

FEB 22, 1985

Charles V. Rice
Texas Mid-Continent Oil &
Gas Association
United Bank Tower, Suite 500
400 West Fifteenth Street
Austin, Texas 78701

Dear Mr. Rice:

I am writing in response to your letter that was dated January 22 of this year. In that letter you raised some points of concern vis-à-vis our November 20, 1984, meeting and subsequent conversations that you had with Ben Smith and myself.

I believe that the confusion expressed in your letter centers around a misinterpretation of the Agency's regulation of tanks that contain slop oil emulsion. As was stated in Jack McGraw's December 7, 1984, letter to Dick Whittington, emulsion storage is subject to regulation prior to entering and after leaving any oil reclamation tank. The oil reclamation process itself is not subject to regulation if it is conducted in a tank.

However, this raises a question as to how to distinguish between those storage units where incidental reclamation (that would be regulated) takes place from legitimate oil reclamation units. As you mention in your letter, you believe that such a distinction is easy to make – namely, bona fide oil reclamation units will apply heat and/or chemicals to an emulsion to facilitate separation. We believe, however, that such a distinction is not that simple. We believe that whether or not a unit should be classified as a storage unit or an oil reclamation unit is a factual question that must be evaluated on a case-by-case basis.

Some of the factors that need to be considered include:

- Whether heat and/or chemicals are being applied to the contents to facilitate emulsion breaking.
- The amount of chemicals being applied.
- Tank temperature versus ambient conditions.
- Frequency of turnaround of the tank's contents.
- Disposition of the residual emulsion and "reclaimed" oil.

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All of these factors, when considered collectively, will be used to determine the regulatory status of the unit. Regardless of the outcome of the above determinations, the remaining emulsion discharged from the tank is still subject to regulation. The recovered oil from these units, when reintroduced into the oil refining process, however, is a reclaimed product and not currently subject to regulation.

I hope that this letter has clarified your confusion in this matter. Do not hesitate to contact me or Matt Straus of my staff, if you should require further assistance in this or other matters.

Sincerely,

John H. Skinner
Director
Office of Solid Waste

Cc: Regional Administrators I-X
Charles Nerima (TDWR)

TEXAS MID-CONTINENT OIL & GAS ASSOCIATION
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January 22, 1985

The Texas Mid-Continent Oil and Gas Association ("TMOGA") appreciated the opportunity to meet with you and members of the Texas Department of Water Resources on November 20, 1984. The regulatory clarification which EPA offered at the meeting was beneficial and appears to resolve some of the confusion which existed previously over the applicability of the RCRA Hazardous Waste Regulations to oil recovery units and the materials produced from them.

TMOGA has received a copy of the December 7, 1984, memorandum from Jack McGraw to Dick Whittington summarizing the regulatory clarifications made by EPA during our meeting. The December 7 memorandum indicates that oil reclamation processes are presently exempted from regulation even though listed hazardous wastes such as K048 and K049 may be utilized as feedstocks in such processes. Two exceptions from this exemption were also discussed in the memorandum. The first exception pertained to emulsion breaking in surface impoundments or other earthen devices. The second exception pertained to the storage of K048 prior to introduction to an oil recovery unit and the storage of K049 upon removal from an oil recovery system.

In the December 7 memorandum, the second exception was inadvertently overstated. At the top of page 2 of the memorandum, the following language appears: "...emulsion breaking or storage in tanks would be subject to permitting only if storage exceeded 90 days (provided the requirements of 262.34 are complied with 1/.)" The implication of the statement is that emulsion breaking in tanks, occurring during bona fide oil reclamation efforts, would fall within the second exception.

In recent discussions between yourself, Ben Smith of your staff, and Jerry Ross of Gulf Oil Corporation, this point of confusion was discussed at length. In those conversations, EPA reaffirmed that emulsion breaking in tanks where bona fide oil reclamation efforts were

1/ Emulsion breaking in oil recovery units is often a continuous or semi-continuous operation so that there is always some emulsion in the process tanks. In the November 20 meeting, EPA indicated that since bona fide oil reclamation facilities are exempt from regulation, tanks in such processes would not be subject to either permitting or 262.34.

underway, was exempt from regulation. The statement in the letter was intended to apply only to storage activities which occurred after bona fide oil reclamation efforts to break the emulsion had been discontinued.

According to Ben Smith, EPA intends to regulate storage of K049 after it is removed from oil recovery units (i.e., after bona fide oil reclamation efforts have been discontinued). According to Mr. Smith, the agency does not consider incidental emulsion separation associated with storage of K049 after it is removed from an oil recovery unit, sufficient to render it exempt from regulation.

It is relatively easy to distinguish between bona fide oil reclamation in tanks and storage of K049 prior to disposal. During a bona fide oil reclamation effort, refiners will apply heat and or chemicals to an emulsion to facilitate separation. This effort involves an economic investment which refiners must make to effectuate separation of oil. In the case of K049 which has been removed from an oil recovery unit and is being stored prior to disposal, refiners will no longer make such economic investments.

Mr. Smith's statements are consistent with what you and the other EPA officials stated at the November 20 meeting. However, the confusion created by the December 7 memorandum is likely to create problems if not corrected. It is respectfully requested that EPA consider preparing a clarification of the matter. In the alternative, EPA may elect to respond to this letter, confirming that TMOGA's understanding of the agency's intent behind the December 7, 1984, memorandum is correct.

Your consideration of TMOGA's request for assistance is greatly appreciated. Again, TMOGA is grateful for time and effort which EPA has committed to this matter.

Very truly yours,

Charles V. Rice
Chairman, TMOGA Solid Waste Task Force

JWR: df

xc: Mr. Dick Whittington
Mr. Paul Seals