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May 15, 2018

Attn: Timothy Kollar  
Environmental Protection Agency  
Office of Land & Emergency Management  
1200 Pennsylvania Avenue NW, Mail Code 5304P  
Washington, DC 20460

**Re: EPA–HQ–OLEM–2017–0463, Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations**

Dear Mr. Kollar:

The Portland Cement Association (“PCA”) appreciates the opportunity to submit comments on the Environmental Protection Agency’s (“EPA”) Proposed Rule on Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, 83 Fed. Reg. 11654 (Mar. 16, 2018) (“Proposed Rule”).

PCA, founded in 1916, is the premier policy, research, education, and market intelligence organization serving America’s cement manufacturers. PCA members represent 92 percent of US cement production capacity and have facilities in all 50 states. The Association promotes safety, sustainability, and innovation in all aspects of construction, fosters continuous improvement in cement manufacturing and distribution, and generally promotes economic growth and sound infrastructure investment.

**I. Introduction**

PCA is very supportive of EPA’s efforts on regulatory reform and reducing the regulatory burden on manufacturers to improve environmental outcomes and increase economic growth. This proposed rule reducing the regulatory burden of managing hazardous waste aerosol cans as universal waste is another example of smart regulatory policy that will have a positive impact on the economy while protecting the environment.

Regulating hazardous waste aerosol cans under the universal waste rules will simplify managing this common waste stream. Current regulations require detailed waste characterizations for each can, difficult “point of generation” determinations, full satellite accumulation area requirements, and unnecessarily short time frames for generators to ship these materials off-site. The

streamlined universal waste classification will reduce the compliance burden on generators while providing an effective framework to encourage recycling and ensure proper management.

The proposed universal waste rules will simplify the disposal requirements that apply to hazardous waste aerosol cans. PCA does not endorse designating non-hazardous aerosol cans as universal waste and supports having the flexibility to manage non-hazardous and hazardous aerosol cans as separate waste streams. While PCA is in support of this rule, PCA believes that EPA should also allow for non-intact hazardous aerosol cans to be managed as universal waste and should revise the labeling requirements to provide more flexible labeling language.

## **II. EPA Should Allow Non-Intact Hazardous Aerosol Cans to be Managed as Universal Waste**

Although the proposal is an improvement over the current requirements by potentially reducing the regulatory burden specific to intact hazardous waste cans, the benefits of the rules could be greatly enhanced by allowing non-intact hazardous aerosol cans to be managed together as universal waste. Allowing all intact and non-intact hazardous waste aerosol cans to be managed together in accumulation containers is more likely to ensure that all hazardous waste aerosol cans are properly disposed of as universal waste and cans showing evidence of leakage would be properly contained while waiting to be punctured on-site for further recycling or shipped off-site for proper management.

Allowing aerosol cans that show evidence of leakage (non-intact cans) to also be managed as universal waste would be consistent with existing regulations for universal waste batteries. Universal waste handlers may manage leaking (non-intact) batteries as universal waste provided the compromised batteries are placed in a closed, structurally sound container; the handler must ensure any released materials are properly contained, characterized, and managed accordingly. EPA's approach for identifying non-qualifying cans as those that "are not leaking or otherwise damaged where contents or propellants could be dispersed out of the can"<sup>1</sup> is subjective. Creating separate regulatory requirements for intact and non-intact cans potentially eliminates the recycling opportunity for non-intact cans and establishes a higher risk for non-compliance with the rules. Unless a single management approach for all hazardous waste aerosol cans is allowed, the burden for generators – to evaluate each can against the "intact" criteria, segregate the cans, and comply with different complex standards for what may appear to be the "same" waste – will not be measurably reduced.

## **III. EPA Should Allow Flexible Labeling Language**

PCA requests that EPA allow flexibility for the labeling of an aerosol container or can with any words that identify the aerosol cans or contents of the accumulation container. Providing more flexible labeling language will ease compliance without compromising proper management of the wastes. This may be accomplished by revising language in proposed 40 CFR 262.273.34(f) as follows: (proposed changes in *italics* and underlined)

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<sup>1</sup> *Id.* at 11,660.

(f) Universal waste aerosol cans (i.e., 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 or other words to identify the contents of the container or can, such as, “aerosol can(s)”, “Universal Waste—Aerosol Can(s)”, “Waste Aerosol Can(s)”, or “Used Aerosol Can(s).”

#### **IV. Conclusion**

PCA appreciates the opportunity to provide comment in support of the proposed rule allowing for the treatment of hazardous waste aerosol cans as universal waste. PCA urges EPA to revise the rule to allow for non-intact hazardous aerosol cans to be managed as universal waste and allow for flexible labeling language. If you have any questions regarding these comments, please feel free to contact me at 202-719-1977 or [cfranklin@cement.org](mailto:cfranklin@cement.org).

Regards,

/s/

Charles Franklin  
Vice President and Counsel, Government Affairs