

**SUBCHAPTER E : SURFACE COAL MINING,
PREPARATION AND RECLAMATION ACTIVITIES**
§§321.71 - 321.81
Effective December 10, 1998

§321.71. Introduction and Purpose.

The purpose of this subchapter is to promulgate a set of minimum effluent quality standards applicable to point source discharges from any surface coal mining, preparation and reclamation activity (SCMPRA) without a waste discharge permit. If the surface coal mining, preparation and reclamation operator (SCMPRO) elects to obtain a waste discharge permit, the requirements of such permit shall supersede the effluent quality standards of this subchapter except as provided by §321.74 of this title (relating to Permit Required).

§321.72. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **Acid or ferruginous mine drainage** - Mine drainage that, before any treatment, either has a pH of less than 6.0 standard units or a total iron concentration equal to or more than 10 mg/l.

(2) **Active mining area** - The areas, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas, and reclamation areas.

(3) **Alkaline mine drainage** - Mine drainage that, before any treatment, has a pH equal to or more than 6.0 standard units and a total iron concentration of less than 10 mg/l.

(4) **Bond release** - The time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work has been satisfactorily completed.

(5) **Coal preparation plant** - A facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and then is loaded for transit to a consuming facility.

(6) **Coal preparation plant associated area** - The coal preparation plant yards, immediate access road, coal refuse piles, and coal storage piles and facilities.

(7) **Coal preparation plant water circuit** - All pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.

(8) **Coal spoil** - Discarded or accumulated coal or overburden containing coal, including but not limited to coal storage piles, waste piles, and significant quantities of coal spilled near haul roads, loading areas, and equipment wash-down areas.

(9) **Commission** - The Texas Water Commission.

(10) **Grab sample** - A sample of effluent collected in less than 15 minutes.

(11) **Mine drainage** - Any drainage, and any water pumped or siphoned, from an active mining area or a reclamation area.

(12) **mg/l** - Milligrams per liter.

(13) **ml/l** - Milliliters per liter.

(14) **Reclamation area** - The surface area of a coal mine that has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.

(15) **SCMPRA** - Surface Coal Mining, Preparation or Reclamation Activity; all activities necessary and incident to those activities, defined as "surface coal mining operations" by the Surface Coal Mining and Reclamation Act, Texas Civil Statutes, Article 5920-11, §3(16) and (17).

(16) **SCMPRO** - Surface Coal Mining, Preparation or Reclamation Operator.

(17) **Settleable solids** - That matter measured by the method specified in the most current edition of *Standard Methods for the Examination of Water and Wastewater* for the determination of settleable matter.

(18) **Significant quantities of coal** - That amount of coal that, when exposed to water, causes pollution, or degrades water quality, or makes the water unsuitable for its designated uses.

(19) **10-year, 24-hour precipitation event** - The maximum 24-hour precipitation event with a probable recurrence interval of once in ten years as defined by the National Weather Service and Technical Paper No. 40, *Rainfall Frequency Atlas of the United States*, May 1961, or equivalent regional or rainfall probability information developed therefrom.

(20) **Treatment facility or treatment system** - All structures that contain, convey, and chemically, biologically, or physically treat coal mine drainage, coal preparation plant process wastewater, drainage from coal preparation plant associated areas, or domestic wastewater, and that remove pollutants from such waters. This definition includes all pipes, channels, ponds, basins, tanks, and all other equipment serving such structures.

§321.73. Discharges Authorized by Rule.

The effluent limitations of this subchapter are statewide standards. Pursuant to this subchapter, discharges from a SCMPRA are authorized provided:

(1) the SCMPRO has a valid license from the Railroad Commission of Texas for the SCMPRA; that requires compliance with §§321.78-321.80 of this title (relating to Effluent Limitations; Additional Effluent Limitations and Associated Facilities);

(2) there is no feasible alternative for wastewater treatment, disposal, or use other than discharge;

(3) the SCMPRO is not under an injunction prohibiting discharge;

(4) the SCMPRA is not the subject of enforcement action by this or any other state or federal agency for acts or omissions which may require regulation by permit because of non-compliance; and

(5) the SCMPRA is not required to have a permit pursuant to §321.74(a) of this title (relating to Permit Required).

§321.74. Permit Required.

