

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 434
[WH-FRL 2535-8]
**Coal Mining Point Source Category;
Effluent Limitations Guidelines and
New Source Performance Standards**
AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On October 13, 1982, EPA promulgated final effluent limitations guidelines and standards under the Clean Water Act to limit the discharge of pollutants to waters of the U.S. from the coal mining industry (47 FR 45382). The purpose of this regulation was to amend the previously promulgated effluent limitations guidelines based on "best practicable technology" (BPT) and "new source performance standards" (NSPS) and to establish effluent limitations guidelines based on the "best available technology economically achievable" (BAT).

Following the October 1982 promulgation, the National Coal Association (NCA), the Commonwealth of Pennsylvania and the West Virginia Mountain Streams Monitors, Inc. (MSM) filed petitions for judicial review of the regulation in the United States Court of Appeals for the Fourth Circuit. EPA is today proposing revisions to these regulations consistent with the Settlement Agreement entered in that case.

DATE: Comments on the proposed changes to these regulations must be submitted by June 4, 1984.

ADDRESSES: Send comments on the proposed regulation to: Mr. William A. Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460, Attention: EGD Docket Clerk, Coal Mining. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Unit, Room 2922 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Telliard or Ms. Allison Phillips, (202) 382-7131.

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I. Legal Authority

The amendments to the regulations described in this notice are proposed under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977 Pub. L. 95-217) (the "Act"). These changes are also proposed in response to the Settlement Agreement in *National Coal Association, et al., v. Environmental Protection Agency*, Nos. 82-1929, et al. (4th Cir.).

II. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking.

For the purpose of clarity, the coal mining regulation, including those portions that were promulgated October 13, 1982 that would not be effected by the proposed amendments, is being published as part of today's notice. EPA, however, is only soliciting comments on those portions of the regulation for which amendments are being proposed today.

III. Background

On October 13, 1982, EPA published final effluent limitations guidelines and standards for the coal mining industry. 47 FR 45382. The National Coal Association ("NCA"), the Commonwealth of Pennsylvania, and the West Virginia Mountain Stream Monitors, Inc. ("MSM") filed petitions to

review the regulation in the United States Court of Appeals for the Fourth Circuit. The petitioners raised issues concerning acid mine drainage, new source performance standards for preparation plants, the definition of new source coal mines, and post-bond release regulations. After extensive discussions, the Petitioners and EPA entered a settlement Agreement, under which EPA agreed to propose specified revisions to the regulations. Those revisions are discussed in Section IV of this preamble.

Section IV also discusses two proposed changes, not a result of the Settlement Agreement, involving (1) modification of NPDES permits to reflect new NSPS, and (2) the type of limitation to be imposed on settleable solids during reclamation and precipitation. EPA is also soliciting comments on these issues.

As part of the Settlement Agreement, the parties agreed to seek a judicial stay of the major regulatory provisions which are to be revised. The court entered the stay on August 23, 1983. The following are the portions of the regulation that are stayed pending this rulemaking:

1. Section 434.11(j)(1)(ii) (E) and (F).
2. Section 434.22(a), but only insofar as it applies to acid or ferruginous discharges from coal refuse disposal piles.
3. Section 434.23(a), but only insofar as it applies to acid or ferruginous discharges from coal refuse disposal piles.
4. Section 434.25 (a) and (b).
5. Section 434.25(c), but only insofar as it applies to acid or ferruginous discharges from coal refuse disposal piles and insofar as it imposes limitations on manganese to discharges from point sources that normally exhibit a pH equal to or greater than 6.0 prior to treatment.
6. The alternate precipitation limitations applicable to Subpart C for discharges caused by precipitation, as provided by §§ 434.32, 434.33, 434.35, and 434.36.

For additional information on the legal background, technology descriptions, and the history of the regulation development, the reader is referred to the preamble of the October 13, 1982 rule (47 FR 45382).

*For purposes of the stay order, "coal refuse disposal pile" is defined as any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

IV Proposed Amendments

A. General Definitions

(1) Section 434.11(j)(1)(ii)—New Source Definition

Section 434.11(j)(1)(ii) or the existing regulation contains the definition of a new source coal mine. The first part of this definition defines a new source as any source which commenced construction after May 29, 1981. The second part of this definition (§ 434.11(j)(1)(ii)) provides that "major alterations" occurring at an existing mine may also result in a new source. Seven events are listed in the second part of the definition, which should be considered to determine whether a major alteration, and thus a new source, exists.

