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OCT 05 1990

Off-Site  
Mr. Harry T. Season, Jr.  
Acting Area Manager  
Department of Energy  
Albuquerque Operations  
Los Alamos Area Office  
Los Alamos, New Mexico 87544

Dear Mr. Season:

This is in response to your inquiry of September 13, 1990, regarding the disposal of compressed gas cylinders owned by the Department of Energy, Los Alamos National Laboratory (LANL).

Your letter indicates that most of the cylinders are partially filled with compressed gaseous materials listed or exhibiting characteristic properties of a hazardous substance according to 40 CFR 261. Additionally, we understand that your compressed gas supplier (vendor) has expressed an interest in buying back these cylinders. With these issues in mind, we have provided a generalized response pending further clarification of your proposed disposition of liquid or physically solid phase of compressed gas contained in the cylinders offered up for discard.

Cylinders which contain a compacted gas residue under a pressure approaching atmospheric are considered "empty" under 40 CFR Part 261.7(b)(2), and are not subject to the Resource Conservation and Recover Act. As a matter of safety, a slight residual pressure is maintained in the cylinder prior to refilling.

Full or partially filled cylinders containing gas, liquid, or physically solid substances meeting the definitions in 40 CFR Part 261 may become hazardous wastes depending on the method of discard employed by the vendor who gains these particular cylinders through LANL's disposal action. Under such circumstance, LANL would be responsible as a generator under 40 CFR Part 262, with full responsibility for the disposition of the contents of these cylinders.

If LANL can be assured that the vendor will reuse, use, or reclaim the discarded residue (unused contents), as a recyclable material, the requirements under 40 CFR Part 261.6 would apply to the generator (LANL), transporter, and vendor (storage facility). Ultimately, LANL is responsible for any mismanagement of the material in question.

6H-CS:JSCHULTES:ph:09/27/90:5-2192

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In response to your question regarding the "practice of neutralizing, scrubbing, flaring, or venting gaseous residues to the atmosphere", your attempt to draw a conclusion from the November 6, 1981, letter to Lawrence W. Bierlein, Esq. from Mr. Christopher J. Capper, U.S. Environmental Protection Agency, may have led to a misunderstanding of its intent. Any disposal action taken to neutralize, scrub, flare, or vent, 40 CFR Part 261 defined gaseous residue to the atmosphere from compressed gas cylinders does not constitute an acceptable form of treatment.

It is our recommendation that you maintain coordination with the New Mexico Environmental Improvement Division regarding your disposal plans.

If you have any questions regarding this response, please have your staff contact Mr. Joseph Schultes at (FTS) 255-2192.

Sincerely yours,

Allyn M. Davis  
Director  
Hazardous Waste Management Division (6H)

bcc: Control Clerk (6H)  
Control Clerk (6H-CS)

*Mitzelfelt*  
CC NMEID

## FACT SHEET

### LOS ALAMOS NATIONAL LABORATORY (LANL)

#### BACKGROUND

- o LANL would like to dispose of some 1500 compressed gas cylinders of which most are partially filled with 40 CFR 261 characteristic hazardous substance.
- o LANL owns these cylinders.
- o Compressed gas suppliers (vendors) have expressed an interest in buying back LANL's cylinders.

#### ISSUES

- o Is this action considered a discard?
- o Does vendor require a TSD permit to accept these partially filled compressed gas cylinders?
- o Is the neutralization, scrubbing, flaring, or venting of gaseous residues to the atmosphere covered by hazardous waste regulations?

#### EPA POSITION

- o Action is considered a discard by definition of 40 CFR 261.2.
- o Vendor may require permit to store a hazardous waste pending recycling effort if discharged material is to be reused, used, or reclaimed; otherwise, vendor may require a TSD permit for disposal or treatment of contents of cylinder.
- o The neutralization, scrubbing, flaring, or venting of gaseous residues from a container to the atmosphere is not an acceptable treatment method.

#### COORDINATION

- o HQ EPA, Becky Cophertson, FTS 475-9715.