

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 434]

[FRL 789-8]

COAL MINING POINT SOURCE CATEGORY

Standards of Performance for New Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: These proposed regulations set forth limitations on the discharge of pollutants into navigable waters from "new source" coal mines and coal preparation plants. These regulations are required to be issued under the Federal Water Pollution Control Act. When promulgated in final form, the limitations will be incorporated in National Pollutant Discharge System Permits issued to new sources by the Federal EPA or by States with approved programs.

DATE: Comments must be received on or before November 18, 1977.

ADDRESS: Send comments to: Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

FOR FURTHER INFORMATION CONTACT:

William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, Washington, D.C. 20460 (202-426-2726).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 17, 1975, EPA promulgated a regulation adding Part 434 to Title 40 of the Code of Federal Regulations (40 FR 48830). That regulation with subsequent amendments established interim effluent limitations guidelines, based on the "best practicable control technology currently available" (BPT), for existing sources in the coal mining point source category. On April 26, 1977, EPA promulgated final effluent limitations guidelines for the coal mining point source category based on best practicable control technology currently available (40 FR 21380). These final effluent limitations guidelines included a number of major changes and clarifications which reflected public comments received on the earlier interim final regulations.

On May 13, 1976, EPA proposed standards of performance and pretreatment standards for new sources for two subcategories of the coal mining point source category: Subpart A (coal preparation plant subcategory) and Subpart B (coal storage, refuse storage, and coal preparation plant ancillary area subcategory) (41 FR 19841). (Those Subparts A and B were subsequently combined as Subpart B, Coal Preparation Plants and Associated Areas, when the final BPT regulations were promulgated). The Agency also proposed limitations based on best available technology economically achievable (BAT) for Subparts A, B, C, and D. New source standards of per-

formance for mine drainage (Subparts C and D) were not proposed at that time because new source coal mine NPDES permits pose difficult problems in connection with the environmental analysis that must be conducted under the National Environmental Policy Act (NEPA) and section 511(c) of the Act. The Agency is addressing these problems in this regulation by adding a definition for "new source coal mines", and by issuing guidance for the environmental review of permits for mines which fall within this definition.

The present proposed regulations would amend 41 FR 19841 by establishing standards of performance for new sources in Subparts B, C, D, and F. With respect to Subpart B, the present proposal modifies the new source performance standards originally proposed in 41 FR 19841. Subpart E has been added in anticipation of a later proposal of guideline limitations covering the drainage from areas under reclamation. Subpart F is a new subcategory which covers Western mines.

The standards of performance proposed today reflect Agency consideration of comments received on earlier rulemakings. Many of these comments were relevant to the promulgation of BPT regulations on April 26, 1977, and are discussed at length in 42 FR 21380. Therefore, except as specifically noted, the preamble set forth in 42 FR 21380 is incorporated herein by reference. A summary of comments which pertained specifically to new source performance standards and the Agency's response is set forth under Summary of Public Participation.

LEGAL AUTHORITY

These standards are issued under the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, 86 Stat. 816, Pub. L. 92-500 (the Act).

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants, to implement standards of performance under section 306 of the Act. The report, or "Development Document", referred to in the preamble of this notice provides methods, and fulfills the requirements of section 304(c).

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new

sources included in a list published under section 306(b)(1)(A) of the Act. On October 17, 1975, a notice appeared in the Federal Register titled "Additions to the List of Categories of Sources" (40 FR 48712) adding the coal mining point source category and is in accordance with the provisions of section 306(b)(1)(A) of the Act. The regulation applicable to new sources for the coal preparation plants and associated areas subcategory (Subpart B), the acid of ferruginous mine drainage subcategory (Subpart C), the alkaline mine drainage subcategory (Subpart D), and the Western mines subcategory (Subpart F) of the coal mining point source category.

SUMMARY AND BASIS OF STANDARDS

The present regulations establish limitations on TSS, iron, manganese, and pH.

The general methodology which was used is discussed in the preamble and Development Document of the final regulations for the coal mining point source category promulgated by EPA on April 26, 1977 (42 FR 21380). While that final regulation applies to existing sources, the definitions and basic pollution control concepts employed are also utilized in these proposed standards of performance.