During settlement discussions, NCA expressed the concern the § 434.11(j)(1)(ii) could be interpreted as authorizing a Regional Administrator to determine that a major alteration had taken place at a mine, and thus to declare it to be a new source, on the basis of events that occur routinely at existing mines. This is not EPA's intent. Instead, the occurrence of one or more of the events listed in § 434.11(j)(1)(ii) should trigger review by the Regional Administrator to determine whether, in light of all the available information, a major alteration has taken place. In making this determination, the Regional Administrator should consider whether extraction of a new coal seam, discharge into a new drainage area, extensive new surface disruption, construction of a new shaft, slope or drift, or some other activity at the mine has resulted in significant new environmental impacts, such as, for example, extraction of a new coal seam which is acid forming where the prior operations involved alkaline seams, or creation of discharges which could significantly affect streams or downstream users. Thus, in some cases the occurrence of one or more of the events listed in § 434.11(j)(1)(ii) that there has been a major alteration at the mine while in others it may not.

In addition, NCA pointed out that two of the events listed in 434.11(j)(1)(ii) (the acquisition of additional land or mineral rights and significant capital investment in additional equipment or facilities) are not indicative of major alterations at mining operations. The Agency agrees and is proposing to revise that section of its regulation accordingly.

The proposed revision also makes it clear that removing of an abandoned mine (defined at § 434.11(r)) triggers requirements applicable to new sources.

This definition of "new source coal mine" would govern the determination of when a coal mine is a "new source" under the NPDES program. Therefore, the generic criteria for the "new source" determination at 40 CFR 122.29(b) and any subsequent revision to those criteria would not apply to coal mines.

Today's proposed revision of the new source definition would be applicable only to coal mines that commence construction after the date of this proposal, or where the Regional Administrator finds, in light of the events listed in revised § 434.11(j)(1)(ii) and other available information, that a major alteration has taken place after the date of this proposal. As provided in the proposed revision of § 434.11(j)(1)(2), the revised definition would not affect the status of or standards applicable to coal mines which are classified as new sources under the October 13, 1983 regulation or previous regulations.

(2) Section 434.11(p)—Coal Refuse Disposal Piles

EPA is today proposing to define a new term: coal refuse disposal pile.

As a result of comments received during settlement discussions with the parties to *NCA v. EPA*, the Agency is proposing that acid mine drainage from coal refuse piles should not be eligible for alternate rainfall limitations unless a sizeable rainfall event (the 1-year, 24-hour event) occurs. The term coal refuse disposal pile is defined as "any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area."

(3) Section 434.11(q)—Controlled Surface Mine Drainage

EPA is also proposing to define the term "controlled surface mine drainage."

As a result of comments received during the settlement discussions, the Agency believes that acid or ferruginous discharges that are pumped or siphoned from surface mining areas to treatment ponds can be controlled by the mine operator even during periods of heavy precipitation, and thus should not be eligible for the alternate rainfall limitations unless a precipitation event greater than the 10-year, 24-hour event occurs. Controlled surface mine drainage is any surface mine drainage that is pumped or siphoned from the active mining area. A siphon is a tube or conduit bent into legs of unequal length, for use in transferring liquid from an upper level to a lower one by means of

suction created by the weight of the liquid in the longer leg.

B. Coal Preparation Plant New Source Performance Standards; §434.25 (a) and (b)

As part of the Settlement Agreement, EPA has agreed to propose revising NSPS for coal preparation plants. The proposed standards would allow a discharge of pollutants with limitations on iron, manganese, suspended solids and pH. NCA contended that coal slurry ponds, which are part of the preparation plant water circuit, are not always able to achieve zero discharge. In addition, coal waste impoundments, including some slurry ponds, must meet OSM requirements to drain water from the pond during design precipitation events. We are also correcting the NSPS limitations for preparation plant associated areas so that, as in the rest of the regulation, limitations on manganese would apply only to acid or ferruginous mine drainage. The alternate rainfall limitations on settleable solids and pH will continue to apply to discharges from coal preparation plants and associated areas (except for acid discharges from refuse piles, see Section C.4 below).

C. Alternate Precipitation Limitations

The October 13, 1982 regulation provides alternate rainfall limitations for most discharges or increases in discharges caused by precipitation. If the precipitation event is less than or equal to a 10-year 24-hour event (or snowmelt of equal volume), only limitations on settleable solids and pH apply. If the precipitation event is greater than a 10-year, 24-hour event, only pH limitations apply. The alternate limitations do not apply to drainage from underground workings of underground mines, unless such drainage is commingled with surface mine discharges.

Comments raised during settlement discussions indicated that the existing alternate rainfall limitations could, with respect to acid or ferruginous mine drainage, allow the discharge of large amounts of iron and manganese, and are not necessary in certain cases because the mine operator could control the rate of discharge even during heavy precipitation events. In response to this concern, EPA has reevaluated the alternate rainfall limitations and now proposes to amend them as follows. A summary of the proposed amendment is contained in Appendix A to the regulation.

(1) Underground Mines—Not Commingled

Under this proposal, as in the existing regulation, discharges from underground mines that are not commingled with surface drainage would not be eligible for alternate rainfall limitations.

