could, in the past, be permitted as storm water discharges.

EPA believes Table G-4 represents a clarification of the relationship of ELG and storm water at active metal mining sites, and does not expand the current ELG requirements. EPA also believes the development document and the ELG support the interpretation given in Table G-4. In the November 6, 1975 preamble to the effluent limitations guideline, it states ''The definition of a mine was intended to be sufficiently broad to cover all point source pollution resulting from all of the activities related to operation of the mine including drainage tunnels, haul roads, storage piles, etc." (40 FR 51727). In the 1978 development document (Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point Source Category, EPA, July 1978, page 146), the following definition of a mine was given for purposes of recommending subcategories and effluent limitations guidelines and standards:

A mine is an area of land upon which or under which minerals or metal ores are extracted from natural deposits in the earth by any means or methods. A mine includes the total area upon which such activities occur or where such activities disturb the natural land surface. A mine shall also include land affected by such ancillary operations which disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities; all lands affected by the construction of new roads or the improvements or use of existing roads to gain access to the site of such activities and for haulage and excavations, workings, impoundments, dams, ventilation shafts, drainage tunnels, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas and other areas upon which are site structures, facilities, or other property or materials on the surface, resulting from or incident to such activities (emphasis added).

It is important to note that the definition of "mine" includes the term "resulting from". Thus, something "resulting from" the mining activity is considered part of the active mine even though there is no activity at that specific part of the mine (e.g. waste rock is no longer being placed on a waste rock pile that is part of the mine). It would continue to be considered as part of the active mine until reclamation is started on that same portion of the mine. Residuals (waste rock piles, tailings piles, etc.) from historical mining at the site are not part of the active mining area unless they are re-disturbed by the current mining activity. The revision of the ELG in 1982 addressed best available

technology economically achievable (BAT), best conventional pollutant control technology (BCT), and best available demonstrated technology (BADT). That revision did not address the issue of what discharges were subject to the ELG. The definition of mine remained unchanged. In 1983, training sessions on how to implement the ELG were held for permit writers from EPA Regions and approved NPDES States. The guidance document used for those training sessions included the following Statement:

"Active mine areas" include the excavations in deep mines and surface mines; leach areas; refuse, middling, and tailing areas; tailing pond, holding and settling basins; and other ancillary areas to a mine or mill. Active mine areas do not include areas unaffected by mining or milling.

Based on the above, it is EPA's position that the following storm water discharges at active metal mining facilities are not subject to the ELG and can be covered by the multi-sector general permit: offsite haul/access roads; onsite haul roads not constructed of waste rock or spent ore; runoff from tailings dams/ dikes when not constructed of waste rock/tailings; concentration building and mill site if storm water only and no contact with material storage piles; chemical storage area; docking facility; explosive storage; fuel storage; vehicle/equipment maintenance area/building; vehicle/ equipment parking areas; power plant; truck wash area; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/ inadequately reclaimed areas or areas not released from reclamation bond. Storm water discharges from inactive mining facilities can be covered under the multi-sector permit.

In developing Table G–4, consideration was given to such factors as the nature of the source, the materials in the sources (e.g. raw materials, intermediate products, or waste products from the mining and milling operations), and whether or not it was likely that source was considered in the development of the ELG. It was decided that runoff from on-site haul roads not constructed of waste rock or spent ore, and runoff from tailings dams/dikes not constructed of waste rock/tailings should not be considered subject to the ELG because they do not have the same potential for containing toxic pollutants as do mine wastes. Such runoff would be similar to that from non-mine facilities.

Two commenters stated that if the scope of discharges subject to the ELG for the Ore Mining and Dressing Point Source Category is expanded, then the permit needs to allow additional time (up to 3 years) to come into compliance with the effluent limitations as was proposed for the effluent limitations in the mineral mining sector. As explained in the response to the previous comment, Table G–4 is a clarification, not an expansion, of the discharges subject to the ELG. The multi-sector general permit does not authorize (apply to) discharges subject to the ELG for metal mining (i.e., 40 CFR Part 440). Therefore, a schedule for achieving compliance with those effluent limitations is not appropriate for the multi-sector general permit. Furthermore, the statutory deadline for compliance with the ELG is past.

A commenter felt that the draft multisector permit is extremely generic and lumps together all facilities in an extremely broad industry sector (e.g., ore mining and dressing), regardless of differences in product, processes used, or topographic and climatic conditions. The commenter further stated that difficulties caused by generic treatment of disparate facilities in a broad industry "sector" (e.g., the ore mining and dressing sector) are exemplified by the manner in which EPA determined the need for analytical monitoring requirements. The commenter had understood the purpose of the group application process to be the development of tailored, industryspecific permits for groups of facilities located in very similar areas, with permit conditions being tied to the particular circumstances of those facilities as described in the group application (including the sampling data provided in those applications).

This comment is similar to comments on several other sectors of the permit. The requirements to develop a storm water pollution prevention plan for metal mining facilities allows a great deal of flexibility to take into consideration such variables as type of ore being mined, pollutants of concern, type of mine, and local topography and climate. It would be difficult to have a variety of monitoring options to cover the various combinations of ores and climates, given the limited data submitted. Decisions being made on benchmark values may reduce monitoring requirements. Two commenters felt that imposing end-ofpipe treatment requirements for storm water discharges from mining operations, such as those contained in the ore mining and dressing effluent limitation guidelines, is both impractical and unnecessary. In the commenters opinion, the use of BMPs is