

## Questions pertaining to DNR Guidance Document ENV-GS-2018-01

### 1) *What are the agency's plans for future regulations amendment?*

The agency intends to send a fiscal impact statement to the Legislative Fiscal Office on or before November 20, 2018 which is the first step toward rule promulgation.

### 2) *When are Form UIC-28 and UIC-23 required?*

Only E and P Waste (as defined in LAC 43:XIX.501) from approved generators of record may be received at commercial facilities and transfer stations. Other generators of E and P Waste must receive written approval of the Office of Conservation in order to dispose of approved E and P Waste at a commercial facility or transfer station. LAC 43:XIX.543.A.

In order to adequately monitor the movement and disposal of E and P Waste, every shipment of E and P Waste transported to a commercial facility or transfer station shall be accompanied by a manifest entitled "E and P Waste Shipping Control Ticket" (Form UIC-28). LAC 43:XIX.545.A.

For companies who do not possess an Office of Conservation operator code number, Form UIC-23 (or latest revision) must be approved prior to transporting E and P Waste (including Waste Type 99) to a commercial facility or transfer station. LAC 43:XIX.545.B.

A copy of the approved Form UIC-23 must be attached to the original Form UIC-28 E and P Waste manifest accompanying the respective shipment of E and P Waste.

### 3) *Are used fluids that are being reclaimed (e.g. at a mud plant) considered exempt waste? What are the paperwork requirements?*

In accordance with LAC 43:XIX.Subpart 1.Chapter 5 Off-site E and P Waste management regulations, drilling fluids (mud) that is used down-hole for the exploration, development and/or production of oil and gas wells is either E and P Waste, Waste Type 02 or 03, as defined in LAC 43:XIX.501. If Waste Types 02 or 03 are to be disposed offsite, a properly completed Form UIC-28 must be completed by the approved generator (operator) and sent with the shipment of waste to an approved commercial facility or transfer station. If the waste generator is obligated by drilling mud lease or rental contract or other similar legally binding agreement with the original manufacturer of the drilling mud to return the used drilling mud back to the original drilling mud manufacturer for reclamation, compliance with Form UIC-28 waste manifest system requirements for the movement of the used drilling mud from the point of generation out of the O&G well to, and receipt at the original drilling mud manufacturer is not necessary as has been historically to date

allowed by the Office of Conservation since the development of commercial E and P Waste regulations in early 1980's. During reclamation at the original mud manufacturer company, the undesired material separated from the reclaimed drilling mud such as waste fluids, cuttings and residual mud, if not mixed with non-exempt waste causing the mixture to be non-exempt waste, must be properly shipped offsite as exempt E and P Waste with an approved Form UIC-23 and Form UIC-28 to an approved commercial facility or transfer station, for the reasons detailed in No. 2 above.

- 4) *Marine vessel tanks typically have a common piping system for all tanks and wash water is circulated throughout the entire system. Is wash water used to clean marine vessel tanks transporting E&P waste that comes in contact with non-exempt waste (e.g. unused water-based mud) an exempt E&P waste or non-exempt waste?*

Guidance for determining if a mixture of exempt E and P Waste and non-exempt waste is exempt E and P Waste or non-exempt waste is provided on pages 13 – 17 of the EPA530-K-01-004 publication "Exemption of Oil and Gas Exploration and Production Wastes from Federal Hazardous Waste Regulations" published October 2002 found at: <https://archive.epa.gov/epawaste/nonhaz/industrial/special/web/pdf/oil-gas.pdf>.

Important to note from the above referenced EPA guidance, bottom of page 13, "In a policy letter dated September 25, 1997, EPA clarified that a mixture is exempt if it contains exempt oil and gas exploration and production (E&P) waste mixed with non-hazardous, non-exempt waste. Mixing exempt E&P waste with non-exempt characteristic hazardous waste, however, for the purpose of rendering the mixture non-hazardous or less hazardous, could be considered hazardous waste treatment or impermissible dilution."

- 5) *For tanks anchored on the topside of offshore utility boats, no method of pumping through the boat systems is available. Can cleaning companies offload these type tanks and deliver the waste to the disposal company?*

No. Only Office of Conservation permitted commercial facilities and transfer stations are authorized to receive, offload (meaning to remove the material from the boat container), temporarily store, transfer and/or ultimately dispose of containerized shipments (loads) of E and P Waste in accordance with LAC 43:XIX.Subpart 1.Chapter 5 requirements. If the containerized material in the boat tank is used drilling fluid (mud) being returned by the generator (operator) from the O&G well point of origination for mud reclamation, shipments (loads) must be sent back to the original mud manufacturer or may be offloaded at and transferred from a permitted commercial facility or transfer station to the original mud manufacturer for reclamation. See No. 3 above.