(2) Underground Mines—Commingled

The existing regulation specified that where underground mine drainage is commingled with surface drainage, the alternate rainfall limitations would apply. During settlement discussions, the concern was raised that by commingling large amounts of acid underground mine drainage with small amounts of surface drainage, a facility would not have to meet limitations of TSS, iron and manganese during rainfall. The Agency believes that area runoff can be diverted from underground drainage by berms, diversion ditches, dikes and similar means so that sudden influxes of precipitation do not affect facilities treating underground mine drainage. In this context, state regulatory agencies and the Office of Surface Mining (OSM) under the Surface Mining Control and Reclamation Act (SMCRA) have already addressed design requirements for such diversion practices in applicable regulations. Implementation of such practices in compliance with SMCRA requirements should assure that commingling is kept to a minimum.

However, if an extremely large rainfall event occurs, it may be impossible to segregate the waste streams. Accordingly, the Agency proposes that acid underground mine drainage that is diverted in accordance with OSM regulations be eligible for alternate limitations if commingled with surface area drainage, but only if a precipitation event greater than the 10-year, 24-hour event occurs.

(3) Controlled Surface Mine Drainage

Much mine drainage is pumped or siphoned from surface areas to treatment facilities. We believe that during most precipitation events the mine operator can temporarily pumped discharges from the pit and divert surface runoff and shallow ground water away from the pit and treatment pond by use of diversion dikes, ditches and similar means. Thus (except for steep slope and mountaintop removal situations, discussed below), there is no need to have alternate precipitation event limitations for acid or ferruginous discharges that are pumped or siphoned from the active area of a surface mine, except when a precipitation event

greater than the 10-year, 24-hour precipitation event occurs. The Agency is proposing to revise its regulations to make this change.

(4) Non-Controlled Surface Mine Drainage

SMCRA permit-issuing authorities require, to the maximum extent feasible, the minimization of non-pumped discharges within an active mining area. However, the Agency recognizes that non-controlled discharges do occur even where steep slope or mountaintop removal operations are not involved. As a result of settlement discussions, EPA proposes to revise its regulations to provide that non-controlled acid surface mine drainage, which includes surface runoff and gravity flow drainage other than that described below in section (6), must meet alternate precipitation limitations on total iron, settleable solids and pH unless a precipitation event greater than the 2-year, 24-hour event occurs. If such an event occurs, then limitations only on settleable solids and pH would apply. If a precipitation event greater than the 10-year, 24-hour event occurs, only pH limitations would apply. Of course, for discharges not directly affected by precipitation, limitations on iron, manganese, pH, and TSS must be met.

(5) Coal Refuse Disposal Piles

Pennsylvania was concerned that acid or ferruginous drainage from coal refuse disposal piles is a serious problem and should not be controlled by the same rainfall limitations that generally apply to coal preparation plant associated areas. By using diversion and other techniques, the amount of runoff from coal refuse piles during most precipitation events can be controlled. EPA is now proposing to limit the alternate rainfall exemption for drainage from such piles to situations where a 1-year, 24-hour precipitation event occurs. Hence, TSS, pH, iron and manganese limitations would apply during all precipitation up to a 1-year, 24-hour event; pH and settleable solids limitations would apply during precipitation from a 1-year, 24-hour event to a 10-year, 24-hour event; and pH limitations only would apply during all precipitation greater than a 10-year, 24-hour event. "Coal refuse disposal pile" would be defined in § 434.11(p). The term applies only to long-term storage sites, where the refuse is stored for more than 180 days and does not include refuse piles located on an active mining area.

(6) Steep Slope/Mountaintop Removal Mining Operations

The Agency is not changing the alternate rainfall limitations applicable to surface coal mines in steep slope areas (as defined in section 515(d)(4) of SMCRA) or for discharges from operations involving mountaintop removal (pursuant to section 515(c) of SMCRA). In such operations, the operator may be unable during precipitation events to contain or control the drainage from the active mining area so as to meet the effluent limitations on TSS, iron and manganese.

(7) Discharges from Preparation Plants and Their Associated Areas (Excluding Coal Refuse Piles)

The Agency is not proposing to change the alternate rainfall limitations applicable to preparation plants and their associated areas.

(8) Discharges from Reclamation Areas

The Agency is not proposing to change the alternate rainfall limitations applicable to reclamation areas.

If mining operations combine drainage from one or more of these eight categories, the most stringent of the applicable alternate storm limitations will apply.

D. Alternate Precipitation Limitations—Settleable Solids

Settleable solids is a parameter limited for coal mining discharges both during precipitation events and during reclamation. EPA's original intent was to promulgate this limit as an "instantaneous maximum" not to be exceeded. However, the October 13, 1982 regulation presents the settleable solids limit, like the limitations on other pollutants, as a "maximum for any one day"

EPA's permit regulations (40 CFR 122.2) define the term "maximum daily discharge" as the highest allowable "daily discharge" This regulation further provides that, with respect to pollutants whose limitations are expressed in terms of concentration (as is the case for settleable solids), the "daily discharge" is to be calculated as "the average measurement of the pollutant over the day" Thus, the settleable solids limitation represents the highest allowable average for any measurement(s) taken on any one day.

