

Faxback 13523

9441.1992(03)

RCRA/Superfund/OUST Hotline Monthly Report Question

January 1992

### 1. Regulatory Status of Waste from Oil Gathering Pipelines

An oil production facility uses gathering pipelines to transport oil from its production site to a site owned by another facility. The oil has already undergone initial oil/water separation. Waste forms in the gathering lines during the transportation of the oil. Is the waste that forms subject to the hazardous waste exclusion at 40 CFR 261.4(b)(5)?

The answer depends on the ownership of the oil at the time the waste forms. Section 261.4(b)(5) excludes drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy from the definition of hazardous waste. Waste generated after legal custody of the oil changes hands during transportation will not meet the exclusion because it is not intrinsic to the exploration, development, or production of crude oil.

The July 6, 1988, Federal Register (53 FR 25446, footnote 1) defines associated wastes as those wastes other than produced water, rigwash, and drilling muds and cuttings that are intrinsic to exploration, development, and production of crude oil and natural gas. The Report to Congress: Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy, VOL 1 of 3 (EPA/530-SW-88-003-A, Dec. 1987) states on page II-17 that "[t]he 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." Accordingly, any waste generated after a change in the custody of the oil or, in the absence of the change in custody after the initial oil/water separation, is not subject to the 261.4(b)(5) hazardous waste exclusion because it is not intrinsic to the exploration, development, or production of crude oil.