

developed at Purdue University. MUSLE is a more widely accepted model, and is derived from a larger data base than any other model presently in use. In addition, its use requires less site-specific information for many parameters in the equation; thus, use of other models would require even more assumptions concerning various "representative" factors which would necessarily be arbitrary. In short, there is no reason to believe that the use of the Purdue (or any other) method would appreciably change the results of the study; particularly, there is no reason to believe that other methodologies would alter the conclusion that the ponds studied cannot achieve the effluent limitations during precipitation events.

One commenter suggested that MUSLE is not appropriate for estimating sediment loadings for downstream pond locations, and that the use of "delivery ratio techniques" might be more suitable. This commenter also challenged the use of a composite curve number ("CN") in the MUSLE, and recommended use of a distributed parameter approach which would account for discrete areas of the drainage area. Although this commenter submitted revised calculations using a distributed parameter approach, he did not explain the technique which he used. Therefore, there is no basis for the Agency to conclude that this commenter's method is preferable. In short, there is no basis for the Agency to doubt that use of MUSLE was as reasonable as, and probably preferable to, any other approach. Even if this commenter's suggestions were adopted, moreover, they would only have served to increase TSS concentrations in the effluent, and therefore would not change the report's central conclusion.

(6) Several commenters argued that there is no basis for the Skelly and Loy recommendation that a sediment pond be designed according to OSM's design criteria, since the study shows that those design criteria will not ensure attainment of the effluent limitations during precipitation events. The Skelly and Loy study took OSM's design requirements as given. This approach was entirely appropriate. In addition, OSM's regulations permit reduction of pond size if other measures are taken.

(7) Several commenters challenged the cost estimates contained in the Skelly and Loy report as unrealistically low. One commenter submitted site-specific cost estimates which were higher than Skelly and Loy's. Cost estimates are necessarily imprecise, and the Agency is unable to conclude that Skelly and Loy's cost estimates are necessarily

unreasonable, or that other cost assumptions are more reasonable. In any event, these comments are moot in light of the regulation promulgated today.

(8) Several commenters criticized the Skelly and Loy report's failure to address the necessity or desirability, from the standpoint of water quality, of achieving an effluent concentration of 35 and 70 mg/l. The Agency is required to establish technology based limitations without regard to water quality considerations.

(9) One commenter challenged the report's assumptions concerning particle size distributions. As the Skelly and Loy report indicates, particle size distributions are inherently site-specific. The Agency is satisfied that Skelly and Loy utilized reasonable assumptions in this regard, and the commenters have not pointed to any data or literature which demonstrate otherwise.

(10) One commenter claimed that Skelly and Loy failed to take into account whether the designed sediment ponds could physically be constructed at the locations modeled. This is incorrect. Skelly and Loy located all ponds based upon their site-specific knowledge of the mine sites examined.

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40 CFR Part 436

[1380-8]

Mineral Mining and Processing Point Source Category; Revocation of BPT Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rules.

SUMMARY: EPA has published "best practicable technology" (BPT) regulations under the Clean Water Act for several subcategories of the mineral mining industry (40 CFR Part 436). In *National Crushed Stone Association v. EPA*, 601 F.2d 111 (4th Cir. 1979), the U.S. Court of Appeals for the Fourth Circuit invalidated certain portions of the BPT regulations for the (1) crushed stone and (2) construction sand and gravel subcategories. 601 F.2d at 125. EPA is accordingly revoking the invalidated portions below.

DATES: The revocations are effective as of June 18, 1979. (This date corresponds to the Court decision requiring today's revocations.)

FOR FURTHER INFORMATION CONTACT: Barry S. Neuman (A-131), Office of General Counsel, 401 M Street SW., Washington, D.C. 20460, (202) 755-0753.

Dated: December 21, 1979.

Douglas M. Costle,
Administrator.

§§ 436.22 and 436.32 [Amended]

1. 40 CFR § 436.22(a)(1) is amended by deleting the following from the table therein:

TSS _____ 45 mg/l _____ 25 mg/l

2. 40 CFR § 436.22(a)(2) is revoked.

3. 40 CFR § 436.22(a)(3) is redesignated as 40 CFR § 436.22(a)(2) and is amended by deleting the following from the table therein:

TSS _____ 45 mg/l _____ 25 mg/l

4. 40 CFR § 436.32(a)(1) is amended by deleting the following from the table therein:

TSS _____ 45 mg/l _____ 25 mg/l

5. 40 CFR § 436.32(a)(2) is revoked.

6. 40 CFR § 436.32(a)(3) is redesignated as 40 CFR § 436.32(a)(2) and is amended by deleting the following from the table therein:

TSS _____ 45 mg/l _____ 25 mg/l

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5759]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or