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June 24, 2024

The Honorable Barry Breen  
Principal Deputy Assistant Administrator  
Office of Emergency and Land Management  
Office of Resource Conservation and Recovery Docket  
Mail Code 28221T  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**Re: Docket ID No. EPA-HQ-OLEM-2023-0573  
"Agency Information Collection Activities; Proposed Information Collection Request;  
Comment Request; RCRA Section 3007 Survey for Drum Reconditioning Facilities,"  
89 Fed. Reg. 31,199 (Apr. 24, 2024)**

Dear Assistant Administrator Breen,

The Reusable Industrial Packaging Association (RIPA)<sup>1</sup> appreciates the opportunity to comment on EPA's proposed information collection request. RIPA is pleased to assist the Agency in evaluating regulatory and non-regulatory options to address the management of used industrial containers<sup>2</sup> in a manner that is protective of human health and the environment. RIPA provides the following recommendations regarding the Agency's questionnaire to make it more effective and less burdensome for industry.

Before doing so, however, RIPA believes it is imperative that it reiterate two points made in prior comments to the Agency.

First, as noted in RIPA's response to EPA's Drum Reconditioner Damage Case Report (copy attached as Exhibit A), EPA's Report reflects a fundamental misunderstanding of industry practices and incorrectly assumes that unrelated operations, historic practices of a subset of

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<sup>1</sup> RIPA, founded in 1942, is the North American trade association representing companies that recondition 90% of the used industrial containers in the United States.

<sup>2</sup> The reconditioning industry handles a variety of containers other than "drums." Indeed, a significant portion of the containers reconditioned are intermediate bulk containers. Therefore, these comments employ the more inclusive term "industrial containers."

the industry, and isolated incidents reflect broad systemic issues within the reconditioning industry. As a result, EPA's Report does not demonstrate the need for any rulemaking.

Second, as noted in RIPA's comments on EPA's Used Drum Management and Reconditioning Advanced Notice of Proposed Rulemaking (copy attached as Exhibit B), RIPA continues to believe that the environmental concerns EPA has identified regarding industrial container reconditioning would be best addressed through measures to ensure compliance with existing regulations. In particular, it would be both more efficient and more effective for EPA to explore means to ensure compliance throughout the industrial container management supply chain, including ensuring that the users of industrial containers comply with their obligations to ensure that containers they send to reconditioners are RCRA-empty.

## I. General Recommendations

As a preliminary matter, if EPA is going to issue a survey to obtain additional information about industrial container reconditioning, it would be important to ask questions of companies that empty industrial containers. In fact, the RCRA-empty container rule applies specifically to container emptiers, who are legally responsible for ensuring that the containers they send for reconditioning are RCRA-empty. Understanding the methods employed to empty containers, the challenges encountered in meeting the RCRA-empty standard, the policies and practices in place to ensure compliance with the RCRA-empty standard by emptiers, and how emptiers handle non-empty containers rejected by reconditioners are all critical to understanding how best to promote compliance and any regulatory changes that might be warranted.

In addition, there are key terms that lack definitions in the proposed questionnaire, which could lead to confusion among survey respondents. EPA should define those terms clearly to promote clear and consistent responses and should ensure that the terms are used correctly throughout the questionnaire. EPA should, at a minimum, define or otherwise clarify its use of the following terms:

- **Reconditioning** – The term “reconditioning” should be given the definition used for the reconditioning of metal drums and other non-bulk packaging in 49 C.F.R. § 173.28(c)(1) (for metal drums) and (c)(2) (for a non-bulk packaging other than a metal drum).<sup>3</sup>

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<sup>3</sup> 49 C.F.R. § 173.28(c) provides:

(c) Reconditioning of non-bulk packaging.

(1) For the purpose of this subchapter, reconditioning of metal drums is:

(i) Cleaning to base material of construction, with all former contents, internal and external corrosion removed, and any external coatings and labels sufficiently removed to expose any metal deterioration that adversely affects transportation safety;

(ii) Restoring to original shape and contour, with chimes (if any) straightened and sealed, and all non-integral gaskets replaced: and

(iii) Inspecting after cleaning but before painting, Packagings that have visible pitting, significant reduction in material thickness, metal fatigue, damaged threads or closures, or other significant defects, must be rejected.

