

§ 440.114

40 CFR Ch. I (7–1–04 Edition)

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cu .....	0.30	0.15
Zn .....	1.5	0.75
Pb .....	0.6	0.3
Hg .....	0.002	0.001
Cd .....	0.10	0.05

(b) The concentration of pollutants discharged from mills that use the froth-flotation process alone, or in conjunction with other processes, for the beneficiation of platinum ores shall not exceed:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter	
Cu .....	0.30	0.15
Zn .....	1.0	0.5
Pb .....	0.6	0.3
Hg .....	0.002	0.001
Cd .....	0.10	0.05

§ 440.114 New source performance standards (NSPS). [Reserved]

§ 440.115 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BTC). [Reserved]

**Subpart L—General Provisions and Definitions**

§ 440.130 Applicability.

Abbreviations and methods of analysis set forth in 40 CFR part 401 shall apply to part 440 except as provided in these general provisions and definitions. The general provisions and definitions in this subpart apply to all subparts of part 440 unless otherwise noted.

§ 440.131 General provisions.

(a) *Combined waste streams.* In the event that waste streams from various subparts or segments of subparts in part 440 are combined for treatment and discharge, the quantity and concentration of each pollutant or pollut-

ant property in the combined discharge that is subject to effluent limitations shall not exceed the quantity and concentration of each pollutant or pollutant property that could have been discharged had each waste stream been treated separately. In addition, the discharge flow from the combined discharge shall not exceed the volume that could have been discharged had each waste stream been treated separately.

(b) *Storm exemption for facilities permitted to discharge.* If, as a result of precipitation or snowmelt, a source with an allowable discharge under 40 CFR part 440 has an overflow or excess discharge of effluent which does not meet the limitations of 40 CFR part 440, the source may qualify for an exemption from such limitations with respect to such discharge if the following conditions are met:

(1) The facility is designed, constructed and maintained to contain the maximum volume of wastewater which would be generated by the facility during a 24-hour period without an increase in volume from precipitation and the maximum volume of wastewater resulting from a 10-year, 24-hour precipitation event or treat the maximum flow associated with these volumes. In computing the maximum volume of wastewater which would result from a 10-year, 24-hour precipitation event, the facility must include the volume which would result from all areas contributing runoff to the individual treatment facility, i.e., all runoff that is not diverted from the active mining area and runoff which is not diverted from the mill area.

(2) The facility takes all reasonable steps to maintain treatment of the wastewater and minimize the amount of overflow.

(3) The facility complies with the notification requirements of §122.60 (g) and (h). The storm exemption is designed to provide an affirmative defense to an enforcement action. Therefore, the operator has the burden of demonstrating to the appropriate authority that the above conditions have been met.

(c) *Storm exemption for facilities not permitted to discharge.* If, as a result of precipitation (rainfall or snowmelt), a

source which is not permitted to discharge under 40 CFR part 440, has an overflow or discharge which violates the limitations of 40 CFR part 440, the source may qualify for an exemption from such limitations with respect to such discharge if the following conditions are met:

(1) The facility is designed, constructed, and maintained to contain the maximum volume of wastewater stored and contained by the facility during normal operating conditions without an increase in volume from precipitation and the maximum volume of wastewater resulting from a 10-year, 24-hour precipitation event. In computing the maximum volume of wastewater which would result from a 10-year, 24-hour precipitation event, the facility must include the volume which would result from all areas contributing runoff to the individual treatment facility, i.e., all runoff that is not diverted from the area or process subject to zero discharge, and other runoff that is allowed to commingle with the influent to the treatment system.

(2) The facility takes all reasonable steps to minimize the overflow or excess discharge.

(3) The facility complies with the notification requirements of § 122.60(g) and (h). The storm exemption is designed to provide an affirmative defense to an enforcement action. Therefore, the operator has the burden of demonstrating to the appropriate authority that the above conditions have been met.

(d) *pH adjustment.* (1) Where the application of neutralization and sedimentation technology to comply with relevant metal limitations results in an inability to comply with the pH range of 6 to 9, the permit issuer may allow the pH level in the final effluent to slightly exceed 9.0 so that the copper, lead, zinc, mercury, and cadmium limitations will be achieved.

(2) In the case of a discharge into natural receiving waters for which the pH, if unaltered by human activities, is or would be less than 6.0 and approved water quality standards authorize such lower pH, the pH limitations for the discharge may be adjusted downward to the pH water quality criterion for

the receiving waters provided the other effluent limitations for the discharge are met. In no case shall a pH limitation below 5.0 be permitted.

(e) *Groundwater infiltration provision.* In the event a new source subject to a no discharge requirement can demonstrate that groundwater infiltration contributes a substantial amount of water to the tailing impoundment or wastewater holding facility, the permitting authority may allow the discharge of a volume of water equivalent to the amount of groundwater infiltration. This discharge shall be subject to the limitations for mine drainage applicable to the new source subcategory.

#### § 440.132 General definitions.

(a) "Active mining area" is a place where work or other activity related to the extraction, removal, or recovery of metal ore is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

(b) "Annual precipitation" and "annual evaporation" are the mean annual precipitation and mean annual lake evaporation, respectively, as established by the U.S. Department of Commerce, Environmental Science Services Administration, Environmental Data Services, or equivalent regional rainfall and evaporation data.

(c) "Appropriate treatment of the recycle water" in subpart J, § 440.104 includes, but is not limited to pH adjustment, settling and pH adjustment, settling, and mixed media filtration.

(d) "Groundwater infiltration" in § 440.131 means that water which enters the treatment facility as a result of the interception of natural springs, aquifers, or run-off which percolates into the ground and seeps into the treatment facility's tailings pond or wastewater holding facility and that cannot be diverted by ditching or grouting the tailings pond or wastewater holding facility.

(e) "In-situ leach methods" means the processes involving the purposeful introduction of suitable leaching solutions into a uranium ore body to dissolve the valuable minerals in place and the purposeful leaching of uranium