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RESIDUES REMAINING IN EMPTY CONTAINERS, BURNING OF

JAN 7 1986

Dale D. Parker, Ph.D.  
Executive Secretary  
Utah Solid and Hazardous Wastes  
Committee  
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Dear Dr. Parker:

This is in response to your letter of November 5, 1985, in which you inquire as to the regulatory status of hazardous wastes remaining in "empty" containers. Specifically, you ask whether burning of the residue in empty drums constitutes incineration (treatment) as defined in the RCRA regulations.

The regulations, at 40 CFR 261.7(a)(1), clearly state that "[a]ny hazardous waste remaining in ... an empty container... is not subject to regulation under ... RCA." Since the residue is not regulated, its management does not constitute hazardous waste management. In your referenced example, the burning of residue by a drum recycler would not be considered incineration of hazardous waste and would not require a permit. The management of the ash and waste from such burning as hazardous is not required by the federal regulations; the drum recycler is probably taking this approach as being environmentally preferable.

I believe this confirms the answer given to you by the RCRA hotline. Of course, State regulations, in authorized States, would prevail in lieu of federal regulations and may be more stringent. If you have further questions please let me know.

Sincerely,

Alan S. Corson  
Branch Chief  
Studies and Methods Branch  
cc: Connie S. Nakahara

RO 12535