Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 407—CANNED AND PRESERVED FRUITS AND VEGETABLES PROCESSING POINT SOURCE CATEGORY

Apple, Citrus, and Potato Subcategories

On November 9, 1973, notice was published in the FEDERAL REGISTER (38 FR 31076), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the apple juice subcategory, apple products subcategory, citrus products subcategory, frozen potato products subcategory, and the dehydrated potato products subcategory of the Canned and Preserved Fruits and Vegetables Processing category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the Canned and Preserved Fruits and Vegetables Processing category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 407. This final rulemaking is promulgated pursuant to sections 301, 304(b) and (c), 306(b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307 (b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the apple juice subcategory, apple products subcategory, citrus products subcategory, frozen potato products subcategory, and dehydrated potato products subcategory. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the citrus, apple and potato Segment of the Canned and Preserved Fruits and Vegetables Processing Point Source Category" (November, 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Fruit and Vegetable Processing Industry" (October, 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

The regulation as promulgated contains important changes from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not implemented.

(a) Summary of comments.

The following responded to the request for written comments contained in the preamble to the proposed regulation: U.S. Department of Health, Education and Welfare; Sunkist Growers, Inc.; Council for Agricultural Science and Technology; Tree Top, Inc.; National Canners Association; American Frozen Food Institute; Taterstate Frozen Foods; Florida Canners Association; Potato Processors of Idaho; State of California; State of New York; State of Michigan; The R.T. French Company; J. R. Simplot Company; Ore-Ida Foods, Inc; Water Resources Council and State of Colorado.

Each of the comments received was reviewed and anlyzed carefully. The following is a summary of the significant comments and the Agency's response to those comments.

(1) A number of comments reflected concern that the effluent limitations would not be met by the exemplary treatment systems used in their development.

Effluent treatment data from the exemplary treatment systems has been reviewed with the determination that several exemplary systems would not meet each maximum thirty day and maximum daily limitation throughout the processing season. Additional data has been received which has expanded the data base, strengthened the reliability of the exemplary data, and demonstrated the monthly and daily fluctuations experienced by the exemplary treatment systems. The data base for one plant was expanded from four months to twelve months and another from six months to sixteen months. One system was omitted from the exemplary list after additional information supplied by industry voided most of the effluent data. In summary, the discharge values representative of the exemplary treatment systems have been reviewed and some have been revised. The effluent limitations have been accordingly revised so that exemplary plants used to develop the limitations in each subcategory meet respective maximum day and maximum thirty day limitations.

(2) The comment was made that the proposed subcategorization was inadequate in view of variations in unit costs for small plants as compared with large plants and the possible effect of temperature on biological treatment efficiency.

Each of these factors has been considered and additional subcategorization is not required with regard to size; severe diseconomies of scale have not been realized by small processors with either best practicable or best available technology. Effluent limitations have been developed from exemplary treatment systems at plants ranging in size from very small to very large. Activated sludge treatment is effectively utilized by both small and large processors; land disposal techniques such as irrigation and municipal disposal systems are also used throughout the industry without regard to plant size. As for the effect of temperature on treatment efficiency, biological systems are effectively utilized in all climates. Activated sludge, aerated lagoons and trickling filters are exemplary treatment systems operating effectively in cold temperatures. The fluctuation experienced throughout the year by Canadian exemplary plants are the principal basis for determining maximum limitations.

(3) A number of comments were received that questioned the validity of using data from Canadian processors. It was suggested that these Canadian plants were operating under different economic conditions than those experienced in the United States.

The Agency has contacted Canadian officials and important similarities have been found between the U.S. and Canadian methods of handling industrial expenditures for pollution control equipment. Canada allows a rapid tax write-off for capital equipment for pollution control. The U.S. allows either a rapid tax write-off or an investment tax credit. There are no Canadian subsidies for pollution control; there is no industrial pollution control demonstration program such as that funded in the U.S. One of the two Canadian plants utilized in the development of the effluent limitations has received government finances for capital equipment within the processing plant because it located within an economically depressed region. No pollution control expenditures were allowed. No government finances or subsidies have been given to the other Canadian processing plants. Since the American and Canadian industries operate within similar tax guidelines, receive no direct pollution control subsidies, and compete in similar markets, then the Canadian data is valid and useful in determining best practicable or best available control technologies.

(4) The comment was made that the cost and energy requirements of best practicable technology were underestimated.

