

recipient governments each calendar quarter shall result in appropriate adjustments to the payment of a recipient government. Adjustments pursuant to this section shall be in accordance with § 52.21(b) of this part.

(f) *Revenue sharing amount data verification by the Director.* When the Director approves a revision of a revenue sharing entitlement for purposes of the Revenue Sharing Act, an appropriate adjustment in accordance with § 52.21(b) of this part shall be made to payments of a recipient government, where such payments were computed based upon the incorrect revenue sharing entitlement.

[FR Doc. 78-6385 Filed 3-9-78; 8:45 am]

[6560-01]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 866-8]

PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY STANDARD OF PERFORMANCE FOR NEW SOURCES

Phosphate Rock Mining

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These new source performance standards (NSPS) limit the discharge of pollutants into navigable waters from phosphate rock mining and processing operations that are determined to be "new sources." The Federal Water Pollution Control Act (FWPCA) requires these regulations to be issued. These standards of performance will be incorporated in National Pollutant Discharge Elimination System (NPDES) permits issued to new sources by the Federal EPA or by States with approved programs. The term "new source" means any source, the construction of which is commenced after the publication of proposed regulation (June 10, 1976, 41 FR 25561). The effect of these regulations will be to require treatment of waste water discharged from new source phosphate mining and processing operations in the mineral mining industry.

EFFECTIVE DATE: April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William Telliard, Effluent Guidelines Division (WH-552), Environ-

mental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2726.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 16, 1975 (40 FR 48652), and June 10, 1976 (41 FR 23552), EPA promulgated interim final effluent limitations based on the application of "best practicable control technology currently available" (BPT) for 40 CFR Part 436—Mineral Mining and Processing Point Source Category. On June 10, 1976, the Agency also proposed effluent limitations based on the application of "best available technology economically achievable" (BAT) and standards of performance (NSPS) and pretreatment standards for new sources (41 FR 23561). On July 12, 1977 (42 FR 35843), final BPT regulations applicable to existing point sources for the phosphate rock subcategory (Subpart R) were promulgated. The final new source performance standards set forth below are applicable to the phosphate rock subcategory (Subpart R).

The Agency is not promulgating final pretreatment standards for new sources published in the June 10, 1976 proposed regulations because there are no known situations in which such standards would be applicable. Should information become available which indicates there is a need for such standards, then regulations will be issued. The regulations based upon best available technology economically achievable (BAT) which were proposed on June 10, 1976 are also not being promulgated at this time.

LEGAL AUTHORITY

These regulations are promulgated pursuant to section 306 of the Federal Water Pollution Control Act, as amended.

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.

SUMMARY AND BASIS OF REGULATIONS

New source performance standards are established in these regulations for total suspended solids (TSS) and pH. The regulations govern discharges of process generated waste water pollutants and discharges of mine dewatering pollutants by new sources in the phosphate mining and processing subcategory.

The best available demonstrated control technology for controlling the discharge of process generated waste water pollutants includes effective control of total suspended solids by settling and clarification. Occasional use of flocculation may be necessary. Available technologies are discussed in detail in Appendix A of the final rule for existing sources (BPT), 42 FR 35843. As in all other mining categories, the limitations for the phosphate mining and processing subcategory are applied on a concentration basis (mg/l) rather than a mass basis (lb/ton of product) because no correlation between water usage and production can be established. The method of chemical analyses shall conform to the methods specified in "Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR Part 136, published in 41 FR 52780 (December 1, 1976).

Additional waste water pollutants which may be present are radiological parameters, fluoride and phosphates. Control of total suspended solids will have the effect of controlling phosphates and radiological pollutants to some extent. For the most part, dissolved fluoride results because of upstream chemical plant contamination. This source of pollution will be controlled by regulating that industry. Existing treatment systems are not generally designed to specifically remove these pollutants, and additional treatment of these pollutants will not be practicable for most operations. Consequently, specific limitations for these pollutants are not established at this time. The permit issuing authority could, however, impose specific limitations on such pollutants on a case-by-case basis, if practicable technology were shown to be available in the particular case.