EPA developed the 0.5 ml/l limitation based on data for single grab samples with the intent of developing an instantaneous maximum standard. Accordingly, we believe this limit is more appropriately presented as a value never to be exceeded rather than as an

average. This is particularly true because an instantaneous maximum is a much more practical standard to apply and enforce. Thus, EPA is proposing to amend the settleable solids limitation to be a maximum not to be exceeded at any time.

E. Post-Mining Discharges

EPA's coal mining effluent limitations apply until release of the reclamation bond required by SMCRA. Today's proposal will not change that. However, in response to a concern by one of the petitioners, the Agency wishes to re-emphasize that post-bond release discharges can be subject to regulation under the Clean Water Act. If a point source discharge occurs after bond release, then it must be regulated through an NPDES permit under sections 301(a) and 402 of the Clean Water Act. If the responsible party does not obtain a permit, then it is subject to enforcement action by EPA under section 309 of the Act and by citizens under section 505(a)(1) of the Act. Appropriate effluent limitations would be established in the NPDES permit for such a discharge.

F. Section 434.65—Modification of Permits for New Sources

The preamble to the October 13, 1982 regulation stated that coal mines with permits incorporating previous new source performance standards could apply to have those permits modified according to 40 CFR 122.62(a) (formerly § 122.15(a)). However, that section does not authorize the modification of permits to reflect subsequently promulgated new source performance standards. Nonetheless, while EPA generally believes that new sources should adhere to permit conditions based on the NSPS in existence when those permits were issued, coal mining operations that construct new treatment ponds should be allowed to construct those ponds in accordance with the new, performance-based new source performance standards (as modified by today's proposal), even if their permit contains design standards based on the previously promulgated new source performance standards. Coal mining is a transient operation, and NPDES permits often regulate discharges from the construction of additional treatment ponds which will be constructed after permit issuance as mining progresses along a coal seam.

Accordingly, we have added proposed § 434.65, to allow, at the discretion of the permit writer, the modification of coal mining NPDES permits to reflect the new NSPS. Where ponds have been constructed to meet the design criteria according to permit conditions

incorporating previous NSPS, the discharge should continue to meet those requirements. However, a coal mine operator who intends to construct a new pond under the requirements of the same permit may apply for a permit modification to incorporate the new performance based rainfall limitations, rather than the design criteria. The reasons for the deletion of the design criteria are discussed fully in the preamble to the October 13, 1982 regulation.

Similarly, in light of NCA's concern (see Subsection B) that coal slurry ponds cannot always achieve zero discharge, proposed § 434.65 would also allow for permit modification for coal preparation plants subject to zero discharge requirements based on the NSPS promulgated in October 1982.

V. Impacts

A. Alternate Precipitation Limitations

In 1977 BPT for coal mine discharges was promulgated which included an exemption from meeting effluent limitations during precipitation events, provided a 10-year, 24-hour pond was constructed. This pond design requirement was costly and the economic analysis determined it to be achievable. Basically, the same precipitation exemption was proposed for BAT and NSPS in January 1981. The October 13, 1982 promulgated version of these regulations, however, deleted the pond design requirement in exchange for the requirement that discharges due to precipitation must meet limits on pH and settleable solids. Because the construction of a 10-year, 24-hour pond was no longer required, EPA determined that costs to meet the October 13, 1982 promulgated alternate storm limits were not significant. While today's amendments to the alternate storm limitations (for some discharge categories) are more stringent than the promulgated October 13, 1982 requirements, they are still less costly to achieve than the 10-year, 24-hour pond design requirement originally promulgated for BPT in 1977 and proposed for BAT in 1981.

Additional costs may be incurred for discharges from coal refuse disposal piles (from the preparation plant associated area only) because they may have to be segregated from other drainage sources. This may require dikes and diversion ditches around the pile. However, EPA does not consider the cost of diking alone to be significant when compared with the total capital and annual costs of treatment facilities for the preparation plant and associated area subcategory. Thus, EPA has

determined that no significant economic impacts will result from these revisions.

These new alternate limits will have a beneficial impact on the environment because the total amount of pollutants allowed to be discharged will be reduced. The magnitude of this reduction will depend on the type of discharge and size of the precipitation event. The pollutants whose discharges will be reduced are TSS, iron and manganese.

B. New Source Coal Preparation Plants

For new source coal preparation plants, a cost savings will result by the elimination of the zero discharge requirement. Savings on incremental requirements and annual costs above BPT/BAT technology for a typical new source coal preparation facility are projected to be as high as \$1.6 million and \$379 thousand respectively (1982 dollars).

