

■ b. When using only banding to secure bundles, the following additional requirements apply.

■ 1. Use at least one band to encircle the length of the bundle and use at least one band to encircle the width of the bundle.

■ 2. Use tension sufficient to tighten and depress the edges of the bundle so that pieces do not slip out of the banding during transit and processing.

* * * * *

340 Standard Mail

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345 Mail Preparation

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2.0 BUNDLES

* * * * *

2.6 Preparing Bundles in Sacks

■ [Revise introductory text to refer to the new banding requirements as follows. Delete item b to remove the old banding requirements and renumber items c through f as items b through e. Make identical changes in 707.19.8 (for Periodicals).]

■ In addition to the standards in 2.5, mailers must prepare and secure bundles placed in sacks as follows.

* * * * *

■ [Switch 445.2.5 and 445.2.6 for Standard Mail parcels. Revise new 2.5 using the text in 335.2.4 above; revise new 2.6 using the text in 345.2.6 above.]

* * * * *

■ [Replace text in 705.8.5.11 with text in new 335.2.4 above for bundles on pallets. Delete 705.8.5.12; renumber

8.5.13 and 8.5.14 as new 8.5.12 and 8.5.13.]

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 06-1703 Filed 2-23-06; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-OAR-2002-0053, FRL-8025-9]

RIN 2060-AK35

Standards of Performance for Stationary Gas Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: EPA is taking direct final action to revise certain portions of the standards of performance for stationary gas turbines. We are taking direct final action to revise the standards to clarify that EPA is not imposing new requirements for turbines constructed after 1977. Owners and operators of existing and new turbines may use monitoring that meets the pre-existing monitoring requirements. In addition, we have described a number of acceptable compliance monitoring options that owners and operators may elect to use for these units. We see making the amendments by direct final rule as non-controversial and anticipate no adverse comments.

DATES: The direct final rule amendments are effective on April 25, 2006 without further notice, unless EPA receives adverse comment by March 27, 2006 or a public hearing is requested. If EPA receives such comments, it will

publish a timely withdrawal in the **Federal Register** indicating which provisions are being withdrawn due to adverse comment.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-OAR-2002-0053. All documents in the docket are listed on the *www.regulations.gov* Web site. 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 through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, Docket ID No. EPA-OAR-2002-0053, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Mr. Jaime Pagán, Combustion Group, Emission Standards Division (C439-01), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541-5340; facsimile number (919) 541-5450; electronic mail address "*pagan.jaime@epa.gov*."

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially regulated by this action are those that own and operate stationary gas turbines, and are the same as the existing rule in 40 CFR part 60, subpart GG. Regulated categories and entities include:

| Category | NAICS | SIC | Examples of regulated entities |
|--|--------|------|--|
| Any industry using a stationary combustion turbine as defined in 40 CFR 60.331(a). | 2211 | 4911 | Electric services. |
| | 486210 | 4922 | Natural gas transmission. |
| | 211111 | 1311 | Crude petroleum and natural gas. |
| | 211112 | 1321 | Natural gas liquids. |
| | 221 | 4931 | Electric and other services, combined. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Comments. EPA is publishing the direct final amendments without prior proposal because we view the amendments as noncontroversial and anticipate no adverse comment. In the "Proposed Rules" section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal in the event that timely adverse comments are received.

Comments may be submitted using the methods and following the instructions specified in the proposal published in the "Proposed Rules" section of today's **Federal Register**. If EPA receives adverse comment on the amendments, we will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn

due to adverse comment. EPA will address all public comments on the proposed rule in a subsequent final rule based on the proposed rule. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out above. EPA will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be posted on the TTN policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the direct final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by April 25, 2006. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule amendments may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Organization of this document. The information presented in this preamble is organized as follows:

- I. Background
- II. Today's Action
 - A. Monitoring Options
 - B. Other Minor Revisions to the Rule Amendments
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Congressional Review Act

I. Background

Under section 111 of the Clean Air Act (CAA), 42 U.S.C. 7411, the EPA promulgated standards of performance for stationary gas turbines (40 CFR part 60, subpart GG). The standards were promulgated on September 10, 1979 (44 FR 52798). Since that time, there have been many advances in the design of NO_x emission controls used in gas turbines, and additional test methods have been developed to measure emissions from gas turbines. As a result of these advances, we have had many requests for case-by-case approvals of alternative testing and monitoring procedures for gas turbines regulated under subpart GG of 40 CFR part 60. We promulgated the 2004 amendments to subpart GG of 40 CFR part 60 to codify the alternatives that have been routinely approved. Additionally, we were attempting to harmonize, where appropriate, the provisions of subpart GG of 40 CFR part 60 with the monitoring provisions of 40 CFR part 75, the continuous emission monitoring requirements of the acid rain program under title IV of the CAA, since many existing and new gas turbines are subject to both regulations.