A report entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Point Source Category" was issued at the time that the interim final BPT regulations and proposed BAT and NSPS regulations were published on June 10, 1976. A supplementary report on the possible economic effects of the regulations was also issued at that time. Comments on both reports were solicited by the Agency.

After the interim BPT regulations were issued, the Agency collected and analyzed additional data on the phosphate mining and processing subcategory which is subject to these final NSPS regulations. A report entitled "Development Document for Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Point Source Category" details the analyses undertaken in support of the final

NSPS regulations set forth here. A supplementary analysis on the possible economic effects of the final regulations has also been prepared. Copies of both reports are available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. Copies of both documents are being sent to persons or institutions affected by the final 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). Further 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.

The technical and economic analyses undertaken, in support of the BPT regulations and applicable to these NSPS regulations are discussed in detail in Appendix A to the preamble to the final BPT rule published July 12, 1977 (42 FR 35843).

SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, interim final BPT regulations for existing sources were promulgated for the mineral mining point source category (41 FR 23552) which were supported by a report entitled "Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Mineral Mining Point Source Category, June 1976." This document was made available to the public. Public comment was solicited in the FEDERAL REGISTER, 41 FR 23552. In addition, a public meeting was held in Washington, D.C. on December 2, 1976, to enable further public participation. A complete listing of participants and a discussion of comments and responses pertaining to the comments was contained in the final rule promulgated on July 12, 1977, for existing sources in the mineral mining point source category (42 FR 35843).

While the interim final rulemaking addressed best practicable control technology currently available for existing sources, the definitions and basic pollution control concepts used are also relevant to these proposed standards of performance. Appendix B of the July 12, 1977, preamble should be referred to for a discussion of these comments.

SUMMARY OF MAJOR CHANGES

As a result of the comments on the interim final BPT and proposed NSPS regulations and information which were received following promulgation of the interim final BPT regulations, and as a result of additional study by the Agency, a number of changes are being made in the proposed new sources regulations.

The process water discharge limitations for the new source phosphate rock subcategory have been changed. The proposed new source performance standard imposed a no discharge requirement on process generated waste water pollutants in ore transport water, pump seal water, air scrubber water and ore wash water. These types of water can be recycled. Pollutants in waste water from the flotation processes of this industry, by contrast, were not subject to a no discharge requirement because recycling waste water in the flotation circuit causes a loss in recovery of product. The previous regulations further provided for monitoring of discharges when the various waste water streams were commingled. The Agency concluded that these regulations, while reasonable, created excessively complex enforcement problems. Enforcement under the proposed standard would be difficult even if extensive site visits were carried out unless the waste streams were separated. Consequently, a single set of limitations has been imposed in the final regulation for all waste streams.

The TSS limitations for the phosphate rock subcategory have been reevaluated in the light of comments and additional data received, but they have not been changed. The reasons for not changing the TSS limitations are the same as those reasons given in more detail in the final BPT regulation (see, 42 FR 35843, July 12, 1977).

ECONOMIC ANALYSES

The NSPS regulations for phosphate mining represent estimated capital compliance costs of \$910,000 (in 1974 dollars) for a model eastern phosphate mining operation. This is less than 4 percent of the investment in plant and equipment. Total annualized costs would be approximately \$264,000 (in 1974 dollars), or about \$.11 per metric ton or 0.9 percent of the mid-1974 price of \$12.10 per metric ton. As discussed in the impact analysis prepared for the Agency, "Economic Impact of Effluent Guidelines, Mineral Mining and Processing Industry," these regulations are not expected to affect significantly prices, production, employment, industry growth, local econo-

mies or the balance of trade. The Environmental Protection Agency has determined that this document does not contain a major regulation requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

**SMALL BUSINESS ADMINISTRATION
LOANS**

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 20460.

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

Dated: March 6, 1978.

**DOUGLAS M. COSTLE,
Administrator.**

Subpart R—Phosphate Rock Subcategory

- Sec. 436.180 Applicability; description of the phosphate rock subcategory.
- 436.181 Specialized definitions.
- 436.185 Standards of performance for new sources.

AUTHORITY: Sec. 306, Federal Water Pollution Control Act, as amended.

1. Subpart R is amended by revising §436.185.

**Subpart R—Phosphate Rock
Subcategory**

§436.180 Applicability; description of the phosphate rock subcategory.

