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Reconditioning/Used Drum Management: Cement Kiln Recycling Coalition Comments Addressing U.S. Environmental Protection Agency Advance Notice of Proposed Rulemaking

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The Cement Kiln Recycling Coalition (“CKRC”) submitted November 21st comments to the United States Environmental Protection Agency (EPA”) addressing the following Advance Notice of Proposed Rulemaking (“ANPR”) titled:

Used Drum Management Reconditioning 88 Fed. Reg. 54537 (Aug. 11, 2023)

EPA’s ANPR solicits information/requests comments to assist the Federal Agency in the potential development of:

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

Drum reconditioning facilities clean and recondition metal and plastic type intermediate bulk containers for resale and re-use by cleaning, restoring, testing, and certifying the industrial containers. The containers may have held substances such as chemicals, resins, tars, adhesives, oils, soaps, solids, and related materials.

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

- Burning residuals for metal drums in a burn-oven or furnace
- Washing metal or plastic drums with water and/or a caustic solution to remove residues.

A key Resource Conservation and Recovery Act (“RCRA”) provision is relevant to drum reconditioning. The so-called “empty container” provision exempts RCRA hazardous waster residues remaining in the drum or other container if certain conditions are met. See 40 C.F.R. 261.7.

EPA’s concern is that the volume of containers handled by reconditioning facilities could result in some non-RCRA empty containers being accepted.

The Federal Agency describes the potential options for revising its regulation of drum reconditioning as:

- Revising the RCRA regulations
- Non-regulatory options

CKRC describes itself as a national trade association representing cement manufacturers in the United States that recycle the value in energy-bearing waste by using them as fuel in kilns that produce Portland cement. The trade association also represents companies that collect, process, manage, and market alternative fuels for use in cement kilns as well as companies that provide consulting services to the industry.

CKRC's November 21st comments note that energy recovery in cement kilns:

... plays a key role in fulfilling EPA's Land Disposal Restrictions ("LDR") program which is directed at reducing the amount and effects of hazardous waste constituents that are land-disposed.

The member companies are stated to provide essential waste management services that eliminate land-disposal of hazardous constituents. This is accomplished while simultaneously producing cement which is a key component of concrete.

CKRC members, while sometimes taking advantage of the "RCRA empty" exemption are also noted to be permitted treatment storage and disposal facilities under 40 C.F.R. 264 and 270. As a result, they receive substantial regulatory oversight.

CKRC's introductory comments reference four overall concerns:

- Potential unintended consequences on the existing compliance framework within which permitted treatment storage and disposal facilities successfully operate
- Basis on which EPA is considering potential changes is flawed/outdated
- EPA resources would be better used on education/compliance assistance efforts to improve implementation of existing standards
- Existing standards when complied with are both effective and protective of human health in the environment

Additional comments include:

- EPA's Damage Case Report mischaracterizes the causes of damages; overstates the environmental and human health risk associated with container reconditioners today; fails to demonstrate that existing regulations when complied with, are inadequate; and does not support the regulatory enhancements being considered
- The changes to the "RCRA empty" standards being contemplated by EPA will not improve the management of used containers and will add unnecessary burden to container generators, especially those including CKRC members, which are already permitted treatment storage and disposal facilities, and reconditioners
- CKRC is particularly concerned about adding container rinsing requirements in order to achieve "RCRA empty"
- EPA should compile and analyze all existing federal and State regulations that apply during the full lifecycle of container management before developing additional requirements and include that analysis in the rulemaking docket.

A copy of the CKRC docket is [attached](#).