On April 14, 2003, we published a direct final rule (68 FR 17990) and a parallel proposal (68 FR 18003) amending the standards of performance for stationary gas turbines (40 CFR part 60, subpart GG). We stated in the preambles to the direct final rule and parallel proposal that if we received adverse comments on one or more distinct provisions of the direct final rule, we would publish a timely withdrawal of those distinct provisions in the **Federal Register**. The preamble to the proposal also stated that if a public hearing was requested by April 24, 2003, the hearing would be held on May 14, 2003, and the comment period would be extended until 30 days after the date of the public hearing. Since a public hearing was requested, the comment period was extended until June 13, 2003. The entire direct final rule was withdrawn in order to avoid the direct final rule becoming effective.

On July 8, 2004, we published a final rule (69 FR 41346) amending the standards of performance for stationary gas turbines (40 CFR part 60, subpart GG). On September 1, 2004, the Interstate Natural Gas Association of America filed a Petition for Review of EPA's final rule. Interstate Natural Gas Association of America v. EPA, No. 04-1296 (D.C. Cir.). In accordance with a settlement agreement in that case, EPA is promulgating the direct final rule,

which contains certain revisions to the final rule published on July 8, 2004.

II. Today's Action

A. Monitoring Options

Under the original provisions of subpart GG, 40 CFR part 60, any affected unit with a water injection system to control NO_x emissions was required to install and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water to fuel being fired in the turbine. These operating parameters demonstrate that a turbine continues to operate under the same performance conditions as those documented during the initial and any subsequent compliance tests, thus providing reasonable assurance of compliance with the NO_x standard. Subpart GG of 40 CFR part 60, as originally promulgated, did not include NO_x monitoring requirements for gas turbines that did not use water injection to control NO_x.

The amendments finalized on July 8, 2004, were intended to codify several alternative testing and monitoring procedures for NO_x emissions that have routinely been approved by EPA, State, and local permitting authorities. The amendments were also intended to reflect changes in NO_x emission control technologies and turbine design since the standards were promulgated. We stated in the preamble to the 2004 amendments that nothing in the amendments was intended to impose new requirements for turbines constructed between 1977 and the effective date of the final rule amendments.

The 2004 amendments set forth several alternative methods for monitoring NO_x emissions that could be used by owners or operators of newer turbines (turbines put into operation since subpart GG of 40 CFR part 60 was originally promulgated) (40 CFR 60.334(b) through (f)). Some of these provisions presented NO_x monitoring options for turbines that use water or steam to control NO_x emissions (40 CFR 60.334(b) and (d)), while others presented NO_x monitoring options for turbines that do not use water or steam to control NO_x (40 CFR 60.334(c), (e), and (f)). For both newer turbines that use water or steam to control NO_x emissions and those that do not, these provisions were written using permissive language (the owner or operator "may" use a particular method) rather than obligatory language (the owner or operator "shall" use a particular method).

While we stated in the July 8, 2004, preamble to the final rule amendments that nothing in the amendments was intended to impose new requirements for newer turbines, the preamble also contained statements that may have implied that newer turbines that do not use water or steam to control NO_x emissions were required to install one of the types of monitoring devices described in the amendments. (See, e.g., response to comment at 69 FR 41352 (“We do not agree with the commenter’s suggested clarification that the monitoring requirements should apply only to turbines that use steam or water injection to control NO_x emissions to comply with the NO_x standards under 40 CFR 60.332(a). * * * Although a turbine may be able to meet the NO_x emission standard with other control technologies, continuous monitoring is needed to ensure that the emission limit is being met at all times.”).) Furthermore, while the final rule provisions governing newer turbines that do not use water or steam to control NO_x emissions were written using permissive language, the final rule, read in conjunction with the preamble language, could be interpreted to imply that owners or operators of such newer turbines were required to install one of the types of monitoring devices. In addition, other final rule provisions, namely 40 CFR 60.334(j) and 40 CFR 60.335(b)(8), appeared to support the reading of the NO_x monitoring standards as requiring that newer turbines not using water or steam to control NO_x must comply with one of the continuous monitoring options.

