

schedules for, among other things, EPA's proposal and promulgation of effluent guidelines for a number of point source categories, including the Coastal Oil and Gas Industry. The most recent Effluent Guidelines Plan was published in the Federal Register on August 26, 1994 (59 FR 44234). This plan requires,

among other things, that EPA propose the Coastal Guidelines by January 1995 and promulgate the Guidelines by July 1996.

2. Prior Federal Rulemakings and Other Notices

Coastal subcategory effluent limitations were proposed on October

13, 1976 (41 FR 44943). On April 13, 1979 (44 FR 22069) BPT effluent limitations guidelines were promulgated for all subcategories under the oil and gas category, but action on the BAT and NSPS regulations was deferred. Table 1 presents the 1979 BPT limitations.

TABLE 1.—COASTAL SUBCATEGORY BPT EFFLUENT LIMITATIONS²

| Waste stream | Parameter | BPT effluent limitation |
|-----------------------|-----------------------|--|
| Produced Water | Oil and Grease | 72 mg/l Daily Maximum 48 mg/l 30-Day Average. |
| Drilling Cuttings | Free Oil ¹ | No Discharge. |
| Drilling Fluids | Free Oil ¹ | No Discharge. |
| Well Treatment Fluids | Free Oil ¹ | No Discharge. |
| Deck Drainage | Free Oil ¹ | No Discharge. |
| Sanitary-M10 | Residual Chlorine | 1 mg/l (minimum). |
| Sanitary-M91M | Floating Solids | No Discharge. |
| Domestic Wastes | Floating Solids | No Discharge. |

¹ The free oil "no discharge" limitation is implemented by requiring no oil sheen to be present upon discharge (visual sheen).

² 40 CFR Part 435, Subpart D.

On November 8, 1989, EPA published a notice of information and request for comments on the Coastal Oil and Gas subcategory effluent limitations guidelines development (54 FR 46919). The notice presented information known to date about control and treatment technologies, applicable to oil and gas wastes as well as the Agency's anticipated approach to effluent limitations guidelines development for BAT, BCT, and NSPS. It also solicited comments on the information presented as well as the limitations development approach and requested additional information where available.

B. Pollution Prevention Act

In the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101 *et seq.*, Pub. L. 101-508, November 5, 1990), Congress declared pollution prevention the national policy of the United States. The PPA declares that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented or reduced should be recycled or reused in an environmentally safe manner wherever feasible; pollution that cannot be recycled should be treated in an environmentally safe manner wherever feasible; and disposal or release into the environment should be chosen only as a last resort.

Today's proposed rules are consistent with this policy. In fact, for the two major wastestreams generated by this industry, EPA is proposing zero discharge for drilling fluids and cuttings, as well as zero discharge for approximately 80 percent of the volume of produced water. Zero discharge of

wastes is an alternative that prevents pollution to the maximum extent possible. As described later in this notice, development of these proposed rules focused on pollution-preventing technologies, such as drilling fluids closed-loop recycle systems and produced water injection systems, that some segments of the industry have already adopted.

C. Coastal Subcategory Definition

The coastal oil and gas regulations at 40 CFR 435.41(e) currently define the coastal subcategory as follows:

"(1) any body of water landward of the territorial seas as defined in 40 CFR 125.1(gg) or (2) any wetlands adjacent to such waters." Part 125 was revised at 44 FR 32948 (June 7, 1979).

EPA proposes to clarify the "coastal" definition in this rule. First, EPA intends to revise the regulation to state that the coastal subcategory would consist of "any oil and gas facility located in or on a water of the United States landward of the territorial seas." As suggested by the preamble to the 1979 guidelines in discussing the coastal definition (44 FR 22017; April 13, 1979), EPA intended the subcategory to cover all facilities located over waters under CWA jurisdiction, including adjacent wetlands. Courts have made it clear that isolated wetlands with an interstate commerce connection, as well as adjacent wetlands, are waters of the United States subject to CWA jurisdiction. *See, e.g., Hoffman Homes, Inc. v. Administrator* 999 F.2d 256 (7th Cir. 1993). The revised definition would make it clear that facilities located in or on isolated wetlands would be

considered to be coastal. This application of the coastal definition is consistent with the EPA Region 6 final general permit for coastal drilling operations. 58 FR 49126 (September 21, 1993).

In addition, the revised definition would no longer refer to 40 CFR 125.1(gg). Part 125 was revised at 44 FR 32948 (June 7, 1979) and no longer exists in the CFR. That provision, when it did exist, merely cited section 502(8) of the CWA which defines territorial seas as "the belt of seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles." 40 CFR 125.1(gg) (July 1, 1978). That statutory definition is still in effect.

Also, EPA would explicitly include in the definition of "coastal" certain wells located in the area between the Chapman line and the inner boundary of the territorial seas that were determined to be coastal as a result of a decision of the U.S. Court of Appeals for the Fifth Circuit. *American Petroleum Institute v. EPA*, 661 F.2d 340 (5th Cir. 1981). The Chapman line is formed by a series of 40 latitude and longitude coordinates that roughly parallel the Louisiana and Texas coastline to the Mexican border. EPA's interim final regulations issued in 1976 (41 FR 44942; October 13, 1976) defined "coastal" to include all land and water areas landward of the inner boundary of the territorial seas and eastward of the point defined by 89 degrees 45 minutes West Longitude and 29 degrees 46