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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

January 4, 1994

Mr. Michael C. Campbell
Katec Incorporated
P.O. Box 3399
Virginia Beach, Virginia 23454

Dear Mr. Campbell:

Thank you for your letter of November 12, 1993, commenting on our letter of October 7, 1993, concerning regulation of waste aerosol cans under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. We appreciate your interest in the safe and environmentally protective management of these wastes.

As we indicated in our letter, we are not at this time able to make a categorical determination as to whether various types of cans that may have contained a wide range of products exhibit the characteristic of reactivity. It remains the responsibility of the generator of any particular waste to make this determination (see 40 CFR 262.11). However, as we indicated in the letter, a steel aerosol can that does not contain a significant amount of liquid (e.g., a can that has been punctured and drained) would meet the definition of scrap metal (40 CFR 261.1(c)(6)), and, if it is to be recycled, would be exempt from regulation under 40 CFR 261.6(a)(3)(iv). Scrap metal that is recycled is exempt from RCRA regulation under this provision even if it is hazardous waste, so generators need not make a hazardous waste determination. Scrap metal that is not recycled, however, is subject to the hazardous waste regulations if it is hazardous, so generators must make a hazardous waste determination.

We appreciate your safety concerns and stress that persons managing both regulated wastes and wastes that are exempt under recycling exemptions should take all necessary precautions to ensure that the wastes are managed safely. Thank you again for your interest in this issue.

RO 11806

Sincerely,
Michael H. Shapiro
Director
Office of Solid Waste