The provisions of this subpart are applicable to the mining and the processing of phosphate bearing rock, ore or earth for the phosphate content.

§436.181 Specialized definitions.

For the purpose of this subpart:

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

(b) The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained or otherwise removed from the mine through the efforts of the mine operator.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour re-precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively used for or resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond, lagoon, mine, or other facility used for settling or treatment of such waste water.

§436.185 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology.

(1) Discharges of process generated waste water and mine dewatering discharges, shall not exceed the following limitations:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed--
TSS.....	60 mg/l.....	30 mg/l.
pH.....	Within the range 6.0 to 9.0.	

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

[FR Doc. 78-6390 Filed 3-9-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 448—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

PART 449—AMOUNT, DURATION, AND SCOPE OF MEDICAL ASSISTANCE

Medicaid Eligibility—Various Provisions To Implement Recent Statutory Changes and to Clarify Existing Rules

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: These amendments to regulations governing eligibility for Medicaid are required by statutory changes enacted in 1976 (medical assistance, title XIX, Social Security Act). Provisions covered in these amendments include:

1. Effect of cost-of-living increases in Social Security benefits and Supplemental Security Income (SSI) benefits;
2. Medicaid coverage for eligible persons in public community residences housing no more than 16 persons;
3. Acceptance of unemployment compensation; and,
4. Medicaid coverage for persons awaiting blindness or disability determinations.

Additional changes clarify existing rules about which questions have been raised. Those changes are described below, under "Supplementary Information."

EFFECTIVE DATES: These regulations are effective upon publication except that:

1. Regulations on the effect of cost-of-living increases in Social Security benefits (§ 448.1 (a)(1)(ii), (b)(2)(viii), § 448.3(b)(9) and § 449.41) and maintenance of State supplementary payment levels (§ 448.4(e)) are effective July 1, 1977; and,
2. Regulations authorizing coverage for persons in public community residences housing no more than 16 persons (§ 448.60) are effective October 1, 1976.

Although these regulations are being published in final for reasons explained in the Supplementary Information, consideration will be given to written comments received on or before April 24, 1978.

ADDRESSES: When commenting please refer to MMB-216-R. Agencies and organizations are requested to submit their comments in duplicate.

Address comments in writing to: Administrator, Health Care Financing

Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5 p.m., at: Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street SW., Washington, D.C., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Mary Kenesson, 202-245-0104.

SUPPLEMENTARY INFORMATION: These regulations were previously codified under 45 CFR Parts 248 and 249. Recodification changes, effective October 1, 1977, established a new Chapter IV in Title 42 of the Code of Federal Regulations for the Health Care Financing Administration. Subchapter C of Chapter IV contains Medicaid regulations. Therefore, these regulations are now codified under 42 CFR Parts 448 and 449.

The specific changes in regulations are described and explained below, in the order that they appear in the CFR:

DEDUCTION OF SUPPLEMENTARY PAYMENTS AND CERTAIN OASDI INCREASES FROM "SPEND DOWN" LIABILITY

Under section 1902(f) of the Social Security Act, States may impose more restrictive Medicaid eligibility conditions than are required for Supplemental Security Income (SSI). Aged, blind or disabled persons in those States can deduct their incurred medical expenses, SSI benefits and State supplementary payments from income to establish Medicaid eligibility (i.e., "spend down" income above the eligibility limit). Certain individuals defined by statute are also entitled to deduct OASDI cost-of-living increases received in August 1972 or after April 1977.

Paragraphs 448.1(a)(1)(ii) and 448.3(b)(9) are revised to accurately reflect mandatory deductions from countable income for persons who "spend down" to establish Medicaid eligibility in those States. These are statutory requirements inadvertently omitted from the previously published regulations.

MEDICAID COVERAGE OF PRESUMPTIVELY BLIND OR DISABLED OR CONDITIONALLY ELIGIBLE SSI RECIPIENTS

Paragraph 448.1(b)(2)(i) is amended to specify that persons receiving SSI benefits pending a final determination of blindness or disability or pending disposal of excess resources are considered to be "individuals receiving a benefit under title XVI" for purposes of Medicaid coverage. Thus, their cov-