Because, contrary to our stated intent, the standards applying to newer turbines that do not use water or steam to control NO_x could be read to impose new monitoring requirements, we are revising particular provisions of the amended subpart GG of 40 CFR part 60 regulations to make clear that the enumerated monitoring methods are optional rather than mandatory. We have revised the amended standards at 40 CFR 60.334(c), (e), and (f) to clarify that the monitoring methods described in these provisions are options rather than requirements for turbines that do not use water or steam to control NO_x emissions.

We decided that it was not necessary to impose continuous monitoring requirements on turbines that do not use water injection to control NO_x because the NO_x emissions of these turbines are, in almost all instances, well below the 40 CFR part 60, subpart GG, NO_x emission limits. For example, most lean premix turbines and many diffusion-flame turbines do not need any add-on

controls to meet the NO_x limit under subpart GG that can range from 75 to over 100 parts per million by volume NO_x, depending on the efficiency of the unit. It is very unlikely that the turbine will be found to be out of compliance with the NO_x limit. Thus, requiring the use of NO_x continuous emission monitoring systems (CEMS) is not appropriate. In addition, we have recently proposed standards of performance for new stationary combustion turbines in 40 CFR part 60, subpart KKKK, that will set new NO_x emissions limits and monitoring requirements. (70 FR 8314, February 18, 2005.) Thus, once the standards in subpart KKKK are final, the amendments to subpart GG of 40 CFR part 60 affect only gas turbines commencing construction, reconstruction, and modification after July 8, 2004, and prior to February 18, 2005, for newly constructed sources or 6 months after the date that subpart KKKK becomes final for reconstructed and modified sources.

B. Other Minor Revisions to the Rule Amendments

1. Revision to Language on Previously Approved Monitoring Procedures

The second sentence of amended 40 CFR 60.334(c) provided: “Also, if the owner or operator has previously submitted and received EPA or local permitting authority approval of a petition for an alternative procedure of continuously monitoring compliance with the applicable NO_x emission limit under 40 CFR 60.332, that approved procedure may continue to be used, even if it deviates from paragraph (a) of this section.” It has been brought to our attention that many alternative monitoring methods are approved by incorporation into permits, rather than through a petition process. Therefore, we have revised 40 CFR 60.334(c) to reflect that approval process.

Furthermore, we have removed the word “continuously” and the final phrase of 40 CFR 60.334(c) because monitoring methods other than the continuous monitoring methods described in 40 CFR 60.334(a) and the first sentence of 40 CFR 60.334(c) have been approved by EPA, State, and local permitting authorities. In addition, the last sentence of 40 CFR 60.334(e) is being revised to reflect the fact that other monitoring methods, including periodic testing, have been approved by EPA, State, and local authorities for regulated turbines that do not use water and steam to control NO_x emissions.

2. Clarification of the Types of New Turbines Being Referred to in 40 CFR 60.334(f) Introductory Text

The introductory text to 40 CFR 60.334(f) described parametric monitoring options that could be used by new turbines. We added text to clarify our intent that this provision applies to turbines that commence construction after July 8, 2004, which do not use water or steam to control NO_x emissions.

3. Modification of the Reference to “Lean Premixed (Low-NO_x) Combustion Mode” in 40 CFR 60.334(f)(2)

Section 60.334(f)(2) described an acceptable continuous parameter monitoring option for turbines that do not use water or steam to control NO_x as follows: “For any lean premix stationary combustion turbine, the owner or operator shall continuously monitor the appropriate parameters to determine whether the unit is operating in the lean premixed (low-NO_x) combustion mode.” The petitioner has asserted that the term “lean premixed (low-NO_x) combustion mode” is not clearly defined, especially for units that are in load following applications or operating with short-duration load variability. Furthermore, current generation industrial turbines are not likely to exceed the new source performance standard (NSPS) emission limit even when operating in a transition mode. We believe that shortening this phrase to simply “low-NO_x mode” is a better indicator of acceptable emissions performance in compliance with the emission limit.

