

X. Executive Order 12875

Executive Order No. 12875 requires Federal Agencies to consider the impacts that unfunded mandates will have on state, local, or tribal governments. The coastal oil and gas industry is not associated with tribal governments, and the burden to state and local regulatory authorities is expected to be minimal, if not decreased, by the implementation of this rule.

The CWA, section 301 prohibits discharges of pollutants unless permitted under sections 402 or 404 of the CWA. Effluent limitations guidelines, new source performance standards and pretreatment standards are implemented through the National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the CWA by EPA's Regions or, if delegated NPDES authority, the delegated states. Generally, coastal oil and gas facilities are permitted by EPA Regions, or in the case of Alabama, by the Alabama NPDES program, using general permits which cover an entire area specified in that permit. For example, Region VI's general permit for coastal drilling operations covers all coastal operations in Texas and Louisiana, except for a few facilities whose operations are noted in the permit. Alabama currently requires zero discharge in their permits for coastal oil and gas operations.

These proposed requirements, when promulgated, will be implemented via the existing regulatory structure and no additional burden is expected. In the absence of effluent limitations guidelines, establishing BAT, BCT, NSPS, PSES and PSNS, permit limitations are to be developed on a case-by-case "Best Professional Judgement" (BPJ) basis. In addition, all NPDES permits must incorporate state water quality standards. Once these Coastal Guidelines are in place, the Regions will no longer be required to expend both in-house and contractor efforts in BPJ developments, and where zero discharge is required, the Regions and states will no longer be required to determine permit limitations based on water quality standards. Thus, these guidelines will actually serve to reduce the regulatory burden on the Regions and states that permit existing sources in the coastal oil and gas industry. As it could take approximately \$100,000 for contractor support, and at least one in-house FTE per general permit development based on BPJ and water quality requirements, this could result in substantial savings. However, issuance of NSPS creates a class of

facilities that is regulated as new sources which may need to be permitted by the regions and states. Because the number of new sources is projected to be very small and can be permitted by general permits, we expect this to be a minimal resource requirement.

Since the inception of the project in 1994, there have been periodic meetings with the industry and several trade associations, including the Louisiana and Texas Independent Oil and Gas Associations (TIOGA and LIOGA) and American Petroleum Institute (API) to discuss progress on the rulemaking. The Agency also has met with the Natural Resources Defense Council (NRDC) to discuss progress on this rulemaking. Because all of the facilities affected by this proposal are direct dischargers, the Agency did not conduct an outreach survey of POTWs.

The Agency also held a public meeting on July 19, 1994. The purpose of the meeting was to present the project status and discuss the technical options under consideration for this proposal. Representatives from industry trade associations, individual industry companies, state regulatory authorities the U.S. Department of Energy and Interior (Minerals Management Service) and the Sierra Club Legal Defense Fund attended.

The Agency will continue this process of consulting with state, local, and other affected parties after proposal in order to further minimize the potential for unfunded mandates that may result from this rule.

XI. Paperwork Reduction Act

The proposed coastal oil and gas effluent limitations guidelines and standards contain no new information collection activities, and therefore, no information collection request will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

XII. Environmental Benefits Analysis

A. Introduction

The Water Quality Benefit Analysis (Benefit Analysis) evaluates the effect of current discharges and the benefits of proposed limitations for the coastal subcategory of the oil and gas extraction industry on the coastal environment. The benefit analysis considers two separate geographic areas: Gulf of Mexico (Louisiana and Texas) and Cook Inlet, Alaska. The benefit analysis examines potential impacts from current produced water discharges in both geographic areas, and from drilling fluids and drill cuttings discharges in Cook Inlet. Effect of drilling fluids and

drill cutting discharges are not evaluated for Gulf of Mexico coastal operations since they are prohibited by state authorities and existing NPDES permits. Three types of benefits are analyzed: quantified and non-monetized, quantified and monetized, and non-quantified and non-monetized benefits.

Coastal waters maintain diverse ecosystems which act as spawning grounds, nurseries and habitats for important estuarine and marine species (finfish and shellfish); support highly valuable commercial and recreational fisheries; and provide critical habitat for seabirds, shore birds and terrestrial wildlife. The commercial fisheries in Texas and Louisiana (finfish, shrimp, crabs and oysters) were valued at \$476 million in 1992. Commercial species spend a significant portion of their life cycle in bays and estuaries. The 1993 value of Cook Inlet commercial fisheries (finfish, clams, crabs and shrimp) was \$48 million. Approximately \$30 million of this total was from Upper Cook Inlet salmon fisheries. The estimated consumer surplus associated with Cook Inlet recreational fisheries is about \$26 million per year (in 1993 dollars). In addition, personal use and subsistence fisheries provide food source and cultural values to Alaskan residents and Alaskan native populations. Coastal waters also serve as critical habitats for numerous federally designated endangered and threatened species (including 32 in coastal areas of Texas and Louisiana), and migrating waterfowl.

Coastal waters are generally shallow, where tidal action has limited effect, and dilution and dispersion are more limited than offshore waters. Additionally, pollutants can migrate much more readily into sediments, where they may have long residence times. Consequently, these receiving environments are highly sensitive to pollutant discharges compared to open offshore areas. Many of the pollutants in coastal oil and gas discharges are either conventional pollutants, aquatic toxicants, human carcinogens, or human systemic toxicants. The impact of these pollutants on aquatic biota include acute toxicity; chronic toxicity; effects on reproductive functions; physical destruction of spawning and feeding habitats; and loss of prey organisms. In addition, many of these pollutants are persistent, resistant to biodegradation and accumulate in aquatic organisms. Chemical contamination of aquatic biota may also directly or indirectly impact local aquatic and terrestrial wildlife and humans consuming exposed biota.