



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



NOV 6 1981

0089
off-site

Lawrence W. Bierlein, Esq.
Compressed Gas Association
910 Seventeenth Street, N.W.
Washington, D.C. 20006

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Dear Mr. Bierlein:

This is in response to your inquiry on the Resource Conservation and Recovery Act (RCRA) requirements to handle residues removed from compressed gas cylinders.

We understand that cylinders (defined generally under Department of Transportation regulations, 49 CFR 171.8, as pressure vessels having a water capacity not exceeding 1000 pounds and constructed in accordance with DOT requirements) are typically returned to gas suppliers containing gaseous residues. We further understand that these returned cylinders often are "topped off" without discard of the residues, and with reclamation of the residues by the gas supplier. In these situations, the residues are not solid wastes under §261.2, and thus, do not entail consideration of compliance with the hazardous waste regulations. (See letter from John P. Lehman to you dated November 3, 1980.)

If the gas supplier, however, decides to discard cylinders containing gaseous, liquid, or physically solid residues (i.e., non-empty containers) that meet the definitions in 40 CFR Part 261, the residues in the cylinders become hazardous wastes because they are being discarded, and these residues (and the cylinders) must be handled in compliance with the regulations. Any shipment of these contained gaseous or other wastes off-site must be in compliance with all generator and transporter requirements under 40 CFR Parts 262 and 263. Additionally, any such gas cylinders which are discarded or intended to be discarded must be managed in accordance with the requirements under 40 CFR Parts 264 to 267. Furthermore, any liquid or physically solid wastes removed from the cylinders or derived from the treatment of the contained gases, such as scrubber residues or waste neutralizing solutions, that are hazardous must be managed in accordance with the Subtitle C waste regulations.



The primary question raised by the Compressed Gas Association relates to the ~~handling of gaseous residues removed from cylinders and neutralized, scrubbed, flared, or vented to the atmosphere,~~ and specifically whether this activity constitutes the management of hazardous waste under the RCRA regulations. EPA does not construe the present regulations as applying to these practices. EPA has prioritized its regulatory efforts regarding hazardous wastes, and concluded that the flaring and venting of hazardous compressed gases or gases that are neutralized or scrubbed prior to their release to the environment does not demand immediate regulatory attention under the hazardous waste regulations. Accordingly, it is the position of the Agency that any gas cylinder handling facility is not subject presently to regulations promulgated under the Resource Conservation and Recovery Act, in the handling, neutralization, scrubbing, flaring or venting of gaseous residues removed from compressed gas cylinders.

The Compressed Gas Association has contended that the Agency lacks jurisdiction under RCRA to regulate the neutralization, scrubbing, flaring or venting of gases removed from cylinders, based on the definition of "solid waste" in section 1004 of RCRA and the legislative history of the statute. In light of the Agency's determination expressed in this letter, that such activities are not covered by today's RCRA regulations, we see no need to resolve the jurisdictional issue at this time. The Compressed Gas Association possesses the right to petition the Court of Appeals for review if and when the Agency asserts jurisdiction under RCRA over these activities in the future.

Sincerely yours,



Christopher J. Capper
Acting Assistant Administrator
for Solid Waste and Emergency Response

APPENDIX C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

3/11/88

NOV 6 1981

FILE NO.

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

File in Enforcement
Lor Alcom
NMA890010575

Lawrence W. Bierlein, Esq.
Compressed Gas Association
910 Seventeenth Street, N.W.
Washington, D.C. 20006

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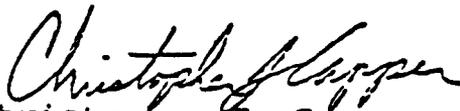
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The primary question raised by the Compressed Gas Association relates to the handling of gaseous residues removed from cylinders and neutralized, scrubbed, flared, or vented to the atmosphere, and specifically whether this activity constitutes the management of hazardous waste under the RCRA regulations. EPA does not construe the present regulations as applying to these practices. EPA has prioritized its regulatory efforts regarding hazardous wastes, and concluded that the flaring and venting of hazardous compressed gases or gases that are neutralized or scrubbed prior to their release to the environment does not demand immediate regulatory attention under the hazardous waste regulations. Accordingly, it is the position of the Agency that any gas cylinder handling facility is not subject presently to regulations promulgated under the Resource Conservation and Recovery Act, in the handling, neutralization, scrubbing, flaring or venting of gaseous residues removed from compressed gas cylinders.

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