

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

OCTOBER 7, 1993

Mr. John DiFazio  
Chemical Specialties Manufacturers Association  
1913 Eye Street, N.W.  
Washington, D.C. 20006

Dear Mr. DiFazio:

Over the past several years we have received numerous questions from you and others concerning the regulatory status of used aerosol cans under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. I understand that confusion about these issues may be hindering your cooperative efforts with the Steel Recycling Institute (SRI) to increase steel aerosol can recycling in this country. As environmentally protective recycling is an important part of the Agency's waste management goals, I hope that this letter will help to answer some of these questions.

RESIDENTIAL AEROSOL CANS

First, I would like to emphasize that under the federal RCRA regulations, household waste (including aerosol cans) is excluded from the definition of hazardous waste (40 CFR 261.4 (b) (1)). Thus, any aerosol cans generated by households are not regulated as hazardous waste. Because this exclusion attaches at the point of generation (i.e., the household) and continues to apply throughout the waste management cycle, household aerosol cans collected in municipal recycling programs and subsequently managed in recycling programs continue to be excluded from the hazardous waste management regulations.

The data submitted by SRI<sup>1</sup> appear to confirm that the majority of used residential aerosol cans contain very little residual product or propellant. Along with your experience working with many of the 600 or more communities currently recycling these cans, the data suggest that aerosol cans can be effectively recycled.

The Agency does recommend that communities running residential steel recycling programs educate their participants to recycle only empty steel aerosol cans. Participants could also be educated to: 1) purchase only the amount of consumer products that they need to minimize the quantities of unused products, 2) give unused products to someone else who can use them, 3) take unused or partially full containers to a household hazardous waste collection program if available, or 4) dispose of the partially full containers as directed on the label.

COMMERCIAL/INDUSTRIAL AEROSOL CANS

I understand that you and SRI are also interested in facilitating the recycling of aerosol cans generated by commercial or industrial generators. The remainder of this letter discusses only these non-household waste items.

We have been asked whether aerosol cans exhibit the characteristic of reactivity. At this time, the Agency is not able to determine whether various types of cans that may have contained a wide range of products are reactive. However, a steel aerosol can that does not contain a significant amount of liquid would clearly meet the definition of scrap metal (40 CFR 261.1 (c)(6)), and thus would be exempt from RCRA regulation under 40 CFR 261.6(a)(3)(iv) if it were to be recycled. Therefore, a determination of reactivity or any other characteristic would not be relevant. Aerosol cans that have been punctured so that most of any liquid remaining in the can may flow from the can (e.g., at either end of the can), and drained (e.g., with punctured end down), would not contain significant liquids.

It should be noted that since the process of emptying the aerosol cans is part of a recycling process (i.e., scrap steel recycling), this activity would be exempt from RCRA regulation under 40 CFR 261.6(c) (except as specified in 40 CFR 261.6(d)). The Agency recommends that these activities be conducted in a safe and environmentally protective manner and that care be taken to properly manage any contents removed from the container (both liquids and gases). Any liquids or contained gases removed from aerosol cans may be subject to regulation as hazardous wastes if they are listed in Subpart D of 40 CFR Part 261 or if they exhibit any characteristics of hazardous waste as described in Subpart C of 40 CFR Part 261.

We have also been asked to determine whether used aerosol cans would meet the definition of “empty” under 40 CFR 261.7. Again, if the steel cans are being recycled, it is not necessary to determine whether they are “empty” under the criteria listed in 40 CFR 261.7. As long as an aerosol can being recycled does not contain significant liquids, the can is exempt as scrap metal. However, in order to dispose of a can as non-hazardous waste (rather than recycle it), a generator would have to determine that the can is empty under 40 CFR 261.7 (or that the product it contained was not hazardous), and that the can itself is not hazardous. If a can is to be disposed of, and either contains or is hazardous waste, it must be managed under all applicable regulations.

Please be aware that this letter addresses only the federal hazardous waste regulations. Authorized State agencies implement the RCRA program in their states (although some parts of the program may be implemented by the U.S. EPA Regions), and that state regulations may be more stringent than the federal regulations. Anyone managing aerosol cans should contact the appropriate state environmental agency or U.S. EPA Regional Office to determine how the regulations of that particular state will apply to their activities.

I hope this information is useful in your efforts to increase steel recycling. Thank you for the assistance that you and the Chemical Specialties Manufacturers Association have provided my staff in researching these issues. If you have any further questions, please call Charlotte Mooney of my staff at (202) 260-8551.

Sincerely,

Jeffery D. Denit  
Acting Director,  
Office of Solid Waste

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<sup>i</sup> Texas Steel Aerosol Can Recycling Program, Final Report; Steel Can Recycling Institute (now Steel Recycling Institute); December 7, 1992.