

**Offshore E&P Liability Overview:
Jurisdiction, State and Federal Statutory
Damages, Penalties and Tort Liability**

UNIVERSITY OF TEXAS --
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Environmental Topics to be Covered

- ❖ Current statutory liability structure for environmental liabilities arising out of a spill of oil into US waters
- ❖ Discussion of potential tort liabilities arising out of a spill

Overview of Federal Statutes – Current Statutory Liability Structure

Primary Federal Statutes

- ❖ OPA – The Oil Pollution Act of 1990 (“OPA”) establishes responsibility for discharges of oil into or upon waters of the United States.
- ❖ CWA – Section 311 of the Clean Water Act (“CWA”), as amended by OPA, prohibits the discharge of oil or hazardous substances in such quantities as may be harmful:
 - (i) into or upon **the navigable waters of the United States** or adjoining shorelines or upon **the waters of the contiguous zone**, or
 - (ii) in connection **with activities under the Outer Continental Shelf Lands Act (“OCSLA”)**, or which may affect natural resources belonging to, pertaining to, or under the exclusive management authority of the United States.

Other Federal Statutes

- ❖ **The Refuse Act**—applies to the discharge of “refuse matter,” including oil, and provides for criminal penalties against persons who violate the Act.
- ❖ **Migratory Bird Treaty Act**—applies to the harming or killing of migratory birds, and provides for criminal penalties against persons who violate the Act.
- ❖ **Endangered Species Act**—applies to the harming or killing of endangered species, and provides for civil and criminal penalties against persons who violate the Act.
- ❖ **Outer Continental Shelf Lands Act**—applies to the operations, notification, and response requirements of offshore facilities, and provides for civil and criminal penalties against lessees and operators who violate the act and its regulations.

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