Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 443-5]

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 gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the Frasch sulfur subcategory (Subpart S), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade 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 defined 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 all 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 practicable control 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 fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax subcategory (Subpart M), the potash subcategory (Subpart N), the sodium sulfate subcategory (Subpart O), the Frasch sulfur subcategory (Subpart S), bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the diatomite subcategory (Subpart X), the jade 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(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the 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 achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or 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 applicable to new sources.

Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR Part 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 standards of performance 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) Summary and basis of interim final effluent limitations and guidelines for existing sources, proposed effluent limitations and guidelines for existing sources to be achieved by the application of the best available technology economically achievable, proposed standards of performance for new sources, and proposed pretreatment standards for both new and existing sources.

(1) *General methodology.* The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first studied 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 raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in 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 identified. This included an identification of each distinct control and treatment technology, including both in-plant 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 problems, limitations and reliability of each treatment and control technology were also identified. In addition, the nonwater quality enviornmental 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 what levels of technology constitute 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 application of 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 A), the crushed stone subcategory (Subpart B), the construction sand and gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), the the gypsum subcategory (Subpart E), the asphaltic minerals subcategory (Subpart F), the asbestos and wollastonite subcategory (Subpart G), the lightweight aggregates subcategory (Subpart H), the mica and sericite subcategory (Subpart I), the barite subcategory (Subpart J), the fluorspar subcategory (Subpart K), the salines from brine lakes subcategory (Subpart L), the borax 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 phosphate rock subcategory (Subpart R), the Frasch sulfur subcategory (Subpart S), the mineral pigments subcategory (Subpart T), the lithium subcategory (Subpart U), the bentonite subcategory (Subpart V), the magnesite subcategory (Subpart W), the datomite subcategory (Subpart X), the jade subcategory (Subpart Y), the novaculite subcategory (Subpart Z), the fire clay subcategory (Subpart AA), the attapulgite and montmorillonite subcategory (Subpart AB), the kyanite subcategory (Subpart AC), the shale and common clay subcategory (Subpart AD), the aplite subcategory (Subpart AE), the tripoli subcategory (Subpart AF), the kaolin subcategory (Subpart AG), the ball clay subcategory (Subpart AH), the feldspar subcategory (Subpart AI), the talc, steatite, soapstone and pyrophyllite subcategory (Subpart AJ), the garnet subcategory (Subpart AK) and the graphite subcategory (Subpart AL) 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 processing, use of wet air emissions control devices, type of product, and ground water seepage and runoff into the mine and process waste water impoundments. In general the largest contributing factors to the further subdivision within subcategories for process waste water has been differences in processes and the use of wet air emissions control devices. For example the differences in dry and wet processing techniques for the barite and fluorspar subcategories are recognized and different effluent limitations are established. The use of wet air emissions control devices and the added complexity of waste water treatment and management has been recognized as requiring separate consideration for best practicable control technology currently available for the gypsum and tripoli subcategories.

Factors affecting the treatability of mine water discharges within each subcategory have also been accounted for where applicable. For example anhydrite Frasch sulfur mining and processing operations can achieve no discharge by recycling bleed-off water. In contrast salt dome operations cannot recycle this water due to the corrosive saline properties of this bleed-off water that would damage equipment upon the continual reuse of this water.

(ii) *Waste characteristics.* The known significant pollutants and pollutant properties resulting from mineral mining and processing include pH and total suspended solids. Large quantities of dissolved solids exist in the waste waters from the salines from brine lakes, borax, potash and sodium sulfate subcategories. The bleed-off water in the Frasch sulfur subcategory contains sulfides. Iron exists in the mine water discharge from the graphite subcategory.

(iii) *Origin of waste water pollutants.* The sources of waste water pollutants at the mine include surface runoff of rain water into the mine and mine water treatment systems, ground water seepage and infiltration into the mine, and water used to transport the ore to the processing plant. The waste waters that are the sources of waste water pollutants at the process plant include transport water, ore and product wash water, dust suppression water, classification water, heavy media separation water, flotation water, solution water, air emissions control equipment water and equipment and floor wash down water.

(iv) *Treatment and control technology.* Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is the best practicable control technology currently available.

The following discussion of treatment technology provides the basis for the effluent limitations guidelines. This discussion does not preclude the selection of other waste water treatment alternatives which provide equivalent or better levels of treatment.

In the following discussion the term no discharge applies to dry weather conditions. Waste water impoundments may be subject to runoff from their drainage area. Some rainfall events may cause these impoundments to overflow. For the following subcategories requiring no discharge of process 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. Waste water originating from wet air emissions control scrubbers is being studied further.

