

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

400 P Street, 4th Floor
P.O. Box 806
Sacramento, CA 95812-0806
(916) 324-7193



April 5, 1993

Mr. Gregory L. Crawford
Steel Can Recycling Institute
Foster Plaza X
680 Andersen Drive
Pittsburgh, Pennsylvania 15220

RECYCLING OF EMPTY PAINT AND AEROSOL CANS

Dear Mr. Crawford:

This is in response to your recent request for the Department of Toxic Substances Control to confirm your interpretation of the regulations concerning empty paint and aerosol cans which are collected through residential curbside and dropoff collection systems. The Steel Can Recycling Institute (SCRI) encourages the recycling of containers and other steel containing materials by providing information to interested parties regarding the regulation and proper management of such materials.

Your letter states that empty paint and aerosol containers will not be regulated as hazardous waste so long as applicable state and federal regulations are met. As your letter points out, applicable federal regulations include the household hazardous waste exclusion found in section 261.4(b)(1), Title 40, Code of Federal Regulations (40 CFR) and applicable state regulations include the contaminated containers regulations found in section 66261.7, Title 22, California Code of Regulations (22 CCR).

In general, we concur with the discussion provided in your letter. Since 40 CFR section 261.4(b)(1) excludes household generated hazardous wastes from federal regulation, residentially generated wastes and their collection systems are not being regulated by the United States Environmental Protection Agency. In addition, 22 CCR section 66261.7(k) exempts empty household hazardous material containers of five gallons or less in capacity from regulation, provided that the containers are emptied by removing all of the contents that can be removed using practices commonly employed to remove materials from that type of container.

Although the 22 CCR section 66261.7(k) exemption seems to provide the regulatory relief needed to implement a residential collection operation, 22 CCR section 66261.7(m)(1) also provides a regulatory exemption for aerosol containers which are managed within specified conditions.



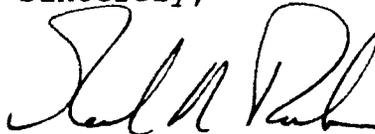
Mr. Gregory L. Crawford

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Subsection (m)(1) exempts aerosol containers from regulation so long as they are not a RCRA regulated hazardous waste [household wastes are excluded from regulation under 40 CFR 261.4(b)(1) and, therefore, residentially collected aerosol containers are not RCRA regulated hazardous waste] and they are emptied of their contents and propellant to the maximum extent practical under normal use (i.e., the spray mechanism was not defective and thus allowed discharge of the contents and propellant). Therefore, empty aerosol and paint containers collected through residential collection operations are exempt from all federal and state hazardous waste management requirements so long as they are empty [as specified in subsections (k) and (m) of 22 CCR section 66261.7] and are of five gallons or less in capacity.

We encourage your efforts to reclaim steel containers and hope that our information is helpful. If you have questions concerning this letter please contact Mr. Leif Peterson, Chief of the Resource Recovery Unit, Hazardous Waste Management Program, at (916) 322-1005 or the address below.

Sincerely,



Ted N. Rauh
Acting Deputy Director

cc: Mr. Leif Peterson, Chief ✓
Resource Recovery Unit
Hazardous Waste Management Program
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

BFSH:LP:lp/sm
Log #919

DIRECTOR CONTROLLED CORRESPONDENCE/ASSIGNMENT

CONTROL NUMBER	CROSS REF	ORGIN	ASSIGN DATE	REVISE D_DATE	DUE DATE	SENT TO EPA	DATE COMP	PROGRAM
DCC000686			03/22/93	/ /	03/31/93	/ /	/ /	PCPD

GENERAL INFORMATION

ASSIGNED BY : SOO HOO

SUBJECT:EMPTY PAINT & AREOSOL CAN RECYCLING THRU RESIDENTIAL CURBSIDE
 FROM :GREGORY L. CRAWFORD ACTION :DIRECT REPLY
 COMPANY:STEEL CAN RECYCLING INSTITUTE

A : DON/LEIF, ^{3/23}PREPARE RESPONSE FOR MY SIGNATURE. 3/22/93.
 B :
 S :
 T :
 R :
 A :
 C :
 T :

AFTER ENTERING A RECORD, PRESS THE "<—" KEY THEN THE "ESC" KEY TO EXIT

Handwritten note: 4/12/93 - action inside folder.