The Agency's cost and energy estimates were prepared from calculations of average waste water loadings based on

generally accepted engineering practices. Cost estimates were verified with industry-supplied information. Calculations were prepared separately for each treatment technology by subcategory. It is understandable that some industry estimates might be excessive if higher than average waste loads were treated or if comparisons were made based on flow alone. High land costs or poor treatment design causing poor mixing or poor oxygen transfer might also create excessive cost or energy requirements. However, no dramatic capital or operating costs or energy increases should be attributable to any increased need for additional treatment technology which might result from compliance with this regulation. Industry cost estimates include costs for biological treatment plus costs for land treatment systems such as spray irrigation. Since no incompatible pollutants are discharged from this industry segment, no pretreatment or municipal treatment costs are applicable.

(5) Concern was expressed with regard to the omission of disinfection of industry waste waters.

The Agency has reviewed industry waste water information and has found that high levels of fecal coliform bacteria may exist. Disinfection is consequently a necessary adjunct to the effluent limits. Coliform bacterial limits have not been imposed as 1977 limitations because of economic considerations; 1983 limitations include a discharge limit for the fecal coliform bacteria. This limit is readily achievable by chlorination, ozonation or other possible methods for disinfecting water.

(6) The suggestion was made that land disposal techniques such as spray or flood irrigation are not the panacea for achieving the effluent limitations.

The Agency recognizes that land disposal techniques are not the only treatment technology available to food processors for achieving the effluent limitations. No single alternative is the panacea for achieving the limitations. Land treatment, however, is an effective technology which offers a viable alternative to biological treatment or municipal discharge. Such factors as availability of suitable land or proximity to a municipal system will influence the selection of a treatment technology. The economic and technical attractiveness of land disposal techniques are reflected in the large number of food processors that utilize land disposal techniques.

(7) The comment was made that a start-up period of four days was not sufficient time to allow treatment plants to achieve the limitations.

Information describing exemplary activated sludge and trickling filter systems indicate that required sludge growths can be achieved in two to four days and the required removal rate can be achieved in four to seven days after a two or three month shut-down period in which the systems were maintained in an operable state. Accordingly, the start-up period has been increased to one week and allowances in the maximum and thirty day limitations are permitted for this start-up period.

(8) One commenter suggested the possibility that a public health hazard may result from compliance with the regulation.

Neither best practicable nor best available technology requires significant in-plant changes that could result in a public health hazard. Efficient water management programs are encouraged and the Agency agrees that the programs must be based on minimum Good Manufacturing Practices.

(9) Some correspondents endorsed the proposal made to the Administrator by the Effluent Standards and Water Quality Information Advisory Committee that a significantly different approach be taken in the development of effluent guidelines generally.

The committee's proposal is under evaluation as a contribution toward future refinements on guidelines for some industries. The committee has indicated that their proposed methodology could not be developed in sufficient time to be available for the current phase of guideline promulgation, which is proceeding according to a court-ordered schedule. Its present state of development does not provide sufficient evidence to warrant the Agency's delaying issuance of any standard in hopes that an alternative approach might be preferable.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comments and continuing review and evaluation of the proposed regulations by the EPA, the following changes have been made in the regulation.

(1) The data from the exemplary treatment plants have been reviewed with the result that the discharge values are more representative of the effectiveness of the exemplary systems. Accordingly, the 1977 and 1983 limitations for BOD5 and TSS which are based on these treatment plants have been modified to reflect more accurately the average of the performances of these exemplary plants.

(2) The maximum thirty day and maximum day limitations have been modified to reflect more accurately the demonstrated fluctuations experienced by the exemplary treatment systems.

(3) The best available control technology economically achievable has been changed to specifically include disinfection; effluent limits for fecal coliform bacteria have been added to the 1983 limitations.

(4) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) Economic impact.

The above mentioned changes will not significantly affect the conclusion of the economic study of the proposed regulation. Because most effluent limitations are less stringent than originally proposed, the economic impact has actually been lessened.

(d) Cost-benefit analysis.

The detrimental effects of the constituents of waste waters now discharged by point sources within the Apple, Citrus and Potato segment of the Canned and Preserved Fruits and Vegetables Processing Point Source Category are discussed in section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Apple, Citrus, and Potato Segment of the Canned and Preserved Fruits and Vegetables Processing Point Source Category" (February 1974). It is not feasible to quantify in economic terms, particulary on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines, FRUITS AND VEGETABLES PROCESSING INDUSTRY" (October, 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the canned and preserved fruits and vegetables processing industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Apple, Citrus and Potato Segment of the Canned and Preserved Fruits and Vegetables Processing Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C., 20401 for a nominal fee.