4. Other Minor Revisions to Reflect the Fact That the Described Monitoring Methods Are Optional for Turbines That Do Not Use Water or Steam To Control NO_x Emissions

For the same reasons that we modified 40 CFR 60.334(c), (e), and (f) to reflect the fact that the monitoring methods are options rather than requirements for the newer turbines in question, we revised the introductory text of 40 CFR 60.334(j), 60.334(j)(1)(iv), and 40 CFR 60.335(b)(8) to reflect that these monitoring methods are optional rather than required.

5. Addition of References to States as Permitting Authorities

We have revised 40 CFR 60.334(c) and (e) by adding a reference to State permitting authorities, to reflect the fact that State permitting authorities, in addition to EPA and local permitting authorities, are in some instances the appropriate authorities to approve alternative monitoring procedures.

6. Correction of an Inadvertent Error in 40 CFR 60.334(j)(5) That Resulted in Changes to the Frequency of Submittals of Excess Emissions Reports

Excess emissions reports for affected turbines are due semi-annually as required under 40 CFR 60.7(c). Only turbines that qualify under the “ice fog” exemption (40 CFR 60.334(j)(3)) are required to submit quarterly reports. When revising 40 CFR 60.334 in the July 8, 2004, final rule, we inadvertently stated in 40 CFR 60.334(j)(5) that the reports required under 40 CFR 60.7 shall be filed quarterly rather than semi-annually. In this action, we are revising 40 CFR 60.334(j)(5) to correct this inadvertent error.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is “significant” and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive 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.

It has been determined that today’s action is not a “significant regulatory action” under the terms of Executive Order 12866 and is, therefore, not subject to Executive Order 12866 review.

B. Paperwork Reduction Act

Today’s action does not impose any new information collection burden. 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 are listed in 40 CFR part 9.

Today’s action contains no revisions to the information collection requirements of the current NSPS that would increase the burden to sources, and the currently approved OMB information collection requests are still in force for the final rule.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today’s action.

For purposes of assessing the impacts of today’s action on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, or fewer than 4 billion kilowatt per hour (kW-hr) per year of electricity usage, depending on the size definition for the affected North American Industry Classification System (NAICS) code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; 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. It should be noted that small entities in six NAICS codes may be affected by the final rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration size standards (13 CFR part 121).

After considering the economic impacts of today’s action on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the direct final rule does not create, modify nor eliminate any of the requirements in the 40 CFR part 60, subpart GG

regulations. Furthermore, the stringency of the emission standards is not affected by this action.

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 by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 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 objective 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 today’s action contains no Federal mandates that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or

impose obligations upon them. Therefore, today's action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires us 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" are 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."

Today's action 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. Thus, Executive Order 13132 does not apply to today's action.

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

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

Today's action 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. We do not know of any stationary gas turbines owned or operated by Indian tribal governments. However, if there are any, the effect of the final rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to today's action.

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

Executive Order 13045 (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 we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. Today's action is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

Today's action is not subject to Executive Order 13211 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 (NTTAA) of 1995 (Pub. L. 104-113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. Section 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 the final rule amendments 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 final rule amendments in the **Federal Register**. Today's action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective April 25, 2006.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: January 20, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 60, of the Code of Federal Regulations is amended to read as follows:

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart GG—[Amended]

■ 2. Section 60.334 is amended by:
 ■ a. Revising paragraphs (c) and (e);
 ■ b. Revising paragraph (f) introductory text and (f)(2); and
 ■ c. Revising paragraph (j) introductory text, (j)(1)(iv), and (j)(5) to read as follows:

§ 60.334 Monitoring of operations.

* * * * *

(c) For any turbine that commenced construction, reconstruction or modification after October 3, 1977, but before July 8, 2004, and which does not use steam or water injection to control NO_x emissions, the owner or operator may, but is not required to, for purposes of determining excess emissions, use a CEMS that meets the requirements of paragraph (b) of this section. Also, if the owner or operator has previously submitted and received EPA, State, or local permitting authority approval of a procedure for monitoring compliance with the applicable NO_x emission limit under § 60.332, that approved procedure may continue to be used.

* * * * *

(e) The owner or operator of any new turbine that commences construction after July 8, 2004, and which does not use water or steam injection to control NO_x emissions, may, but is not required to, elect to use a NO_x CEMS installed, certified, operated, maintained, and quality-assured as described in

paragraph (b) of this section. Other acceptable monitoring approaches include periodic testing approved by EPA or the State or local permitting authority or continuous parameter monitoring as described in paragraph (f) of this section.