Cleaning companies, or other service companies not being a permitted commercial facility or transfer station or original mud manufacturer for purposes detailed above, may handle, offload, wash, clean, repair, blast, paint, store, etc. any container used to store or transport E and P Waste that contains only residual quantities of E and P Waste as defined in LAC 43:XIX.501, effective November 2001, further clarified with Intra-Office Guidance Statement ENV-GS-2018-01, effective October 9, 2018. If the residual waste material removed and/or wash water generated at the cleaning or service company is not mixed with non-exempt waste causing the resulting mixture to no longer be an exempt E and P Waste, said residual waste and/or wash water must be properly disposed at a permitted commercial facility or transfer station, using both Form UIC-23 for waste generator approval and Form UIC-28 for proper offsite waste manifest transportation and disposal.

- 6) *What designates an Operator (Oil Company) owned dock? Contracts? Office on site? Dispatcher? Other?*

An official certified copy of title of ownership, lease or sub-lease agreement or other agreement clearly establishing that the operator has surface rights for use of the property for the offloading of shipments of E&P Waste on a specific area of dock space. All operations conducted in this area are the responsibility of the operator (generator) which has the right to use of the surface space for handling of E and P Waste as specifically described in the title, lease, sub-lease or other surface use agreement. Conservation has reviewed and has made final decisions on this issue on a case-by-case basis to ensure regulatory compliance with LAC 43:XIX.Subpart 1.Chapter 5 (offsite E&P Waste management) regulations.

- 7) *At Operator docks, can full tanks of waste be offloaded, cleaned, and the waste delivered to a disposal site under a UIC-28?*

Yes, provided full tanks of waste are E and P Waste originating from the same operator's permitted well or E and P facility, and the conditions in No. 6 exist.

- 8) *Can boat tanks with recyclable mud be cleaned at vendor docks and put into containers (i.e. cutting boxes) and returned to the original mud company?*

See Nos. 3 and 5 above.

*a. If not at vendor docks, can this be done at Operator's docks?*

Yes. See Nos. 3 and 5 above.

- 9) *How will UIC-23 approvals be handled on weekends and holidays to meet the 24 Hour notification timeline?*

As historically has been the case to date, companies requiring E and P Waste generator approval in accordance with LAC 43:XIX.543.A and 545.B have managed their approval needs effectively during normal business hours of the Office of Conservation, 8:00 a.m. – 4:30 p.m., Monday – Friday. Should there be extenuating or emergency circumstances necessitating Form UIC-23 approval outside of the normal business hours of the Office of Conservation such as weekends and holidays, company representatives may contact the Office of Conservation’s after-hours and weekend line at (225) 342-5515.

10) *Who is considered the generator of waste at:*

a. *Vendor docks*

For compliance with the offsite E and P Waste regulations, LAC 43:XIX.Subpart 1.Chapter 5, the generator will be the legal entity that holds the title, lease, sub-lease or other legally binding agreement for use of the dock space including E and P Waste handling activities, unless determined otherwise by the Office of Conservation.

b. *Operator docks*

For an operator’s E and P Waste managed at the same operator’s dock space, the generator remains that operator.

c. *Operator directed docks (docks where operators have contracts with dock owners for offloading their boats)*

If the conditions of No. 6 above are in effect for the operator at the dock space where the offloading activity is occurring, the answer is the same as 10.b. above, i.e., for an operator’s E and P Waste managed at the same operator’s dock space, the generator remains that operator.

11) *Can residual E and P Waste generated through cleaning at a vendor dock be transported to a mud company if deemed salvageable?*

A mud manufacturer company that manufacturers/recycles mud can receive their own manufactured mud back after it has been used by an oil and gas operator/generator for down-hole operations. Once the used mud (E and P Waste) has been removed at the originating mud manufacturer’s site from a container, barge or marine supply vessel cargo tank (MSV cargo tank) used to transport the used mud (E and P Waste), if only residual E and P Waste (as clarified in Guidance Statement ENV-GS-2018-01) remains, the container,

barge or MSV cargo tank can be transported to a service company for cleaning. After cleaning, if the residual used mud removed with cleaning operations is wanted by the same mud manufacturer company which originally manufactured the mud, then this residual used mud can be returned back to original mud manufacturer for further recycling. Otherwise, the cleaning service company must obtain approval via Form UIC-23 to dispose of the residual used mud and wash water as an E and P Waste at a permitted facility approved to receive E and P Waste.