With regards to toxic pollutants, allowing a discharge from new source preparation plants will have a minimal adverse impact on the environment because the standards will result in removal of significant amounts of these pollutants from the raw wastewater. This discharge allowance will, however, result in an increase in mass loading of certain nonconventional and conventional pollutants discharged to the environment (primarily TSS, iron, manganese, and pH). If this increased pollutant loading results in localized water quality problems, then it can be handled on a case-by-case basis through the NPDES permitting process.

C. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses on "major rules". Major rules are those that impose an annual cost to the economy of \$100 million or more, or meet other economic impact criteria. This proposed regulation is not a major rule because it would not result in such economic impacts. It therefore does not require a formal regulatory impact analysis. This proposed rulemaking satisfies the requirement of the Executive Order for a non-major rule.

This notice was submitted to the Office of Management and Budget for review as also required by Executive Order 12291.

D. Regulatory Flexibility Analysis

Public Law 96-354 requires EPA to prepare an Initial Regulatory Flexibility analysis for all proposed regulations that have a significant impact on a substantial number of small entities. The

analysis may be conducted in conjunction with or as part of other Agency analyses. EPA has determined that this regulation will not, for the reasons stated above, have a significant impact on a substantial number of small entities. Therefore, a formal Regulatory Flexibility analysis is not required.

VI. Enforcement

The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

List of Subjects in 40 CFR Part 434

Mines, Water pollution control, Waste treatment and disposal.

Dated: April 19, 1984.

William D. Ruckelshaus,
Administrator.

EPA proposes to revise Part 434 of Title 40 to read as follows:

PART 434—COAL MINING POINT SOURCE CATEGORY BPT, BAT, BCT LIMITATIONS AND NEW SOURCE PERFORMANCE STANDARDS

Subpart A—General Provisions

Sec.

434.10 Applicability.

434.11 General Definitions.

Subpart B—Coal Preparation Plants and Coal Preparation Plant Associated Areas

434.20 Applicability.

434.21 [Reserved].

434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available [BPT].

434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable [BAT].

434.24 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [BCT] [Reserved].

434.25 New Source Performance Standard [NSPS].

Subpart C—Acid or Ferruginous Mine Drainage

434.30 Applicability.

434.31 [Reserved].

434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available [BPT].

434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the

Sec.

best available technology economically achievable [BAT].

434.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best conventional pollutant control technology [BCT]. [Reserved].

434.35 New Source Performance Standard [NSPS].

Subpart D—Alkaline Mine Drainage

434.40 Applicability.

434.41 [Reserved].

434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available [BPT].

434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable [BAT].

434.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [BCT]. [Reserved].

434.45 New Source Performance Standard [NSPS].

Subpart E—Post-Mining Areas

434.50 Applicability.

434.51 [Reserved].

434.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available [BPT].

434.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable [BAT].

434.54 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [BCT]. [Reserved].

434.55 New Source Performance Standard [NSPS].

Subpart F—Miscellaneous Provisions

434.60 Applicability.

434.61 Commingling of Waste Streams.

434.62 Alternate Effluent Limitations for pH.

434.63 Effluent Limitations During Precipitation Events.

434.64 Procedure and Method Detection Limit for Measurement of Settleable Solids.

434.65 Modifications of NPDES Permits for New Sources.

Appendix A—Alternate Storm Limitations for Acid Mine Drainage

Authority: Sections 301 304(b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendment of 1972, as amended by the Clean Water Act of 1977), (the "Act"); 33 United States, 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

Subpart A—General Provisions

§ 434.10 Applicability.

This part applies to discharges from any coal mine at which the extraction of coal is taking place or is planned to be undertaken and to coal preparation plants and associated areas.

§ 434.11 General definitions.

(a) The term "acid or ferruginous mine drainage" means mine drainage which, before any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater than 10 mg/l.

(b) The term "active mining area" means the area, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas and post-mining areas.

(c) The term "alkaline mine drainage" means mine drainage which, before any treatment, has a pH equal to or greater than 6.0 and a total iron concentration of less than 10 mg/l.

(d) The term "bond release" means the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing and abandonment procedures) has been satisfactorily completed.

(e) The term "coal preparation plant" means a facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and then is loaded for transit to a consuming facility.

(f) The term "coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

(g) The term "coal preparation plant water circuit" means all pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.

(h) The term "mine drainage" means any drainage, and any water pumped or siphoned, from an active mining area or a post-mining area.

(i) The abbreviation "ml/l" means milliliters per liter.

(j)(1) Notwithstanding any other provision of this Chapter, subject to paragraph (j)(2) of this section, the term "new source coal mine" means a coal mine (excluding coal preparation plants

and coal preparation plant associated areas) including an abandoned mine which is being re-mined:

(i) the construction of which is commenced after [insert date of final rule publication]; or

(ii) which is determined by the EPA Regional Administrator to constitute a "major alteration". In making this determination, the Regional Administrator shall take into account whether one or more of the following events resulting in a new, altered or increased discharge of pollutants has occurred after [insert date of final rule publication] in connection with the mine for which the NPDES permit is being considered.