(1) *Coal preparation plants and associated areas.* Since the issuance of regulations on April 25, 1977 (42 FR 21380), all coal preparation plants and associated areas are covered by a single subcategory (Subpart B). The new proposed regulations allow a discharge of process waste water pollutants from point sources in this subcategory, subject to the same limitations discussed above for mine drainage, if recycling of water for use in processing is practiced. If no recycling is practiced, then there may be no discharge of process waste water pollutants. These requirements take into account the information presented by the industry indicating that even when facilities are designed to recycle process water, occasional discharges may nevertheless be necessary due to the accumulation of excess water. At the same time these standards reflect the data which show that recycling of process water is widely practiced in the industry.

The standards of performance for new source coal preparation plants and associated areas are based on the application of the best available demonstrated control technology. All preparation plants visited or contacted had some form of settling facilities associated with the preparation plant and the majority had provisions for recirculating the clarified process waste water back to the preparation plant. Coal preparation is water consumptive due to the water loss on clean coal, coal refuse, and thermal drying of coal. The majority of coal preparation plants maximize the use of water resources through water recirculation. This technology is consequently well demonstrated in this industry as a means of limiting the discharge of pollutants.

As in other mining categories, the limitations are applied on a concentration basis (mg/l) rather than a mass basis (lbs/ton of product), because no direct correlation between water usage and production could be established. Therefore, EPA was unable to simply establish a mass limit which would reflect total pollutants discharged from a coal preparation plant and associated areas, assuming that the plant is recycling process water. The standards which are established, therefore, refer to the pollutant levels that can be attained through use of "best available demonstrated control technology," without reference to tons of production.

(2) *Mine drainage.* The standards for mine drainage from Eastern mines in Subparts C and D are based upon the degree of effluent reduction achievable through the application of "best available demonstrated control technology." The standards proposed today to control the discharge of total suspended solids are the same as the BPT regulations for existing sources. The standard for discharges of manganese in acid or ferruginous mine drainage (Subpart C) are also the same as the BPT regulations. The new source performance standards to control the discharge of total iron are equivalent to the more stringent proposed BAT limitations for existing sources, rather than to the BPT limitations, since it has been demonstrated that these limitations can be met through proper maintenance and careful pH control.

(3) *Areas under reclamation.* The new source performance standards proposed today for mine drainage discharges apply only to discharges from "active mining areas." An active mining area is a place where work or other activity related to the extraction, removal, or recovery of coal is being conducted, except, with respect to surface mines, any land on or in which grading has been completed to return the earth to the desired contour and reclamation has begun.

Thus, mining areas which have been returned to final contour and are under reclamation are not subject to the present proposed standards for Subparts C and D. The Agency has decided, however, to establish a separate subcategory (Subpart E) for discharges from areas under reclamation. An area under reclamation is an area of land resulting from the surface mining of coal which has been returned to final contour and for which there is an applicable revegetation or reclamation bond. As noted in the preamble to the BPT regulations, EPA is conducting an analysis of available information with respect to the water pollution which originates in surface mines undergoing revegetation and reclamation. When the Agency has an adequate opportunity to review this information, the Agency will undertake formulation of new source performance standards and other regulations for such discharges.

Although regulations for such discharges are not now being proposed, it should be noted that section 511(c) of the Act and the National Environmental

Policy Act require the Agency to include in its decisionmaking appropriate and careful consideration of all environmental aspects associated with new sources. EPA has a responsibility to inform the public of the effects of new sources through the NEPA mechanism. Under the Council of Environmental Quality guidelines, this environmental review includes consideration of land use impacts. The procedures to be followed under NEPA are discussed below under Environmental Review of New Source Coal Mine Permits.

(4) *Western coal mines.* As discussed in the preamble to the BPT regulations, data gathered by EPA's Region VIII (located in Denver, Colo.) appear to indicate that Western coal mines are able to discharge pollutants in lower concentrations than Eastern coal mines. Possible factors which explain the differences include the relatively more even topography of Western coal mines, the emphasis on conserving relatively scarce water supplies, and the relatively lower concentration of pollutants in the geologic formations being exploited. EPA has decided to propose a separate subcategory (Subpart F) for Western coal mines, and to develop a separate set of limitations specifically for Western coal mines.

Western coal mines are defined as those located west of the 100th meridian. The 100th meridian was chosen because it closely approximates the boundary of relevant climatic conditions (arid and semi-arid areas) and geographical features (alluvial valley floors used for agriculture; availability of relatively flat land for large settling ponds).

