



May 15, 2018

**VIA WWW.REGULATIONS.GOV**

Ms. Tracy Atagi  
Office of Land and Emergency Management (5304P)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
<http://www.regulations.gov>

***RE: Comments on the “Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations” Proposed Rule, EPA-HQ-OLEM-2017-0463***

Dear Ms. Atagi:

The Fertilizer Institute (TFI), on behalf of its member companies, submits these comments addressing the U.S. Environmental Protection Agency’s (EPA) proposed rule entitled “*Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations*” (hereinafter “*Aerosol Can Universal Waste Rule*”). The *Aerosol Can Universal Waste Rule*, published in the *Federal Register* on March 16, 2018, appears at 83 Fed. Reg. 11654.

**Statement of Interest**

TFI represents the nation’s fertilizer industry, including producers, importers, retailers, wholesalers and companies that are engaged in all aspects of the fertilizer supply chain. Fertilizer is a key ingredient in feeding a growing global population, which is expected to surpass 9.5 billion people by 2050. Half of all food grown around the world today is made possible through the use of fertilizer.

TFI members routinely generate, recycle and dispose of aerosol cans and are included in the two digit North American Industrial Classification (NAICS) codes 21 (mining), 32 (manufacturing), and 42 (fertilizer retailer). Many times aerosol cans are the sole source of hazardous waste generated at the manufacturing, mining, or retail facilities. As such, TFI members are impacted by the proposed regulatory modifications.

**TFI Comments**

TFI supports EPA’s proposed rule to manage hazardous waste aerosol cans as universal waste to facilitate environmentally sound metal recycling. TFI applauds EPA for recognizing, in the

proposed rule, that management of aerosol cans as a universal waste will reduce costs while maintaining protection of the environment, preventing disposal at landfills, and promoting recycling.

TFI agrees with the rationale EPA summarized supporting the eight factors that must be considered for including aerosol cans in the universal waste rule. As noted in the preamble to the proposed rule, not every factor must be met for a waste to be included in the universal waste rule. However, TFI asserts that EPA has provided adequate justification to support all eight categories and each has been sufficiently satisfied.

EPA has also proposed thorough and systematic management standards for aerosol cans to address ignitability risks, release prevention, and risk mitigation activities necessary to be designated as universal waste. While TFI generally supports the proposed standards, TFI questions what EPA contemplates for compliance with the requirement that the proposed written procedure for the draining of aerosol cans includes “operation and maintenance of the unit.” 83 Fed. Reg. at 11666, 11667 (proposed 40 C.F.R. §§ 273.13(e)(3)(ii) and 273.33(e)(3)(ii)).

In the preamble to the *Aerosol Can Universal Waste Rule*, EPA discusses an Environmental Technology Verification (ETV) program that evaluated the performance of one type of aerosol an puncturing device. *Id.* at 11661. The test device processed 187 aerosol cans before breakthrough of volatile organic chemicals occurred, significantly less than the 600-750 cans was recommended by the manufacturer. *Id.* Continuing on, and in the discussion regarding the contemplated written operating procedure, EPA states that “it remains the responsibility of the operator to ensure that the puncturing device is properly draining the contents of the aerosol cans into the drum, that breakthrough is not occurring, and that aerosol cans incompatible with the device are not punctured.” *Id.* (emphasis added).

TFI is unsure how a generator of aerosol cans electing to avail itself of the universal waste standards is able to address the operation and maintenance of the unit beyond the guidance provided by the unit manufacturer. For example, without engaging in an ETP-type of evaluation, the universal waste handler would likely rely on the recommendations of the manufacturer of the unit regarding the types of cans to be punctured and when the carbon capture filter should be replaced. In the EPA example provided in the preamble, this would be at 600-750 cans, not at 187 cans. As another basis for filter change-out, a manufacturer recommended volume marks.<sup>1</sup> It is unclear why this method was selected by the unit manufacturer, but a universal waste handler using that device would have no basis to question the manufacturer’s recommendation.

To encourage the handling of aerosol cans as universal waste, and recycling of the punctured cans, EPA should not impose requirements on universal waste handlers to develop and implement test procedures on a puncturing device’s filter. This could be costly and, as a result, lead the aerosol can generator to continue to dispose of such cans as hazardous waste. Instead,

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<sup>1</sup> <https://www.aerosolv.com/>. TFI also notes that the preamble (83 Fed. Reg. at 11661 n. 16) references a compilation of manufacturer’s guidance for puncturing and draining aerosol cans (Docket ID No. EPA-HQ-OLEM-2017-0463-0003), but this document is not available in the public docket. Thus, TFI is unsure whether the document identifies other manufacturer-suggested thresholds for replacement of the filter.

EPA should require that the contemplated written operating procedures include the incorporation of the operating and maintenance protocols recommended by the manufacturer of the unit.

Lastly, TFI also agrees that a size limitation is unnecessary for inclusion of an aerosol can as universal waste. Limiting the size would effectively reduce the amount of material that could be recycled and decrease landfill space.

### **Conclusion**

TFI appreciates EPA's consideration of these comments on the EPA *Aerosol Can Universal Waste Rule*. We will gladly provide any additional information necessary to help further support EPA in their efforts to promulgate a final rule. Please contact me by telephone at (202) 515-2714 or via e-mail at [ethomas@tfi.org](mailto:ethomas@tfi.org) if you would like to further discuss our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Thomas", with a stylized flourish at the end.

Ed Thomas  
Director, Regulatory Affairs