



Department of Energy
Albuquerque Operations
Los Alamos Area Office
Los Alamos, New Mexico 87544

HAZARDOUS WASTE MGMT. DIV

SEP. 13 1990

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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Mr. Allyn Davis, Director
U. S. Environmental Protection Agency
Hazardous Waste Division
1445 Ross Avenue, Suite 1200
Dallas, TX 75201

Dear Mr. Davis:

The Department of Energy (DOE) has become aware that the Los Alamos National Laboratory (LANL) is having some difficulty determining how to manage compressed gas cylinders that are owned by DOE. As a money-saving effort, the decision was made several years ago to purchase cylinders, rather than lease them. The cylinders were refilled either on-site, at a government owned/contractor operated facility, or off-site by a gas supplier.

A large number of these cylinders are no longer needed by LANL. Most are partially filled. Some contain material that is listed as a hazardous waste or exhibits a characteristic of a hazardous waste according to 40 CFR 261. Vendors have expressed an interest in buying back these cylinders to return them to their inventory.

The Environmental Protection Agency (EPA) has addressed this issue in three different documents, copies of which are enclosed. The main difference is the issue of gas cylinder ownership. In all the documents, EPA's position is based on the premise that a supplier (i.e., vendor) owns the cylinder and the user returns the cylinder for refilling. It is obvious from the November 6, 1981 letter to Lawrence W. Bierlein, Esq. from Christopher J. Capper that discarded cylinders that contain a hazardous constituent (i.e., containers that are not "empty" according to 40 CFR 261.7(b)) must be handled as a hazardous waste. Based on the 1982 Federal Register notice (47 FR 36094), are the cylinders owned by a facility such as ours and returned/sold to a compressed gas vendor considered to be discarded? In other words, can we return cylinders to a vendor who does not have a hazardous waste permit?

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Mr. Allyn Davis

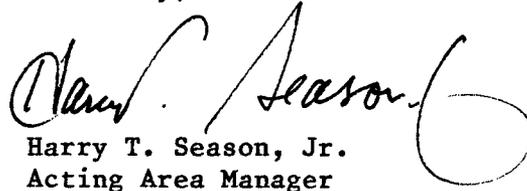
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The 1981 letter also states that EPA does not consider the practice of neutralizing, scrubbing, flaring or venting gaseous residues to the atmosphere to be covered by the then-current hazardous waste regulations. Does this interpretation apply to such operations conducted at facilities such as ours, and are there any more recent guidelines on this issue?

Your timely response will be greatly appreciated, because we have a large number of cylinders that can be returned to useful service instead of being disposed/treated as a Resource Conservation and Recovery Act (RCRA) waste (solid or hazardous). Presently, we are handling several of them (i.e., storing) as hazardous waste, which causes storage problems at LANL, both from the standpoint of permit requirements and physical space.

If you have any questions regarding this request, please contact Dr. Paul Schumann of my staff at FTS 855-5027.

Sincerely,



Harry T. Season, Jr.
Acting Area Manager

IPS-001

Enclosures

cc w/enclosures:

Dr. Kirkland L. Jones, Deputy Director, Environmental Improvement
Division, Santa Fe, NM
J. Themelis, EHD, AL
A. Tiedman, ADO, LANL, MS-A120