(2) *Treatment for the asphaltic minerals subcategory.* Bituminous limestone is processed by dry methods and there 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 gilsonite 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. Plants that do use process waste water achieve no discharge by recirculation, evaporation and seepage ponds.

(4) *Treatment for the salines from brine lakes subcategory.* Brines are concentrated by solar evaporation in order to precipitate the saleable salt. Spent bitterns are discharged back to the intake water body. Best practicable control technology consists of discharging no added constituents to navigable waters that were not in the brine water intake.

(5) *Treatment for the borax, potash and sodium sulfate subcategories.* The ore is either dry mined or solution mined through brine wells. Spent liquor is either evaporated in large ponds or injected into the deposit. There is no discharge to navigable waters.

(6) *Treatment for the Frasch sulfur subcategory.* In anhydrite operations heated water used to melt sulfur deposits is bled out of the deposit, reheated and re-injected. There is no discharge of process waste 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.

(7) *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.

(8) *Treatment for the magnesite subcategory.* All process waste water is clarified in a settling pond and is both evaporated and is recycled back to the processes.

(9) *Treatment for the diatomite subcategory.* Water is principally used to slurry waste fines and for air scrubbers. Waste 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 novaculite subcategory.* Process waste water that originates from wet scrubbers is clarified and totally recycled. There is no discharge of process waste water to navigable waters.

(12) *Treatment for the tripoli subcategory.* There is no process waste water used in all but one plant. Waste water originating from the one plant employing wet processes is being studied further.

(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 10 mg/l and 20 mg/l TSS as a monthly average and daily maximum respectfully and 1 mg/l and 2 mg/l total iron. pH is maintained between 6.0 and 9.0.

(14) *Treatment for the barite subcategory.* Those plants that do not wet 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 fluorspar 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 heavy media 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 gravel subcategory (Subpart C), the industrial sand subcategory (Subpart D), the lightweight aggregates subcategory (Subpart H), the mica and sericite subcategory (Subpart I), the trona subcategory (Subpart P), the rock salt subcategory (Subpart Q), the phosphate rock subcategory (Subpart R), the mineral pigments subcategory (Subpart T), the lithium subcategory (Subpart U), the fire clay subcategory (Subpart AA), the attapulgite and montmorillonite subcategory (Subpart AB), the kyanite subcategory (Subpart AC), the shale and common clay subcategory (Subpart AD), the aplite subcategory (Subpart AE), the kaolin subcategory (Subpart AG), the ball clay subcategory (Subpart AH), the fledspar subcategory (Subpart AI), the talc, steatite, soapstone and pyrophyllite subcategory (Subpart AJ), the garnet subcategory (Subpart AK) have yet to be defined pending an economic impact analysis study of the EPA contractor's draft recommendations. These technologies will be specified when it is determined what technology is currently available and economically practicable.

The proper management of solid wastes resulting from pollution control systems must be practiced. Pollution control technologies generate many different amounts and types of solid wastes and liquid concentrates through the removal of pollutants. These substances vary greatly in their chemical and physical composition and may be either hazardous or non-hazardous. A variety of techniques may be employed to dispose of these substances depending on the degree of hazard.

If thermal processing (incineration) is the choice for disposal, provisions must be made to ensure against entry of hazardous pollutants into the atmosphere. Consideration should also be given to recovery of materials of value in the wastes.

For those waste materials considered to be nonhazardous where land disposal is used, practices similar to proper sanitary landfill technology may be followed. The principles set forth in the EPA's Land Disposal of Solid Wastes Guidelines 40 CFR Part 241 may be used as guidance for acceptable land disposal techniques.

For those waste materials considered to be hazardous, disposal will require special precautions. In order to ensure long-term protection of public health and the environment, special preparation and pretreatment may be required prior to disposal. If land disposal is to be practiced, these sites must not allow movement of pollutants to either ground or surface waters. Sites should be selected that have natural soil and geological conditions to prevent such contamination or, if such conditions do not exist, artificial means (e.g. liners) must be provided to ensure long-term protection of the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(v) *Cost estimates for control of waste water pollutants.* The promulgated regulations for best practicable control technology currently available are expected to effect increased pollution control costs for 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.

(vi) *Energy requirements and nonwater quality environmental impacts.* The energy requirements effected 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 uses are judged to be very minor. There are no other expected nonwater quality environmental impacts.

(vii) *Economic impact analysis.* The economic impact of the interim final regulations on the industries covered in the mineral mining regulation will be minimal. All plants are now in compliance, with the exception of one operation in the asphaltic minerals category which is presently installing a recycle system. As a result prices, production, industry growth, balance of trade and community economies 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-107 (January 28, 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 Administrator has directed that all regulatory actions which are likely to result in capital investment exceeding $100 million or annualized costs in excess of $50 million will require certification.

