

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460**

MAY 19 1997

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

T.L. Nebrich, Jr.  
Technical Director  
Waste Technology Services, Inc.  
640 Park Place,  
Niagra Falls, New York, 14301

Dear Mr. Nebrich:

Thank you for your letter of March 5, 1997 in which you request a clarification of the definition of the characteristic of reactivity in 40 CFR 261.23(a)(6) as it pertains to aerosol cans.

Over the past several years we have received numerous questions concerning the regulatory status of used aerosol cans under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. We are not at this time able to make a categorical determination as to whether various types of cans that may have contained a wide range of products exhibit the characteristic of reactivity. It remains the responsibility of the generator of any particular waste to make this determination (see 40 CFR 262.11). However, a steel aerosol can that does not contain a significant amount of liquid (e.g., a can that has been punctured and drained) would meet the definition of scrap metal (40 CFR 261.1(c)(6)), and, if it is to be recycled, would be exempt from regulation under 40 CFR 261.6 (a)(3)(iv). Scrap metal that is recycled is exempt from RCRA regulation under this provision even if it is hazardous waste, so generators need not make a hazardous waste determination. Scrap metal that is not recycled, however, is subject to the hazardous waste regulations if it is hazardous, so generators must make a hazardous waste determination.

I hope this information is helpful to you. If you have any further questions, please call Anna Tschursin of my staff at (703) 308-8805.

Sincerely yours,

Elizabeth A. Cotsworth, Acting Director  
Office of Solid Waste

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