PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

Interim Final Rulemaking

Notice is hereby given that effluent limitations and guidelines for existing sources to be achieved by the application of best practicable control technology currently available as set forth in interim final form below are promulgated by the Environmental Protection Agency (EPA). The regulation set forth below establishes Part 436—Mineral mining and processing point source category and will be applicable to existing sources for the gyspsum subcategory (Subpart E), the ashphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluor spar subcategory (Subpart K), the barite from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the po- tash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the French subcategory (Subpart P), the bentonite subcategory (Subpart Q), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jadec subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF) and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category pursuant to sections 301, 304 (b) and (c), of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act).

(a) Legal authority—(1) Existing point sources. Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources. Other than publicly owned treatment works, which require the application of the best practicable control technology currently available as designed by the Administrator pursuant to section 304(b) of the Act, Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act. Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best available technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluor spar subcategory (Subpart K), the barite from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the fluor spar subcategory (Subpart P), the bentonite subcategory (Subpart Q), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jadec subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the tripoli subcategory (Subpart AF) and the graphite subcategory (Subpart AL) of the mineral mining and processing point source category.

Section 304(b) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on such processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or “Development Document” referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(2) New sources. Section 306 of the Act requires the promulgation of Federal standards of performance for new sources of a Federal standard of performance for the control of the discharge of pollutants which reflects the degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods and other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306 also requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306 of the Act. Regulations will be proposed at a future date that set forth the standards of performance for new sources. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works pursuant to paragraph 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges. These limitations are simultaneously being proposed.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that effluent limitations for new sources are promulgated pursuant to section 306. Regulations will be proposed in fulfillment of these requirements at the time new source performance standards are proposed.

(b) General methodology. The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first divided for the purpose of determining whether separate limitations are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations for different segments of the point source category. The characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of the waste water, the types of waste water employed, the sources of waste and waste water and the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were then identified. This included an identification of each distinct control and treatment technology, including both implant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The effluent characteristics of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine the technologies and reliability of each treatment and control technology which would satisfy the “best practicable control technology currently available.” In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the various types of control techniques, process
changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of conclusions with respect to the dimension stone subcategory (Subpart K), the fire clay subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the trona subcategory (Subpart P), the rock salt subcategory (Subpart Q), the talc subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the mineral pigment subcategory (Subpart T), the lime stone subcategory (Subpart U), the magnesite subcategory (Subpart W), the dolomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the garnet subcategory (Subpart AA), the kyanite subcategory (Subpart AB), the shale subcategory (Subpart AC), the barite subcategory (Subpart AD), the apatite subcategory (Subpart AE), the tripli subcategory (Subpart AF), the kaolin subcategory (Subpart AG), the ball clay subcategory (Subpart AH), the feldspar subcategory (Subpart AI), the clays and clay shales subcategory (Subpart AJ), the talc, steatite, soapstone and pyrophyllite subcategory (Subpart AK), the garnet subcategory (Subpart AL) and the graphite subcategory (Subpart AM) of the mineral mining and processing point source category.

(i) Categorization. For the purpose of studying waste treatment and establishing effluent limitations guidelines and standards of performance the mineral mining and processing category was divided in 38 discrete subcategories. The subcategories consist of specific mineral types or classes of minerals. In addition within each subcategory a determination was made whether subparts required different effluent limitations based on type of ore, method of ore transport, type of process control devices, type of product, and ground water seepage and runoff into the mine and process waste water impoundments.

In the following discussion the term no discharge applies to dry weather conditions. Waste water impoundments may be subject to overflow into natural drainage areas. Some rainfall events may cause these impoundments to overflow. For the following subcategories requiring no discharge of waste water pollutants, an allowance has been made for such circumstances.

(1) Treatment for the gypsum subcategory. Processing plants that do not use water would need no treatment system. Water at wet process plants is used to wash the ore and for heavy media separation. This water is clarified in a settling pond and recirculated back to the processes with no need for a discharge. Water originating from wet air emissions control scrubbers is being studied further.

(2) Treatment for the asphaltic minerals subcategory. Bituminous limestone (Subpart AA) meteoric water is no process waste water. Water is used for air scrubbers in processing oil impregnated diatomite. This water is completely recycled, and there is no process waste water discharge. Water in the processing of gisbonite is used for ore washing, froth flotation and wet scrubbers. This water can be clarified in a settling pond and recycled back to the processes. Alternatively a Utah plant plans to combine mine water and process waste water in a process recirculation system and use the excess water for irrigation with no discharge to navigable waters.

