

## Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY

[FRL 404-4]

PART 446—PAINT FORMULATING  
POINT SOURCE CATEGORY

## Effluent Guidelines and Standards

On February 26, 1975, notice was published in the FEDERAL REGISTER (40 FR 8302), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the oil-base paint subcategory and the water-base paint subcategory of the paint formulating category of point-sources.

The purpose of this notice is to establish final effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources in the oil-base solvent wash subcategory of the paint formulating category of point sources by amending 40 CFR Chapter I, Subchapter N, to add a new Part 446. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. A regulation regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR 402.

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

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the oil-base paint subcategory and the water-base paint subcategory. In addition, the regulation as proposed was supported by two other documents: (1) the document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Paint Formulating and the Ink Formulating Point Source Categories" (February, 1975) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Paint and Allied Products and Printing Ink Industries" (August, 1974). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

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

## (a) Summary of comments.

The following responded to the request for written comments contained in the preamble to the proposed regulation: National Paint and Coatings Association; E. I. DuPont de Nemours & Company; DeSoto Inc.; United States Gypsum Company; Crown Zellerbach; Celanese Coatings Company; Ford Motor Company; Dixie-O'Brien Corporation; County Sanitation Districts for Los Angeles County; Sherwin Williams Company and the Department of Health, Education, and Welfare.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of comments which are significant to the regulations as they appear in this document and the Agency's response to them. Additional significant comments will be responded to when the regulations for the other subcategories of the paint formulating industry are promulgated.

Several commenters stated that no discharge of process wastewater from paint formulating plants has not been demonstrated by existing practices of the industry. The commenters claim that discharge of liquid waste to landfill or municipal waste treatment systems is not a demonstration of no discharge. The commenters state that the recycle wash systems reduced the volume of process wastewater but do not eliminate it as the systems require an occasional blowdown. The commenters state that reuse of washwaters in the products cannot reduce process wastewater to no discharge since some process wastewaters cannot be recycled or reused because of product quality control.

The Agency on review of these comments has reevaluated existing data, has obtained new data, and is collecting additional data to determine the validity of the comments concerning no discharge of process wastewater pollutants to navigable waters. The Agency has reached the following conclusions. The Agency needs to collect and evaluate additional information on oil-base paint plants using a caustic wash system and water-base paint plants. The regulations on these segments of the industry will be promulgated at a later date. The regulations on oil-base paint plants using a solvent wash are being promulgated in this document. The Agency's data base shows that most of the oil-base solvent wash paint plants are currently meeting no discharge of process wastewater pollutants to navigable waters by use of the following technologies: solvent recovery,

incineration, and contract solvent recovery or incineration.

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

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

(1) The oil base paint subcategory has been further subdivided on the basis of the technique employed for equipment washing. The paint formulating industry presently uses both solvents and caustic for equipment washing. Because the method employed affects the waste treatment system used and the ability to meet a no discharge standard, a distinction between plants on this basis appears appropriate. Regulations for plants in the oil base caustic wash subcategory will be promulgated upon completion of the Agency's review of data on this segment of the industry which is now being assembled.

(2) The subcategory water-base paint subcategory (Subpart B) is being re-evaluated and will be promulgated at a later date.

## (c) Economic impact.

The economic impact of the promulgated regulation on oil-base-solvent wash paint formulating is minimal since all plants in the Agency's data base using this process are already achieving no discharge of wastewater pollutants to navigable waterways by use of technologies such as solvent recovery, incineration, or contract solvent recovery or incineration. New expenditures will not be required to meet the regulations for the promulgated subcategory. As a result of this, there are no expected closures as a result of promulgation of the oil base solvent wash paint subcategory.

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 ef-

fect on prices for the segments of the industry controlled herein.

(d) Cost-benefit analysis.

The detrimental effects of the constituents of waste waters now discharged by point sources within the Paint Formulating point source category are discussed in Section VI of the report entitled "Development Document for proposed Effluent Limitations Guidelines for the Paint Formulating and Ink Formulating Point Source Categories" (February, 1975). It is not feasible to quantify in economic terms particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines Paint and Allied Products and Printing Ink Industries" (August, 1974). Implementing the limitations will prevent the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the paint formulating industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs.

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

In conformance with the requirements of Section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Oil Base Solvent Wash Subcategories of the Paint Formulating and the Ink Formulating Point Source Categories," will be published and will be available for purchase from the Government Printing Office, Washington, D.C. 20402 for a nominal fee.

Copies of the economic analysis document previously cited will be available from the National Technical Information Service, Springfield, VA 22151.

(f) Final rulemaking.