DIRECTOR CONTROLLED CORRESPONDENCE/ASSIGNMENT

CONTROL NUMBER	CROSS REF	RECPT	ORGIN	PRO GRAM	DUE DATE	REVISED DATE	DATE COMP
DCC000686		03/18/93		HWMP	03/31/93	/ /	/ /

SUBJ : EMPTY PAINT & AEROSOL CAN RECYCLING THRU RESIDENTIAL CURBSIDE & DROP
 FROM : GREGORY L. CRAWFORD

ACTION: DIRECT REPLY/PLEASE HANDLE

ASSIGNED BY: SOO HOO

COMPANY: STEEL CAN RECYCLING INSTITUTE

ASSIGNED TO:

- | | |
|--|---|
| <input type="checkbox"/> Office of the Assistant Director
<input type="checkbox"/> External Affairs
<input type="checkbox"/> Office of Legal Counsel
<input type="checkbox"/> Science Advisor | <input type="checkbox"/> Site Mitigation
<input type="checkbox"/> Administrative Services
<input type="checkbox"/> Civil Rights & Affirmative Action
<input type="checkbox"/> Office of Information Management |
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Instructions from the Director's Office:

IMPORTANT REMINDER: Please contact Delena Fong at 322-0504 with the name of the staff person and/or Region assigned to this controlled correspondence.

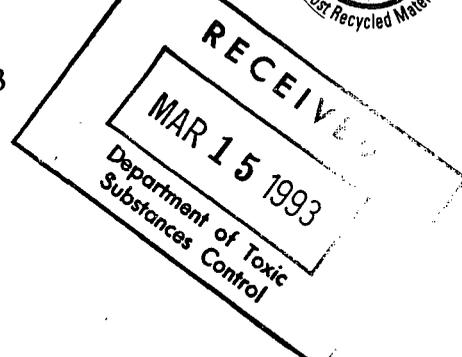
MESSAGE TO CONTROLLED CORRESPONDENCE UNIT/DIRECTOR'S OFFICE:

ASSIGN TO DON/LIGR P. TO PREPARE
 A RESPONSE FOR MAY 16.

STEEL CAN RECYCLING INSTITUTE



March 8, 1993



Mr. William F. Soo Hoo
Director, Department of Toxic Substances Control
P. O. Box 806
Sacramento, CA 95812-0806

RE: Empty Paint and Aerosol Can Recycling Through Residential Curbside and Drop-off Collections

Dear Mr. Soo Hoo:

The Steel Can Recycling Institute (SCRI) requests your guidance on recycling empty paint and aerosol cans through residential curbside and drop-off collections. As you may know, SCRI is an industry supported organization with the mission of developing steel can recycling. We serve as an informational and technical resource to assist private and public sector managers with recycling steel food, beverage and general purpose cans, including empty paint and aerosol cans.

Nationally, we recommend steel can recycling as described on pages 10 and 11 of the enclosed Curbside Guide. With respect to paint and aerosol containers, the instructions require the cans to be empty before they are placed in the recycling bin. To assist local officials in the education and participatory motivation of the public, we provide the Curbside Instruction Sheet, also enclosed, for reproduction and distribution. Most recently, we have published two brochures, "Residential Recycling of Empty Steel Aerosol Cans" and "Residential Recycling of Empty Steel Paint Cans." We believe this information, as provided to city and county recycling coordinators, waste haulers and secondary processors, is very beneficial because it concisely describes why and how the various forms of empty steel cans should be recycled, including paint and aerosol.

Title 22 of the California Code of Regulations (CCR), Section 66261.7 (h) and (j) addresses the exemption of empty aerosol containers from regulation as hazardous waste. Subsection (j) (1) specifically exempts aerosol containers as hazardous waste "if the aerosol container was emptied of the contents and propellant to the maximum extent practical under normal use (i.e., the spray mechanism was not defective thus allowing discharge of the contents and propellant)." As discussed above, the instructions provided by the SCRI to waste haulers and city and county recycling coordinators specify that aerosol containers must be empty before they are placed in the recycling bin. These specifications are provided to the householder through the Curbside Instruction Sheet.