(3) Treatment for the asbestos and wollastonite subcategory. Some asbestos plants and the wollastonite plant do not use water in the process and treatment is not necessary. These plants do not cause discharge of process waste water and only no discharge is needed. Water is concentrated for reuse and evaporated through brine wells. Some liquid is also evaporated in large ponds or injected into the deposit. There is no discharge to navigable waters.

(4) Treatment for the Frasch sulfur subcategory. In anhydrite operations heated water used to melt sulfur deposits is bleed out of the deposit, reheated and re-injected. There is no discharge of process sulfur water or of mine water. For salt dome operations, bleed-off water cannot be reused because of its corrosive nature; hence regulations are not promulgated at this time pending completion of the economic impact of regulating this type of operation.

(5) Treatment for the bentonite subcategory. There is no water used in the processing of bentonite. Air emissions control on dryers is accomplished by dry cyclones and bag houses.

(6) Treatment for the magnesite subcategory. There is no water used in the processing of magnesite. Air emissions control on dryers is accomplished by dry cyclones and bag houses.

(7) Treatment for the diatomite subcategory. Water is principally used to slurry waste fines and for air scrubbers. Water is clarified in settling ponds and is either evaporated or recycled back to the processes.
(10) Treatment for the jade subcategory. Very little water is used in jade processing plants. Waste water is either evaporated or used as irrigation water from which there is no discharge.

(11) Treatment for the nonagulate subcategory. Process waste water that originates from wet scrubbers is clarified and totally recycled. There is no discharge of process waste water used in all but one plant. Waste water originating from the one plant employing wet processes is being studied further.

(12) Treatment for the triplite subcategory. There is no process waste water used in all but one plant. Waste water is discharged to a pond from which there is no discharge.

(13) Treatment for the graphite subcategory. Process waste water from washing, flotation and filtering operations is clarified in a settling pond. Mine water discharge is treated with lime to raise the pH and to precipitate dissolved iron. The treated wastes are then allowed to settle in a pond. The combined discharge has achieved a pH of 7.0. TSS and BOD are maintained between 6.0 and 9.0.

(14) Treatment for the barite subcategory. Those plants that do not use process or float the ore have no process waste water. The plants that do use process water are being studied further.

(15) Treatment for the glassopor subcategory. Those plants that do not use heavy media separation or flotation either do not use process water or this water is fully consumed in the process. The plants that do use separation or flotation are being studied further.

(16) Treatment for the remaining subcategory. Treatment technologies for the dimension stone subcategory (Subpart A), the crushed stone subcategory (Subpart B), the construction sand and gravels subcategory (Subpart C), the industrial sand subcategory (Subpart D), the lightweight aggregates subcategory (Subpart E), the mica and sericite subcategory (Subpart F), the rock salt subcategory (Subpart G), the trona subcategory (Subpart H), the shale and related subcategory (Subpart I), the fire clay subcategory (Subpart J), the attapulgite and morrowlite subcategory (Subpart K), the kyanite subcategory (Subpart L), the shale and common clay subcategory (Subpart M), the agglomerate subcategory (Subpart N), the kaolin subcategory (Subpart O), the ball clay subcategory (Subpart P), the mica serpentine and pyrophylite subcategory (Subpart Q), the enriched kaolin subcategory (Subpart R), and the kaolin subcategory (Subpart S) have not been permanently recorded in the appropriate office of the legislative jurisdiction in which the site is located.

Cost estimates for control of waste water pollutants. The promulgated regulations for best practicable control technology currently available are expected to offset increased capital costs or one subcategory. Total recycle of process waste water for the mineral gilsonite of the asphaltic minerals subcategory will have an increased annual operating cost of $1.00 per ton of product. However, these costs are not attributable to these interim final regulations.

Energy requirements and non-water quality environmental impacts. The energy requirements affected by these limitations consist of the energy expended in pond construction and of pumping the pond water back to the processing plants. These added energy requirements are expected to be less than these amounts. Nevertheless, the Agency has reviewed and identified the projected effect on prices and estimates that there will be no effect on prices for the segments of the industry controlled herein.

