explanations when the agency does not use available and applicable VCS.

Today's proposed decision does not involve technical standards. Therefore, the requirements of the NTTAA are not applicable.

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 4, 2005.

Stephen L. Johnson,

Administrator.

[FR Doc. 05–15825 Filed 8–9–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 420

[Docket Number OW–2002–0027; FRL–7950–8]

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: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend 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. Prior to 2002, regulations applicable to the Iron and Steel Manufacturing Point Source Category had authorized the establishment of limitations applicable to the total mass of a pollutant discharged from more than one outfall. 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 total mass limitation. In 2002, EPA revised the water bubble to prohibit establishment of alternative oil and grease effluent limitations. Based on consideration of new information and analysis, EPA proposes to reinstate the provision authorizing alternative oil and grease limitations with one exception. Today's notice also proposes to correct errors in the effective date of new source performance standards.

DATES: Comments must be received by September 9, 2005. Comments postmarked after this date may not be considered.

ADDRESSES: Submit your comments, data and information for this proposed rule identified by Docket ID No. OW–2002–0027, by one of the following methods:

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

B. Agency Web site: *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.

C. E-mail: *OW–Docket@epa.gov.*

D. Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OW–2002–0027. Please include a total of 3 copies.

E. Hand Delivery: Water Docket, EPA Docket Center, EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC, 20460. Attention Docket ID No. OW–2002–0027. Please include a total of 3 copies. 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, data and information to Docket ID No. OW–2002–0027. EPA's policy is that all comments, data and information received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket*, including any personal information provided, unless the material 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 Federal regulations.gov Web site 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 88102). For additional instructions on obtaining access to comments, go to Section I.C. of the **SUPPLEMENTARY INFORMATION** section of this document.

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

1. *Submitting CBI.* Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send information claimed as CBI by mail only to the following address, Office of Science and Technology, Mailcode 4303T, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Ahmar Siddiqui/Docket ID No. OW–2002–0027. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

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

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

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

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

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

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

vii. Explain your views as clearly as possible.

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

C. 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. 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. The official public docket is the collection of materials that is available for public viewing 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/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, ''EPA Dockets.'' You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.C.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in

EPA's electronic docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

II. Legal Authority

The U.S. Environmental Protection Agency is proposing 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 ''restore 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 point sources 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 decided 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 O&G 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 EPA to revise § 420.03 to reinstate O&G trading. The representatives assert that EPA did not appropriately account for compliance costs for those facilities possessing permits with alternative O&G limitations. They also assert that these costs, due to the loss of the treatment flexibility provided by the water bubble, would be substantial. After a careful review of the rulemaking record, EPA agrees that it did not adequately consider the costs of compliance for the three known mills with NPDES O&G effluent limitations based on the provisions of the water bubble. EPA also determined that it should restore the regulatory flexibility related to O&G trading. Therefore, the Agency is proposing to modify the current rule.

IV. Proposed Water Bubble Amendment

Today, EPA proposes to amend § 420.03 to reinstate O&G as a pollutant for which alternative effluent limitations may be established with one exception. The proposed amendment would prohibit sintering process O&G trades unless one condition is met. In determining 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 also considered allowing O&G trading only among subcategories with ''similar or like-kinds'' of O&G, one of the bases for its earlier decision not to allow O&G trading. ''Similar or like kinds'' of O&G compounds are defined as O&G compounds originating from within the same category of manufacturing operations with similar O&G compositions. For example, a facility with multiple outfalls could trade O&G limitations within its hot-end operations with predominantly petroleum-based O&G or it could trade within its finishing operations with predominantly synthetic and animal O&G, but a facility could not trade O&G limitations between its hot-end and finishing operations.

EPA, however, recognizes that if it retained such a restriction, in certain circumstances, facilities discharging process wastewaters from multiple subcategories through a single outfall would have greater flexibility than those discharging under a water bubble through multiple outfalls. At the present time, an iron and steel mill that discharges wastewater from multiple subcategories through a single outfall must comply with a single set of oil and grease limitations. In most cases, the limitations are based on the sum of the allowable pollutant loadings from each subcategory to arrive at a single set of oil and grease limitations for the outfall (*i.e.*, a ''building block'' approach). For compliance purposes, as long as the mill meets the oil and grease limitations at the single outfall, the mass discharge from each subcategory may vary above or below the otherwise applicable limitation that would apply if the particular wastestream would be discharged alone. Thus, adoption of a restriction on trading among finishing and hot-end operations would effectively penalize those discharging finishing and hot-end wastewater from multiple outfalls relative to those discharging the same wastestreams from a single outfall. As a result, EPA decided not to adopt such a restriction. The current regulations do contain one general restriction, first published as part of the 1984 water bubble, that would also apply to O&G trading. Section 420.03(f)(1) states that ''(t)here shall be no alternate effluent limitations for cokemaking process wastewater unless the alternative limitations are more stringent than the limitations in Subpart A of this part.''

EPA anticipates no additional compliance costs for the three steel mills that have applied for and received alterative O&G limitations for multiple outfalls if EPA decides to promulgate the rule with the proposed restriction. EPA anticipates that today's proposal would present 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.

EPA solicits comment on all aspects of this amendment.

V. Corrections to Part 420

EPA is also proposing to correct typographical errors contained in the October 17, 2002, final rule (68 FR 64215). The Code of Federal Regulations (2004 ed.) contains an error for the new source performance standards dates in §§ 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 will be revised 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 with current guidance from the Office of the Federal Register.