(A) Extraction of a coal seam not previously extracted by that mine;

(B) Discharge into a drainage area not previously affected by wastewater discharge from the mine;

(C) Extensive new surface disruption at the mining operation;

(D) A construction of a new shaft, slope or drift; and

(E) Such other factors as the Regional Administrator deems relevant.

(2) No provision in this Part shall be deemed to affect the classification as a new source of a facility which was classified as a new source coal mine under previous EPA regulations, but would not be classified as a new source under this section, as modified. Nor shall any provision in this part be deemed to affect the standards applicable to such facilities, except as provided in § 434.65 of this Chapter.

(k) The term "post-mining area" means: (1) A reclamation area or (2) the underground workings of an underground coal mine after the extraction, removal or recovery of coal from its natural deposit has ceased and prior to bond release.

(l) The term "reclamation area" means the surface area of a coal mine which has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.

(m) The term "settleable solids" is that matter measured by the volumetric method specified in § 434.64.

(n) The term "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval on once in ten years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.

(o) The terms "treatment facility" and

"treatment system" mean all structures which contain, convey, and as necessary, chemically or physically treat coal mine drainage, coal preparation plant process wastewater, or drainage from coal preparation plant associated areas, which remove pollutants regulated by this Part from such waters. This includes all pipes, channels, ponds, basins, tanks and all other equipment serving such structures.

(p) The term "coal refuse disposal pile" means any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

(q) The term "controlled surface mine drainage" means any surface mine drainage that is pumped or siphoned from the active mining area.

(r) The term "abandoned mine" means a mine where mining operations have occurred in the past and:

(1) The applicable reclamation bond or financial assurance has been released or forfeited; or

(2) If no reclamation bond or other financial assurance has been posted, no mining operations have occurred for five years or more.

Subpart B—Coal Preparation Plants and Coal Preparation Plant Associated Areas

§ 434.20 Applicability.

The provisions of this subpart are applicable to discharges from coal preparation plants and coal preparation plant associated areas, as indicated, including discharges which are pumped, siphoned, or drained from the coal preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.21 [Reserved].

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

(a) Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas

subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from such point sources normally exhibit a pH of less than 6.0 prior to treatment:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH	(¹)	(¹)

¹ Within the range of 6.0 to 9.0 at all times.

(b) Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17 and §§ 434.61 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	7.0	3.5
TSS	70	35
pH	(¹)	(¹)

¹ Within the range of 6.0 to 9.0 at all times.

§ 434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best available technology economically achievable if discharges from such point sources normally exhibit a pH of less than 6.0 prior to treatment:

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total.....	7.0	3.5
Manganese, total.....	4.0	2.0

(b) Except as provided in 40 CFR 125.30-125.32, and §§ 434.61 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best available technology economically achievable if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total.....	7.0	3.5

§ 434.24 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology [BCT] [Reserved]

§ 434.25 New Source Performance Standards (NSPS)

The following new source performance standards (NSPS) shall be achieved by any new source coal preparation plant and coal preparation plant associated areas, as indicated:

(a) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following new source performance standards shall apply to discharges from new source coal preparation plants and new source coal preparation plant associated areas, if such discharges normally exhibit a pH of less than 6.0 prior to treatment:

NSPS EFFLUENT LIMITATIONS (MG/L)

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total.....	6.0	3.0
Manganese, total.....	4.0	2.0
TSS.....	70	35
pH.....	(¹)	(¹)

¹ 6.0-9.0 at all times.

(b) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of

this Part, the following new source performance standards shall apply to discharges from new source coal preparation plants and new source coal preparation plant associated areas, if such discharges normally exhibit a pH equal to or greater than 6.0 prior to treatment.

NSPS EFFLUENT LIMITATIONS (MG/L)

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total.....	6.0	3.0
TSS.....	70	35
pH.....	(¹)	(¹)

¹ 6.0-9.0 at all times.

Subpart C—Acid or Ferruginous Mine Drainage

§ 434.30 Applicability.

The provisions of this subpart are applicable to acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.31 [Reserved]

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

(a) Except as provided in 40 CFR 125.30-125.32, 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants 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:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days
Iron, total.....	7.0	3.5
Manganese, total.....	4.0	2.0
TSS.....	70.0	35.0
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

§ 434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30-125.32, 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following limitations establish the

concentration or quality of pollutants which may be discharged by a point source subject to the provisions of the best available technology economically achievable:

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days
Iron, total.....	7.0	3.5
Manganese, total.....	4.0	2.0

§ 434.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT) [Reserved]

§ 434.35 New Source Performance Standards (NSPS)

(a) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following new source performance standards shall be achieved for any discharge from a new source subject to this subpart:

NSPS EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days
Iron, total.....	6.0	3.0
Manganese, total.....	4.0	2.0
TSS.....	70.0	35.0
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

Subpart D—Alkaline Mine Drainage

§ 434.40 Applicability.

