

AEROSOL CAN UNIVERSAL WASTE FINAL RULE

NEWMOA WEBINAR

JANUARY 14, 2020

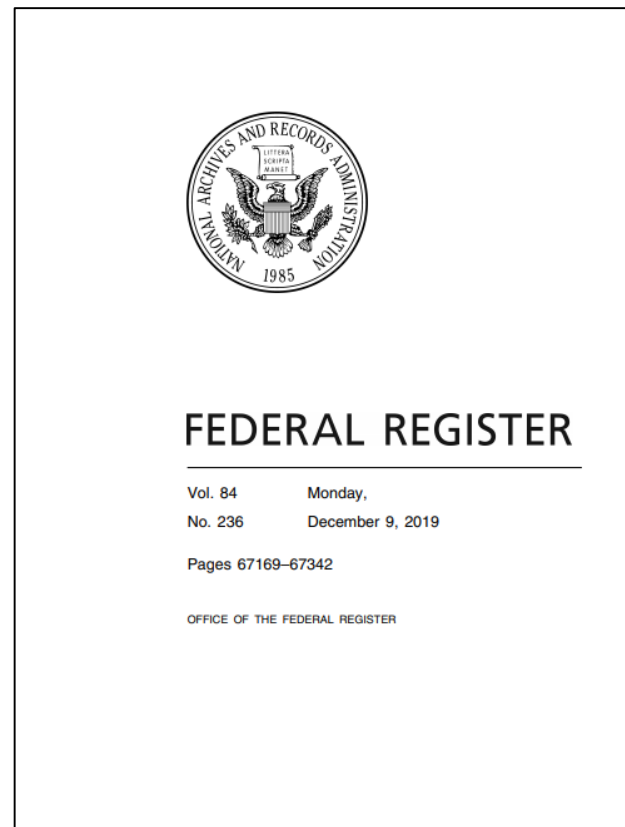
Introduction to the Final Rule

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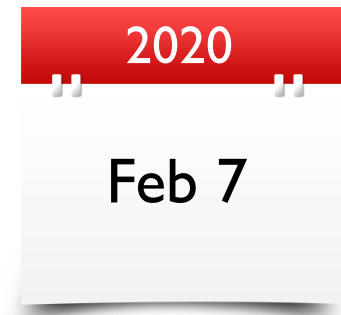
FEDERAL REGISTER PUBLICATION

- Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations
- The final rule was published in the Federal Register on December 9, 2019
- 84 FR 67202
- Amends 40 CFR Part 273



EFFECTIVE DATE & STATE ADOPTION

- The effective date of the final rule is February 7, 2020 in:
 - Non-authorized States: Iowa, Alaska
 - Indian Country
 - US Territories (except Guam)
- The rule is not effective in authorized states until state adopts the new rule
- Authorized states are not required to adopt the rule
- Six states have already added aerosol cans to their list of universal wastes (CA, CO, MN, NM, OH, UT)

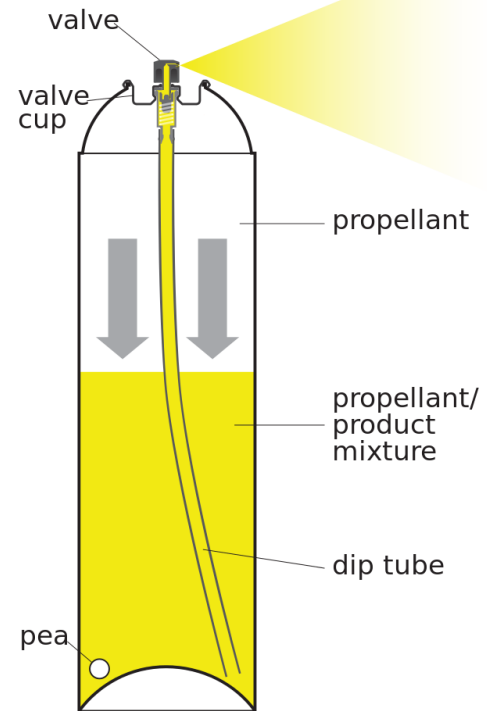




I. BACKGROUND ON AEROSOL CANS

HAZARDOUS WASTE AEROSOL CANS

- When aerosol cans are discarded by a business, a retail establishment, or a contractor, they are typically hazardous waste.
- Aerosol cans are typically hazardous waste because many contain ignitable propellants and some contain contents that are also hazardous waste when discarded.
- This means discarded aerosol cans generally must be managed under hazardous waste generator regulations.



UNIVERSAL WASTE AEROSOL CANS

- Aerosol cans are subject to OSHA and DOT requirements for safe management during storage and transport. The OSHA and DOT requirements address their flammability.
- Retailers and other generators are accustomed to safely managing aerosol cans products as part of regular commerce.
- The main public health concern for aerosol cans is their end-of-life stage when the potential for releases and fires increases. These concerns are addressed by adding aerosol cans to the universal waste regulations.