(a) A waste discharge permit may be required for a SCMPRA if:

(1) the executive director of the commission has determined that the SCMPRA cannot be adequately regulated by §§321.78-321.80 of this title (relating to Effluent Limitations; Additional Effluent Limitations and Associated Facilities);

(2) the SCMPRA discharge is for any reason inconsistent with the federal Clean Water Act requirements; or

(3) information is received by the executive director that raises material issues regarding the ability of the effluent limits of §§321.78-321.80 of this title (relating to Effluent Limitations; Additional Effluent Limitations and Associated Facilities), to protect water quality, the environment, and human health.

(b) A waste discharge permit shall be required for a discharge from sewage treatment facilities in SCMPRA's.

(c) If the executive director of the commission has determined that a permit is required, the commission will notify the Railroad Commission of Texas of its intent to require a permit 45 days after receipt of the mining application.

(d) For the purpose of this section, "receipt of the mining application" is the date of publication of notice that an application has been received.

(e) An operator of a SCMPRA may determine that his operation is better regulated by a permit, and apply for a permit at any time.

(f) Permits issued by the commission may, upon a showing of cause, specify effluent limitations more or less stringent than standard limitations in this subchapter, provided however, that the permits issued may not authorize discharges less stringent than the minimum standard limitation promulgated as a rule by the Texas Railroad Commission of Texas.

§321.75. Term, Modifications.

(a) Waste discharge permits regulating SCMPRA's shall be issued for a term not to exceed five years.

(b) Waste discharge permits regulating SCMPRA's may be renewed, revised, or amended pursuant to §§305.61-305.65 of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension).

(c) Waste discharge permits regulating SCMPRA's may be involuntarily revoked, amended, or suspended for good cause pursuant to Chapter 305 of this title (relating to Consolidated Permits), or because of:

(1) any change in circumstances that indicates a temporary or permanent reduction, or elimination of any discharge authorized by permit;

(2) material alterations or additions to the SCMPRA that are not authorized by commission rule and valid license of the Railroad Commission of Texas; or

(3) cessation of SCMPRA operations pursuant to its Railroad Commission surface mining permit.

§321.76. Hearing.

Hearings held on permits for SCMPRA's will be held pursuant to Texas Water Commission procedures. Notice will be given to the Railroad Commission of Texas of any hearing held under this section.

§321.77. Enforcement.

(a) Waste discharges authorized by rule. Although the Railroad Commission of Texas is the primary enforcer of its licenses, which include the requirements of this chapter, the commission retains jurisdiction to enforce compliance with the Texas Water Code and the statewide standards of §§321.78-321.80 of this title (relating to Effluent Limitations; Additional Effluent Limitations and Associated Facilities).

(b) Waste discharges authorized by permit. Any waste discharge permit issued by the commission to SCMPRAs will be enforced by the executive director.

(c) Notice. Notice of the commission's enforcement actions involving SCMPRA's will be given to the Railroad Commission of Texas.

§321.78. Effluent Limitations.

(a) Active mining areas. These limitations apply to all SCMPRA discharges from active mining areas unless otherwise specified by commission permit. However, ponds which receive waters which have not been in contact with coal deposits, coal spoil, or acid-forming or toxic-forming spoil shall be regulated by the effluent limitations shown under subsection (b) of this section. For every treatment system, the permittee shall submit to the executive director the necessary data that demonstrates that the treatment system will be designed, constructed, and operated so as to comply with the discharge limitations provided in the tables provided in paragraphs (1) and (2) of this subsection.

(1) Acid or ferruginous mine drainage. The provisions of this paragraph are applicable to acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

POLLUTANT OR POLLUTANT PROPERTY	GRAB SAMPLE LIMITS (Concentration in mg/l)	
	MAXIMUM FOR ANY ONE DAY	AVERAGE OF DAILY VALUES FOR 30 CONSECUTIVE DAYS
Iron, Total	6.0	3.0
Manganese, Total	2.0	1.0
Total Suspended Solids	70.0	35.0
pH	*	*

* Within the range 6.0 to 9.0 standard units at all times.

(2) Alkaline mine drainage. The provisions of this paragraph are applicable to alkaline mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

POLLUTANT OR POLLUTANT PROPERTY	GRAB SAMPLE LIMITS (Concentration in mg/l)	
	MAXIMUM FOR ANY ONE DAY	AVERAGE OF DAILY VALUES FOR 30 CONSECUTIVE DAYS
Iron, Total	6.0	3.0
Total Suspended Solids	70.0	35.0
pH	*	*

* Within the range 6.0 to 9.0 standard units at all times.

