




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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EMERGENCY RESPONSE  
  
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**MEMORANDUM**

SUBJECT: Application of RCRA Hazardous Waste Regulations to Waste Generated on Off-shore Oil Platforms

FROM: Barnes Johnson, Director  
Office of Resource Conservation and Recovery 

TO: RCRA Division Directors Regions

The purpose of this memorandum is to identify how RCRA standards (and manifest requirements in particular) apply to: 1) Off-shore oil platforms located within state territorial waters; and 2) Off-shore oil platforms located outside state territorial waters. This memorandum supersedes two previous interpretations developed in 2013 that were available on EPA's website in a Question/Answer format.

**Offshore Oil Platforms Located Within State Territorial Waters**

Generally, RCRA regulatory requirements apply to hazardous wastes generated on off-shore oil drilling platforms located within the jurisdiction of either the adjacent state or the Federal government, depending on whether the adjacent state is authorized to implement the RCRA program in lieu of the federal government. Off-shore drilling platforms are considered separate waste generation points subject to the 40 CFR Part 262 generator regulations.

For states authorized to implement the Federal RCRA program, state regulations would apply to platforms located within the boundary of state territorial waters (defined as 3 nautical miles, except Texas and the west coast of Florida which have a maximum of 9 nautical miles).<sup>1</sup> If states are not authorized to implement RCRA, Federal regulations would apply if the platform is located within those state territorial water boundaries.

**Off-shore Oil Platforms Located Outside State Territorial Waters**

Platforms located on the Continental Shelf beyond the bounds of state territorial waters are subject to regulation pursuant to the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. §1331 et seq; 43 U.S.C. §1801 set seq.). OCSLA specifically provides for the application of Federal law to "all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources . . ." <sup>2</sup> In accordance with OCSLA, the U.S Department of Interior, Bureau of Ocean Energy Management, identifies Federal jurisdiction generally as the farthest of 200

<sup>1</sup> See generally <https://www.boem.gov/outer-continental-shelf/> (The U.S. Department of Interior, Bureau of Ocean Energy Management (BOEM) is the federal agency that administers the Outer Continental Shelf Lands Act). See discussion below about OCSLA as it relates to federal jurisdiction and RCRA.

<sup>2</sup> 43 U.S.C. 1333(a)(1)

nautical miles seaward, in accordance with accepted principles of international law.<sup>3</sup> Thus, Federal RCRA regulations would apply to off-shore drilling platforms that are attached to the seabed and located between the bounds of authorized state territorial waters and the 200 nautical miles seaward.

### **What RCRA Regulations Apply to Off-shore Oil Platforms**

The federal RCRA regulations at 40 CFR 261.4(b)(5) contain an exemption for certain, but not all, wastes associated with the exploration and production of oil and natural gas. Under 40 CFR 261.4(b)(5), “drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy” are defined to be RCRA solid wastes exempt from the Federal RCRA hazardous waste program. However, examples of oil and gas exploration and production wastes **not** exempted under 40 CFR 261.4(b)(5) include unused fracturing fluids or acids; painting wastes; sandblast media; spent solvents, spilled chemicals, and waste acids; used equipment lubrication oils; waste compressor oil; filters; used hydraulic fluids; and laboratory wastes (53 FR 25447, 25454, July 6, 1988). Thus, one should not presume that all wastes generated aboard an oil platform are eligible for the exemption at 261.4(b)(5). Generators must make a hazardous waste determination for these non-exempt wastes, and if hazardous, those wastes would be subject to RCRA regulatory requirements. These hazardous wastes generated on off-shore oil platforms within federal jurisdiction and, as mentioned above, generally within 200 nautical miles seaward are subject to 40 CFR Part 262 generator regulations including safely managing the hazardous waste on-site, and packaging, labeling and preparation of a hazardous waste manifest. The signed manifest must accompany the hazardous wastes on vessels transporting the hazardous wastes from the oil platform to the receiving U.S. port. Such transporters are subject to regulations under 40 CFR Part 263 and applicable U.S. DOT Hazardous Materials standards. Where the hazardous wastes are delivered to the designated facility in bulk, the transporter must comply with the applicable manifest provisions for water (bulk) shipments at 40 CFR 263.20 (or analogous authorized state regulations).

The on-shore facility receiving the shipment at the U.S. port must either be a designated RCRA treatment, storage, or disposal facility (“Designated Facility”) as defined in 40 CFR Part 260.10 (i.e., where the facility is the ultimate receiving facility); or, a transfer facility as defined in 40 CFR 260.10 (subject to reduced requirements in 40 CFR 263.12) if the facility were storing the hazardous waste for 10 days or less during the normal course of transportation.

As noted above, this memorandum supersedes two previous Agency clarifications developed in 2013. The QAs were entitled: 1) How does one transport hazardous wastes from an off-shore oil rig to port? Which Agency has jurisdiction? Do the wastes need to be manifested while on water? and 2) Do the RCRA hazardous waste regulations apply to wastes generated on an oil platform in the Gulf of Mexico? Those previous clarifications had concluded that RCRA was applicable to off-shore oil platforms but that hazardous waste manifesting was not required if an off-shore oil platform located beyond state waters but within the 200 nautical mile seaward limit. After further consideration of the language in the OCSLA, EPA is superseding those two QAs with this memorandum to make it clear that the RCRA regulations apply to such off-shore oil platforms generating hazardous waste, including use of the hazardous waste manifest.

If you have any questions, please contact George Faison of my staff at [faison.george@epa.gov](mailto:faison.george@epa.gov).

cc: RCRA Program Branch Chiefs  
RCRA Enforcement Managers  
Greg Sullivan

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<sup>3</sup> See <https://www.boem.gov/outer-continental-shelf/>