As 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 Industries," and Volume III "Clay, Ceramic, Refractory and Miscellaneous Minerals" detail the analsyis undertaken in support of the interim final regulation set forth herein and is available for inspection and copying in the EPA Public Information Reference Unit, Room 2404, Waterside Mall, Washington, D.C. 20460, at all EPA regional offices, and at State water 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 the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH 552.

When this regulation is promulgated in final rather than interim form, revised copies of the Development Document will be available from the Superintendent 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.

(c) *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) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) the Ohio River Valley Sanitation Commission; (4) the Delaware River Basin Commission; (5) the New England Interstate Water Pollution Control Commission; (6) U.S. Department of Commerce; (7) U.S. Department of the Interior; (8) U.S. Department of Defense; (9) U.S. Department of Agriculture; (10) U.S. Department of Transportation; (11) U.S. Department of Health, Education, and Welfare; (12) U.S. Department of Housing and Urban Development; (13) U.S. Department of Treasury; (14) Tennessee Valley Authority; (15) Council of Environmental Quality; (16) National Commission on Water Quality; (17) Federal Power Commission; (18) Federal Energy Administration; (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) Gypsum Association; (31) Indiana Limestone Institute of America; (32) Marble Institute of America; (33) National Crushed Stone Association; (34) National Industrial Sand Association; (35) National Limestone Institute; (36) National Sand and Gravel Association; (37) American Mining Congress; (38) Asbestos Information Association of North America; (39) Barre Granite Association; (40) Brick Institute of America; (41) Building Stone Institute; (42) The Fertilizer Institute; (43) Florida Limerock Institute; (44) Florida Phosphate Council; (45) North Carolina Minerals Association; (46) North Carolina Sand, Gravel and Crushed Stone Association; (47) Portland Cement Association; (48) The Refractories Institute; (49) Salt Institute; (50) Sorptive Minerals Institute; (51) National Clay Pipe Institute; (52) National Lime Association; (53) Environmental Protection Service, Canada; (54) Manufacturing Chemists Association; and (55) 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: Effluent Standards and Water Quality Information Advisory Committee; Southwestern Graphite Co.; Indiana Limestone Institute of America; Delaware Department of Natural Resources and Environmental Control; Gypsum Association; Illinois State Geological Survey; Swift Chemical Co.; Illinois Association of Aggregate Producers; American Aggregates Corp.; Texas Water Quality Board; North Carolina Industrial Mineral Association; Brick Institute of America; International Minerals and Chemicals Corp.; Asbestos Information Association; American Mining Congress; The Feldspar Corp.; Sobin Chemicals, Inc.; Harris Mining Co.; Water Resources Commission, Michigan; Winter Brothers Material Co.; Illinois Environmental Protection Agency; Waverly Mineral Products Co.; Department of Natural Resources, Georgia; U.S. Water Resources Council; Colorado Department of Health; Ohio Environmental Protection Agency; State of Florida Department of Pollution Control; Department of Health, Education, and Welfare; Region 8, Environmental Protection Agency; Delta Materials, Inc.; Harry T. Campbell Sons' Co.; Bethlehem Steel Corp.; Ingram Materials, Inc.; National Lime Association; Cape Girardeau Sand Co.; Becker Sand and Gravel Co.; New York State Department of Environmental Conservation; Unsil Corp.; U.S. Department of Agriculture; National Sand and Gravel Association; National Industrial Sand Association; U.S. Department of Transportation; Freeport Minerals Co.; Erie Sand and Gravel Co.; 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; Great Salt Lake Minerals and Chemicals Co.; Morton Salt Co.; 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; Freeport Sulfur Co.; American Industrial Clay Co.; National Limestone Institute; Thiele Kaolin Co.; Cyprus Minerals Co.; Anglo-American Clay Corp.; Gardinier, Inc.; Assistant Secretary of Defense; Jefferson Lake Sulfur Co.; National Clay Pipe Institute; Kerr-McGee Corp.; International Minerals and Chemical Corp.; J. M. Huber Corp.; Freeport Kaolin Co.; Lithium Corporation of America; Foote Mineral Co.; New Riverside Ochre Co.; Texas-Gulf Inc.; Agrico; Basic Inc. Brewster Phosphates; USS Agri-Chemicals; W.R. Grace and 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 Corp.; U.S. Department of the Interior; Lone Star Industries, Inc.; Monsanto; Texas Gulf, Inc.; The Fertilizer Institute; General Refractories Co.; Allied Chemical; Pfizer, Minerals, Pigments and Metals Division; North American Refractories Co.; GAF Corp.; National Wildlife Federation; Kaiser Cement and Gypsum Association; Ideal Basic Industries; Martin Marietta Cement; Huron Cement; Southwestern Portland Cement Co.; Lehigh Portland Cement Co.; General Portland Inc.; Medusa Cement Co.; Portland Cement Association; and the Flintkote Co., Calaveras Cement Division.

