



# Department of Toxic Substances Control

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*Horn*  
  
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October 5, 1998

Ms. Anne Conner  
Pacific Gas and Electric Company  
P.O. Box 7640  
San Francisco, California 94120

Dear Ms. Conner:

## DISPOSAL OF SMALL EMPTY COMPRESSED GAS CYLINDERS

Thank you for your August 4, 1998 letter to Ms. Claudia Moore regarding the proper disposal of empty compressed gas cylinders. In your letter you stated your understanding that according to both federal and State regulations [Title 40, Code of Federal Regulations (40 CFR), Section 261.7, and Title 22, California Code of Regulations (CCR), Section 66261.7], compressed gas cylinders that approach atmospheric pressure are considered empty containers, and are exempt from hazardous waste regulations. You also stated that you had telephone conversations with Ms. Moore on this matter and you asked for written concurrence that the following steps represent appropriate disposal practices for the empty compressed gas cylinders:

- When the cylinder appears empty, vent the cylinder by opening the valve to assure atmospheric pressure is reached;
- Dispose of the empty cylinder as scrap metal;
- Any faulty cylinders that cannot be used to completion or safely vented and appear to contain more than residual gases are to be disposed of as hazardous wastes.

### **Status Under Federal Law**

The steps outlined above do appear consistent with the federal requirements for empty containers found in 40 CFR, section 261.7(a)(1) and 40 CFR, section 261.7(b)(2)<sup>1</sup>. Please be advised, however, that step number two, which states that you would dispose of the empty cylinders as scrap metal, would potentially require that the cylinders be handled as hazardous waste. While scrap metal that is recycled is exempted from hazardous waste management requirements [40 CFR, section 261.6(a)(3)(ii)], scrap metal, including excluded scrap metal, that is to be disposed is considered a solid waste under the Resource Conservation and Recovery Act (RCRA). It would then have to be determined whether or not the scrap metal (or empty cylinder in this case) is characteristically hazardous. If the scrap metal is characteristically hazardous, it would have to be managed according to all applicable RCRA regulations if it is disposed.

### **Status Under State Law**

The disposal steps outlined above appear consistent with Title 22, CCR, Section 66261.7(l)<sup>2</sup>, which provides an exemption from regulation under California hazardous waste requirements for empty compressed gas cylinders if they are managed according to the provisions of Section 66261.7(l). The venting of the empty gas cylinders to assure atmospheric pressure is reached would not be considered treatment of the cylinder and therefore would not be subject to regulation.

The disposal steps outlined above would not, however, be consistent with the recycling exclusion for scrap metal found in Title 22, CCR, Section 66261.6(a)(3)(B)<sup>3</sup>. Since, under existing State law, "recyclable material" is simply defined as material capable of being recycled, not material that is actually recycled, Section 66261.6(a)(3)(B) may appear to exempt scrap metal

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<sup>1</sup> 40 CFR, Section 261.7(a)(1) provides that "any hazardous waste remaining in either (i) an empty container or (ii) an inner liner from an empty container...is not subject to regulation under parts 261 through 265, or part 268, 270, or 124 of this chapter or to the notification requirements of section 3010 of RCRA." Section 261.7(b)(2) provides that "a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric."

<sup>2</sup> Title 22, CCR, Section 66261.7(l) states that " a compressed gas cylinder is exempt from regulation under this division and Chapter 6.5 of Division 20 of the Health and Safety Code when the pressure in the container approaches atmospheric pressure."

<sup>3</sup> Title 22, CCR, Section 66261.6(a)(3)(B) states that scrap metal, as defined in Section 66260.10, is not subject to regulation under Division 4.5, Environmental Health Standards for the Management of Hazardous Waste, and is not subject to the notification requirements of Health and Safety Code section 25153.6. Scrap metal is defined, in part, to include manufactured, solid metal objects and products.

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from regulation regardless of whether the scrap metal is recycled or disposed. While this apparent ambiguity stems from efforts to conform California's statutorily defined terms, such as "recyclable material", with federal regulatory language, the intent of the regulations was to exempt scrap metal only when recycled.<sup>4</sup>

In any event, State law cannot be less stringent than its federal counterpart. Therefore, since the federal exemption for scrap metal requires that the scrap metal be recycled, the State exemption must also require that the scrap metal be recycled in order to qualify for the exemption.

### Conclusion

In this instance, the disposal steps outlined above would not be consistent with federal and State requirements unless you recycle the empty cylinders as scrap metal instead of disposing the cylinders. As discussed above, the cylinders would be considered solid waste when disposed. Prior to disposal you would have to determine if the cylinders are also characteristically hazardous, and if characteristically hazardous, manage the hazardous waste according to all applicable RCRA regulations.

Thank you again for your letter. If you have any questions or need additional information, please contact me at (916) 324-6564, or at the letterhead address.

Sincerely,



Cheryl Closson  
Resource Recovery Section

cc: See next page.

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<sup>4</sup> See pages B-59 and B-60 of the June 1, 1989 Statement of Reasons for Regulatory Package R-89-17, Environmental Health Standards for the Management of Hazardous Waste. Page B-60 states in part that the phrase "... hazardous wastes that are recycled will be known as recyclable materials' is being deleted as redundant, because the term 'recyclable material' is defined in statute...".

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