(f) Final rulemaking.

In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding a new Part 407, Canned and Preserved Fruits and Vegetables Processing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective May 20, 1974.

Dated: March 12, 1974.

JOHN QUARLES,
Acting Administrator.

Subpart A—Apple Juice Subcategory

Subpart B—Apple Products Subcategory

Subpart C—Citrus Products Subcategory

Subpart D—Frozen Potato Products Subcategory

Subpart E—Dehydrated Potato Products Subcategory

Subpart A—Apple Juice Subcategory

§ 407.10 Applicability; description of the apple juice subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing of apples into apple juice or apple cider. When a plant is subject to effluent limitations covering more than one subcategory, the plant discharge limitation shall be set by proration limitations for each subcategory based on the total raw material covered by each subcategory.

§ 407.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 407.12 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) 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:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.60	0.30
TSS	.80	.40
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.60	0.30
TSS	.80	.40
pH	Within the range 6.0 to 9.0.	

§ 407.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

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 available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0	

§ 407.14 [Reserved]

§ 407.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb. of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the apple juice subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 407.15: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Apple Products Subcategory

§ 407.20 Applicability; description of the apple products subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing of apples into apple products. The processing of apples into caustic peeled or dehydrated products is specifically excluded. When a plant is subject to effluent limitations covering more than one subcategory, the plant discharge limitation shall be set by proration limitations for each subcategory based on the total raw material covered by each subcategory.

§ 407.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 407.22 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) 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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	1.10	0.55
TSS	1.40	.70
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	1.10	0.55
TSS	1.40	.70
pH	Within the range 6.0 to 9.0.	

§ 407.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

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 available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb. of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.24 [Reserved]

§ 407.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the apple products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 407.25: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart C—Citrus Products Subcategory

§ 407.30 Applicability; description of the citrus products subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing of citrus into citrus products. When a plant is subject to effluent limitations covering more than one subcategory, the plant discharge limitation shall be set by proration limitations for each subcategory based on raw material covered by each subcategory.

§ 407.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 407.32 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, manuafcturing 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.

(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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.80	0.40
TSS	1.70	0.85
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.80	0.40
TSS	1.70	0.85
pH	Within the range 6.0 to 9.0.	

§ 407.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

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 available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.14	0.07
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pound per 1,000 lb of raw material)	
BOD5	0.14	0.07
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.34 [Reserved]

§ 407.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.14	0.07
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.14	0.07
TSS	.20	.10
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0	

§ 407.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the citrus products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 407.35; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of

such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart D—Frozen Potato Products Subcategory

§ 407.40 Applicability; description of the frozen potato products subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing of white potatoes into frozen potato products. When a plant is subject to effluent limitations covering more than one subcategory, the plant discharge limitation shall be set by proration limitations for each subcategory based on the total raw material covered by each subcategory.

§ 407.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 407.42 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) will make a written finding that such factors are or are not fundamentally different from 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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	2.80	1.40
TSS	2.80	1.40
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	2.80	1.40
TSS	2.80	1.40
pH	Within the range 6.0 to 9.0.	

§ 407.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

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 available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.44 [Reserved]

§ 407.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the frozen potato products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR Part 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 407.45: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart E—Dehydrated Potato Products Subcategory

§ 407.50 Applicability; description of the dehydrated potato products subcategory.

The provisions of this subpart are applicable to discharges resulting from the processing of white potatoes into dehydrated potato products. When a plant is subject to effluent limitations covering more than one subcategory, the plant discharge limitation shall be set by proration limitations for each subcategory based on the total raw material covered by each subcategory.

§ 407.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

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

(a) In establising 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 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 discharge 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:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	2.40	1.20
TSS	2.80	1.40
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	2.40	1.20
TSS	2.80	1.40
pH	Within the range 6.0 to 0.0.	

§ 407.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

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 available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.54 [Reserved]

§ 407.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.34	0.17
TSS	1.10	.55
Fecal coliform	Maximum at any time 400 counts/100 ml.	
pH	Within the range 6.0 to 9.0.	

§ 407.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the dehydrated potato products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 407.55; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

[FR Doc.74-6238 Filed 3-20-74;8:45 am]