"Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations [83 FR 11654-11667, March 16, 2018]

Comments submitted by ConocoPhillips Alaska, Inc. via https://www.regulations.gov on May 15, 2018

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ConocoPhillips Alaska, Inc. (CPAI) appreciates the opportunity to comment on the proposed rulemaking titled "Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations" [83 FR 11654-11667, March 16, 2018]. CPAI supports the Environmental Protection Agency (EPA) proposal to add hazardous waste aerosol cans to the list of universal wastes regulated under the Resource Conservation and Recovery Act (RCRA) regulations. This proposed change, once finalized, will benefit a wide variety of establishments generating and managing aerosol cans, and lays out a clear, practical system for handling discarded aerosol cans.

CPAI is the largest producer of oil in Alaska and operates several oilfields on the North Slope of Alaska. CPAI and its contractors generate significant numbers of aerosol cans from painting, vehicle and equipment maintenance, and housekeeping operations. Due to the remoteness of its operations, CPAI minimizes transport of discarded aerosol cans to offsite treatment, storage and disposal facilities (TSDFs) as no commercial TSDFs are located in the state of Alaska. Various hazardous waste codes may apply based on the type of propellant and the nature of the products. Some of these aerosol cans may be fully emptied but others may have malfunctioned and are discarded with some contents remaining. We currently accumulate discarded aerosol cans in satellite accumulation areas (SAAs) and subsequently at central accumulation areas (CAAs) where puncturing occurs using dedicated commercial equipment designed for the task. Any remaining product is recovered and accumulated as hazardous waste; the cans are recycled as scrap metal.

CPAI supports the classification of aerosol cans as Universal Wastes. This change will not change our preferred management method of puncturing aerosol cans

onsite, recovering any remaining product for hazardous waste disposal and recycling the cans as scrap metal. We employ this strategy for aerosol cans, including those generated by our Very Small Quantity Generators (VSQGs) and those classified as household hazardous wastes. We believe the streamlined management rules for Universal Wastes will simplify regulated waste management procedures at our facilities, in particular, by not requiring that aerosol cans be counted toward monthly hazardous waste totals. This can be a significant benefit when a small facility is on the cusp of monthly changes to its generator status.

EPA requests comment on establishing further limitations on puncturing and draining of aerosol cans

EPA has proposed specific management requirements for the puncturing and draining of aerosol cans. These requirements in many cases reflect management requirements/guidance already adopted by states that regulate this activity. CPAI suggests that additional requirements beyond those that EPA specifically proposes are not necessary. Individual states are free to adopt more stringent requirements as they see fit.

EPA requests comment on the appropriate scope of the definition of ''aerosol can'' and the types of materials that should fall under it.

EPA describes the aerosol container as follows: "The can itself is typically a small steel or aluminum container, designed to be hand-held, which is sealed with its contents under pressure. The can's design is intended to prevent unwanted releases of the contents to the environment under normal handling and storage conditions." [83 FR 11656]

CPAI suggests that EPA reconsider its proposal to exclude other types of containers, including compressed gas canisters and propane cylinders. EPA considers that they present a greater risk than aerosol cans but does not elaborate on those risks. Other small pressurized containers, in particular calibration gas cylinders, should also be designated as Universal Wastes as part of the final rulemaking. This is a logical extension of this proposal. Instead of product and propellant, these containers contain known concentration of product gases that are

used to calibrate personal gas detectors, meters and analyzers used for personal safety monitoring. As long as facilities have procedures in place to safely depressurize these devices, potential risks can be mitigated. The procedures that EPA is proposing or already has in place for aerosol pesticide containers [83 FR 11657] should adequately mitigate these risks.

CPAI concurs that aerosol cans that meet the definition proposed by EPA in general can be safely managed under the Universal Waste system and that no size limitation is needed. As EPA proposes, these containers should be designed to be hand-held.

In addition, CPAI has the following comments and questions,

> EPA should rethink whether a "structurally sound" container should be required for onsite accumulation of aerosol cans in addition to requirements that containers do not leak and are not damaged.
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> CPAI requests that EPA verify in its preamble to the final rule that plastic bags can be suitable containers for discarded aerosol cans while they are being managed onsite. We have found that most spent aerosol cans are empty or nearly empty and that suitable plastic bags can be adequate for the onsite transport of these accumulated lightweight aerosol cans. These bags must be of a sufficient thickness to preserve their integrity. CPAI suggests that if the bags are properly closed, are compatible with the wastes contained in them, are able to contain leaks, and do not have rips, tears, or holes in them that they are suitable containers for discarded aerosol cans, prior to offsite transportation. The requirement in the proposed definition [40 CFR 273.13(e)(1)] that containers accumulating Universal Waste-Aerosol Cans be "structurally sound" is unnecessary. CPAI suggests that the requirement for "structurally sound" containers be removed or that it be clarified such that a bag that retains its physical integrity is considered "structurally sound" when being managed onsite. DOT shipping requirements will dictate the packaging that will be required for offsite transportation.
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> Applicability of the D003 (Reactivity Characteristic)

In the preamble to this proposed rule EPA does not mention the applicability D003 to waste aerosol cans.
CPAI is aware that some states have determined that the D003 code is applicable to discarded aerosol cans. However, although EPA discusses (83 FR 11656) that an aerosol can might exhibit the ignitability characteristic, may contain materials that exhibit hazardous waste characteristics, or may be P or U-listed hazardous waste, and discusses that aerosol cans could burst due to overheating, it does not specifically discuss whether the D003 reactivity characteristic is or is not applicable.

CPAI encourages EPA to articulate its current position on applicability of D003 to discarded aerosol cans in states/territories that do not have authorized RCRA programs.

CPAI appreciates the opportunity to comment and looks forward to the promulgation of the final rule

Sincerely,

Michael Nelson
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