(5) *Monitoring.* The coal mining point source category has been divided into major subcategories based on the waste water characteristics, and treatability of the waste water. (See section IV of the Development Document.) The Agency recognizes that raw waste water or raw mine drainage at some mines and preparation plants in a subcategory may not contain detectable or substantial quantities of a pollutant controlled in that subcategory. Where raw waste water or raw mine drainage does not contain a pollutant controlled in detectable quantities or the pollutant is in substantially lower concentration than the effluent limitation on a consistent basis, a permit may allow the pollutant to be monitored on a less frequent schedule than the other pollutants controlled by the permit. (See 40 CFR Part 125.27.) This less frequent schedule will verify that the pollutant has not been introduced into the discharge by, for example, a change in the process or a change in the mineralogy of the coal or overburden. Such modification to monitoring requirements will be considered on a case-by-case basis by the agency issuing the permit.

(6) *Availability of documents.* A report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Coal Mining Point Source Category, May 1977," details the analysis undertaken in support of the regulation being proposed today and is available for inspection in

the EPA Public Information Reference Unit, Room 2404, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, at all EPA Regional offices, and at State water pollution control offices. A supplementary analysis entitled "Economic Impact of Effluent Guidelines, Coal Mining" which was prepared for EPA on the potential economic effects of the proposed regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by this proposed regulation and to those who have placed themselves on a mailing list for this purpose (see EPA's advance notice of public review procedures, 38 FR 21202, August 6, 1973). Additional copies of both reports are available from the National Technical Information Service, Springfield, Va. 22151.

DEFINITION OF A NEW SOURCE COAL MINE

These regulations add a new § 434.11 (1), which defines the term "new source" with reference to coal mines. The definition contained in this regulation is issued to implement section 306(a) (2) of the FWPCA, which provides that "the term 'new source' means any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section." Mining activity which falls within the definition of a "new source" will be subject to new source standards, rather than to existing source regulations. Furthermore, in accordance with section 511(c) of the FWPCA, federal permits for coal mines which are found to be "new sources" will be subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as described under Environmental Review of New Source Coal Mine Permits in this preamble.

The definition of a "new source coal mine" is set forth in two parts. First, a coal mine will be considered a new source if the identification number assigned by the Mining Enforcement and Safety Administration (MESA) under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173) and 30 CFR Part 82, is not assigned before new source performance standards are proposed. Under the Coal Mine Health and Safety Act, MESA is charged with making frequent inspections and investigations in every operating coal mine in the United States. In order to carry out and record the inspections required, MESA assigns identification numbers to all existing and operating coal mines. Since a report of legal identity must be filed with MESA before mining is carried out (30 CFR 75-1721, 77.1712, 82.1-82.20), the date that the MESA number is assigned is useful in determining whether "construction" of a mine (within the meaning of section 306 of the Act) occurred after the proposal of new source performance standards. The MESA list includes all mines known to be operating. If a mine is not on the MESA list of mines as of the date

of proposal of applicable new source performance standards, then EPA will conclude that the mine was begun after that date, and will determine that it is a "new source."

Regional offices of the Agency will be furnished with a complete list of mines identified by MESA in their Region as of the date of this proposed regulation. Applications for NPDES permits from coal mines should include the applicable MESA identification number.

Second, even if the MESA number has been assigned before the proposal of new source performance standards, the Regional Administrator may determine that a coal mine is a new source, based on his consideration of a list of criteria which relate to the expansion of coal mining activities into new areas. If the Regional Administrator finds, based on these criteria, that a coal mine is a "substantially new operation," then the coal mine will be considered a new source.

The list of criteria focuses on the occurrence of the following: Extraction of a coal seam not previously extracted by the mine operation; discharge into a drainage area not previously affected by waste water from the mine operation; creation of extensive new surface disruption; construction of a new shaft, slope or drift; acquisition of additional land or mineral rights; significant capital investment in additional equipment or additional facilities; and such other factors as the Regional Administrator deems relevant.

The occurrence of any one of these events is not intended to be conclusive in making a new source determination. Rather, the list of criteria is intended to guide the Regional Administrator in assessing the overall situation.

In all industries, if a plant owner substantially alters or significantly expands existing facilities after the proposal of new source performance standards, then EPA may find that a "new source" has been constructed. Furthermore, if a plant owner incurs some expenses before the proposal of new source performance standards, but only makes a substantial commitment to build in a particular place after that date, EPA may find that the facility is a new source. The factors which are usually considered relevant in making new source determinations are described in 40 CFR Part 6, Appendix A (42 FR 2450, January 11, 1977).

