

Aerosol Cans/RCRA: U.S. Environmental Protection Agency Finalizes Addition to the Universal Waste Program



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The United States Environmental Protection Agency (“EPA”) issued a pre-publication final rule adding hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (“RCRA”) regulations.

EPA had previously proposed to do so on March 16, 2018. See 83 Fed. Reg. 11654.

The universal regulations are found in 40 C.F.R. Part 273. They operate in lieu of regulation under 40 C.F.R. Parts 260-272 for such hazardous wastes.

The RCRA universal waste rule establishes a streamlined hazardous waste management system for commonly generated hazardous waste. It is intended to encourage environmentally sound collection and proper management of the waste within the system. Materials that have previously been added to the universal waste system include:

- Hazardous waste batteries
- Certain hazardous waste pesticides
- Certain mercury-contained equipment
- Hazardous waste lamps

Prior to this rule going into effect many of the RCRA generators of aerosol cans identified or listed as hazardous waste have been subject to full Subtitle C hazardous waste management requirements.

A key statistic cited by EPA in support of the rule is the Household and Commercial Products Association estimate that 3.75 billion aerosol cans were filled in the United States in 2016 for use by commercial and industrial facilities as well as households.

Handlers and transporters generating or managing items designated as universal waste are subject to the management standards under 40 C.F.R. Part 273 instead of the full RCRA Subtitle C regulations.

EPA states that the addition of aerosol cans to the universal waste list will benefit a wide variety of establishments that include the retail sector. The benefits are stated to include a “clear, protective system for managing discarded aerosol cans.” The streamlined regulations are expected to ease regulatory burdens on retail stores (and others) that discard hazardous waste aerosol cans and:

- promote the collection and recycling of aerosol cans

- encourage the development of municipal and commercial programs to reduce the quantity of aerosol cans disposed of in solid waste landfills or combustors

EPA describes aerosol cans as being widely used for dispensing a broad range of products such as:

- Paint
- Solvents
- Pesticides
- Food and personal care products
- Others

A copy of the pre-publication rule can be downloaded [here](#).