonableness Payment Policy to Medicare Part B Services (Other Than Physician Services)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule finalizes the process that was set forth in an interim final rule published on December 13, 2002, for establishing a realistic and equitable payment amount for Medicare Part B services (other than physicians' services) when the existing payment amounts are inherently unreasonable because they are either grossly excessive or grossly deficient. This process does not apply to services paid under a prospective payment system, such as outpatient hospital services or home health services. The December 2002 interim final rule also described the factors we (or our carriers) will consider and the procedures we will follow in establishing realistic and equitable payment amounts for Medicare Part B services.

In addition, this final rule responds to public comments we received on two provisions in the December 13, 2002 interim final rule relating to how we define grossly excessive or deficient payment amounts and to the criteria for using valid and reliable data in applying the inherent reasonableness authority.

EFFECTIVE DATE: This final rule is effective on February 13, 2006.

FOR FURTHER INFORMATION CONTACT: William Long, (410) 786–5655.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.access.gpo.gov/nara_docs/,* by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

I. Background: Legislative and Regulatory Authority

Title XVIII of the Social Security Act (the Act) contains various methodologies for making payment under Part B of the Medicare program. These payment methodologies vary among the different categories of items and services covered under Medicare Part B.

A. The Consolidated Omnibus Budget Reconciliation Act of 1985

Section 9304(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA of 1985), Public Law 99–272, effective September 10, 1986, added section 1842(b)(8) to the Act, which expressly authorizes the Secretary to deviate from the payment methodologies prescribed in the Act if their application results in a payment amount for a particular service or group of services that is determined to be grossly excessive or deficient and, therefore, is not inherently reasonable. The statute also requires the Secretary to describe in regulations the factors to be considered in determining an amount that is realistic and equitable. The Secretary has always taken the position that the authority to regulate unreasonable payment amounts is inherent in his or her authority to determine reasonable charges according