Creation of a coal mine is, in many obvious ways, different from construction of a plant. The list of criteria proposed today is intended to help the Regional Administrator define a "new source" in a way that is as analogous as possible to the criteria used in other industries. Thus a consideration of when the mine owner has made a substantial commitment to mine in a particular area is important. The list of relevant criteria include the acquisition of property rights and investment in equipment or facilities for use in a particular area. Other criteria relate to assessing the extent of expansion or alteration of mining activity. Thus, consideration of whether the mine operator has begun mining a new seam

or whether mine drainage has begun to enter a different drainage area is relevant to determining the scope and nature of the expansion. Acquisition and use of new facilities or equipment, construction of new shafts, slopes, or drifts, creation of extensive new surface disruption or mining in a new seam are also factors to consider in assessing whether the expansion or change in the mining activity warrants a new source determination. Some of the factors (extensive new surface disruption, mining in a new seam with different pollutant levels, or drainage into a different drainage area) may be particularly important if they lead to the creation of significant new environmental problems, such as pollution of another stream or an increase or change in the pollutants entering the receiving stream.

Because the characteristics of coal mines and the technologies used vary widely from one region to another, it was decided that some relevant criteria (in addition to those described above) may need to be formulated at the regional level.

EPA has decided to rely upon these additional criteria, in addition to the MESA number, because mining operations in contiguous areas remain subject to a single identification number no matter how much additional investment or surface disruption occurs. Under section 306 of the FWPCA, a key concern is the creation of new sources of pollution and the incorporation of more advanced pollution control techniques into the plans for new construction. The assignment of a MESA number does not require consideration of many of the factors which would warrant the classification of a mine as a new source. Therefore, the Regional Administrator is given the authority to make new source determinations based on additional criteria which are relevant in the environmental context.

ENVIRONMENTAL REVIEW OF NEW SOURCE COAL MINE PERMITS

In accordance with section 511(c) of the Act, federal permits for "new sources" are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.; 33 Stat. 852 et seq.; Pub. L. 91-190). NEPA requires identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." (Section 102(2)(c).)

General regulations governing the application of NEPA to new source permits were promulgated on January 11, 1977, 40 CFR Part 6 (42 FR 2450). The general regulations provide for environmental review by EPA of new source permits. EPA initially reviews an "environmental

impact assessment" submitted by the permit applicant. Upon completion of this review, EPA may either issue a "negative declaration" (indicating that no significant environmental impact is anticipated) or require the preparation of an environmental impact statement (EIS) as a basis for more extensive review.

For further information on 40 CFR Part 6—Preparation of Environmental Impact Statements, and this portion of the preamble addressing Environmental Review of New Source Coal Mines contact:

Peter Cook, Assistant Director for Policy and Procedures, Office of Federal Activities (A-104), Environmental Protection Agency, Washington, D.C. 20460 (202-755-0790).

EPA has expanded upon the general NEPA regulations by issuing a separate policy memorandum on the applicability of NEPA to new source coal mines. Copies are available at the Office of Federal Activities, at EPA headquarters and at EPA regional offices. A summary of this guidance follows:

In an effort to use resources in the most effective way, EPA has developed some screening procedures to identify the coal mines that are most likely to have a significant impact on the environment. The following factors were judged to be particularly relevant to the expected environmental impact: (1) the rate of production of the mine, and (2) the mining techniques used by the mine.

Not all new source coal mines will be required to undergo the detailed environmental review described in 40 CFR 6.906. Depending on the projected rate of production of a mine, EPA will (1) automatically conduct a detailed environmental review, (2) conduct an environmental review only if preliminary evidence indicates that the risk of significant impact on the environment may be high, or (3) allow a mine to certify to use of "best practices" (defined below) as an alternative to automatically conducting a detailed environmental review.

Although for some mines a detailed environmental review will not be automatically conducted, a review will always be conducted if preliminary evidence suggests that the risk of significant impact on the environment may be high. A negative declaration or an EIS must be prepared only if a detailed environmental review is required according to the guidance given below.

SUMMARY OF GUIDANCE FOR ENVIRONMENTAL REVIEW OF NEW SOURCE COAL MINES

(1) New source coal mines are divided into three groups as indicated in the following table:

Type of mine	Designed annual tonnage ¹		
	Under 100,000 ton per year	100,000 to 300,000 ton per year	Over 300,000 ton per year
Surface mines (including auger mines).....	Group C.....	Group B.....	Group A.....
Underground mines.....	do.....	do.....	Group B.....

