

AER Bulletin 2013-02

September 3, 2013

Oilfield Waste Management: A Reminder of Regulatory Requirements and Processes, the AER's Interpretation of the Definition of "Oilfield Waste" in the *Oil and Gas Conservation Rules*, and a Request for the Disclosure of Unauthorized Oilfield Waste Management Activities

Purpose

This bulletin reminds industry that oilfield waste being sent off site for collection, storage, treatment, disposal, or recycling must be sent to waste management facilities authorized by either the Alberta Energy Regulator (AER) or Alberta Environment and Sustainable Resource Development (ESRD). This bulletin also clarifies the AER's interpretation of the definition of "oilfield waste" in the *Oil and Gas Conservation Rules (OGCR)* and directs operators to review their operations and notify the AER of any unauthorized oilfield waste management activities.

Background

Activities involving the storage, treatment, processing, and disposal of oilfield waste require authorization and approval by the AER under section 39(1)(g) of the *Oil and Gas Conservation Act*. Regulation of these activities is intended to ensure that by-products (i.e., oilfield wastes) of oil and gas activities are handled by licensed and approved operators at properly designed and constructed facilities to ensure protection of the environment. The AER has a number of regulatory requirements that apply to the handling, storage, treatment, and processing of oilfield waste, which are listed in Attachment 1.

The AER believes there may be existing operators that are receiving and/or storing, treating, and processing oilfield waste without the requisite authorization for those activities. The AER believes such operators are doing so based on an erroneous interpretation of "oilfield waste" under the *OGCR*.

The AER's regulatory requirements relating to oilfield waste management have been developed with industry and are intended to enhance protection of the environment and public safety and to reduce liability through appropriate waste management practices. The AER reviews applications for oilfield waste management activities and facilities under the requirements in *Directive 058: Oilfield Waste Management Requirements for the Upstream Petroleum Industry*, which respond to a full range of innovative solutions for oilfield waste management, while ensuring that regulatory outcomes are achieved. Oilfield waste management activities or facilities that have not been

subject to the regulatory review and approval process may present environmental, public safety, or unfunded liability risks.

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Definition of “Oilfield Waste”

“Oilfield waste” is defined in section 1.020(2)(12.1) of the *OGCR* as follows:

“Oilfield waste” means an unwanted substance or mixture of substances that results from the construction, operation, abandonment, or reclamation of a facility, well site, or pipeline, but does not include an unwanted substance or mixture of substances from such a source that is received for storage, treatment, disposal, or recycling at a facility that is regulated by the Department of Environment and Sustainable Resource Development.

The AER’s Interpretation of “Oilfield Waste”

The AER has reason to believe that certain licensed and unlicensed operators are interpreting the term “unwanted” in the definition of oilfield waste as meaning that by-products from oil and gas activities that have commercial value to their generators, handlers, or receivers do not constitute oilfield waste and therefore activities involving the handling, storage, processing, or treatment of those by-products do not require AER or ESRD authorization or approval. This interpretation is incorrect.

The term “unwanted” in the definition of oilfield waste pertains to the generator of the substance or mixture of substances and is intended to convey that the substance or mixture of substances is in a state that: 1) does not allow the generator to use it for its initial intended purpose or 2) requires processing (including dilution) to generate a usable material.

The AER interprets “oilfield waste” as including any and all secondary or incidental product(s) (except for acid gas, produced water, solution gas, sulphur, and coke) that remain following or resulting from the construction, operation, abandonment, or reclamation of any AER-regulated well, facility, or pipeline. Any substance or by-product that fits the above description is “oilfield waste” for AER regulatory purposes, regardless of whether the generator, handler, or receiver of the substance or by-product considers it to be of commercial value or a “wanted” substance or by-product.