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

(1) There was considerable comment on the requirement of treating mine and plant areas until reclamation is successfully completed 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 best 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 net or gross application of effluent standards. 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 applicant's intake water will not be removed by waste water treatment systems designed to reduce process waste water pollutants and other added pollutants to the levels required by the applicable limitations or standards. Only 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 would include current operating costs including Federal requirements. The costs of EPA imposed water pollution abatement are then added to this base level and the impact is assessed.

(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.

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.

(5) 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 S) has been shown to rapidly oxidize. Therefore there is no need to chlorinate this effluent.

(6) 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 bleed water for best practicable control technology currently available.

(7) One Frasch sulfur company requested that the costs of treating 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.

(8) 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.

(9) 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 limits.

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

(10) One company claimed that it will discharge water from its treatment pond system as it tries to match the water lost by evaporation and percolation with fresh water intake.

Adequate control of the intake water volume will prevent treatment pond overflow in this case.

(11) One commenter complained that the cost of recycling water will increase as new ponds are located farther from the process equipment.

The newer plants have usually taken this into account when the plant was constructed. Older plants have the option of moving the plant to a more favorable location, pumping farther distances to new treatment ponds or dredging the existing ponds to prolong their life. The tailings from dredging may be disposed of in inactive sections of the mine.

(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 disposing sludge.

If sufficient land is not available, one alternative treatment system that could be used is cyclones followed by mechanical 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 is minor compared to the raw waste load that is reduced before discharge.

(14) One contributor requested that runoff that enters barite tailings ponds not be classified as process waste water.

Process waste water includes any water coming into contact with waste product (tailings) and with process waste water. However, a discharge from such 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 (Subpart AL), 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 control of mine and plant areas drainage is likely to have some economic effect. Hence the Agency will await the completion of the economic impact analysis before proposing standards for mine drainage. The standards for both process waste water and mine drainage are currently being achieved by the lone graphite plant and an economic assessment is therefore not 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 "Natural Resources Defense Council v. Train" et al. (Cv. No. 1609–73) which requires the promulgation of regulations for this industry category no later than October 5, 1975. This order also 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 practicable 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 within the time constraints imposed 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 final regulations would be impracticable and 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-552. Comments on all aspects of the regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are 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 or guideline EPA solicits suggestions as to what 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 2404, 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 certain 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 2, provides that a reasonable fee 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. TRAIN,
Administrator.

AUTHORITY: Sec. 301, 304 (b) and (c) 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).

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, 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 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 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 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 oilsonite 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, 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 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 capacty 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 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 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 of 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 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 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: For operations not 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 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 of 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: For operations not employing heavy media separation or flotation processes there shall be no discharge of process generated waste water pollutants into navigable waters.

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.

§ 436.122 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 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 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) The limitations specified in paragraph (a) of this section shall be applied on a net basis if the discharge is in compliance with § 125.28 of this chapter "the source of the applicant's water supply is the same body of water into which the discharge is made * * *"

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.

§ 436.132 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 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 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 by the National Climatic Center, National Oceanic and Atmospheric Administration for the locality in which such impoundment is located.

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 saline 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.

§ 436.142 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 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 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 by 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.

§ 436.152 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 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 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 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.

§ 436.192 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 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 after application of the best practicable control technology currently available:

(a) Subject to the provisions of the following paragraphs of this section for operations mining anhydrite deposits, 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

§ 436.200 [Reserved]

Subpart U—Lithium Subcategory

§ 436.210 [Reserved]

Subpart V—Bentonite 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) 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: There shall be no discharge of process generated waste water pollutants into navigable waters.

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 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 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 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 ac-

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 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 proc ess 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 th 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.

§ 436.251 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.

§ 436.252 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 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 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 Z—Novaculite Subcategory

§ 436.260 Applicability; description of the novaculite subcategory.

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

§ 436.261 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.

§ 436.262 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 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 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—Kyanite Subcategory

§ 436.290 [Reserved]

Subpart AD—Shale and Common Clay Subcategory

§ 436.300 [Reserved]

Subpart AE—Aplite 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 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 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 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 Pyrophyllite 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.

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) The term "mine drainage" shall mean any water drained, pumped or siphoned from a mine.

§ 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 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 for process waste water and mine dewatering 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, process waste water and mine drainage shall meet the following limitations:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	20 mg/l	10 mg/l.
Total Fe	2 mg/l	1 mg/l.
pH	Within the range 6.0 to 9.0.	

(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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