(2) For the purpose of this subchapter, reconditioning of a non-bulk packaging other than a metal drum includes:

Additionally, because DOT has adopted separate regulatory terminology for the reprocessing of intermediate bulk containers, i.e. “repair”, “remanufacture”, and “routine maintenance” (See 49 CFR Section 180.350), we suggest EPA use the term “reprocessing” when referring to the management of IBCs by reconditioners.

- **“Drum reconditioning”** – The proposed questionnaire frequently uses the term “drum reconditioning.” Because the reconditioning industry works with multiple types of industrial containers, RIPA recommends that EPA use the term “industrial container reconditioning,” which would include reconditioning of metal and plastic drums and reprocessing intermediate bulk containers.
- **Other terms** – The proposed questionnaire sometimes uses other terms like “drum restoration,” apparently referring to reconditioning. RIPA recommends that the survey use the defined term “reconditioning” for consistency.

Finally, RIPA suggests that EPA provide companies that operate more than one facility the ability to manage all of their responses easily prior to final submission to the Agency. Companies operating multiple facilities will want to ensure that draft responses, which will initially be prepared by individual plant managers, are reviewed by appropriate senior staff, including EHS and legal counsel. To this end, EPA should enable draft responses to be saved and revised prior to final submission to the Agency.

## II. Recommendations on Specific Questions

RIPA further recommends that EPA amend or adjust specific proposed survey questions, as described below:

- **Question #2** – This question includes a variety of industrial container management activities that may not be performed by container reconditioners. For example, many companies “clean” containers and supply them to customers for reuse with the same or similar compatible material. Similarly, the use of the term “recycling” would potentially include a broad set of facilities other than reconditioners. RIPA therefore recommends that this question be revised to read “Has the facility ever engaged in container

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- (i) Removal of all former contents, external coatings and labels, and cleaning to the original materials of construction;
  - (ii) Inspection after cleaning with rejection of packagings with visible damage such as tears, creases or cracks, or damaged threads or closures, or other significant defects;
  - (iii) Replacement of all non-integral gaskets and closure devices with new or refurbished parts, and cushioning and cushioning materials; and components including gaskets, closure devices and cushioning and cushioning material. (For a UN 1H1 plastic drum, replacing a removable gasket or closure device with another of the same design and material that provides equivalent performance does not constitute reconditioning); and
  - (iv) Ensuring that the packagings are restored to a condition that conforms in all respects with the prescribed requirements of this subchapter.

reconditioning or reprocessing operations, including the scrapping of containers no longer fit for purpose?”

- If the respondent selects “yes,” the question also asks for a broad set of information that is ambiguous in several ways, including using the undefined term “restoration” and appearing to ask what types of containers were reconditioned at the facility historically, which could go back decades. RIPA suggests modifying the question to the following: “How many years has the facility been in continuous operation? Briefly describe the container types reconditioned (e.g. metal drums, plastic drums, IBCs, etc.) and whether any previously contained hazardous materials.”
- Question #6 – RIPA suggests reproducing the Small Business Administration size standards in the questionnaire rather than providing a link.
- Question #12 – The term “significant changes” is undefined and subjective. RIPA is concerned that use of the term will be confusing and require speculation by survey respondents, which will likely lead to inconsistent responses. RIPA therefore recommends that EPA re-work this question to use quantifiable criteria, such as changes that cost over a certain threshold in terms of capital outlay. RIPA also recommends that EPA remove the portion of the question that asks respondents to speculate about planned facility changes, as it is unclear what level of planning the question encompasses.
- Question # 13 – This question should use more precise terms to avoid ambiguity about what terms are included. For example, it could be rephrased as “What is the approximate square footage of the facility area used for activities related to container reconditioning operations, including storage and scrapping?”
- Question #15 and #16 - RIPA recommends that these questions be removed from the survey because answering them inherently requires disclosure of confidential business information (CBI). That appears to be inconsistent with EPA’s representation on page 8 of its supporting statement that it will not ask any “sensitive” questions. If the agency nonetheless includes Question #15 and #16, the agency should ensure that all surveys are treated as CBI and not shared with the public in unredacted form, through Freedom of Information Act requests or otherwise.
  - In addition, for #16, EPA’s proposed categories of container types are poorly defined. If this question is not deleted, RIPA suggests that the survey ask the respondent to identify the types of containers they recondition or reprocess.
- Question #17 – Some of the categories provided in the survey, such as “commercial

