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## EMCX Center of Expertise Information - Fact Sheets

### Fact Sheet 20-01

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#### Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations

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##### ***Purpose of this Fact Sheet***

This summarizes the final rule entitled, “Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations” published in the Federal Register on 9 December, 2019, 84 Federal Register 67202. This final rule adds hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (RCRA), and benefits a wide variety of USACE operations that generate and manage hazardous waste aerosol cans including locks and dams, supply bases, maintenance shops, vessels, research labs, and remediation sites. The EPA is adding aerosol cans to the universal waste program to ease the regulatory burden on those that generate hazardous waste aerosol cans, promote the collection and recycling of aerosol cans, and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

##### ***Effective Date of Rule***

The effective date of this Federal rule is 7 February 2020, but it is not effective in all states on that date. It will be effective on this date in the non-RCRA authorized states of Iowa and Alaska. For RCRA authorized states, it will not be effective until or unless states chose to adopt these regulations. The intent of the rule is to provide national consistency, so EPA encourages state adoption, but it is not mandated. Certain states, including California, Colorado, New Mexico, Ohio, and Utah, already had universal waste aerosol can programs in place at the time this Federal rule was finalized. Requirements may vary from state to state so consult your individual state regulations for state-specific standards.

##### ***Summary***

##### **Who Should Read this Rule?**

This rule is of interest to persons generating hazardous waste aerosol cans.

##### **What is an Aerosol Can under Universal Waste Regulations?**

EPA's definition of "aerosol can" is consistent with DOT's definition in 49 CFR 171.8. An aerosol can is defined in 40 CFR 273.9 as "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".

Compressed gas cylinders and propane canisters present a greater risk than aerosol cans and require special procedures to safely depressurize, therefore; are not included in the definition of aerosol cans. The EPA did not impose a size limit on aerosol cans, but some states including Utah restrict the aerosol can size to twenty-four ounces.

### What is a Universal Waste Handler?

In 40 CFR 273.9, a universal waste handler means:

- 1.) A generator of universal waste
- 2.) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

It does not mean:

- 1.) a person who treats, disposes, or recycles universal waste (also known as a "destination facility")
- 2.) a person engaged in off-site transportation of universal waste (also known as a "universal waste transporter")
- 3.) a universal waste transfer facility

### What are Some of the Benefits of this Rule?

Inclusion of aerosol cans under universal waste regulations in 40 CFR 273 allow alternate management standards to Subtitle C hazardous waste management standards. Managing aerosol cans as universal waste allow generators to:

1. Accumulate aerosol cans on-site for longer times - for up to 1 year
2. Label containers as "Universal Waste – Aerosol Can(s)," "Waste Aerosol Can(s)," or "Used Aerosol Can(s)" and not have to indicate the associated hazard while being accumulated. (However, DOT requirements will apply when in transport.)
3. Ship without the use of a hazardous waste manifest or land disposal restriction notification.
4. Not count intact aerosol cans toward monthly generation rates when determining generator category
5. Send cans to another universal waste handler for collection before sending to a Universal Waste Destination Facility

## Universal Waste Handler Management Requirements for Aerosol Cans

Universal waste management standards for Small Quantity Handlers of Universal Waste (SQHUW), less than 5,000 kgs onsite, and Large Quantity Handlers of Universal Waste (LQHUW), greater than or equal to 5,000 kgs onsite, include labeling and marking, accumulation time limits, employee training, responses to releases, and export requirements. LQHUW have additional notification and tracking requirements.

Under this final rule, EPA finalized the labeling requirement that either each aerosol can or a container in which the aerosol cans are contained must be labeled or marked clearly with any of the following phrases: “Universal Waste – Aerosol Can(s),” “Waste Aerosol Can(s),” or “Used Aerosol Can(s)”.

In this final rule, all handlers must manage their universal waste aerosol cans in a manner designed to prevent releases to the environment, including accumulating their universal waste aerosol cans in containers that are structurally sound and compatible with the contents of the can, and show no evidence of leaks, spills, or damage that could cause leaks under reasonably foreseeable conditions. Other requirements for aerosol cans that show signs of leakage and the puncturing and draining of aerosol cans were finalized and explained below. The EPA also added language to require the universal waste aerosol cans to be accumulated in a container that is protected from sources of heat.

Handlers of intact aerosol cans are allowed to sort cans by type, mix intact cans in one container, and remove actuators to reduce the risk of accidental release.

### Specific Standards for Puncturing and Draining Aerosol Cans

The EPA finalized specific standards that relate to the puncturing and draining of aerosol cans.

EPA says that handlers that puncture and drain their aerosol cans must recycle the empty punctured cans and must meet the following requirements:

- puncturing and draining activities must be conducted using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof
- handlers must establish and follow written procedures<sup>1</sup> to ensure that handlers take the necessary precautions to protect human health and the environment while puncturing and draining universal waste aerosol cans
- handlers must maintain a copy of the manufacturers’ instructions on site and ensure that employees operating the device are trained in the proper procedures.
- aerosol cans be punctured in a manner<sup>2</sup> designed to prevent fires and releases and any residuals be transferred to a tank or container
- handlers must immediately transfer the contents from the waste aerosol can, or the puncturing device, to a container or tank and conduct a hazardous waste

determination on the contents under 40 CFR 262.11 and manage those wastes in accordance with applicable RCRA regulations.

- written procedures must be in place in the event of a spill or release, that a spill clean-up kit be provided, and that any spills or leaks be cleaned up promptly.
- all puncturing, waste collection, and disposal must be conducted in compliance with all applicable Federal, state, and local waste and occupational safety and health laws and regulations

<sup>1</sup> The EPA is requiring that the written procedures address the operation and maintenance of the unit, including its proper assembly, segregation of incompatible wastes, and proper waste management practices (e.g. ensuring that ignitable wastes are stored away from heat or open flames).

<sup>2</sup> Manner includes but not limited to, locating the equipment on a solid, flat surface in a well-ventilated area.

### Leaking or Damaged Aerosol Cans

The EPA is requiring that universal waste aerosol cans showing evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the aerosol can universal waste requirements.

EPA initially proposed that damaged or leaking aerosol cans are not eligible to be managed as universal waste, instead such cans are subject to 40 CFR 262 hazardous waste requirements. However EPA did not finalize that proposal, because of comments received noting that the rules for other universal wastes allow damaged or leaking items as long as they are in appropriate containers and the subjective nature of “evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions” and the fact that other states allow damaged or leaking items. Such an approach is consistent with DOT 49 CFR 173.306(k) that aerosols that are damaged, defective, or leaking to the point where they do not meet applicable design standards be transported in special aerosol salvage drums.

### **Conclusion**

This rule to add hazardous waste aerosol cans to the universal waste program under RCRA regulations will benefit a wide variety of USACE facilities generating and managing hazardous waste aerosol cans. The streamlined universal waste regulations are expected to ease regulatory burdens, promote the collection and recycling of these cans, and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

### **Technical Assistance**

For questions regarding this Fact Sheet, contact the USACE Environmental and Munitions Center of Expertise at (402) 697-2624.