If only E and P Waste residuals are remaining in a container, barge or MSV cargo tank after unloading for disposal at a commercial facility or transfer station, the container, barge or MSV cargo tank can be then transported to a service company for cleaning. The residual E and P Waste and wash water generated by the service company must be transported via an approved Form UIC-23 accompanying a properly completed Form UIC-28 to a permitted facility approved to receive E and P Waste.

*12) If crude oil is purchased for the purposes of removing Basic Sediment and Water (BS&W), can the BS&W removed from the oil be transported and disposed as an Exploration and Production Waste (E and P Waste)?*

A Commercial E and P Waste facility which has been permitted by the Office of Conservation to receive and treat Waste Type 50 (Salvageable Hydrocarbons) can remove BS&W from the Waste Type 50 and dispose of the BS&W as an E and P Waste.

If Crude oil is received by any other facility which is not permitted by the Office of Conservation to receive and treat Waste Type 50, then the E and P Waste exemption is lost at the point of purchase and/or custody transfer. Therefore, in this scenario, the BS&W removed from the crude oil is not an E and P Waste and shall not be coded as an E and P Waste on an E and P Waste Shipping Control Ticket (Manifest, Form UIC-28) for transport and disposal nor be accepted by a Louisiana permitted commercial facility or transfer station for treatment, disposal, or off-site transfer for disposal.

13) *Can an Office of Conservation permitted Commercial Exploration and Production (E and P) Waste transfer station (permitted site) provide dock space for a generator to moor a vessel containing residual E and P Waste where there is no exchange of recycle wash water, waste fluids or waste solids from the moored vessel to the land surface of the permitted site or vice versa, and the moored vessel has its own cleaning system within the confines of the vessel, thus no connectivity to the permitted site other than the mooring line(s)?*

Yes, an Office of Conservation permitted Commercial E and P Waste transfer station can provide dock space for a generator to moor a vessel containing residual E and P Waste as conditioned above.

*Who is responsible for any unauthorized discharges of E&P Waste into the surface water from the moored vessel as conditioned above?*

If the same said vessel containing residual E and P Waste has its own cleaning system within the confines of the vessel, thus no connectivity with said permitted site other than the mooring line(s), and there is no exchange of recycle wash water, waste fluids or waste solids from the moored vessel to the permitted site or vice versa, then the operator who generated the E and P Waste residual quantity remaining in the vessel will be the responsible party for LAC 43:XIX.Subpart 1.Chapter 5 regulatory compliance for any unauthorized discharges of E and P Waste into the surface water from the moored vessel as conditioned above.

14) *Reserved*

15) *Can a service company which manufactures and/or blends virgin completion fluids for the purposes of providing it to an oil and gas operator for use in down-hole well operations, receive those same fluids back for the purposes of reclamation, after being used in down-hole operations? How should the undesirable materials removed during the reclamation process be handled by the service company and who is the generator of such material?*

A service company (Company X) which manufactures and/or blends virgin completion fluids can receive those same fluids back, for the purposes of reclamation, after having been used for down-hole oil and gas well exploration and production operations by an oil and gas operator. Upon receipt by Company X, any undesirable material (E and P Waste) removed from the used fluids in this scenario, during the reclamation process, must be properly transported via Form UIC-28 (E and P Waste Shipping Control Ticket)

accompanied by an approved Form UIC-23 (Request to Transport E and P Waste to a Commercial Facility or Transfer Station). The generator of the undesirable material (E and P Waste) removed from the used completion fluids during the reclamation process in this scenario is the service company, Company X.

If the oil and gas operator that used Company X's virgin completion fluids down-hole chooses to dispose of the completion fluids returned to surface following down-hole operations (used completion fluids) instead of returning the used completion fluids to the originating manufacturer, Company X, then the used completion fluids, if generated in Louisiana or out-of-state but transported to a Louisiana for waste transfer or disposal, is an E and P Waste as defined in LAC 43:XIX.501 and must be properly transported via Form UIC-28 (Shipping Control Ticket) to a permitted facility or transfer station which is approved to receive that specific E and P Waste type, most likely to be Waste Type 04.