The AER recognizes that implementation of waste minimization strategies (e.g., reusing or recycling of waste, select recovery of component(s) from waste, generation of product(s) derived from waste) reduces the volume of oilfield wastes requiring long-term management or disposal. The AER has observed that increased use of large volumes of drilling and completion fluids has resulted in increased commercial interest (by production or service companies) in certain oilfield wastes (note that drilling and completion fluids that have been sent down a well and have subsequently flowed back to surface constitute as oilfield wastes). While the AER encourages waste minimization practices, the increased commercial interest in oilfield wastes does not exempt

generators, handlers, and receivers of those oilfield wastes from regulatory requirements designed to ensure that the design and operational requirements are met for oilfield waste management activities, including where applicable, regulatory liability protection programs.

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Request for the Disclosure of Unauthorized Oilfield Waste Management Activities

The AER requests industry's cooperation in identifying and disclosing unauthorized oilfield waste receipt, storage, handling, and disposal activities. In that regard, the AER requires licensees and unlicensed operators who are engaging in such activities to disclose the following information:

- the full legal name of the entity receiving, storing, processing, and/or managing the oilfield wastes;
- the name and contact information for a representative of the entity;
- the location of the site or facility and type of site or facility including any licences or approvals issued for the site or facility (e.g., well or production facility licence);
- the types of oilfield wastes being accepted and a description of how they are being managed (e.g., storage, blending with other substances, physical separation, component recovery, or other types of treatment or processing);
- a statement as to whether the responsible entity plans to
 - submit an application to the AER for approval of an oilfield waste management facility, component, or activity under *Directive 058*,
 - submit an application to ESRD for authorization of the waste management activity, or
 - cease conducting the oilfield waste management activity; and
- the timeframe in which the above will be acted upon.

The required information must be submitted no later than **December 3, 2013**. Submit the information in a Word file and e-mail it to Directive058@aer.ca with “Notification of Unauthorized Oilfield Waste Management Activity” in the subject line of the e-mail.

Parties that fail to comply with AER oilfield waste management requirements or fail to disclose unauthorized activities as per the above required information may be subject to enforcement as set out in AER *Directive 019: Compliance Assurance*. The consequences of enforcement action taken under *Directive 019* may include remediation of any environmental damage resulting from the unauthorized waste management activity.

Direct questions about this bulletin to the AER by e-mail to Directive058@aer.ca.

Regulatory documents referred to in this bulletin are available from AER Information Product Services, Suite 1000, 250 – 5 Street SW; telephone: 403-297-8311 or 1-855-297-8311 (toll free); fax: 403-297-7040; e-mail: infoservices@ercb.ca. The documents are also available on the AER website www.aer.ca.

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<original signed by>

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Attachment 1 AER Oilfield Waste Management Requirements

Under section 39(1)(g) of the *Oil and Gas Conservation Act (OGCA)*, no scheme for the storage, treatment, processing, or disposal of oilfield waste may be proceeded with unless the Regulator, by order, has approved the scheme on any terms and conditions that the Regulator prescribes.

Guidance and applicable requirements for the appropriate management of oilfield wastes are set out in the following documents:

- Directive 058: Oilfield Waste Management Requirements for the Upstream Petroleum Industry
- Directive 058—Addendum 2008-12-23: Oilfield Waste Management Facility Approvals—Notification and Amendment Procedures
- Interim Directive (ID) 2000-3: Harmonization of Waste Management
- Interim Directive (ID) 2000-4: An Update to the Requirements for the Appropriate Management of Oilfield Wastes.
- Interim Directive (ID) 99-4: Deposition of Oilfield Waste into Landfills

The Memorandum of Understanding (MOU) Between the Alberta Energy and Utilities Board and Alberta Environment on Harmonization of Waste Management attached to ID 2000-3 outlines guiding principles that the then Alberta Energy and Utilities Board (now the AER) and the then Alberta Environment (now ESRD) agreed on to harmonize requirements for the management of oilfield waste and non-oilfield wastes. The agreements include the division of regulatory responsibilities based on the type of waste management facility or activity.