

USED DRUM MANAGEMENT AND RECONDITIONING

ISSUE SUMMARY:

Drum reconditioning facilities, which clean out industrial containers and return them for reuse, have been associated with numerous environmental damages, including chemical spills, explosions, uncontrolled air and water emissions, and site contamination. These damages are caused by the mismanagement of hazardous waste residues in industrial containers, which pose a risk to human health and the environment despite EPA's Resource Conservation and Recovery Act (RCRA) empty container rule. RCRA regulations set out procedures for establishing when a container is "empty" for the purposes of the hazardous waste regulations. A RCRA-empty container may still contain a small amount of hazardous waste (e.g., less than an inch). The RCRA empty container provision exempts from regulation hazardous waste residues that remain in drums or other containers if certain conditions are met.

In September 2022, OLEM completed a Drum Reconditioner Damage Case Report to document incidents at drum reconditioning facilities that caused damage to human health and the environment. Findings from the report reveal a persistent pattern of damage cases at facilities in the United States with 26.7% of the known damage cases occurring from 2011 to the present, indicating that damages are ongoing and not only from historic practices. Of the total 181 drum reconditioning facilities identified (active and inactive), 86 had one or more reported damage cases, representing 47.5% of the industry.

EPA has been working on actions that will aim to better protect human health and the environment at drum reconditioning facilities and in surrounding communities.

UPCOMING MILESTONES:

- **Early 2025** – EPA to publish and distribute mandatory industry survey ("Final Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; RCRA Section 3007 Survey for Drum Reconditioning Facilities") – Pending OMB approval.
- **Mid 2025** – EPA to conclude survey response period and analyze survey data, along with new information on damage cases and enforcement actions, and Advance Notice of Proposed Rulemaking (ANPRM) comments, to determine next steps.

BACKGROUND:

Industrial containers (such as 55-gallon steel or plastic drums) are used to transport thousands of different types of materials including industrial chemicals, acids (and other corrosives), oils, solvents, paints, adhesives, soaps, food, wastes and residues. Once used, these containers are reconditioned for reuse, recycled for scrap, or discarded in a landfill. Drum reconditioners are facilities that specialize in cleaning, restoring, testing, and certifying industrial containers, such as drums and intermediate bulk containers, for resale. The two main processes used for reconditioning are burning off residuals (left over material) from metal drums in a drum furnace and washing metal and plastic containers with water and a caustic (corrosive) solution to clean out residues.

Operators who manage and ship containers that held hazardous materials or hazardous waste to drum reconditioning facilities must ensure the drums comply with the EPA's RCRA empty container rule. Under this existing rule, residues in used containers are exempt from hazardous waste regulations if certain conditions are met (e.g., all residues that can be removed by commonly employed practices have been removed, and less than one inch remains).

Effective and safe drum reconditioning can save businesses and communities money by extending the life of drums, however, sometimes drum reconditioners receive containers that contain hazardous waste that are not actually “RCRA empty.” In addition, even if the conditions in the RCRA regulations are met, drum reconditioners may still receive and manage significant quantities of cumulative hazardous waste residues because of the sheer volume of containers they process. Approximately 40 million drums go to reconditioning facilities annually in the U.S. Some portion of these containers hold hazardous waste residues, and the management of these hazardous waste residues can, and has, negatively impacted human health and the environment.

On August 11, 2023, OLEM issued the Used Drum Management and Reconditioning ANPRM to assist in addressing concerns identified in our damage case report. The ANPRM provided the public an opportunity to participate early in shaping the proposed rule and started the public input process. EPA sought information to better understand the issues and impacts identified with how these containers are being managed and offered potential solutions for ensuring protection of human health and the environment. Changes EPA could make include non-regulatory approaches, like best management practices, or revisions to our waste regulations.

On April 24, 2024, OLEM published a draft Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; RCRA Section 3007 Survey for Drum Reconditioning Facilities in the Federal Register. When finalized, this survey will be sent to drum reconditioners as a mandatory survey under RCRA Section 3007 authority. This survey, applicable only to reconditioning facilities, will allow EPA to more accurately characterize the risks, benefits, and costs of regulatory changes by collecting data about the drum reconditioning industry.

KEY EXTERNAL STAKEHOLDERS:

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| <input checked="" type="checkbox"/> Congress | <input checked="" type="checkbox"/> Industry | <input checked="" type="checkbox"/> States | <input checked="" type="checkbox"/> Tribes | <input type="checkbox"/> Media | <input type="checkbox"/> Other Federal Agency |
| <input checked="" type="checkbox"/> NGO | <input type="checkbox"/> Local Government | <input type="checkbox"/> Other: _____ | | | |

Industry stakeholders have expressed concern about a potential future rulemaking which could implement any number of the proposed regulatory changes EPA presented in the ANPRM. They urge EPA to consider how the proposed actions could affect availability and cost of drum reconditioning services or generators’ willingness to reuse industrial containers instead of sending them straight to a landfill. They also indicate that EPA has not demonstrated a current or ongoing issue with the industry, claim the risk is overstated, and are concerned that EPA’s proposals, in general, will eliminate drum reconditioning and cripple manufacturing, if fully enacted.

The NGO community, especially organizations focused on environmental justice, urges EPA to eliminate the RCRA empty container provision and to fully regulate hazardous waste containers in accordance with the “cradle-to-grave” RCRA Subtitle C requirements. They also urge EPA to impose comprehensive RCRA requirements on not only the drum reconditioners, but the used drum generators/customers and transporters, as well, to ensure the containers are safely, properly, and fully cleaned without negatively impacting the surrounding communities.

Stakeholders from state governments, trade organizations, academic institutions, and waste management professionals are in favor of clearly defining (size, type of container, etc.) of “drums” or “containers,” as the terms are used interchangeably, support knowing what was previously in a container using new technology for drum tracking or additional labeling, and support voluntary training and/or standard operating procedures for generators/customers and drum reconditioning facilities.

Senator Tammy Baldwin from Wisconsin has been very engaged in ensuring an enforcement case against a Milwaukee drum reconditioner was promptly resolved to reduce harmful air emissions in the community. As a result of her interest and EPA’s damage case report, Senate Appropriations Committee requested a briefing on the status of EPA’s drum reconditioning work through the FY 24 budget report.

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MOVING FORWARD:

EPA plans to collectively analyze the data from the Damage Case Report, ANPRM, and RCRA Section 3007 Proposed Information Collection Request for Drum Reconditioning Facilities, to develop regulatory solutions to address the contamination issues associated with reconditioning used industrial containers and managing hazardous waste residues.

LEAD OFFICE/REGION: OLEM

OTHER KEY OFFICES/REGIONS: OECA,
OGC, OP, OW, OAR, REGIONS 2, 4, 5