

INTERNATIONAL CONFERENCE ON INDUSTRIAL PACKAGING

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Update on U.S. Legal & Regulatory Issues: Clouds on the Horizon

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RIPA AND EPA: CLOUDS ON THE HORIZON



The U.S. Environmental Protection Agency (“EPA”) – has issued a series of regulatory options; one of which would result in the regulation of reconditioners as hazardous waste treatment, storage and disposal (“TSD”) facilities.



The EPA proposal does not contain specific regulatory language; but they have presented a series of options for comment.



If EPA decides to regulate reconditioners as hazardous waste facilities, the reconditioning industry in the U.S. will effectively be eliminated.

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- The economic and environmental results of regulating reconditioners as TSD facilities would be significant.
- Thousands of customers would have to find new, higher-cost sources of industrial packagings, and,
- The only outlet for those packagings when emptied would be hazardous waste facilities unless the emptier has the capability to “triple rinse” their containers. Few businesses can install and operate “triple-rinse” systems.

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U.S. reconditioners are exempt from hazardous waste regulation because of the “empty container rule.”

This rule allows the industry to operate legally and cost efficiently because we are NOT regulated like companies that treat or dispose of hazardous waste, i.e., “TSD” facilities.

The empty container rule exempts from hazardous waste regulation small amounts of residual material – like chemicals – that remain in many industrial packagings after emptying. Importantly, the rule applies specifically to the container emptier, not the reconditioner.

Companies that empty containers must remove as much of the original product as possible using normal emptying practices, while never leaving more than one-inch of material in the bottom of the container.

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EPA has presented a wide range of potential regulatory approaches.

(1) The “nuclear option” would require full compliance with hazardous waste TSD facility requirements.



(2) Other, more acceptable options, include guidelines or less onerous regulatory alternatives that, with some negotiation, could lead to an acceptable regulatory or non-regulatory solution.

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The “nuclear” option would -

- Put most or all reconditioners out of business because:
 - Costs associated with transitioning to TSD status are too high.
 - More than \$1.5 million to a wash operation. [Over \$3 million for a furnace.]
 - Over \$200K/year for mandatory insurance and related costs; more for furnace.
- Force customers to send as many as 30 million used industrial packagings to TSD facilities for disposal. Total disposal costs ~ \$4 Billion U.S.
- Impose new and costly management requirements on container emptiers of all sizes; particularly burdening small and mid-sized business.

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- Increase the amount of Greenhouse Gas (“GHG”) emissions being released each year in the U.S. because container users would have to purchase new rather than reconditioned containers of the same type.
- According to RIPA’s life cycle analysis (Ernst & Young), reconditioning saves about 30% to 60% of greenhouse gas emissions compared to single-trip containers.
 - If reconditioning operations were halted in the U.S., GHG emissions would increase by approximately 2 billion pounds of CO₂E per year.
- Raise prices for manufactured goods in the U.S.

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- RIPA created a coalition of 18 national trade associations - - industrial packaging manufacturers, the chemical industry; oil and lubricants producers; chemical distributors, and several associations representing manufacturing companies and small businesses.
- Coalition rejected the “nuclear” option, i.e. permitting reconditioners as TSD facilities.
- Working on a response to EPA that likely will include proposals to develop methods to identify all containers shipped to reconditioners; ensure the safety of containers managed at reconditioning facilities; identify and handle non-empty incoming containers; and ensure the safe return or legal disposition of non-empty containers.

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- Reconditioner responsibilities:

- (a) Inspection requirements for each incoming load.

- (b) A means of identifying the origin of each load - date of arrival and a signed empty container certificate.

- (c) Managing “non-conforming” containers during the unloading process, including labeling with a “rejection sticker” that identifies the date received and shipper identification information for return.

- (d) Recordkeeping requirements regarding the disposition of “non-conforming” containers.

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Customer responsibilities

- (A) Ensure that outgoing containers comply with the empty container rule.
- (B) Sign an “empty container certificate” that will accompany each shipment of containers destined for a reconditioner and includes the customer’s company name, address and date of shipment, and confirmation that all the containers are empty;
- (C) Confirm that each container sent to a reconditioner can be identified; and
- (D) Train personnel engaged in container emptying and loading of empty containers into transport vehicles, as well as related issues regarding appropriate empty container management practices.



THANK YOU!

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