This regulation is being promulgated pursuant to an order of the Federal District Court for the District of Columbia entered in *Natural Resources Defense Council, Inc. v. Train* (Cv. No. 1609-73). That order requires that effluent limitations requiring the application of best practicable control technology currently available for this industry be effective upon publication. Accordingly, good cause is found for the final regulation promulgated below establishing best

practicable control technology currently available for each subpart to be effective upon publication in the FEDERAL REGISTER.

The final regulation promulgated below establishing the best available technology economically achievable, the standards of performance for new sources and the new source pretreatment standards shall become effective August 27, 1975.

Dated: July 16, 1975.

JOHN QUARLES,  
Acting Administrator.

Subpart A—Oil-Base Solvent Wash Paint Subcategory

- Sec. 446.10 Applicability; description of the oil-base solvent wash paint subcategory.
- 446.11 Specialized definitions.
- 446.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
- 446.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
- 446.14 Reserved.
- 446.15 Standards of performance for new sources.
- 446.16 Pretreatment standard for new sources.

Subpart A—Oil-Base Solvent Wash Paint Subcategory

§ 446.10 Applicability; description of the oil-base solvent wash paint subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oil-base paint where the tank cleaning is performed using solvents. When a plant is subject to effluent limitations covering more than one subcategory the discharge limitation shall be the aggregate of the limitations applicable to the total production covered in each subcategory.

§ 446.11 Specialized definitions.

For the purpose of this subpart:

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

§ 446.12 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 subcategory and effluents 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 dis-

charger 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 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 waste water pollutants to navigable waters.

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

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.14 [Reserved]

§ 446.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.16 Pretreatment standard for new sources.

The pretreatment standard under section 307(c) of the Act for a new source within the oil-base solvent wash paint subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were

to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart: There shall be no discharge of process water pollutants to a publicly owned treatment works.

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[FRL 404-6]

## PART 447—INK FORMULATING POINT SOURCE CATEGORY

### Effluent Guidelines and Standards

On February 26, 1975, notice was published in the FEDERAL REGISTER (40 FR 8309), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the oil-base ink subcategory and the water-base ink subcategory of the ink formulating category of point sources.

The purpose of this notice is to establish final effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources in the oil-base solvent wash subcategory of the ink formulating category of point sources by amending 40 CFR Chapter I, Subchapter N, to add a new Part 447. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. A regulation regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR 402.

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

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the oil-base ink subcategory and the water-base ink subcategory. In addition, the regulation as proposed was supported by two other documents: (1) the document entitled "Development Document for

Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Paint Formulating and the Ink Formulating Point Source Categories" (February, 1975) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Paint and Allied Products and Printing Ink Industries" (August, 1974). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

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

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Each of the comments received was carefully reviewed and analyzed. The following is a summary of comments which are significant to the regulations as they appear in this document and the Agency's response to them. Additional significant comments will be responded to when the regulations for the other subcategories of the ink formulating industry are promulgated.

Several commenters stated that no discharge of process wastewater from ink formulating plants has not been demonstrated by existing practices of the industry. The commenters claim that discharge of liquid waste to landfill or municipal waste treatment systems is not a demonstration of no discharge. The commenters state that the recycle wash systems reduced the volume of process wastewater but do not eliminate it as the systems require an occasional blowdown. The commenters state that reuse of washwaters in the products cannot reduce process wastewater to no discharge since some process wastewaters cannot be recycled or reused because of product quality control.

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a caustic wash system and water-base ink plants. The regulations on these segments of the industry will be promulgated at a later date. The regulations on oil-base ink plants using a solvent wash are being promulgated in this document. The Agency's data base shows that most of the oil-base solvent wash ink plants are currently meeting no discharge of process wastewater pollutants to navigable waters by use of the following technologies: solvent recovery, incineration, and contract solvent recovery or incineration.

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

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

(1) The oil base ink subcategory has been further subdivided on the basis of the technique employed for equipment washing. The ink formulating industry presently uses both solvents and caustic for equipment washing. Because the method employed affects the waste treatment system used and the ability to meet a no discharge standard, a distinction between plants on this basis appears appropriate. Regulations for plants in the oil base caustic wash subcategory will be promulgated upon completion of the Agency's review of data on this segment of the industry which is not being assembled.

(2) The subcategory water-base ink subcategory (Subpart B) is being reevaluated and will be promulgated at a later date.

#### (c) Economic impact.

The economic impact of the promulgated regulation on oil-base-solvent wash ink formulating is minimal since all plants in the Agency's data base using this process are already achieving no discharge of wastewater pollutants to navigable waterways by use of technologies such as solvent recovery, incineration, or contract solvent recovery or incineration. New expenditures will not be required to meet the regulations for the promulgated subcategory. As a result of this there are no expected closures as a result of promulgation of the oil base solvent wash ink subcategory.

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 an-