¹ A mine category is determined by the production rate for the highest production year during the life of the NPDES permit. For mining operations which are conducted for less than 1 year (during the NPDES permit life regardless of its length) the rate used for categorization will be calculated by dividing 12 by the number of months coal is extracted and multiplying the resulting number by the production (in tons) to determine the equivalent annual production rate.

(2) The environmental review procedures to be used for each group are listed below:

(a) *Group A.* Coal mines in this group are subject to detailed environmental review on a routine basis under 40 CFR § 6.900. In addition to an environmental assessment, mines in this group must submit a mining plan, as described in the EPA draft document "Best Practices for New Source Surface and Underground Coal Mines."

(b) *Group B.* For coal mines in this group, Group A procedures apply, unless the permit applicant certifies that he will use "best practice procedures" as set forth in the draft document, Best Practices for New Source Surface and Underground Coal Mines. If the applicant so certifies, Group C procedures apply. A mine which has certified to use of "best practices," and which has received a permit on that basis, may be subject to a field audit to verify compliance. A mine which is chosen for a field audit may be required to submit a mining plan as described in Best Practices for New Source Surface and Underground Coal Mines prior to on site inspection.

(c) *Group C.* The Agency will not routinely conduct a detailed environmental review unless the Regional Administrator determines that such a review is warranted in the particular case, based on evidence relating to any of the following: Archaeological sites; sensitive ecosystems; habitats of endangered species; historical sites, wild and scenic rivers; wetlands; prime agricultural lands; significant surface water or groundwater pollution; recreational land uses; air quality; noise levels; community integrity and quality of life; mining in a saturated zone; presence of toxic overburden; presence of high sulfur coal; steep slope mines (over 25 percent); mining in alluvial valley floors; other criteria developed by the regional office based on characteristics of the particular region. Coal mines in Group C must submit a brief questionnaire to help the Agency identify mines or groups of mines that may need detailed review.

The Agency's decision to structure the environmental review of new source coal mines by dividing them into categories based on coal production levels is based on the belief that the amount of pollutants produced by a mine will be roughly proportional to the number of tons of coal mined for similar mine types assuming equal pollution control. A similar belief was relied upon in developing the comprehensive matrix of environmental residuals for energy systems set forth in "Energy Alternatives: A Comprehensive Analysis," a study funded jointly by the Council on Environmental Quality, the Energy Research and Development Administration, the Federal Energy Administration, the Federal Power Commission, the Department of the Interior, and the National Science Foundation. The study assumes that the pollutant residuals (pollution generated per 10¹² Btu of energy produced) remain the same re-

gardless of the size of the mining operation, assuming equal pollution control for large and small mines of a similar type. Based on this assumption, mines producing over 100,000 tons of coal per year are responsible for about 83 percent of the total coal production, and for a similar portion of the pollutants; mines producing under 100,000 tons are responsible for about 17 percent. Thus, larger coal mines are more likely to have a significant impact on the environment than smaller coal mines. The Agency has consequently decided that the priority in allocating Agency resources should be given to the review of larger mines.

The Agency has further concluded that the risk of significant impact on the environment by a coal mine can in many cases be minimized by use of sound mining practices. These practices, described in an EPA document entitled "Best Practices for New Source Surface and Underground Coal Mines," are discussed in the policy memorandum mentioned earlier from the Director of the Office of Federal Activities to the Regional Administrators, dated September 1977. In the Agency's judgment, use of "best practices" by certain coal mines will minimize or prevent environmental impacts to the extent possible, without bringing about unreasonable reduction in mining activities. For this reason, the option of certifying to use of "best practices" is offered to some coal mines as an alternative to being automatically subject to detailed environmental review. This option is not extended to large surface mines because extensive surface disruption and the total pollution generated by these mines are more likely to pose a significant threat to the environment. These large surface mines will always be subject to a detailed environmental review.

EPA believes that structuring the review process as set forth above will allow the most efficient use of the limited resources which can be devoted to new source NPDES permit review. By establishing a set of threshold criteria, the Agency hopes to keep the task within manageable limits while at the same time facilitating the early identification and review of those mines which will in fact have a significant impact on the environment.

