that are subject to the ebb and flow of the tide;
(b) Interstate waters, including inter-
state wetlands;
(c) All other waters such as intra-
state lakes, rivers, streams (including
intermittent streams), mudflats,
sandflats, and wetlands, the use, deg-
radation, or destruction of which would
affect or could affect interstate or for-
eign commerce including any such
waters;
(1) That are or could be used by inter-
state or foreign travelers for rec-
reational or other purposes;
(2) From which fish or shellfish are or
could be taken and sold in interstate or
foreign commerce;
(3) That are used or could be used for
industrial purposes by industries in
interstate commerce;
(d) All impoundments of waters oth-
erwise defined as navigable waters
under this section;
(e) Tributaries of waters identified in
paragraphs (a) through (d) of this sec-
tion, including adjacent wetlands; and
(f) Wetlands adjacent to waters iden-
tified in paragraphs (a) through (e) of
this section: Provided, That waste
treatment systems (other than cooling
ponds meeting the criteria of this para-
graph) are not waters of the United
States;
Navigable waters do not include prior
converted cropland. Notwithstanding
the determination of an area’s status
as prior converted cropland by any
other federal agency, for the purposes
of the Clean Water Act, the final au-
thority regarding Clean Water Act ju-
risdiction remains with EPA.
NPDES means National Pollutant
Discharge Elimination System;
Sheen means an iridescent appear-
ance on the surface of water;
Sludge means an aggregate of oil or
oil and other matter of any kind in any
form other than dredged spoil having a
combined specific gravity equivalent to
or greater than water;
United States means the States, the
District of Columbia, the Common-
wealth of Puerto Rico, Guam, Amer-
ican Samoa, the Virgin Islands, and the
Trust Territory of the Pacific Islands;
Wetlands means those areas that are
inundated or saturated by surface or
ground water at a frequency or dura-
tion sufficient to support, and that
under normal circumstances do sup-
port, a prevalence of vegetation typi-
cally adapted for life in saturated soil
conditions. Wetlands generally include
playa lakes, swamps, marshes, bogs
and similar areas such as sloughs, prai-
rie potholes, wet meadows, prairie
river overflows, mudflats, and natural
ponds.

§ 110.2 Applicability.
The regulations of this part apply to
the discharge of oil prohibited by sec-
tion 311(b)(3) of the Act.

§ 110.3 Discharge of oil in such quan-
tities as “may be harmful” pursuant
to section 311(b)(4) of the Act.

For purposes of section 311(b)(4) of
the Act, discharges of oil in such quan-
tities that the Administrator has de-
termined may be harmful to the public
health or welfare or the environment of
the United States include discharges of
oil that:
(a) Violate applicable water quality
standards; or
(b) Cause a film or sheen upon or dis-
coloration of the surface of the water
or adjoining shorelines or cause a
sludge or emulsion to be deposited be-
neath the surface of the water or upon
adjoining shorelines.

§ 110.4 Dispersants.
Addition of dispersants or emulsifiers
to oil to be discharged that would cir-
cumvent the provisions of this part is
prohibited.

§ 110.5 Discharges of oil not deter-
determined “as may be harmful” pursu-
ant to Section 311(b)(3) of the Act.

Notwithstanding any other provi-
sions of this part, the Administrator
has not determined the following dis-
charges of oil “as may be harmful” for
purposes of section 311(b) of the Act:
(a) Discharges of oil from a properly
functioning vessel engine (including an