(f) The owner or operator of a new turbine that commences construction after July 8, 2004, which does not use water or steam injection to control NO_x emissions may, but is not required to, perform continuous parameter monitoring as follows:

* * * * *

(2) For any lean premix stationary combustion turbine, the owner or operator shall continuously monitor the appropriate parameters to determine whether the unit is operating in low-NO_x mode.

* * * * *

(j) For each affected unit that elects to continuously monitor parameters or emissions, or to periodically determine the fuel sulfur content or fuel nitrogen content under this subpart, the owner or operator shall submit reports of excess emissions and monitor downtime, in accordance with § 60.7(c). Excess emissions shall be reported for all periods of unit operation, including startup, shutdown and malfunction. For the purpose of reports required under § 60.7(c), periods of excess emissions and monitor downtime that shall be reported are defined as follows:

(1) * * *

(iv) For owners or operators that elect, under paragraph (f) of this section, to monitor combustion parameters or parameters that document proper operation of the NO_x emission controls:

* * * * *

(5) All reports required under § 60.7(c) shall be postmarked by the 30th day following the end of each 6-month period.

■ 3. Section 60.335 is amended by revising paragraph (b)(8) to read as follows:

§ 60.335 Test methods and procedures.

* * * * *

(b) * * *

(8) If the owner or operator elects under § 60.334(f) to monitor combustion parameters or parameters indicative of proper operation of NO_x emission controls, the appropriate parameters shall be continuously monitored and recorded during each run of the initial performance test, to establish acceptable operating ranges, for purposes of the

parameter monitoring plan for the affected unit, as specified in § 60.334(g).

* * * * *

[FR Doc. 06-1743 Filed 2-23-06; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 413, 414, 424 and 426

[CMS-1502-F2 and CMS-1325-F]

RIN 0938-AN84 and 098-AN58

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B; Correcting Amendment

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

ACTION: Correcting amendment to final rule with comment.

SUMMARY: In the November 21, 2005 *Federal Register* (70 FR 70116), we published a final rule with comment period entitled “Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B.” This correcting amendment corrects technical errors in the November 21, 2005 publication.

EFFECTIVE DATE: This correcting amendment is effective January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Diane Milstead, (410) 786-3355.

SUPPLEMENTARY INFORMATION:

I. Background

FR Doc. 05-22160, entitled “Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B” and appearing in the *Federal Register* on November 21, 2005 (70 FR 70116), addressed Medicare Part B payment policy, including the physician fee schedule, that is applicable for calendar year (CY) 2006; and finalized certain provisions of the interim final rule to implement the Competitive Acquisition Program (CAP) for Part B Drugs.

It also revised Medicare Part B payment and related policies regarding: Physician work, practice expense and malpractice relative value units (RVUs); Medicare telehealth services; multiple diagnostic imaging procedures; covered outpatient drugs and biologicals; supplemental payments to Federally Qualified Health Centers (FQHCs); renal dialysis services; coverage for glaucoma screening services; National Coverage Decision (NCD) timeframes; and physician referrals for nuclear medicine services and supplies to health care entities with which physicians have financial relationships.

In addition, the rule finalized the interim RVUs for CY 2005 and issued interim RVUs for new and revised procedure codes for CY 2006. This rule also updated the codes subject to the physician self-referral prohibition and discussed payment policies relating to teaching anesthesia services, therapy caps, private contracts and opt-out, and chiropractic and oncology demonstrations.

We have identified a number of technical errors in that final rule with comment period.

II. Summary of Errors

We are identifying and correcting errors made to certain parts of the preamble, regulations text and addenda of the November 21, 2005 final rule with comment (70 FR 70116). In addition, addendum B, C, D, E and F are revised under this correcting amendment, although these addenda will not appear in the Code of Federal Regulations.

A. Summary of Preamble Errors

In the preamble text, there were a number of errors and omissions beginning on pages 70150 through 70335.

1. On page 70150, in the first column, in the last paragraph under Section m. (Additional PE Issues Raised by Commenters), in the second sentence, the number of the CPT code referenced is incorrect.

2. On page 70155, in the center column, the last sentence of the second paragraph under the discussion titled, “3. Cardiac Catheritization and Angioplasty Exception,” there was an error in one of the code ranges referenced.

3. On page 70263, in the third column; in last paragraph, the reference to Table 26 is incorrect.

4. On page 70263, Table 26 was numbered incorrectly.

5. On page 70274, in the first column; in the second paragraph language concerning the specific deleted practice