

EFFLUENT LIMITATIONS—Continued

Pollutant	Requirement
(iv) TSS .....	During remining and reclamation, may not exceed baseline loadings (as defined by Appendix B of this part). Prior to bond release, the pre-existing discharge must meet the applicable standards for TSS or SS contained in Subpart E. <sup>1</sup>

<sup>1</sup> A pre-existing discharge is exempt from meeting standards in Subpart E of this part for TSS and SS when the permitting authority determines that Subpart E standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes, or other baseline conditions provided that the operator demonstrates that significant reductions of TSS and SS will be achieved through the incorporation of sediment control BMPs into the Pollution Abatement Plan as required by paragraph (a) of this section.

(2) If the permitting authority determines that it is infeasible to collect samples for establishing the baseline pollutant levels pursuant to paragraph (b)(1) of this section, and that remining will result in significant improvement that would not otherwise occur, then the numeric effluent limitations in paragraph (b)(1) of this section do not apply. Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to, discharges that exist as a diffuse groundwater flow that cannot be assessed via sample collection; a base flow to a receiving stream that cannot be monitored separate from the receiving stream; a discharge on a steep or hazardous slope that is inaccessible for sample collection; or, a number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

**§ 434.73 Effluent limitations attainable by application of the best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30 through 125.32 and 434.72(b)(2), a pre-existing discharge must comply with the effluent limitations listed in § 434.72(b) for net acidity, iron and manganese. The operator must also submit and implement a Pollution Abatement Plan as required in § 434.72(a).

**§ 434.74 Effluent limitations attainable by application of the best conventional pollutant control technology (BCT).**

Except as provided in 40 CFR 125.30 through 125.32 and 434.72(b)(2), a pre-existing discharge must comply with the effluent limitations listed in § 434.72(b) for total suspended solids. The operator

must also submit and implement a Pollution Abatement Plan as required in § 434.72(a).

**§ 434.75 New source performance standards (NSPS).**

Except as provided in § 434.72(b)(2), a pre-existing discharge from a new source remining operation must comply with the effluent limitations listed in § 434.72(b) for iron, manganese, acidity and total suspended solids. The operator must also submit and implement a Pollution Abatement Plan as required in § 434.72(a).

**Subpart H—Western Alkaline Coal Mining**

SOURCE: 67 FR 3407, Jan. 23, 2002, unless otherwise noted.

**§ 434.80 Specialized definitions.**

(a) The term *brushing and grubbing area* means the area where woody plant materials that would interfere with soil salvage operations have been removed or incorporated into the soil that is being salvaged.

(b) The term *regraded area* means the surface area of a coal mine that has been returned to required contour.

(c) The term *sediment* means undissolved organic and inorganic material transported or deposited by water.

(d) The term *sediment yield* means the sum of the soil losses from a surface minus deposition in macro-topographic depressions, at the toe of the hillslope, along field boundaries, or in terraces and channels sculpted into the hillslope.

(e) The term *topsoil stockpiling area* means the area outside the mined-out area where topsoil is temporarily

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stored for use in reclamation, including containment berms.

(f) The term *western coal mining operation* means a surface or underground coal mining operation located in the interior western United States, west of the 100th meridian west longitude, in an arid or semiarid environment with an average annual precipitation of 26.0 inches or less.

**§ 434.81 Applicability.**

(a) This subpart applies to alkaline mine drainage at western coal mining operations from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded areas.

(b) This subpart applies to drainage at western coal mining operations from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded areas where the discharge, before any treatment, meets all the following requirements:

- (1) pH is equal to or greater than 6.0;
- (2) Dissolved iron concentration is less than 10 mg/L; and
- (3) Net alkalinity is greater than zero.

(c) The effluent limitations in this subpart apply until the appropriate SMCRA authority has authorized bond release.

**§ 434.82 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30 through 125.32, the following effluent limitations apply to mine drainage from applicable areas of western coal mining operations:

(a) The operator must submit a site-specific Sediment Control Plan to the permitting authority that is designed to prevent an increase in the average annual sediment yield from pre-mined,

undisturbed conditions. The Sediment Control Plan must be approved by the permitting authority and be incorporated into the permit as an effluent limitation. The Sediment Control Plan must identify best management practices (BMPs) and also must describe design specifications, construction specifications, maintenance schedules, criteria for inspection, as well as expected performance and longevity of the best management practices.

(b) Using watershed models, the operator must demonstrate that implementation of the Sediment Control Plan will result in average annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The operator must use the same watershed model that was, or will be, used to acquire the SMCRA permit.

(c) The operator must design, implement, and maintain BMPs in the manner specified in the Sediment Control Plan.

**§ 434.83 Effluent limitations attainable by application of the best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30 through 125.32, any existing western coal mining operation with drainage subject to this subpart must meet the effluent limitations in § 434.82.

**§ 434.84 Effluent limitations attainable by application of the best conventional pollutant control technology (BCT). [Reserved]**

**§ 434.85 New source performance standards (NSPS).**

Any new source western coal mining operation with drainage subject to this subpart must meet the effluent limitations in § 434.82.