the design and construction of all di-
versions of perennial and intermittent
streams and all stream restorations.
The design certification must certify
that the design meets the design re-
quirements of this section and any de-
sign criteria set by the regulatory au-
thority. The construction certification
must certify that the stream-channel
diversion or stream restoration meets
all construction requirements of this
section and is in accordance with the
approved design.

(c) Diversion of miscellaneous flows. (1)
Miscellaneous flows, which consist of
all flows except for perennial and in-
termittent streams, may be diverted away
from disturbed areas if required or ap-
proved by the regulatory authority.
Miscellaneous flows shall include
ground-water discharges and ephemeral
streams.
(2) The design, location, construc-
tion, maintenance, and removal of di-
versions of miscellaneous flows shall
meet all of the performance standards
set forth in paragraph (a) of this sec-
tion.
(3) The requirements of paragraph
(a)(2)(ii) of this section shall be met
when the temporary and permanent di-
versions for miscellaneous flows are de-
dsigned so that the combination of
channel, bank and flood-plain configu-
reration is adequate to pass safely the
peak runoff of a 2-year, 6-hour precipi-
tation event for a temporary diversion
and a 10-year, 6-hour precipitation
event for a permanent diversion.

§ 817.46 Hydrologic balance: Siltation
structures.
(a) For the purposes of this section
only, disturbed areas shall not include
those areas—
(1) In which the only surface mining
activities include diversion ditches, silt-
tation structures, or roads that are de-
signed, constructed and maintained in
accordance with this part; and
(2) For which the upstream area is
not otherwise distributed by the oper-
ator.

[48 FR 43993, Sept. 26, 1983, as amended at 73
FR 75884, Dec. 12, 2008]