



Drum Service of Richmond, Inc.
Responsible Container Management

EPA Empty Container Rule

Re: Empty Containers to be excluded from regulation by U.S. EPA as hazardous waste.

40 CFR Sec. 261.7 Residues of hazardous waste in empty containers.

(a)(1) Any hazardous waste remaining in either (i) an empty container or (ii) an inner liner removed from an empty container, as defined in paragraph (b) of this section, is not subject to regulation under parts 261 through 265, or part 268, 270 or 124 of this chapter or to the notification requirements of section 3010 of RCRA.

(2) Any hazardous waste in either (i) a container that is not empty or (ii) an inner liner removed from a container that is not empty, as defined in paragraph (b) of this section, is subject to regulation under parts 261 through 265, and parts 268, 270 and 124 of this chapter and to the notification requirements of section 3010 of RCRA.

(b)(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in Secs. 261.31, 261.32, or 261.33(e) of this chapter is empty if:

(i) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and

(ii) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner, or

(iii)(A) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size, or

(B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

(2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in Secs. 261.31, 261.32, or 261.33(e) is empty if:

(i) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.



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**EPA Explanation of the Empty Container Rule
(47 Fed. Reg. 36092, 36093)**

[A]pparently many individuals are reading the "and" at the end of paragraph §261.7(b)(1)(i) as "or" and therefore believe that the practice of leaving one inch of residue in a container qualifies the container as being empty, whether or not the container has been empty of all of its contents by methods commonly employed to remove materials from that type of container, as specified in §261.7(b)(1)(i). EPA emphatically states that this is not the case. When the two paragraphs §261.7(b)(1)(i) and (ii) are properly read together, it should be clear that one inch of waste material is an overriding constraint and may remain in an empty container only if it *cannot be removed* by no [sic] normal means. The rationale for this provision is that there are certain tars and other extremely viscous materials that will remain in the container even after the container is empty by normal means. Rather than requiring the complete removal of these materials by extraordinary means, EPA is allowing up to an inch of such material to remain in a container. On the other hand, if extraordinary means are necessary to remove the waste to lower the contents of the container down to a depth of one inch, then they must be employed.



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EMPTY DRUM CERTIFICATION

I hereby certify that these drums are “empty” as that term is defined in U.S. Environmental Protection Agency regulations, 40 CFR 261.7*, and that they have been properly prepared for transportation under the regulations of the U.S. Department of Transportation, 49 CFR 173.29.**

Date: _____ Signature: _____

* For most residues, EPA’s rule 40 CFR 261.7 says: “A packaging...is empty if:

All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of packaging, e.g., pouring, pumping, and aspirating, *and*

No more than 2.5 centimeters (one inch) of residue remain on the bottom of the packaging...”

For residues of “P-list” products specifically listed by name in 40 CFR 261.33 (e), EPA says the packaging is empty only “if the packaging...has been triple-rinsed using a solvent capable of removing “the product, or has been cleaned by another method shown to achieve equivalent removal.”

**DOT’s 49 CFR 173.29 says that all openings on the empty packaging must be closed, and that all markings and labels must be in place as if the drum were full of its original contents. Residues of hazardous materials in empty packagings are still considered hazardous by DOT; however, non-bulk packagings (e.g. drums) may be transported without shipping papers and vehicle placards if shipped to a reconditioner. Only under narrow and rigorous standards (49 CFR 173.29) would empty packagings be purged of any potential hazard and, thus, be fully exempt from DOT regulation as hazardous materials.



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EMPTY IBC CERTIFICATION

I hereby certify that these intermediate bulk packagings (IBCs) are “empty” as that term is defined in Environmental Protection Agency regulations, 40 CFR 261.7*, and that they have been properly prepared for transportation under the regulations of the U.S. Department of Transportation, 49 CFR 173.29.**

Date: _____ Signature: _____

*For most residues, EPA’s rule 40 CFR 261.7 says: “A packaging...is empty if:

- (i) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of packaging, e.g., pouring, pumping, and aspirating, *and*
- (ii) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the packaging... or,
 - A)
 - B) No more than 0.3 percent by weight of the total capacity of the packaging remains in the packaging or inner liner if the packaging is greater than 110 gallons in size.

For residues of “P-list” products specifically listed by name in 40 CFR 261.33 (e), EPA says the packaging is empty only “if the packaging...has been triple-rinsed using a solvent capable of removing “the product, or has been cleaned by another method shown to achieve equivalent removal.”

**DOT’s 49 CFR 173.29 says that all openings on the empty packaging must be closed, and that all markings and labels must be in place as if the packaging were full of its original contents. Note: Residues of hazardous materials in empty packagings are still considered hazardous by DOT. Only under narrow and rigorous standards (49 CFR 173.29) would empty packagings be purged of any potential hazard and, thus, be fully exempt from regulation as hazardous materials.