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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

FEBRUARY 89

2. Drip Gas Exclusion

Drip gas is collected from a natural gas line located at the production site. Is this condensate exempt from being a hazardous waste pursuant to 40 CFR 261.4(b)(5)?

According to 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 not subject to regulation as hazardous wastes under Subtitle C of RCRA. Therefore, if the drip gas is collected from lines that are associated with movement of the natural gas on-site (i.e. the exploration, development, or production site) then the drip gas is exempt from being a hazardous waste. An example is drip gas from gathering lines on the production site that lead to an on-site central storage tank.

On the other hand, if the drip gas is collected from lines that are used for the off-site movement of natural gas, the drip gas is not excluded under 40 CFR 261.4(b)(5). For example, drip gas collected from lines used to transport natural gas from the production site to an off-site distribution center would not be excluded under 40 CFR 261.4(b)(5).

The rationale behind this on-site/off-site distinction arises from the legislative history of RCRA Section 3001(b)(2)(A) which is directed to "...drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas..." The legislative history discusses "other wastes" as follows:

The term "other wastes associated" is specifically included to designate waste materials intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil, natural gas or geothermal energy. It would cover such substances as: hydrocarbon bearing soil in and around related facilities; drill cuttings; and materials (such as hydrocarbons, water, sand, and emission) produced from a well in conjunction with crude oil, natural gas or geothermal energy; and the accumulated material (such as hydrocarbons, water, sand and emulsion) from production separators, fluid treating vessels, storage vessels, and production impoundments.

The phrase "intrinsically derived from the primary field operations" is intended to differentiate exploration, development, and production operations from transportation (from the point of custody transfer or of production separation and dehydration) and manufacturing operations.

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FEBRUARY 89

2. Drip Gas Exclusion (Cont'd)

EPA has outlined 3 criteria as a test of whether a particular waste qualifies for the exemption.¹ The criterion that addresses the on-site/off-site issue is as follows:

Drilling fluids, produced waters, and other wastes intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil, natural gas or geothermal energy are subject to exemption. Primary field operations encompass production-related activities but not transportation or manufacturing activities. With respect to oil production, primary field operations encompass those activities usually occurring at or near the wellhead, but prior to the transfer of oil from an individual field facility or a centrally located facility to a carrier (i.e., pipeline or trucking concern) for transport to a refinery or to a refiner.

With respect to natural gas production, primary field operations are those activities occurring at or near the wellhead or at the gas plant but prior to the point at which the gas is transferred from an individual field facility, a centrally located facility, or a gas plant to a carrier for transport to market. Primary field operations encompass the primary, secondary, and tertiary production of oil or gas.

Wastes generated by the transportation process itself are not exempt because they are not intrinsically associated with primary field operations. An example would be pigging waste from pipeline pumping stations. Transportation (for the oil and gas industry) may be for short or long distances....

Thus, drip gas collected from lines associated with transport of natural gas from the production site to an off-site distribution center would not be covered by the exemption.

¹See "Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy," Report to Congress, December 1987, pp. 7-8. A listing of wastes covered by the exemption appears in EPA's "Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes," 53 FR 25446 (July 6, 1988).

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