FOSTER PLAZA X • 680 ANDERSEN DRIVE • PITTSBURGH, PA 15220
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Subsection (j) (1) also contains a qualification on the aerosol exemption which states "Provided that they are not a RCRA regulated hazardous waste,..." This phrase has been the cause of some confusion. Title 40 of the Federal Code of Regulations, Section 261.7, exempts residues of hazardous waste remaining in empty containers from regulation as hazardous waste. That section provides that the container is empty if all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping and aspirating, and no more than 3% by weight of the total capacity of the container remains in the container. ✓

It should also be noted that subsection (j) (2) has additional qualifications pertaining to acute hazardous and extremely hazardous waste. The Chemical Specialties Manufacturers Association informs us that such materials do not exist in commerce as an aerosol product. They simply have no application in that form by households, business or industry.

SCRI's experience and observation of paint and aerosol cans recycled through residential programs is that the vast majority of these containers are empty when disposed of or when placed into the recycling bin and are in compliance with established federal and California standards.

This emptiness results from several recognizable factors. First, out of basic economy, people will normally use up all of the product in a paint or aerosol can, just as with a food can. Secondly, through education, (such as the Curbside Instruction Sheet), citizens cooperate by including only the properly prepared cans, namely, empty. Thirdly, the curbside operator is trained to identify and reject inappropriate material, such as full or partially full paint or aerosol containers. Lastly, as the recyclables are processed at the material recovery facility, the mixture of steel cans are automatically sorted with magnetic separation and baled, so that the very rare container with some product would be easily processed without incident among the vast bulk of other totally empty containers.

Moreover, in our communications with DTSC and the federal EPA, we have maintained that there is no evidence that empty aerosol cans exhibit any of the characteristics of a RCRA regulated hazardous waste. SCRI's own field studies have demonstrated that aerosol containers can be and are being recycled safely in numerous communities throughout the country. We believe that recycling these empty containers is a more environmentally preferable means of disposal than taking up space in a landfill or incurring the additional cost of hazardous waste management.

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More importantly, we also understand that as far as residential curbside and drop-off recycling collection programs are concerned, empty aerosol containers generated by households are exempt under the more general household exclusion contained in subsection (h) of Section 66261.7 of the Department's regulations. This section does not contain the RCRA reference found in subsection (j) due to the fact that household generated wastes are exempt from regulation as hazardous waste under RCRA. Subsection (h) of Section 66261.7 provides that empty household material and pesticide containers of 5 gallons or less in capacity are exempt if the container has been emptied by removing all of the contents that can be removed using practices commonly employed to remove materials from that type of container. Based on the Department's responses to comments submitted during the regulatory process, we understand that this section applies to all types of household containers, including aerosol containers. Since aerosol containers generated by households are exempt from RCRA regulation, the only precondition for recycling is that they be empty.

Finally, by providing for their recycling as scrap metal, once emptied by the user, whether residential or commercial, recycled paint and aerosol containers should again be exempt from hazardous waste management under Title 22, CCR Section 66261.6. ✓

For all of the reasons stated above, we believe the SCRI's instructions for recycling empty paint and aerosol containers are consistent with California and federal law and regulations. Consequently, we would like to assure waste haulers and city and county recycling coordinators that they can include aerosol containers in their residential recycling programs, following the instructions for recycling provided by SCRI which specify that the cans must be empty, without fear of being out of compliance with California regulatory law, or facing enforcement actions by DTSC field personnel.

We are meeting with recycling and solid waste private and public sector managers throughout California to encourage the inclusion of empty paint and aerosol cans into residential curbside and drop-off recycling programs as part of the total steel can mix. We believe that this will conserve valuable landfill space, provide incremental steel scrap revenue to program operators and improve the public awareness concerning proper disposition of not only empty but also full or partially full paint and aerosol cans.

William F. Soo Hoo
March 8, 1993
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We would appreciate confirmation that the Department concurs with SCRI's recycling initiative for empty paint and aerosol containers as described herein. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,


Gregory L. Crawford
Vice President of Recycling Operations

GLC:tgd

Enclosures

SCRI Curbside Guide
SCRI Curbside Instruction Sheet
SCRI Residential Recycling of Empty Steel Aerosols Cans Brochure
SCRI Residential Recycling of Empty Steel Paint Cans Brochure

cc: B. Heenan - SCRI
B. Linn - SCRI
B. Meyer - SCRI
D. Colborn - Livingston & Mattesich
J. DiFazio - CSMA
S. McDavid - NPCA