



Empty Waste Containers Under the Resource Conservation Recovery Act

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Using This Guide

This guide helps **industrial solid waste generators¹** determine if their containers meet the Resources Conservation Recovery Act (RCRA) criteria for “empty” and how to properly manage them. **It does not apply to pharmaceutical waste containers.**

1. Any business engaged in industrial activities that generates wastes. All wastes produced are considered industrial solid waste, even the office trash.

This publication is not a substitute for the rules, which are found in [Title 30, Texas Administrative Code \(30 TAC\) Chapter 335](#).² For more help, call our Small Business and Local Government Assistance hotline at 800-447-2827 or email us at TexasEnviroHelp@tceq.texas.gov.

Determining if Your Container is RCRA-Empty

You must consider multiple factors to determine whether a container is considered RCRA-empty.³ Before looking at its capacity or type, make sure it is a waste. A container is **not** a waste if it meets one of the following conditions:

- It is currently in use for its intended purpose (storing virgin materials).
- It has not been discarded.
- It is an excluded empty scrap metal container that is being recycled.⁴

Empty containers that no longer serve a purpose typically become a waste. If you removed any hazardous contents using common practices,⁵ the container *may* qualify as “RCRA-empty.”

Benefits of RCRA-empty container disposal include:

- Lower disposal costs.
- [Class 2 nonhazardous RCRA-empty containers](#) do not need manifests or count towards your annual waste fees.
- Allowed remaining residues for RCRA-empty containers (Table 1) are exempt from regulation under the industrial and hazardous waste rules.

Container Capacity

A container’s size determines the amount of residue allowed for it to be considered “RCRA-empty.” See Table 1 below for more details.

Table 1: Maximum Residue Allowed by Container Capacity

| Container Capacity | Maximum Remaining Residue Allowed |
|-----------------------------------|---|
| Less than or equal to 119 gallons | 1 inch (2.5 centimeters) <i>or</i> 3% by weight of the total capacity of the container or inner liner |
| Greater than 119 gallons | 1 inch (2.5 centimeters) <i>or</i> 0.3% by weight of the total capacity of the container or inner liner |

Containers with more residue than allowed for their size are **not RCRA-empty** and are regulated by the industrial and hazardous waste rules.

2. www.tceq.texas.gov/goto/rules/30-tac-335

3. RCRA empty conditions found under 30 TAC 335.41(f).

4. See eligibility criteria in Title 40, Code of Federal Regulations (CFR) 261.4(a)(13).

5. Such as pouring, pumping, and aspirating.

Special Container Types

Some container types must meet special conditions to be considered RCRA-empty.

Aerosol Cans

A container that held hazardous waste as a compressed gas is considered empty when it approaches atmospheric pressure. Aerosol cans may also be [managed as universal waste](#).⁶

Containers That Held Acutely Hazardous Waste

A container, or an inner liner removed from one, that stored an acutely hazardous waste is RCRA-empty if it is:

- Triple rinsed with a solvent capable of removing the chemical product or intermediate.
- Cleaned with a method that removes the contents equally as well as triple rinsing.⁷

A lined container is RCRA-empty if you remove the inner liner.⁸

Pharmaceutical Waste Containers

Pharmaceutical waste containers are regulated differently⁹ and have specific requirements¹⁰ for classifying and managing wastes such as:

- Stock, dispensing, and unit-dose containers
- Intravenous (IV) bags

Learn more about [Hazardous Waste Pharmaceuticals Management](#).¹¹

Managing Your Empty Container

Does Not Meet RCRA-Empty Conditions

Manage containers as hazardous waste if they held hazardous substances and do not meet the RCRA-empty conditions. Evaluate, classify, properly manage, and store the wastes as described in 30 TAC 335.

- See our [Industrial and Hazardous Waste: Compliance Resources](#)¹² for more information.

6. www.tceq.texas.gov/assistance/waste/universal.html

7. Document this with scientific literature or generator test results.

8. Unless the waste contaminated the container.

9. See 30 TAC 335 Subchapter W.

10. www.tceq.texas.gov/goto/rules/40-cfr-266.507

11. www.tceq.texas.gov/permitting/registration/ihw/pharm

12. www.tceq.texas.gov/assistance/waste/ihw-compliance-resources

Meets RCRA-Empty Conditions

Containers that meet RCRA-empty conditions are not regulated as hazardous waste, but still require a waste classification.¹³ The waste classification determines how you manage, dispose of, and report waste. Nonindustrial facilities can dispose of nonhazardous waste¹⁴ at Type I municipal solid waste landfills.

Nonhazardous waste generated at **industrial facilities** must be classified as a Class 1, 2, or 3 waste.

- Classify your containers based on the material they previously held.
- See our [Guidelines for the Classification of Industrial and Hazardous Wastes](#)¹⁵ (RG-022).

Class 1 Nonhazardous RCRA-Empty Containers

RCRA-empty containers are considered Class 1 industrial solid waste if they previously stored any of the following:

- Hazardous substances or wastes.
- Class 1 industrial solid wastes.
- Materials that would be classified as either of the above if disposed.

Class 2 Nonhazardous RCRA-Empty Containers

You can classify RCRA-empty containers as Class 2 if they meet at least one of the following conditions:

- It previously stored a Class 2 industrial solid waste.
- It is an aerosol can at atmospheric pressure with minimal residue.
- Its capacity is 5 gallons or less.
- Its capacity is more than 5 gallons, has been triple rinsed, and rendered unusable.
- It will be recycled and rendered unusable. If recycling, container must be triple rinsed, not regulated under the [Federal Insecticide, Fungicide and Rodenticide Act](#),¹⁶ and you must [maintain documentation](#)¹⁷ showing it was recycled.

