

9441.1987(04)

OIL AND GAS EXPLORATION EXCLUSION

JAN 13 1987

Mr. James E. (Jim) Nugent, Chairman
Railroad Commission of Texas
Capitol Station, P.O. Drawer 12967
Austin, Texas 78711

Dear Mr. Chairman:

Thank you for your letter dated October 21, 1986. As discussed below, the Agency has made some decisions concerning issues you raised in your letter. Because these tentative determinations are preliminary, however, we invite further discussion on them.

The legislative history of Section 3001(b)(2)(A) of the Resource Conservation and Recovery Act (RCRA) sheds some light on the identity of oil and gas and geothermal energy wastes subject to exemption: 1

the term "other wastes associated" is specifically included to designate waste materials intrinsically derived from the 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 facilities; drill cuttings; materials (such as hydrocarbon, water, sand and emulsion) produced from a well in conjunction with crude oil, natural gas, or geothermal energy; and the accumulated material (such as hydrocarbon, water, sand, and emulsion) from production separators, fluid treating vessels, storage vessels, and production impoundments.

The phrase "intrinsically derived from the primary field operation ..." 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.

Given the above background, EPA intends to employ four criteria to assist in determining whether a waste is exempt, pending completion of our Report to Congress next year:

1. Only waste streams intrinsic to the exploration for, or development and production of, crude oil, natural gas, or geothermal energy are subject to exemption. Waste streams generated at oil, gas, and geothermal energy facilities that are not uniquely associated with exploration, development, or production activities are not exempt (one example would be spent solvents from equipment cleanup).
2. Exempt waste must be associated with "extraction"² processes, which include measures (1) to remove oil, natural gas, or geothermal energy from the ground or (2) to remove impurities from such substances, provided that the purification process is an integral part of normal field operations.³
3. The proximity of waste streams to primary field operations is another factor in determining the scope of the exemption. Process operations that are distant from the exploration, development, or production operations may not be subject to exemption.
4. Wastes associated with transportation are not exempt. The point of custody transfer, or of production separation and dehydration, may be used as evidence in making this determination.

As shown on the enclosed table, EPA has used these criteria to tentatively designate various wastes as exempt or not exempt. This table was taken from our October 31, 1986 Technical Report on wastes from the extraction of oil, gas and geothermal energy (copy enclosed). The Agency is aware that this list does not include all waste streams found at oil, gas, or geothermal energy extraction facilities. Therefore, EPA invites commenters to specifically describe other pertinent waste streams and to articulate, in terms of the above criteria, whether they believe these additional streams are exempted by Section 3001(b)(2)(A). EPA also invites comment on these criteria themselves and on

the appropriateness of the tentative classification shown on

- 2 The term extraction is defined to include exploration, development, and production activities for oil, gas, and geothermal energy.
- 3 Thus, wastes associated with such processes as oil refining, petrochemical-related manufacturing, or electricity generation from geothermal energy are not exempt.

the table. However, we believe this interpretation is consistent with the final "Small Quantity Generator" regulation promulgated on March 24, 1986 (51 FR 10146, copy enclosed); see especially page 10162 for a discussion of the applicability of that rule to offshore oil rigs).

Consistent with the Small Quantity Generator regulation, EPA's Region 6 office in Dallas has distributed "notices of hazardous waste registration requirements". They are being distributed only as a result of inquiries or requests in order to aid parties in fulfilling responsibilities which they consider to be theirs under the law. Because EPA did not seek data from these facilities requesting information on our Small Quantity rule, we are unable to determine whether their waste streams meet the four criteria discussed above.

I trust this clarifies the Agency's current assessment of the scope of the exemption. If I can be of any further assistance, please let me know.

Sincerely,

Original Document signed
"Jack W. McGraw for"

J. Winston Porter
Assistant Administrator

Enclosures (3)