The provisions of this subpart are applicable to alkaline mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.41 [Reserved].

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

(a) Except as provided in 40 CFR 125.30-125.32, 40 CFR 401.17, and §§ 434.61 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants 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:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days
Concentration in mg/l		
Iron, total.....	7.0	3.5
TSS.....	70.0	35.0
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

§ 434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30-125.32, and §§ 434.61 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any one day	Average of daily values for thirty consecutive days
Concentration in mg/l		
Iron, total.....	7.0	3.5

§ 434.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 434.45 New Source Performance Standards (NSPS)

(a) Except as provided in 40 CFR 401.17 and §§ 434.61 and 434.63 of this Part, the following new source performance standards shall be achieved for any discharge from a new source subject to this subpart:

NSPS EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	6.0	3.0
TSS.....	70.0	35.0
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

Subpart E—Post-Mining Areas

§ 434.50 Applicability

The provisions of this subpart are applicable to discharges from post-mining areas.

§ 434.51 [Reserved.]

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

(a) *Reclamation Areas.* The limitations in this subsection apply to discharges from reclamation areas until the performance bond issued to the facility by the appropriate SMCRA authority has been released.

(1) Except as provided in 40 CFR 125.30-125.32, 40 CFR 401.17 and §§ 434.61 and 434.63 (d)(2) of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Settleable solids.....	0.5 ml/l	Maximum at all times.
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

(b) *Underground Mine Drainage.* The limitations in this subsection apply to discharges from the underground workings of underground mines until SMCRA bond release.

(1) Except as provided in 40 CFR 125.30-125.32, 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants in acid or ferruginous mine drainage subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	7.0	3.5
Manganese, total.....	4.0	2.0
TSS.....	70.0	35.0
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

(2) Except as provided in 40 CFR 125.30-125.32, 40 CFR 401.17 and §§ 434.61 and 434.63 of this Part, the

following limitations establish the concentration or quality of pollutants in alkaline mine drainage subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	7.0	3.5
TSS.....	70.0	35.0
pH.....	(¹)	(¹)

¹ Within the range 6.0 to 9.0 at all times.

§ 434.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) *Reclamation Areas.* The limitations of this subsection apply to discharges from reclamation areas until SMCRA bond release.

(1) Except as provided in 40 CFR 125.30-125.32, and §§ 434.61 and 434.63 (d)(2) of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Settleable solids.....	0.5 ml/l	Maximum at all times.

(b) *Underground Mine Drainage.* The limitations in this subsection apply to discharges from the underground workings of underground mines until SMCRA bond release.

(1) Except as provided in 40 CFR 125.30-125.32, and §§ 434.61, 434.62, and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants in acid or ferruginous mine drainage subject to the provisions of this subsection after application of the best available technology economically achievable.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	7.0	3.5
Manganese, total.....	4.0	2.0

(2) Except as provided in 40 CFR 125.30-125.32, and §§ 434.61, and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants in alkaline mine drainage subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	7.0	3.5

§ 434.54 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 434.55 New Source Performance Standards (NSPS)

The following new source performance standards shall apply to the post-mining areas of all new source coal mines:

(a) *Reclamation Areas.* The standards of this subsection apply to discharges from reclamation areas at new source coal mines until SMCRA bond release.

(1) Except as provided in 40 CFR 401.17 and §§ 434.61 and 434.63(d)(2) of this Part, the following new source performance standards shall be achieved for a discharge subject to the provisions of this subsection:

NSPS EFFLUENT LIMITATIONS

Pollutant or pollutant Property		
Settleable solids.....	0.5 ml/l	Maximum at all times. (1)
pH.....	(1)	(1)

¹ Within the range 6.0 to 9.0 at all times.

(b) *Underground Mine Drainage.* The standards in this subsection apply to discharges from the underground workings of new source underground mines until bond release.

(1) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62, and 434.63 of this Part, the following new source performance standards shall be achieved for the discharge of any acid or ferruginous mine drainage subject to this subsection:

NSPS EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	6.0	3.0
Manganese, total.....	4.0	2.0
TSS.....	70.0	35.0
pH.....	(1)	(1)

¹ Within the range 6.0 to 9.0 at all times.

(2) Except as provided in 40 CFR 401.17 §§ 434.61 and 434.63 of this Part, the following new source performance standards shall be achieved for the discharge of any alkaline mine drainage subject to this subsection:

NSPS EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Concentration in mg/l		
Iron, total.....	6.0	3.0
TSS.....	70.0	35.0
pH.....	(1)	(1)

¹ Within the range 6.0 to 9.0 at all times.

Subpart F—Miscellaneous Provisions

§ 434.60 Applicability.

