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# Reconditioning/Used Drum Management/Advance Notice of Proposed Rulemaking: U.S. Environmental Protection Agency Solicits Comments Addressing Non-Regulatory/Regulatory Options

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The United States Environmental Protection Agency (“EPA”) published an Advance Notice of Proposed Rulemaking (“ANPR”) in the August 11th Federal Register soliciting information/requesting comments to assist the federal agency in the potential development of:

. . . non-regulatory and regulatory options that would ensure the proper management of used industrial containers that held hazardous chemicals or hazardous waste, up to and including the drum reconditioning process.

See 88 Fed. Reg. 54537.

EPA describes the potential options as including:

- Revising the Resource Conservation and Recovery Act (“RCRA”) regulations
- Non-regulatory options

Drum conditioning facilities clean and recondition metal and plastic drums and intermediate bulk containers for resale and reuse by cleaning, restoring, testing, and certifying the industrial containers. These containers may have held materials such as chemicals, paint, resins, tars, adhesives, oils, soaps, solids or related materials.

EPA has described the two main processes used for reconditioning as:

- Burning off residuals from metal drums in a burn-off oven or furnace
- Washing metal or plastic drums (or containers) with water and/or a caustic solution to remove residues

Obviously, this is a form of recycling by putting these containers back into commerce.

A key RCRA Subtitle C provision is relevant to drum reconditioning. The so called “empty container” provision exempts from RCRA Subtitle C regulation hazardous waste residues remaining in a drum or other container if certain conditions are met:

- All wastes have been removed using commonly employed practices; and
- No more than one inch of non-acute hazardous waste remains in the container

See 40 CFR 261.7.

Consequently, prudent drum reconditioning facilities strive to the extent possible to ensure they receive RCRA empty containers so that they are not inadvertently treating hazardous waste without a permit.

EPA has expressed concern that the volume of containers handled by reconditioning facilities could mean that some non-RCRA empty containers are accepted.

The stated purpose of the August 11th ANPR is for the federal agency to preliminarily explore the regulatory and/or non-regulatory options for addressing what it considers issues associated with the management of used drums or containers. Management is stated to include the full extent of their life cycle (i.e., the generation, transportation, and management [including reconditioning] of such containers).

EPA notes that it previously published a report studying the drum reconditioning industry. The report is titled:

Drum Reconditioner Damage Case Report (“Report”)

The Report is described as documenting “damages”) such as:

- Environmental releases
- Fires
- Explosions
- Employee injuries

The components of the ANPR overview include:

- Non-regulatory Options
- Regulatory Summary Table (including potential regulatory options)
- Environmental Justice Used Drum Generator and Transporter Issues
- Emptying containers
- Shipping of non-RCRA empty containers
- Container packaging (integrity)
- Drum Reconditioner Issues
- Acceptance, storage, handling, and management of non-RCRA empty containers
- Emissions from drum furnaces
- Management and mismanagement of waste waters and other wastes generated from drum reconditioning
- Emergency response
- Training
- Permitting
- End-of-Life Management
- Transportation Equipment Cleaning Facilities

A copy of the Federal Register Notice can be downloaded [here](#).