If your container doesn't meet any of these conditions, classify it as Class 1 waste.

13. See 30 TAC 335.503.

14. See the definition of "municipal solid waste" in 30 TAC 330.3.

15. www.tceq.texas.gov/goto/rg-022

16. www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-165?toc=1

17. www.tceq.texas.gov/goto/rules/30-tac-335.513

Managing RCRA-Empty Containers

You can choose to manage your containers, both Class 1 and Class 2, by either disposing of or recycling them.

Recycle them through a legitimate recycler,¹⁸ such as sending your containers to one for reconditioning. If you send Class 1 nonhazardous waste containers for recycling, notify TCEQ by submitting the [Generator Notification Form for Recycling Hazardous or Industrial Waste](#)¹⁹ (Form TCEQ-0525).

- For more information about recycling industrial Class 1 waste, see [Can I Recycle Some of My Industrial or Hazardous Wastes?](#)²⁰ (RG-240).

If you choose disposal, you can dispose of Class 1 wastes at authorized [Commercial Management Facilities for Hazardous and Nonhazardous Industrial Solid Waste](#)²¹ (GI-225) or some Type I municipal solid waste landfills. A TCEQ-authorized industrial and hazardous waste transporter must haul Class 1 waste.

Class 2 wastes can be disposed of at Type I or Type IAE municipal solid waste landfills. Always contact the disposal facility about its requirements before disposing of the containers.

- To find an appropriate landfill near you, see [Active Municipal Solid Waste Landfills in Texas](#)²² (GI-611).

Recordkeeping Requirements

If you are [required to register](#),²³ list your Class 1 or 2 wastes on your Notice of Registration.

Manifest your Class 1 waste using the EPA Uniform Hazardous Waste Manifest (EPA Form 8700-22). While you do not need to manifest Class 2 waste, maintain records showing you shipped it to a legitimate recycler or an authorized disposal facility. Department of Transportation shipping requirements may still apply during transport.

You may not need to manifest nonhazardous recyclable materials²⁴ that are legitimately recycled.

18. See 30 TAC Sections 335.1(160)(I), 335.24, and 335.27 for rules about legitimate recycling.

19. www.tceq.texas.gov/downloads/permitting/waste-permits/ihw/forms/0525.pdf

20. www.tceq.texas.gov/downloads/permitting/waste-permits/publications/rg-240.pdf

21. <https://www.tceq.texas.gov/downloads/permitting/waste-permits/publications/gi-225-ihw-commercial-management-facilities.pdf>

22. www.tceq.texas.gov/downloads/permitting/waste-permits/publications/gi-611-active-msw-landfills.pdf

23. www.tceq.texas.gov/permitting/registration/ihw

24. See 30 TAC 335.24(h).

Handling Rinsates

Rinsate (wastewater from rinsing out containers) is considered a newly generated waste under [the mixture rule](#).²⁵ Rinsate could be a hazardous waste if it was produced from a rinsing a container that held a hazardous waste or substance. You must classify the rinsate waste to determine how to manage it.

- If a container held an acutely hazardous waste,²⁶ rinsate produced from it is also an acutely hazardous waste.

Generating waste mixtures may affect your generator status and requirements. For more information, please see [40 CFR 262.13\(f\)](#).²⁷

Best Management Practices

As a best management practice, you should do all the following for containers:

- Mark or label them as empty.
- Keep the lids closed.
- Protect them from inclement weather conditions.

Rain and snow can collect inside containers and potentially become a waste that will be costly to dispose.

Reusing Empty Containers

Generators may choose to re-use containers on-site as an alternative to disposal. Properly empty any container *before reuse* to avoid mixing incompatible substances, which may endanger human health and the environment.

- Contact the [U.S. Department of Transportation \(DOT\)](#)²⁸ about rules for reusing containers to transport hazardous materials.

Definitions

For specific rule language on these and other definitions, please see [30 TAC 335.1](#).²⁹

Generator 335.1(76): A generator is any person, by site, who produces municipal hazardous waste or industrial solid waste; any person who possesses municipal hazardous waste or industrial solid waste to be shipped to any other person; or any person whose act first causes the solid waste to become subject to regulation under 30 TAC 335.

Container 335.1(41): A container is any portable device in which a material is stored, transported, processed, or disposed of, or otherwise handled. Examples of containers

25. www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-261#261.3

26. P-listed waste or other listed waste with an H hazard code.

27. www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-262#262.13

28. www.transportation.gov/

29. www.tceq.texas.gov/goto/rules/30-tac-335.1

include a 5-gallon bucket, a 55-gallon drum, a tanker truck, or any number of other portable devices.

Hazardous waste 335.1(82): Any solid waste that is defined as being hazardous in [40 CFR 261.3](#),³⁰ unless it is excluded by [40 CFR 261.4](#).³¹ There are two different ways that a waste can be designated “hazardous”: it can be “listed” as hazardous (such as waste from specific industries or waste that can be generated from discarded commercial products) or have features that are “characteristically” hazardous (such as toxicity or corrosivity).

Hazardous substance 335.1(81): Any substance designated as a hazardous substance in [40 CFR part 302](#).³² Note that some hazardous substances may not qualify for classification as hazardous or Class 1 industrial solid waste.

Industrial solid waste 335.1(92): Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operation, which may include "Hazardous waste" as defined in 30 TAC 335.1.

30. www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-261/subpart-A/section-261.3

31. www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-261/subpart-A/section-261.4

32. www.ecfr.gov/current/title-40/chapter-I/subchapter-J/part-302?toc=1