The reports entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Industry Point Source Category", Volume I "Minerals for the Construction Industry," Volume II "Minerals for the Chemical and Fertilizer Industry," Volume III "Clay, Ceramic, Refractory and Miscellaneous Minerals" detail the analysis undertaken in support of the interim final regulation set forth herein and is available for inspection and copying in the Office of Information Reference Unit, Room 2040, Waterside Mall, Washington, D.C. 20460, at all EPA regional offices, and at State waste pollution control offices. Copies of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose. (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write to the Superintendant of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis document presently installing a recycle system. As a result, prices, production, industry growth, balance of trade and community economic impacts will not be significantly impacted.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by Agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated. OMB Circular A-101 (January 31, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The circular provides that during the interim period prior to final approval by OMB of criteria developed by each Agency, the Administrator is responsible for identifying those regulations which require evaluation and certification. The Administration has also directed that all "major" actions which are likely to result in capital investment exceeding $100 million or annualized costs in excess of $50 million will require certification. Therefore, the Agency's analysis of the potential economic impacts of these regulations indicates, the capital investment and annualized costs associated with compliance are estimated to be considerably less than these amounts. Nevertheless, the Agency has reviewed and identified the projected effect on prices and estimates that there will be no effect on prices for the segments of the industry controlled herein.

The reports entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Industry Point Source Category", Volume I "Minerals for the Construction Industry," Volume II "Minerals for the Chemical and Fertilizer Industry," Volume III "Clay, Ceramic, Refractory and Miscellaneous Minerals" detail the analysis undertaken in support of the interim final regulation set forth herein and is available for inspection and copying in the Office of Information Reference Unit, Room 2040, Waterside Mall, Washington, D.C. 20460, at all EPA regional offices, and at State waste pollution control offices. Copies of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose. (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write to the Superintendant of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis document
will be available through the National Technical Information Service, Springfield, VA 22151.