(b) Reclamation areas.

(1) The provisions of this paragraph and the following table are applicable to discharges from reclamation areas until the performance bond issued to the facility by the appropriate authority has been released. Any retention pond or series of ponds shall be designed to treat at least the volume of water caused by a 10 year, 24 hour precipitation event based upon the appropriate pond drainage area.

POLLUTANT OR POLLUTANT PROPERTY	GRAB SAMPLE LIMITS (Concentration in ml/l)	
	MAXIMUM FOR ANY ONE DAY	AVERAGE OF DAILY VALUES FOR 30 CONSECUTIVE DAYS
Settleable Solids	0.5	N/A
pH	*	N/A

* Within the range 6.0 to 9.0 standard units at all times.

(2) Any discharge or increase in volume of a discharge caused by precipitation of greater than the 10-year, 24-hour precipitation event, or series of events, shall at a minimum, comply with the following limitations instead of the otherwise applicable limitations: pH within the range of 6.0 to 9.0 standard units at all times.

(3) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in paragraph (2) of this subsection.

(c) Combined waste streams. Where waste streams from any facility covered by a section in this subchapter are combined for treatment or discharge with waste streams covered by another section, the

concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

§321.79. Additional Effluent Limitations.

In addition to the effluent limitations set forth in §321.78 of this subchapter (relating to Effluent Limitations), all discharges from SCMPRAs shall comply with §319.22 of this title (relating to Quality Levels-Inland Waters), and §319.23 of this title (relating to Quality Levels-Tidal Waters), that regulate hazardous metals. Additionally, if mining operations include sewage treatment facilities, the discharge from such sewage treatment plant shall comply with the limitations in the commission discharge permit.

§321.80. Associated Facilities.

The provisions of this section are applicable to discharges from a coal preparation plant and coal preparation plant associated areas.

(1) Except as provided pursuant to a waste discharge permit, there shall be no discharge of process wastewater from a coal preparation plant water circuit to waters in the state.

(2) The provisions of this section apply to discharges from coal preparation plants and coal preparation plant associated areas other than process wastewater.

POLLUTANT OR POLLUTANT PROPERTY	GRAB SAMPLE LIMITS (Concentration in mg/l)	
	MAXIMUM FOR ANY ONE DAY	AVERAGE OF DAILY VALUES WITHIN 30 CONSECUTIVE DAYS
Iron, Total	6.0	3.0
Manganese, Total	2.0	1.0
Total Suspended Solids	70.0	35.0
pH	*	*

* Within the range 6.0 to 9.0 standard units at all times.

(3) In order to prevent immediate harm to human health or the environment which is not otherwise avoidable, or to allow necessary maintenance and repair work, the commission may, under Chapter 35 of this title (relating to Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions), grant a temporary or emergency order authorizing the discharge of process or other wastewater regulated by this subchapter.

(4) Discharges from associated facilities may be allowed by a discharge permit pursuant to the applicable regulations of the commission.

Adopted November 18, 1998

Effective December 10, 1998

§321.81. Monitoring and Reporting of Data.

(a) Discharges authorized by rule.

(1) All discharges from active mining areas authorized by rule shall be monitored for the listed pollutants in the appropriate category at least once per week, and on the first day of and third day after beginning discharge.

(2) All discharges from reclamation areas authorized by rule shall be monitored for the listed pollutants in the appropriate category at least once per week when discharge occurs.

(3) Monitoring shall consist of:

(A) samples and analyses of the discharge for limited constituents; and

(B) flow measurements;

(4) Samples from each source discharging into the same drainage area shall be combined into a single-flow, weighted grab sample for analysis and reporting.

(5) Monitoring results shall be compiled on the Texas Water Commission Monthly Effluent Report. The report for a particular month shall be submitted to the Texas Railroad Commission so that the report will be received no later than the 25th day of the following month.

(6) All discharges from active mining areas shall be monitored at least twice per year for all metals referenced in §321.79 of this section (relating to Additional Effluent Limitations).

(7) All monitoring data shall be recorded and kept available on site for inspection by commission personnel for a minimum period of three years.

(b) Discharges authorized by permit. All such discharges shall comply with the monitoring and reporting requirements specified in the permit.

Effective June 26, 1986