chemicals” are ambiguous, which will make it difficult for survey respondents to determine the category or categories from which their containers originate. RIPA suggests that EPA reframe this question with clearer categories (or ask the respondent to provide a write-in answer).

- Question #18 – The table in question 18 asking for the types of containers for each chemical is confusing and asks survey respondents to provide highly granular information that they may not be able to determine. RIPA recommends asking about hazardous materials in a more high-level way, such as: “Estimate the percentage of containers received last year that previously held hazardous materials, by container type: (1) 55 gallon steel drums (combine open head and tight head); (2) 55 gallon plastic drums (combine open head and tight head); (3) Composite intermediate bulk containers (all capacities); or (4) Metal intermediate bulk containers (all capacities).”
- Question #20 – RIPA suggests revising the wording of Question #20 for clarity, as follows: “Estimate the average number of containers received and rejected each month in the past year that were non-RCRA empty, by type – (1) 55-gallon metal drums; (2) 55-gallon plastic drums; or (3) Intermediate bulk container (all types).”
- Question #21 – 23 – RIPA suggests deleting these questions, as they appear to presume that reconditioning facilities are purposefully reconditioning or reprocessing containers that are not RCRA-empty. RIPA has advocated, and its members have implemented, procedures for rejecting non-empty containers. To the extent EPA includes these questions, it would be more accurate to ask about facilities’ procedures for identifying and rejecting non-empty containers.
- Question #27 – RIPA suggests adding another subcategory for storage in trailers.
- Question #29 – RIPA recommends specifying the types of training that reconditioners provide to their employees, e.g., DOT HazMat Employee Training; EPA Hazardous Waste training; or OSHA HazCom Training.
  - RIPA also recommends that the additional question “is the training specific to drum or container handling” should be deleted. That question is unnecessary because training is always facility- and process-specific.
- Question #30 – This question is very broad and could lead to confusion and inconsistent responses. RIPA recommends deleting it or, to the extent it is included, providing a more detailed checklist of engineering controls and worker safety systems. That checklist could be based on OSHA regulations.
- Question #31 – RIPA recommends rephrasing the question to “Is appropriate personal

protective equipment (PPE) required to be used by all employees?” RIPA also recommends including a more specific checklist of PPE types that a respondent could simply check off. Finally, EPA should delete the sub-question asking about the “circumstances in which the PPE is used,” as PPE use is required by many specific situations, which should be covered by the respondent’s response to whether appropriate PPE is used.

- Question #36 – RIPA suggests rephrasing this question to “How many OSHA reportable lost-time injuries ... did the facility have in 2023?”
- Question #38 – RIPA recommends removing the term “drum” and asking only if the facility has a “container” washing operation, as that broader term includes drums.
- Question #39 – For the same reason as #38, RIPA recommends revising this question to “Does the facility inspect containers prior to washing?”
- Question #49 – RIPA suggests revising to ask the respondent to “estimate” the annual quantity of solid waste produced by each source, as it may not be possible to provide exact quantities. In addition, RIPA recommends revising the title for the third row in the table to read “containers that are not reconditioned or reprocessed for reuse.”
- Question #53 – RIPA recommends removing the term “drum” and rephrasing this question to “Does the facility generate any RCRA hazardous waste associated with container reconditioning or reprocessing operations.”
- Question #58 – It would be unduly burdensome to ask survey respondents to provide information about every year in which air monitoring was completed. RIPA therefore recommends asking about air monitoring or testing in the last 5 years.

Sincerely,



Paul Rankin, President

cc: Eric Bernath  
Rick Schweitzer  
Duke McCall

Attachments