e) Summary of public participation. Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of 'effluent limitations, guidelines and standards proposed for the mineral mining and processing category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Efluent Standards and Water Quality Information Advisory Committee (established under section 315 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) the Ohio River Valley Water Sanitation Commission; (4) the Delaware River Basin Commission; (5) the Northeastern States Interstate Water Pollution Control Commission; (6) U.S. Department of Commerce; (7) U.S. Department of the Interior; (8) U.S. Department of Agriculture; (9) U.S. Department of Transportation; (9) U.S. Department of Health, Education, and Welfare; (10) U.S. Department of Housing and Urban Development; (11) The American Society of Civil Engineers; (12) The Pennsylvania Academy of Sciences; (13) U.S. Department of Health, Education, and Welfare; (14) U.S. Department of Interior; (15) Council of Environmental Quality; (16) National Commission on Water Quality; (17) Federal Power Commission; (18) U.S. Office of Management and Budget; (19) Office of Management and Budget; (20) Internal Revenue Service; (21) Nuclear Regulatory Commission; (22) The American Society of Mechanical Engineers; (23) The Conservation Foundation; (24) businessmen for the Public Interest; (25) Environmental Defense Fund, Inc.; (26) National Resources Defense Council; (27) The American Society of Civil Engineers; (28) Water Pollution Control Federation; (29) National Wildlife Federation; (30) Gymn Augustion; (31) Indiana Limestone Institute of America; (32) National Crushed Stone Association; (33) National Limestone Institute; (34) National Scandia Sand Association; (35) American Mining Congress; (36) Asbestos Information Association of North America; (37) Barer Granite Association; (38) Brick Institute of America; (39) Building Stone Institute; (40) The Fertilizer Institute; (41) Florida Limestone Rock Institute; (42) Florida Phosphate Council; (43) Georgia Limestone Institute; (44) North Carolina Sand, Gravel and Crushed Stone Association; (45) Portland Cement Association; (46) The Refractories Institute; (47) Salt Institute; (48) Sorptive Minerals Institute; (49) Southern Clay Pipe Institute; (50) WPA National Limestone Association; (51) Environmental Protection Service, Canada; (52) Manufacturing Chemists Association; and (53) Georgia Association of Mineral Producing Industries. In addition many individual companies that participated in the contractor's study were consulted. The following responded with comments: Efluent Standards and Water Quality Information Advisory Committee: Southern California; (54) Southwestern Graphic Co.; Indiana Limestone Institute of America; Delaware Department of Natural Resources and Environmental Control; Delaware Department of Natural Resources and Environmental Control; Swift Chemical Co.; Illinois Association of Aggregate Producers; American Aggregates Corp.; Texas Water Quality Board; North Carolina Industrial Minerals Association; Brick Institute of America; International Minerals and Chemicals Corp.; Asbestos Information Association; American Mining Congress; The Georgia Kaolin Co.; American Limestone Co.; The Refractories Institute; State of Indiana Department of Natural Resources; Atlantic Richfield Co.; Ottawa Silica Co.; American Sand and Gravel Co.; Globe Refractories; CF Industries; Mr. David Branfman; Duval Corp.; Milchem—Mineral Division; National Clay Products Institute; Morton Salt Co.; Dresier Dresser Industries; Environmental Protective Service, Canada; J.R. Simplot Co.; U.S. Borax; EPA, Research Triangle Park, North Carolina; Engelhard Minerals and Chemicals Corp.; The Fertilizer Institute; North Carolina Department of Natural and Economic Resources; Commonwealth of Pennsylvania, Department of Environmental Resources; Tennessee Valley Authority; American Industrial Clay Co.; National Limestone Institute; Thiele Kaolin Co.; Cyprus Minerals Co.; Anglo-American Co.; National Clay Institute; Secretary of Defense; Jefferson Lake Sulfer Co.; National Clay Pipe Institute; Kerr-McGee Corp.; International Minerals and Chemical Corp.; J. H. Huber Corp.; H. Forman & Co.; Lithium Corporation of America; Foteo Mineral Co.; New Riverside Ochre Co.; Texas Gulf Inc.; Agrico; Basic Inc. Brewster Phosphates; USS Agri-Chemicals; W.R. Grace Co.; Kaiser Refractories; Morton Salt Co.; Martin Marietta; Ozark-Mahoning Co.; Florida Phosphate Council; Salt Institute; Sorptive Minerals Institute; Manufacturing Chemists Association; Kaiser Cement and Gypsum Association; U.S. Department of the Interior; Lone Star Industries, Inc.; Monsanto; Texas Gulf, Inc.; The Fertilizer Institute; General Refractories Co.; Allied Minerals Co.; C-E-G Co.; Monsanto; Southern California; Mushéma Cement; Huron Cement; Southwestern Portland Cement Co.; Lehigh Portland Cement Co.; General Portland Inc.; Medusa Cement Co.; Flintkote Co., Calaveras Cement Division.

The primary issues raised in the development of the interim final effluent limitations guidelines and standards are as follows:

(1) There was considerable comment concerning the requirement of treating mine and plant areas until reclamation is successful and of diverting storm runoff away from process waste water impoundments. In the 17 subcategories regulated, there will be no requirement to treat runoff as long as practicable control technology currently available. Reclamation is not included in the interim final regulations.

(2) Some commenters recommended that the effluent limitations should be applied on a net basis, especially where no discharge of pollutants is required.

The Agency has promulgated regulations (40 CFR Part 125) concerning the practicality of control technology currently available. Prior to the permit issuance an affected plant can petition for a net limit if the applicant demonstrates that specified pollutants which are present in the waste water pollutants and other added pollutants to the levels required by the applicable limitations should be removed by waste water treatment systems designed to reduce process waste water pollutants and other added pollutants to the levels required by the limitations for salines from brine lakes and, under restricted conditions, Frasch sulfur have provisions for net application.

(3) It was suggested that the EPA should consider the impact of other Federal regulations on this industry.

Other Federal and State regulations as they affect the technical achievability of the effluent limitations were taken into consideration. The economic impact analysis assesses the current financial status of the industry. This base level status was used as the current technical achievability of Federal requirements. The costs of EPA imposed water pollution abatement are then added to this base level and the enhanced technical achievability is determined. (4) One commenter suggested that periodic discharges be allowed for the subcategories limited to no discharge of process waste water pollutants in order to drain the pond for the purpose of digging out the sludge.

FEDERAL REGISTER, VOL. 40, NO. 201—THURSDAY, OCTOBER 16, 1975
Many plants clean out their ponds by use of draglines and similar devices without having to discharge from the pond. Others utilize a second pond after the first has been filled with solids.