EPA is aware that the Department of Interior (DOI) is proposing regulations required by the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). EPA will continue to work closely with the DOI Office of Surface Mining in those areas where proposed regulations affect the same activity at a coal mine. Such efforts will emphasize coordination of the two separate programs.

SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, interim final regulations for existing sources were promulgated for the coal mining point source category (41 FR 19832) which were supported by a report entitled "Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Coal Mining Point Source Category, May 1976." This

document was made available to the public. Public comment was solicited in the FEDERAL REGISTER, 41 FR 19332. A complete listing of participants and a discussion of comments and responses pertaining to the comments was contained in the final rule promulgated on April 26, 1977, for existing sources in the coal mining point source category (42 FR 21380).

While the interim final rulemaking addressed best practicable control technology currently available for existing sources, the definitions and basic pollution control concepts used are also relevant to these proposed standards of performance. Appendix C of the April 26, 1977, preamble should be referred to for a discussion of these comments.

Comments which specifically addressed the formulation of new source performance standards are set forth below:

(1) Several commenters noted that the publication of new source performance standards for coal mines had not taken place by the statutory deadline.

The Agency was forced to delay the proposal of new source performance standards because of the difficult problems associated with defining a "new source" coal mine and conducting the environmental analysis which is required for new source permits by the National Environmental Policy Act (NEPA) and Section 511(c) of the FWPCA. The present regulations include a definition of the term "new source coal mine." Furthermore, guidance set forth above addresses the question of structuring environmental review of the large numbers of new source mines which are expected to come into existence.

(2) Commenters suggested that requirements for environmental review of new source permits should be related to the size of the mine (i.e., design or proposed annual tonnage). Another suggestion was to require the preparation of environmental assessments on an area wide basis with the area being no larger than a single watershed.

Under Environmental Review of New Source Coal Mines above, the Agency outlines the factors taken into consideration in issuing guidance for Environmental Review of New Source Coal Mines. Essentially, the environmental assessments of new source coal mines is based on the size of the mine (designed annual tonnage) and the mining method used (surface or underground).

(3) A number of comments were received from public interest groups requesting the extension of coverage of the effluent limitations guidelines and new source performance standards to include areas under reclamation or those areas which have been returned to final grade, but where the reclamation bond for the area has not been returned by the appropriate State or federal agency. It was requested that EPA delay issuance of regulations to allow for an extension of the guidelines coverage to include areas which had been regraded but not reclaimed.

By use of the definition "active mining area", these proposed standards do not apply to discharges from areas affected by surface coal mining after these areas

have been graded. However, a new subcategory for areas under reclamation (Subpart E) is also established by these regulations. As discussed above under Summary of Standards, formulation of regulations for this subcategory is currently under consideration.

(4) Commenters suggested that the maximum daily limitation for total iron be set at 6.0 mg/l instead of 3.5 mg/l as suggested in the development document for new source performance standards. Commenters also suggested that the new source performance standards be the same as the limitations based on best practicable control technology currently available.

New source performance standards are based on the best available demonstrated control technology including, where practicable, a standard permitting no discharge of pollutants. The standard for total iron can be achieved with improved performance related to pH control and improved maintenance of the mine drainage treatment system. Total iron parameters can be controlled since the same neutralization process that controls pH also causes iron to precipitate out of solution; this precipitate is then removed in the process used to control total suspended solids. Consideration was given to the cost of achieving the level of reduction of iron, the non-water quality environmental impact and energy requirements in settling the limitations.

(5) Many comments were received regarding the achievability of the discharge limitations for coal preparation plants which were published on May 13, 1976 (41 FR 19332 and 41 FR 19841).

Subpart A—Coal preparation plants subcategory, and Subpart B—Coal storage, refuse storage, and coal preparation plant ancillary areas subcategory, were combined in the final regulation promulgated on April 26, 1977 (42 FR 21380) as Subpart B—Coal preparation plants and associated areas. These regulations proposed today amend the new source performance standards proposed on May 13, 1976 (41 FR 19841). The "zero discharge" requirement formerly applicable to coal preparation plants has been replaced by a single set of limitations for discharges from the plant and associated areas. For further discussion of the consolidation of the former Subparts A and B, see the April 26, 1977, preamble for the BPT regulations.