VI. Statutory and Executive Order Reviews

A. 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 proposed rule is not a ''significant regulatory action'' and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This proposed action would not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The proposed 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 proposed rule would 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 proposed 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 (SBA) regulations at 13 CFR 121.201; (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 proposed 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 proposed amendment would re-instate O&G as a pollutant for which alternative effluent limitations and standards may be established. These proposed 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 proposed 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 therefore has concluded that the proposed rule will relieve regulatory burden for all affected small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

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 proposed 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 proposed amendment would re-instate O&G as a pollutant 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 the proposal if adopted 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 proposed 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 proposed 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 proposed amendment would re-instate O&G as a pollutant 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 proposed rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comments on the proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 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 proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The proposed amendment would re-instate O&G as a pollutant 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 proposed rule that are owned and/or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits comments on the proposed rule from tribal officials.

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 proposed 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 No. 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.

List of Subjects in 40 CFR Part 420

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

Dated: August 4, 2005.

Stephen L. Johnson,

Administrator.

For reasons set out in the preamble, Title 40, Chapter I is proposed to be 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.

§ 420.03 [Amended]

2. Section 420.03 is amended by removing and reserving paragraph (c) and by adding paragraph (f)(3) to read as follows:

* * * * *

(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. 05–15834 Filed 8–9–05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist the Slackwater Darter and Initiation of a 5-Year Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of 5-year review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to remove the slackwater darter (*Etheostoma boschungi*) from the Federal List of Endangered and Threatened Wildlife and Plants pursuant to the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that delisting of the slackwater darter may be warranted. Accordingly, we are not required to take any further action in response to this petition. However, we believe the information in our files indicates a decline in the status of this species since its listing. Therefore, we ask the public to submit to us any new information that has become available concerning the status of or threats to the slackwater darter since it was listed in 1977. This information will help us more accurately assess its status and complete a 5-year review as required under section 4(c)(2)(A) of the Act.

DATES: The 90-day finding announced in this document was made on July 7, 2005. To allow us adequate time to conduct this 5-year review, we request any new information and comments to be submitted to us by October 11, 2005. However, we will continue to accept new information about this listed species at any time.

ADDRESSES: Data, information, written comments and materials, or questions concerning this petition, our finding, or our 5-year review should be submitted to the Field Supervisor, Jackson Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi, 39213. The petition finding, supporting data, and comments or information received in response to this notice will be available for public review, by appointment, during normal business hours at the above address. New information regarding the slackwater darter may be sent electronically to *daniel_drennen@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel J. Drennen, Fish and Wildlife Biologist, at the above address (telephone 601–321–1127; e-mail *daniel_drennen@fws.gov*).

SUPPLEMENTARY INFORMATION:

Public Information Solicited

When we find that there is not substantial information indicating that the petitioned action may be warranted, initiation of a status review is not required by the Act. However, we continually assess the status of species listed as threatened or endangered to ensure that our information is complete and based on the best available scientific and commercial data. Therefore, we are soliciting new information for the slackwater darter.

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. The finding is to be based on all information available to us at the time the finding is made. To the maximum extent practicable, the finding is to be made within 90 days of our receipt of the petition, and published promptly in the **Federal Register**. If we find that substantial information was presented in the petition, we are required to promptly commence a review of the status of the species to determine whether the action is warranted.

In making the 90-day finding, we rely on information provided by the petitioner and evaluate that information in accordance with 50 CFR 424.14(b). The contents of this finding summarize that information included in the petition and that which was available to us at the time of the petition review. Under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b), our review is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold. ''Substantial information'' is defined in 50 CFR 424.14(b) as ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.'' We do not conduct additional research at this point, nor do we subject the petition to rigorous critical review. Rather, in accordance with the Act and regulations, we accept the petitioner's sources and characterizations of the information unless we have specific information to the contrary. As explained below, applying this standard we find that the petition does not state a reasonable case for delisting.

The factors for listing, delisting, or reclassifying species are provided at 50 CFR 424.11. We may delist a species only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened. Delisting may be warranted as a result of: (1) Extinction; (2) recovery; or (3) a determination that the original data used for classification of the species as endangered or threatened were in error.

Review of Petition

The petition to delist the slackwater darter (*Etheostoma boschungi*), dated February 3, 1997, was submitted by the National Wilderness Institute. The petition requested that we remove the slackwater darter from the List of Endangered and Threatened Wildlife and Plants on the basis of data error.

In response to the petitioner's request to delist the slackwater darter, we sent a letter to the petitioner on June 29, 1998, explaining our inability to act upon the petition due to low priorities assigned to delisting petitions in accordance with our Listing Priority Guidance for Fiscal Year 1997, which was published in the **Federal Register** on December 5, 1996 (61 FR 64475). That guidance identified delisting activities as the lowest priority (Tier 4). Due to the large number of higher priority listing actions and a limited listing budget, we did not conduct any delisting activities during the Fiscal Year 1997. On May 8, 1998, we published the Listing Priority Guidance for Fiscal Years 1998–1999 in the **Federal Register** (63 FR 25502) and, again, placed delisting activities at the bottom of our priority list. Subsequent to 1998, the delisting funding source was moved from the listing program to the recovery program, and delisting petitions no longer had to compete with other section 4 actions for funding. However, due to higher priority recovery workload, it has not been practicable to process this petition until recently.

The petition requested that we delist the slackwater darter on the basis of data error; however, the petition did not provide any information explaining how the data used to classify the slackwater