

9442.1994(05)

United States Environmental Protection Agency  
Washington, D.C. 20460  
Office of Solid Waste and Emergency Response

April 15, 1994

Mr. Theodore L. Kinne  
Vice President  
Interstate Natural Gas Association of America  
555 13th Street, N.W. Suite 300  
Washington, D.C. 20004

Dear Mr. Kinne:

Thank you for your letter dated July 1, 1991, requesting clarification regarding the status of natural gas pipeline condensate under Resource Conservation and Recovery Act (RCRA) regulations. I apologize for the long delay in responding to your request.

As you correctly state in your letter, off-specification fuels (such as natural gas pipeline condensate) are not considered solid wastes under 40 CFR Part 261 when burned for energy recovery. While this interpretation has not been altered since 1985, EPA has since attempted to clarify what constitutes legitimate burning for energy recovery and may have caused some confusion as a result.

The Agency addressed the issue of legitimate vs. "sham" burning for energy recovery in the February 21, 1991, final rule on Burning of Hazardous Waste in Boilers and Industrial Furnaces. (56 FR 7134). In the preamble to that rule, EPA cited burning of ignitable off-specification natural gas condensate as a motor fuel as an example of an inappropriate or sham type of burning for energy recovery. The Agency further stated that natural gas condensate, when used in this manner, would be a solid and hazardous waste subject to Subtitle C controls (see 56 FR 7184). EPA now recognizes, however, that this was a poorly worded example of what would be considered sham burning for energy recovery. A more precise example, and one that the Agency has found to have occurred, would be the sale or use of contaminated, low energy value "natural gas pipeline condensate" as a motor fuel, or fuel additive (such that additional octane enhancers also had to be

added).

In general, the January 4, 1995 preamble discussion you cite (50 FR at 630) still applies. Accordingly, use of unadulterated natural gas pipeline condensate with high Btu/lb content as a fuel or fuel additive could, in fact, constitute a legitimate type of burning for energy recovery. It is important to note, however, that energy value is not the sole determinant of whether the natural gas condensate is being legitimately burned as a fuel. Additional sham recycling criteria, identified in the January 8, 1988 Proposed Amendments to the Definition of Solid Waste, are equally relevant to a regulatory status determination (see 53 FR at 522; see also 48 FR at 11158 (March 16, 1983)). Of particular relevance to a determination regarding natural gas pipeline condensate is whether the condensate contains toxic constituents not found in normal fuels and if so, whether these constituents contribute to the recycling objective or are simply being destroyed. Assuming that burning is for legitimate energy recovery, high energy value natural gas condensate would not be considered a RCRA solid or hazardous waste when used as a fuel or fuel additive. However, the determination would have to be made case-by-case based on the facts relevant to both the specific material and the manner in which it is being burned.

It is also important to note that authorized states generally implement the RCRA hazardous waste regulations and State regulations may be more stringent than the Federal regulations. I hope this letter has addressed your concerns. If you have any further questions, please contact Mitch Kidwell or Becky Daiss of my staff at (202) 260-8551.

Sincerely,  
Michael Shapiro, Director  
Office of Solid Waste