Under the present proposed regulations, facilities which recycle waste water for use in processing may discharge process waste water subject to certain limitations. Facilities which do not recycle process waste water for use in processing are subject to a "no discharge" limitation. These requirements are based on a determination by the Agency that the "best available demonstrated control technology" for this industry includes recycling of process water as a means of limiting the discharge of pollutants. As discussed above under Summary of Standards, recycling is already practiced by most coal preparation facilities. However, it has also become apparent that these facilities oc-

asionally experience discharges even when recycling is practiced. Therefore, the limitations which are now being proposed reflect the level of control of pollutant discharges which can be achieved through recycling, while at the same time allowing the occasional discharges which some plants may have even though recycling is practiced.

ECONOMIC IMPACT ANALYSIS

A report entitled "Economic Impact of Effluent Guidelines, Coal Mining," was prepared in support of these proposed regulations; it showed the proposed new source effluent guidelines are not expected to affect significantly prices, production, employment, or the balance of trade. These proposed regulations may increase 1985 raw coal prices up to 32 cents per ton for an average percentage increase of approximately 0 to 1.6 percent. The higher price is predicted to reduce the 1985 demand for coal from 897 to 894 million tons, a decrease of 0.3 percent. Assuming 12,000 BTU per pound of coal, this reduction in annual demand is approximately 72×10^{12} BTU per year.

The preparation plant standards are predicted to increase the cost of prepared coal up to seven cents per ton. This increase is approximately 3.5 percent of the \$2 per ton charge for coal cleaning and proportionally less of the cost of the prepared coal. No significant change in the demand for cleaned coal is expected to result from the proposed regulations.

Capital requirements through 1985 to comply with these standards of performance will total approximately \$126 to \$161 million. This is less than 2 percent of the eight to eleven billion dollars which the coal industry is expected to spend for capital expansion during this period. The reduction in the demand for coal in 1985 exceeds the 50×10^{12} BTU per year increase in energy consumption criterion for economic impact assessments. The economic impact report fulfills the requirement for this assessment. Accordingly, the Environmental Protection Agency has determined that this document contains a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107 and certifies that an Economic Impact Analysis has been prepared.

OPPORTUNITY FOR PUBLIC COMMENT

Interested persons may participate in the rulemaking proposed today by submitting written comments in triplicate to the Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Attention: Distribution Officer (WH-552). Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data available, or which may be relied upon by the Agency, comments should identify and provide any additional data which is available. If comments address the approach taken by the Agency in establishing the standard of performance, EPA solicits suggestions as to what alternative approach should be taken and

why this alternative better satisfies the requirements of section 306 of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460: Draft contractor reports, the development document and economic study referred to above, and supplementary material supporting the rulemaking is also maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee be charged for copying.

All comments received on or before November 18, 1977, will be considered. The Agency previously outline procedures concerning public review on August 6, 1973 (38 FR 21202).

SMALL BUSINESS ADMINISTRATION LOANS

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concern in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 20460.

Dated: September 8, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 434 is proposed to be amended as follows:

Subpart A—General Definitions

1. In § 434.11, paragraph (1) is added as follows:

§ 434.11 General Definitions.

(1) The term new source coal mine shall mean a coal mine which:

(1) Was not assigned the applicable Mining Enforcement Safety Administration (MESA) identification number under 30 CFR Part 82 prior to the date of proposal of applicable new source performance standards, or

(2) Is determined by the Regional Administrator to constitute a substantially new operation in accordance with section 306(a)(2) of the FWPCA and 40 CFR Part 6 (even if the applicable MESA identification number is assigned prior to the proposal of new source performance standards). In making this determination, the Regional Administrator shall take into account the occurrence of one or more of the following events, in connection with the mine for which the NPDES permit is being considered, after the date of proposal of applicable new source performance standards:

(i) A mine operation initiates extraction of a coal seam not previously extracted by that mine

(ii) A mine operation discharges into a drainage area not previously affected by waste water discharges from the mine

(iii) A mine operation causes extensive new surface disruption

(iv) A mine operation initiates construction of a new shaft, slope, or drift

(v) A mine operation acquires additional land or mineral rights

(vi) A mine operation makes significant capital investment in additional equipment or additional facilities

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

Subpart E—Coal Preparation Plants and Associated Areas

2. Section 434.25 is added as follows:

§ 434.25 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

(1) Discharge of process waste water pollutants from facilities which recycle waste water for use in processing shall not exceed the following limitations, if discharges from that point source normally are acidic prior to treatment:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS.....	70.0.....	35.0
Iron, total.....	3.5.....	3.0
Manganese, total.....	4.0.....	2.0
pH.....	Within the range 6 to 9.	

