

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

UNIVERSITY OF TEXAS --  
OFFSHORE E&P, AND SHALE GAS DEVELOPMENT  
December 2-3, 2010 -- Houston, Texas



FULBRIGHT & Jaworski L.L.P.

## Speaker



Eva Fromm O'Brien  
Chair, Environmental Law Dept.  
Fulbright & Jaworski L.L.P.  
Houston, Texas  
Phone: (713) 651-5321  
Email: [eobrien@fulbright.com](mailto:eobrien@fulbright.com)

## **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.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

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

First appeared as part of the conference materials for the  
2010 Offshore E&P, and Shale Gas Development session

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