Some commenters suggest that the potential harm of using chlorine to oxidize sulfides exceeds the benefit of removing what little sulfide ion exists after proper oxidation of Frasch sulfur waste waters.

Properly designed and operated oxidation ponds have been demonstrated to reduce the sulfide concentration to very low levels. The remaining concentration discharged (less than 2 mg/l) has been shown to rapidly oxidize. Therefore there is no need to chlorinate this effluent.

(8) One, Frasch sulfur company requested that well sealing water not be regulated.

Because of the difficulty in collection and the small volume involved, this waste stream will not have the same degree of treatment required as that for well sealed water. For best-practicable control technology currently available.

(9) One Frasch sulfur company requested that the discharge of all non-process waste waters be included in order to properly assess the economic impact.

Non-process waste waters such as water treatment and power plant waste waters are not treated in the process waste water treatment system. Furthermore, they are not significant pollution problems. Therefore these wastes are better regulated by a general regulation covering such for all industry. The economic impact will be reassessed at that time.

(10) One company requested that open pit sulfur mining should be regulated.

There are no domestic open sulfur pits currently operating. Regulations will be determined at such time as this type of operation occurs.

(11) One commenter questioned whether the return flow of process waste to dredged pits need to meet the proposed no discharge of process waste water pollutants.

The proposed limits are only to be applied to point source discharges to navigable waters.

(12) Another commenter suggested that portable plants should be a separate subcategory. Portable plants were studied by the contractor and there is no reason why they cannot recycle process waste water as do permanent processing facilities. Further subcategorization is therefore not necessary.

(13) Two commenters pointed out that there can be land availability problems in building treatment ponds and in discharging sludge.

If sufficient land is not available, one alternative treatment system that could be used is cyclones followed by mechanically thickeners. Furthermore there are many plants able to successfully recycle water even at a few hundred mg/l of suspended solids. To discharge waste water at higher concentrations could cause significant damage to aquatic life. The additional sludge produced by eliminating the discharge and totally recycling the raw wastewater load that is reduced before discharge.

(14) One contributor requested that runoff that enters barite ponds may be discharged, as process waste water.

Process waste water includes any water coming into contact with product (tailings) and with process waste water. Evaporation and percolation with runoff that enters barite tailings ponds is allowed when resulting from specified storm conditions.

(15) Questions have been raised concerning the availability of standards or guidelines applicable to the disposal of solid wastes resulting from the operation of pollution control systems.

The principles set forth in “Land Disposal of Solid Wastes Guidelines” (40 CFR Part 241) may be used as guidance for acceptable land disposal techniques. Potentially hazardous wastes may require special considerations to ensure their proper disposal. Additionally, state and local guidelines and regulations, should be considered wherever applicable.

(16) It was questioned whether the Agency should regulate waste waters from mine areas before the economic impact analysis is complete.

With one exception, the graphite subcategory (Category AI), in the 17 subcategories regulated, only process waste waters are regulated. In these 17 cases the plants are currently achieving or are in the act of installing treatment facilities that will achieve the limitations representing the best practicable control technology currently available for process waste water. The limitations depicting the Agency’s best judgments concerning inputs of the above and other plant drainage is likely to have some economic effect. Hence the Agency will await the completion of the economic impact analysis before proposing any limitations on mine drainage. Therefore, words for both process waste water and mine drainage are currently being achieved by the lone graphite plant and an economic assessment to determine if they should be required. In the remaining 21 subcategories any meaningful regulations will have an economic impact.

Therefore the Agency is awaiting completion of the impact analysis before proposing substantial regulations.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in “National Resources Defense Council v. Train” (CV. No. 1699-73) which requires the promulgation of regulations for this industry category no later than October 5, 1975. This Court further requires that such regulations become effective immediately upon publication. In addition, it is necessary to promulgate regulations establishing limitations on the discharge of pollutants from point sources in this category so that the process of issuing permits to individual dischargers under section 402 of the Act is not delayed.

It has not been possible to develop and publish regulations for this category in proposed form, to provide a 30 day comment period, and to make any necessary revisions in light of the comments received with the time allowed by the court order referred to above. Accordingly, the Agency has determined pursuant to 5 U.S.C. 553(b) that notice and comment on the interim regulations would be contrary to the public interest. Good cause is also found for these regulations to become effective immediately upon publication.

