

**§ 434.71**

**40 CFR Ch. I (7-1-10 Edition)**

regulatory authority after consideration of soil, climate, and other characteristics of a region or State. This term does not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and through which the mining operation is to proceed, leaving a plain or predominantly flat area.

(e) The term *new source remining operation* means a remining operation at a coal mine where mining first commences after February 22, 2002 and subsequently becomes an abandoned mine.

**§ 434.71 Applicability.**

(a) This subpart applies to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal remining operation.

(b) A pre-existing discharge that is intercepted by active mining or that is commingled with waste streams from active mining areas for treatment is subject to the provisions of § 434.61 Commingling of waste streams. For the purposes of this subpart, § 434.61 requires compliance with applicable BPT, BAT, BCT, and NSPS effluent limitations in subparts C, D, and F of this part. Section 434.61 applies to the commingled waste stream only during the time when the pre-existing discharge is intercepted by active mining or is commingled with active mine wastewater for treatment or discharge. After commingling has ceased, the pre-existing discharge is subject to the provisions of this part.

(c) In situations where coal remining operations seek reissuance of an existing remining permit with BPJ limitations and the regulatory authority determines that it is not feasible for a re-

mining operator to re-establish baseline pollutant levels in accordance with the statistical procedures contained in Appendix B of this part, pre-existing discharge limitations at existing remining operations shall remain subject to baseline pollutant levels established during the original permit application.

(d) The effluent limitations in this subpart apply to pre-existing discharges until the appropriate SMCRA authority has authorized bond release.

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

(a) The operator must submit a site-specific Pollution Abatement Plan to the permitting authority for the pollution abatement area. The plan must be approved by the permitting authority and incorporated into the permit as an effluent limitation. The Pollution Abatement Plan must identify characteristics of the pollution abatement area and the pre-existing discharges. The Pollution Abatement Plan must be designed to reduce the pollution load from pre-existing discharges and must identify the selected best management practices (BMPs) to be used. The plan must describe the design specifications, construction specifications, maintenance schedules, criteria for monitoring and inspection, and expected performance of the BMPs. The BMPs must be implemented as specified in the plan.

(b) (1) Except as provided in 40 CFR 125.30 through 125.32 and paragraph (b)(2) of this section, the following effluent limits apply to pre-existing discharges:

**EFFLUENT LIMITATIONS**

Pollutant	Requirement
(i) Iron, total .....	May not exceed baseline loadings (as defined by Appendix B of this part).
(ii) Manganese, total .....	May not exceed baseline loadings (as defined by Appendix B of this part).
(iii) Acidity, net .....	May not exceed baseline loadings (as defined by Appendix B of this part).