(2) Discharge of process waste water pollutants from facilities which recycle waste water for use in processing shall not exceed the following limitations, if discharges from that point source normally are alkaline prior to treatment:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS.....	70.0.....	35.0
Iron, total.....	3.5.....	3.0
pH.....	Within the range 6 to 9.	

(3) From facilities which do not recycle waste water for use in processing, there shall be no discharge of process waste water pollutants into navigable waters.

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Where the application of neutralization and sedimentation treatment

technology results in an sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved. In no case shall the pH exceed 9.5.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

3. Section 434.30 is revised to read as follows:

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.

The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite, except that the provisions of this subpart do not apply to Western coal mines, as defined in Subpart F of this part.

4. Section 434.35 is added as follows:

§ 434.35 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS.....	70.0.....	35.0
Iron, total.....	3.5.....	3.0
Manganese, total.....	4.0.....	2.0
pH.....	Within the range 6 to 9.	

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in an inability to comply with the manganese limitation set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitation in paragraph (a) of this section will be achieved. In no case shall the pH exceed 9.5.

Subpart D—Alkaline Mine Drainage Subcategory

5. Section 434.40 is revised to read as follows:

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite, except that the provisions of this subpart do not apply to Western coal mines, as defined in Subpart F of this part.

6. Section 434.45 is added as follows:

§ 434.45 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[Milligrams per liter]

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS.....	70.0.....	35.0
Iron, total.....	3.5.....	3.0
pH.....	Within the range 6 to 9.	

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

7. Subpart E is added as follows:

Subpart E—Areas Under Reclamation Subcategory

§ 434.50 Applicability; description of the areas under reclamation subcategory.

The provisions of this subpart are applicable to discharges from surface mining areas where grading has been completed and the area of land is bonded by an appropriate reclamation bond.

8. Subpart F is added as follows:

Subpart F—Western Coal Mines Subcategory

§ 434.60 Applicability; description of the western coal mines subcategory.

The provisions of this subpart are applicable to mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite from mines located west of the 100-degree meridian.

PROPOSED RULES

DEPARTMENT OF
TRANSPORTATION

Coast Guard

[46 CFR Parts 31, 34, 38, 40, 54, 98,
154]

[CGD 77-069a]

CONSTRUCTION AND EQUIPMENT OF
EXISTING SELF-PROPELLED VESSELS
CARRYING BULK LIQUEFIED GASES

Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Extension of time for comments on proposed rules.

SUMMARY: On June 30, 1977, the Coast Guard published an advance notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 33353) concerning U.S. and foreign flag existing self-propelled vessels that carry bulk liquified gases. This notice extends the comment period to October 11, 1977. The original closing date was August 11, 1977. Two requests have been received to extend the comment period in order to allow additional time for a thorough review of the proposal. The Coast Guard found these requests reasonable and has extended the time for comments.

DATE: Comments on the proposed rules must be received on or before October 11, 1977.

ADDRESS: Comments should be submitted to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh St., SE., Washington, D.C. 20590 (202-426-1477).

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Lieutenant Commander Thomas R. Dickey, Project Manager, Office of Merchant Marine Safety; and Mr. Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

The advance notice of proposed rulemaking was issued under the following authority:

Regulations for dangerous cargoes issued under R.S. 4472, as amended (46 U.S.C. 170) except those for flammable and combustible liquids issued under sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); the functions, powers, and duties relating to the Coast Guard under R.S. 4472, as amended, transferred to the Department under sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 46 U.S.C. 170 delegated to the Coast Guard under 49 CFR 1.46 (b) and (t), 46 U.S.C. 391a delegated to the Coast Guard under 49 CFR 1.46(n)(4).

Dated: September 12, 1977.

O. W. SILER,
Admiral, U.S. Coast
Guard Commandant.

[FR Doc.77-27140 Filed 9-16-77;8:45 am]

§ 434.65 Standards of performance for new sources.

(a) The following limitations establish the concentrations of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology:

[Milligrams per liter]

Effluent Characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS.....	40.0.....	20.0
pH.....	Within the range 6 to 9.	

(b) Any excess water, resulting from rainfall or snow melt, discharged from facilities designed, constructed, and maintained to contain or treat the volume of water which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

[FR Doc.77-27145 Filed 9-16-77;8:45 am]