Interested persons are encouraged to submit written comments. Comments should be submitted in triplicate to the Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Distribution Officer, WH-553.

Comments on all aspects of the regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which was available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the amendment or modification of the regulation. In the event comments address the approach taken by the Agency in establishing an effluent limitation and alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301 and 304(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 204, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and any supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA Information regulation, 40 CFR Part 241, may be charged for copying.

All comments received on or before November 17, 1975, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate
public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202). In the event that the final regulation differs substantially from the interim final regulation set forth herein the Agency will consider petitions for reconsideration of any permits issued in accordance with this interim final regulation.

The numerical limitations set forth in Subparts A through AL below represent the best efforts of the Agency to develop effluent limitations based on the data and information available within the time allowed by the aforementioned court order which requires promulgation of the regulation for the mineral mining and processing category by October 6, 1975. At the earliest possible date, the Agency expects to propose amendments to this regulation based on additional information which is expected to become available.

In consideration of the foregoing, 40 CFR Part 436 is hereby established as set forth below.

Dated: October 8, 1975.

RUSSELL E. THAIN, Administrator.

Subpart A—Dimension Stone Subcategory

436.10 [Reserved]

Subpart B—Crushed Stone Subcategory

436.20 [Reserved]

Subpart C—Construction Sand and Gravel Subcategory

436.30 [Reserved]

Subpart D—Industrial Sand Subcategory

436.40 [Reserved]

Subpart E—Gypsum Subcategory

436.50 Applicability; description of the gypsum subcategory.

436.51 Specialized definitions.

436.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Asphaltic Minerals Subcategory

436.60 Applicability; description of the asphaltic minerals subcategory.

436.61 Specialized definitions.

436.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart G—Asbestos and Wollastonite Subcategory

436.70 Applicability; description of the asbestos and wollastonite subcategory.

436.71 Specialized definitions.

436.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart H—Lightweight Aggregates Subcategory

436.80 [Reserved]

Subpart I—Mica and Sericite Subcategory

436.90 [Reserved]

Subpart J—Barite Subcategory

436.100 Applicability; description of the barite subcategory.

436.101 Specialized definitions.

436.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart K—Fluorspar Subcategory

436.110 Applicability; description of the fluorspar subcategory.

436.111 Specialized definitions.

436.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart L—Salines from Brine Lakes Subcategory

436.120 Applicability; description of the salines from brine lakes subcategory.

436.121 Specialized definitions.

436.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart M—Borax Subcategory

436.130 Applicability; description of the borax subcategory.

436.131 Specialized definitions.

436.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart N—Potash Subcategory

436.140 Applicability; description of the potash subcategory.

436.141 Specialized definitions.

436.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart O—Sodium Sulfate Subcategory

436.150 Applicability; description of the sodium sulfate subcategory.

436.151 Specialized definitions.

436.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart P—Trona Subcategory

436.160 [Reserved]

Subpart Q—Rock Salt Subcategory

436.170 [Reserved]

Subpart R—Phosphate Rock Subcategory

436.180 [Reserved]

Subpart S—Frasch Sulfur Subcategory

436.190 Applicability; description of the Frasch sulfur subcategory.

436.191 Specialized definitions.

Sec. 436.200 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.210 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.220 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.230 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.240 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.250 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.260 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.270 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.280 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.290 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.300 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Sec. 436.310 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
Subpart AF—Tripoli Subcategory

§ 436.320 Applicability; description of the tripoli subcategory.

§ 436.321 Specialized definitions.

§ 436.322 Effluent limitations; guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart AG—Keolin Subcategory

§ 436.330 [Reserved]

Subpart AH—Ball Clay Subcategory

§ 436.340 [Reserved]

Subpart AI—Feldspar Subcategory

§ 436.350 [Reserved]

Subpart AJ—Talc, Steatite, Soapstone and Pyrophyllite Subcategory

§ 436.360 [Reserved]

Subpart AK—Garnet Subcategory

§ 436.370 [Reserved]

Subpart AL—Graphite Subcategory

§ 436.380 Applicability; description of the graphite subcategory.

§ 436.381 Specialized definitions.