UNIVERSAL WASTE AEROSOL CANS

- EPA added aerosol cans to universal waste to:
 - Ease regulatory burdens on retail store and other universal waste generators,
 - Promote the collection and recycling of universal waste, and
 - Encourage the development of municipal and commercial collection programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

RETAIL STRATEGY

- This final rule completes the Retail Strategy
- 2014 – Notice of Data Availability for retail sector
 - ~ 35% of the commenters suggested that aerosol cans be added to universal waste
- 2016 – Strategy for Addressing the Retail Sector under RCRA
 - Cohesive plan to address the unique challenges the retail sector faces in complying with RCRA.
 - Included a commitment to develop a proposal to add aerosol cans to universal waste



II. BACKGROUND ON UNIVERSAL WASTE

BACKGROUND ON UNIVERSAL WASTE

- The universal waste regulations streamline the hazardous waste management standards for certain categories of hazardous waste commonly generated by a wide variety of establishments.
- In general, universal wastes present a relatively low risk during accumulation and transport compared to other hazardous wastes.
- The four previously existing types of federal universal wastes are (1) batteries, (2) pesticides handled under a recall or as part of a special collection program, (3) mercury-containing equipment and (4) mercury lamps.

BACKGROUND ON UNIVERSAL WASTE

- Universal waste participants are:
 - Handlers
 - Small quantity handlers accumulate $< 5,000$ kg of UW at one time
 - Large quantity handlers accumulate $\geq 5,000$ kg of UW at one time
 - Destination facilities

BACKGROUND ON UNIVERSAL WASTE

■ Handlers:

- Can accumulate UW for one year
- Are not required to use a hazardous waste manifest
- May ship UW to and receive UW from other handlers
- Must use proper packaging (prevent releases to the environment) and labeling (e.g. “Universal Waste – aerosol cans”)
- Must complete proper employee training (more stringent requirements for large quantity handlers)
- Must obtain an EPA ID number and track their universal waste (large quantity handlers only)
- Must follow applicable hazardous waste export requirements.

BACKGROUND ON UNIVERSAL WASTE

■ Destination facilities:

- Are subject to all applicable requirements in 40 CFR parts 264, 265, 266, 268, and 270.
- Must keep a record of each shipment of UW that they receive.
- Recyclers who do not store prior to recycling must comply with 40 CFR 261.6(c)(2)

STATE AEROSOL CAN UNIVERSAL WASTE PROGRAMS

- California, Colorado, Minnesota, New Mexico, Ohio and Utah currently allow aerosol cans to be managed as universal waste.
- All states allow handlers to puncture and drain aerosol cans under their universal waste programs (although California prohibits puncturing and draining at commercial processors).



III. OVERVIEW OF FINAL RULE

HANDLER REQUIREMENTS

- The existing UW requirements applicable to handlers are also applicable to handlers of discarded aerosol cans:
 - Can accumulate UW for one year
 - Must use proper packaging (prevent releases to the environment) and labeling (e.g. “Universal Waste – aerosol cans”)
 - Must complete proper employee training (more stringent requirements for large quantity handlers)
 - Must obtain an EPA ID number and track their universal waste (large quantity handlers only)
 - Must follow applicable hazardous waste export requirements.

APPLICABILITY – DAMAGED AND LEAKING CANS

- EPA allows cans that show evidence of leakage to be managed as UW, but they must be:
 - packaged in a separate closed container,
 - overpacked with absorbents, or
 - immediately punctured and drained in accordance with the requirements.
- This is consistent with other types of damaged/leaking UW (e.g., batteries) that can be managed as UW as long as they are in a separate container or overpacked with absorbents.
- This is consistent with state aerosol can UW programs, such as Colorado and Ohio.

DEFINITION OF AEROSOL CAN

- The final definition of aerosol can is parallel to DOT's definition of aerosols:
 - “a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas”
- Examples of cans included:
 - Cans that contained only gas
 - Cans that dispensed products without aeration (e.g., shaving gels)
- Examples of cans excluded:
 - Compressed gas canisters
 - Propane cylinders

PUNCTURING AND DRAINING OF AEROSOL CANS AT UW HANDLERS

- Puncturing and draining an aerosol can is considered part of the recycling process and is exempt from RCRA permitting requirements per 40 CFR 261.6(c).
- However, under the existing UW regulations, a facility that recycles a UW is a destination facility, not a handler (even if that recycling process is exempt from hazardous waste regulation).
- The final rule includes an exemption that allows all handlers to puncture and drain aerosol cans, provided they follow the requirements put in place to protect human health and the environment.

PUNCTURING AND DRAINING OF AEROSOL CANS AT UW HANDLERS

- Final puncturing and draining requirements for handlers:
 - Written procedure detailing how to safely puncture and drain cans must be maintained on site
 - Employees operating device must be trained in proper procedures
 - Must be done in a manner designed to prevent fires and releases to the environment
 - Contents from can must be immediately transferred to a container or tank and the contents must undergo a HW determination under 40 CFR 262.11
 - Spill kit must be provided and spills/leaks must be cleaned promptly

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Final rule webpage: <https://www.epa.gov/hw/increasing-recycling-adding-aerosol-cans-universal-waste-regulations>