The provisions of this Subpart F apply to this Part 434 as specified in Subparts B, C, D and E.

§ 434.61 Commingling of waste streams.

Where waste streams from any facility covered by this Part are combined for treatment or discharge with waste streams from another facility covered by this Part, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

§ 434.62 Alternate effluent limitation for pH.

Where the application of neutralization and sedimentation treatment technology results in inability to comply with the otherwise applicable manganese limitations, the permit issuer may allow the pH level in the final effluent to exceed 9.0 to a small extent in order that the manganese limitations can be achieved.

§ 434.63 Effluent limitations for precipitation events.

(a)(1) The alternate limitations specified in paragraph (a)(2) of this section apply with respect to:

(i) All discharges of alkaline mine drainage except discharges from

underground workings of underground mines that are not commingled with other discharges eligible for these alternate limitations;

(ii) All discharges from steep slope areas, (as defined in § 515(d)(4) of the Surface Mining Control and Reclamation Act of 1977 as amended (SMCRA)), and from mountaintop removal operations (conducted pursuant to § 515(c) of SMCRA);

(iii) Discharges from coal preparation plants and preparation plant associated areas (excluding acid mine drainage from coal refuse disposal piles).

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Settleable solids.....	0.5 ml/l maximum not to be exceeded.
pH.....	6.0 to 9.0 at all times.

(b) The following alternate limitations apply with respect to acid or ferruginous discharges from coal refuse disposal piles:

Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 1-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Settleable solids.....	0.5 ml/l maximum not to be exceeded.
pH.....	6.0 to 9.0 at all times.

(c) The following alternate limitations apply with respect to acid or ferruginous mine drainage, except for discharges addressed above in paragraph (a) (mountaintop removal and steep slope areas), and discharges addressed below in paragraph (d) (controlled surface mine discharges) and paragraph (f) (discharges from underground workings of underground mines):

(1) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period less than or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the

following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Iron, total	7.0 mg/l maximum for any 1 day.
Settleable solids	0.5 ml/l maximum not to be exceeded.
pH	6.0 to 9.0 at all times.

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitation instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Settleable solids	0.5 ml/l maximum not to be exceeded.
pH	6.0 to 9.0 at all times.

(d)(1) The alternate limitations specified in paragraph (d)(2) of this section apply with respect to all discharges described in paragraphs (a), (b) and (c) of this section and to:

(i) Discharges of acid mine drainage from underground workings of underground mines which are commingled with other discharges eligible for these alternate limitations; and

(ii) Controlled acid surface mine discharges; and

(iii) Discharges from reclamation areas.

(2) Any discharge of increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitation instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
pH	6.0 to 9.0 at all times.

(e) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in paragraphs (a), (b), (c), and (d) of this Section.

(f) Discharges of mine drainage from underground workings of underground mines which are not commingled with discharges eligible for alternate

limitations set forth in this section shall in no event be eligible for the alternate limitations set forth in this Section.

§ 434.64 Procedure and method detection limit for measurement of settleable solids.

For the purposes of this Part, the following procedure shall be used to determine settleable solids:

Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating materials occurs, do not include the floating material in the reading.

Notwithstanding any provision of 40 CFR Part 136, the method detection limit for measuring settleable solids under this Part shall be 0.4 ml/l.

§ 434.65 Modification of NPDES permits for new sources.

Any coal mine or coal preparation plant which was considered a new source under previous EPA regulations may, notwithstanding § 122.62 of this Chapter, apply to have its NPDES permit modified to incorporate the revised new source performance standards.

Appendix A

ALTERNATE STORM LIMITATIONS
FOR ACID MINE DRAINAGE

	Precipitation Event			
	Dry Weather **	1-yr, 24-hr	2-yr, 24-hr	10-yr, 24-hr
1. Discharges from underground workings of underground mines - not commingled +	TSS, pH, Iron Manganese (NO ALTERNATE LIMITATIONS)			
2. Discharges from underground workings of underground mines - commingled	TSS, pH, Iron, Manganese			pH
3. Controlled surface mine drainage	TSS, pH, Iron, Manganese			pH
4. Non-controlled surface mine drainage (except steep slope and mountaintop removal)	TSS, pH, Iron Manganese	SS*, pH, Iron	SS, pH	pH
5. Discharges from coal refuse disposal piles	TSS, pH, Iron, Manganese	SS, pH	pH	
6. Discharges from steep slope and mountaintop removal areas +	TSS, pH, Iron Manganese	SS, pH	pH	
7. Discharges from preparation plant associated areas (excluding coal refuse piles) and preparation plants +	TSS, pH, Iron Manganese	SS, pH	pH	
8. Discharges from Reclamation Areas +	SS, pH			pH

* SS = Settleable Solids

** Discharge caused by precipitation

+ These categories do not differ from the Oct. 13, 1982 regulation.