§ 436.382 Effluent limitations; guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Authority: Sec. 301, 304 (b) and (c) Federal Water Pollution Control Act, as amended (33 U.S.C. 1281, 1314 (b) and (c), 86 Stat. 816 et seq., Pub. L. 92-500) (the Act).

Subpart A—Dimension Stone Subcategory

§ 436.10 [Reserved]

Subpart B—Crushed Stone Subcategory

§ 436.20 [Reserved]

Subpart C—Construction Sand and Gravel Subcategory

§ 436.30 [Reserved]

Subpart D—Industrial Sand Subcategory

§ 436.40 [Reserved]

Subpart E—Gypsum Subcategory

§ 436.50 Applicability; description of the gypsum subcategory.

The provisions of this subpart are applicable to the processing of gypsum.

§ 436.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established.

It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For operations not employing wet air emissions control scrubbers there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart F—Asphaltic Mineral Subcategory

§ 436.60 Applicability; description of the asphaltic mineral subcategory.

The provisions of this subpart are applicable to the processing of bituminous limestone, oil-impregnated diatomite and diatomite not primarily as an energy source.

§ 436.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event established by the National Climatic Center, National Oceanic and Atmospheric Ad-
ministration for the locality in which such impoundment is located.

Subpart G—Asbestos and Wollastonite Subcategory
§ 436.70 Applicability; description of the asbestos and wollastonite subcategory.

The provisions of this subpart are applicable to the processing of asbestos and wollastonite.

§ 436.71 Specialized definitions.
For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as the age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the development of these guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged from a point source subject to the provisions of this subpart after application of the best practicable control technology currently available for operations employing wet processes or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart H—Lightweight Aggregates Subcategory
§ 436.80 [Reserved]
Subpart I—Mica and Sericite Subcategory
§ 436.90 [Reserved]
Subpart J—Barite Subcategory
§ 436.100 Applicability; description of the barite subcategory.
The provisions of this subpart are applicable to the processing of barite.

§ 436.101 Specialized definitions.
For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as the age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of these guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available for operations employing wet processes or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart K—Fluorspar Subcategory
§ 436.110 Applicability; description of the fluorspar subcategory.
The provisions of this subpart are applicable to the processing of fluorspar.

§ 436.111 Specialized definitions.
For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as the age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the development of these guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available for operations employing wet processes or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

FEDERAL REGISTER, VOL. 40, NO. 201—THURSDAY, OCTOBER 16, 1975
for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

Subpart L—Salines from Brine Lakes Subcategory

§ 436.120 Applicability; description of the salines from brine lakes subcategory.

The provisions of this subpart are applicable to the processing of salines from brine lakes.

§ 436.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw material, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization, and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

Subpart M—Borax Subcategory

§ 436.130 Applicability; description of the borax subcategory.

The provisions of this subpart are applicable to the processing of borate minerals. Borax obtained from brine lakes is regulated in the salines from brine lakes subcategory (Subpart L of this part).

§ 436.131 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw material, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

Subpart N—Potash Subcategory

§ 436.140 Applicability; description of the potash subcategory.

The provisions of this subpart are applicable to the processing of potash. Potash obtained from brine lakes is regulated in the salines from brine lakes subcategory (Subpart L of this part).

§ 436.141 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw material, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.
RULES AND REGULATIONS

§ 436.151 Specialized definitions.

become dischargeable from that impoundment. The height difference between the maximum safe surge capacity and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart P—Trona Subcategory

§ 436.160 [Reserved]

Subpart Q—Rock Salt Subcategory

§ 436.170 [Reserved]

Subpart R—Phosphate Rock Subcategory

§ 436.180 [Reserved]

Subpart S—Frasch Sulfur Subcategory

§ 436.190 Applicability; description of the Frasch sulfur subcategory.

The provisions of this subpart are applicable to the processing of sulfur on shore and in marshes and estuaries by the Frasch process. Not covered are sulfur refining operations that are not performed at the mining and collection site.

§ 436.191 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available or that these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations set forth in this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established in the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart O—Sodium Sulfate Subcategory

§ 436.150 Applicability; description of the sodium sulfate subcategory.

The provisions of this subpart are applicable to the processing of sodium sulfate. Sodium sulfate obtained from brine lakes is regulated in the salines from brine lakes subcategory (Subpart L of this part).

