

## ENVIRONMENTAL PROTECTION AGENCY

[ 40 CFR Part 434 ]

[ FRL 444-3 ]

### COAL MINING POINT SOURCE CATEGORY

#### Application of Effluent Limitations Guidelines for Existing Sources to Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 434—Coal Mining Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement an interim final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources within the coal preparation plant; coal storage, refuse storage, and coal preparation plant ancillary area; acid or ferruginous mine drainage; and alkaline mine drainage subcategories of the coal mining point source category. The information contained in the preamble to the interim final regulation is incorporated herein by references. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the effluent limitations guidelines (40 CFR 434) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

"In addition to the prohibitions set forth in Section 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to Section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by the promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to Sections 301(b) and 304(b) of the Act; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further that *when the effluent limitations guidelines for each industry are promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.*" (Emphasis added).

The regulation proposed below is intended to implement that portion of section 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

A preliminary Draft Development Document was made available to the public approximately January 1, 1975 and a Development Document to support the interim final regulation is now being published. An economic analysis report is being made available at the time of interim final promulgation. Copies of the Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) the identification of pollutants present in waste waters resulting from the

mining and preparation of coal, the characteristics of these pollutants, and the degree of pollutant reduction attainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of coal.

The options available to the Agency in establishing the level of pollutant reduction attainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the coal preparation; coal storage, refuse storage, and coal preparation plant ancillary area; acid or ferruginous mine drainage; and the alkaline mine drainage subcategories the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Document the process waste waters from the coal preparation plant; coal storage, refuse storage, and coal preparation plant ancillary area; acid or ferruginous mine drainage; and alkaline mine drainage subcategories may contain pH and suspended solids. Accordingly, it is the opinion of the EPA that because pH is recognized as a compatible pollutant, the first option is appropriate and the guidelines should not apply to process waste waters from plants in the coal preparation; coal storage, refuse storage, and coal preparation ancillary area; acid or ferruginous mine drainage and the alkaline mine drainage subcategories discharging to publicly owned treatment works. However, the operator of the publicly owned treatment works is cautioned that some of the constituents of the waste waters from these subcategories may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore, such waste waters should receive special consideration by the operator of the publicly owned treatment works and may be the subject

of subsequent further regulation by the Agency pursuant to Section 307(b) of the Act.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The EPA information regulation, 40 CFR 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR 434 be amended to add sections 434.14, 434.24, 434.34 and 434.44 as set forth below. All comments received on or before November 17, 1975 will be considered.

Dated: October 6, 1975.

RUSSELL E. TRAIN,  
Administrator.

40 CFR 434 is proposed to be amended by adding §§ 434.14, 434.24, 434.34 and 434.44 as follows:

Sec.

434.14 Pretreatment Standards for Existing Sources.

434.24 Pretreatment Standards for Existing Sources.

434.34 Pretreatment Standards for Existing Sources.

434.44 Pretreatment Standards for Existing Sources.

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§ 434.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 434.12 above shall not presently apply. Some of the constituents of the process waste waters from this subcategory may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore, such process waste waters should receive special consideration by the operator of the publicly owned treatment works and may be the subject of subsequent further regulation pursuant to Section 307(b) of the Act.

§ 434.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 434.22 above shall not presently apply. Some of the constituents of the process waste waters from this subcategory may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore,

such process waste waters should receive special consideration by the operator of the publicly owned treatment works and may be the subject of subsequent further regulation pursuant to Section 307(b) of the Act.

§ 434.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 434.32 above shall not presently apply. Some of the constituents of the process waste waters from this subcategory may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore, such process waste waters should receive special consideration by the operator of the publicly owned treatment works and may be the subject of subsequent further regulation pursuant to Section 307(b) of the Act.

§ 434.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 434.42 above shall not presently apply. Some of the constituents of the process waste waters from this subcategory may interfere with certain treatment works or may pass through such treatment works inadequately treated. Therefore, such process waste waters should receive special consideration by the operator of the publicly owned treatment works and may be the subject of subsequent further regulation pursuant to Section 307(b) of the Act.

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