§ 436.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available or that these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations set forth in this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established in the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart P—Trona Subcategory

§ 436.160 [Reserved]

Subpart Q—Rock Salt Subcategory

§ 436.170 [Reserved]

Subpart R—Phosphate Rock Subcategory

§ 436.180 [Reserved]

Subpart S—Frasch Sulfur Subcategory

§ 436.190 Applicability; description of the Frasch sulfur subcategory.

The provisions of this subpart are applicable to the processing of sulfur on shore and in marshes and estuaries by the Frasch process. Not covered are sulfur refining operations that are not performed at the mining and collection site.

§ 436.191 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available or that these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations set forth in this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established in the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart O—Sodium Sulfate Subcategory

§ 436.150 Applicability; description of the sodium sulfate subcategory.

The provisions of this subpart are applicable to the processing of sodium sulfate. Sodium sulfate obtained from brine lakes is regulated in the salines from brine lakes subcategory (Subpart L of this part).

§ 436.151 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available or that these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations set forth in this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10-year, 24-hour rainfall event as established in the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.
Discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations may be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart, or the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart T—Mineral Pigments Subcategory

§ 436.220 Applicability; description of the bentonite subcategory.

The provisions of this subpart are applicable to the processing of bentonite.

§ 436.221 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator or to the State, if the State has the authority to issue NPDES permits, that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator or the State shall make a written finding that such fundamentally different factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart, or the best practicable control technology currently available:

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart W—Magnesite Subcategory

§ 436.230 Applicability; description of the magnesite subcategory.

The provisions of this subpart are applicable to the processing of naturally occurring magnesite ore.

§ 436.231 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator or to the State, if the State has the authority to issue NPDES permits, that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator or the State will make a written finding that such fundamentally different factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

Subpart X—Diatomite Subcategory

§ 436.240 Applicability; description of the diatomite subcategory.

The provisions of this subpart are applicable to the processing of diatomite.

§ 436.241 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator or to the State, if the State has the authority to issue NPDES permits, that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator or the State will make a written finding that such fundamentally different factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

count all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger-effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart: (a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters. (b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart Y—Jade Subcategory

§ 436.250 Applicability; description of the jade subcategory.

The provisions of this subpart are applicable to the processing of jade.
the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section, there shall be no discharge of process generated waste water pollutants into navigable waters.

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

Subpart AA—Fire Clay Subcategory
§ 436.270 [Reserved]

Subpart AB—Attapulgite and Montmorillonite Subcategory
§ 436.280 [Reserved]

Subpart AC—Kyantite Subcategory
§ 436.290 [Reserved]

Subpart AD—Shale and Common Clay Subcategory
§ 436.300 [Reserved]

Subpart AE—Aplice Subcategory
§ 436.310 [Reserved]

Subpart AF—Tripoli Subcategory
§ 436.320 Applicability; description of the tripoli subcategory.

The provisions of this subpart are applicable to the processing of tripoli.

§ 436.321 Specialized definitions.
For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.322 Effluent limitations guidelines representing the degree of effluent reduction by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Administrator or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different from those specified in the Development Document. If such limitations are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to these provisions of this subpart after application of the best practicable control technology currently available: For operations not employing wet processes there shall be no discharge of process generated waste water pollutants into navigable waters.

Subpart AG—Kaolin Subcategory
§ 436.330 [Reserved]

Subpart AH—Ball Clay Subcategory
§ 436.340 [Reserved]

Subpart AI—Feldspar Subcategory
§ 436.350 [Reserved]

Subpart AJ—Talc, Steatite, Soapstone and Fireyphylite Subcategory
§ 436.360 [Reserved]

Subpart AK—Garnet Subcategory
§ 436.370 [Reserved]

Subpart AL—Graphite Subcategory
§ 436.380 Applicability; description of the graphite subcategory.

The provisions of this subpart are applicable to the mining and processing of naturally occurring graphite.

§ 436.381 Specialized definitions.
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

§ 436.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Administrator or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different from those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations for process waste water and mine drainage shall not exceed the following concentrations:

(b) Only that volume of water resulting from precipitation that exceeds the maximum safe surge capacity of a process waste water impoundment may be discharged from that impoundment. The height difference between the maximum safe surge capacity level and the normal operating level must be greater than the inches of rain representing the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

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