



Common Questions on Empty Waste Containers

What is a container?

Title 30 Texas Administrative Code, Subsection 335.1 (28), Title 40 Code of Federal Regulations, Part 260, Section 260.10

A container is any portable device in which a material is stored, transported, processed, or disposed of, or otherwise handled. This definition is intentionally broad to encompass all types of portable devices that may be used to handle waste. Examples of containers include a 5-gallon bucket, a 55-gallon drum, a tanker truck, or any number of other portable devices.

What is a “RCRA empty” container?

30 TAC 335.41(f), 40 CFR 261.7

(RCRA is the acronym for Resource Conservation and Recovery Act.)

A container is considered RCRA empty according to this description: After you have removed the contents using common practices (pouring, pumping, and aspirating) and it can't be emptied any further, the container holds less than one inch (2.5 centimeters) of residue. Containers that stored hazardous waste but do not meet the RCRA-empty definition are considered hazardous waste.

Does the size of the container matter?

30 TAC 335.41(f)(2)(A)(iii), 40 CFR 261.7(b)(1)

Yes, the size of the container does factor into the definition of RCRA empty.

Table: Container size affects RCRA-empty status

If the container capacity is...	The maximum allowed residue remaining in the container is...
119 gallons or less	1 inch (2.5 centimeters) or 3% by weight of the total capacity of the container or inner liner
More than 119 gallons	1 inch (2.5 centimeters) or 0.3% by weight of the total capacity of the container or inner liner

What if my container is an aerosol can?

335.41(f)(2)(B), 40 CFR 261.7(b)(2)

A container that stored a hazardous waste defined as a compressed gas is considered empty when the pressure in the container approaches atmospheric pressure.

What if the container stored an acutely hazardous material?

30 TAC 335.41 (f)(2)(C), 40 CFR 261.7(b)(3)

A container, including an inner liner removed from it, that stored an acutely hazardous waste listed in **40 CFR 261.31, 261.32, or 261.33(e)** is empty if:

- A. the container or inner liner was triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate; **or**
- B. the container or inner liner was cleaned using a method that removes the material at an equivalent level as shown by scientific literature or tests conducted by the waste generator; **or**
- C. in the case of a container, the inner liner, which prevented contact between the commercial chemical product or manufacturing chemical intermediate and the container, was removed.

As an industrial solid waste generator, are there additional classification requirements for my RCRA-empty containers?

30 TAC 335.508 (2), 40 CFR 302

Yes, RCRA-empty containers from an industrial generator must be classified as a Class 1 industrial solid waste* if they previously stored a:

- hazardous substance,
- hazardous waste,
- Class 1 industrial solid waste, or
- material that would be classified as a hazardous or Class 1 industrial solid waste if disposed.

An industrial solid waste generator is located at an industrial facility and is defined as “Any business engaged in making a product for wholesale according to an organized plan and with a division of labor, changing the materials by processing them, or substantially supporting either of these activities.” If the business is involved in these types of industrial activities, all wastes produced are considered industrial solid waste, even the office trash.

A hazardous substance is defined in 40 CFR Part 302. Note that some of the hazardous substances it identifies may not be classified as hazardous or Class 1 industrial solid waste if disposed (for example, some aluminum, ammonium, sodium, ferric, and zinc compounds).

* For further information on industrial generators and industrial solid waste classification, go to the last section of this document titled “What if I have more questions?”

What options do industrial solid waste generators have?

30 TAC 335.508 (2) and 513, 40 CFR 302.4

You do have the option of classifying the RCRA-empty containers as Class 2 industrial solid waste if they meet one of the following criteria:

Option 1. The container capacity is 5 gallons or less; **or**

Option 2. The container previously stored a Class 2 industrial solid waste;
or

Option 3. The container is an aerosol can that was depleted of its contents, such that the inner pressure of the can equals the atmospheric pressure, and the minimal residue remains in the can; **or**

Option 4. The container capacity is more than 5 gallons and meets both of the following conditions:

- The residue is completely removed either by triple rinsing with a solvent capable of removing the waste, by hydro-blasting, or by other methods.
- The container was crushed, punctured, or subjected to other mechanical treatment that renders it unusable.

Option 5. The container will be recycled and meets all of the following conditions:

- The residue was completely removed either by triple rinsing with a solvent capable of removing the waste, by hydro blasting, or by other methods.
- The container is not regulated under the Federal Insecticide, Fungicide and Rodenticide Act, 40 CFR Part 165.
- The generator maintains documentation, according to 30 TAC 335.513 Documentation Required, that demonstrates the container is being recycled; and
- The recycling activity involves shredding, dismantling, scrapping, melting, or other method that renders the container unusable.

Again, some hazardous substances identified in 40 CFR 302 Designation, Reportable Quantities, and Notification may not be classified as hazardous or Class 1 industrial solid waste if disposed (some aluminum, ammonium, sodium, ferric, and zinc compounds).

How should I store my empty containers?

As a best-management practice, you should mark or label the containers as empty, keep the lids closed, and protect them from the inclement weather conditions in a manner that does not create a nuisance. Rain and snow can collect inside containers and potentially become a waste that will be costly to dispose.

How should I manage or dispose of my RCRA-empty containers?

Depending on how the empty containers are classified, there are different management and disposal options including the following:

- Send them to a person who reclaims the containers' scrap value.
- Send them to someone who reconditions or remanufactures them.
- Send them to an approved disposal facility.

Should I record my RCRA-empty containers on a manifest?

30 TAC 335.10, 335.24, and 335.508; 40 CFR 262.20

It depends on how you classify them. If they meet the conditions of RCRA-empty containers, they are not considered hazardous waste and may be exempt from the manifest requirement. Although the manifesting requirements may not apply, Department of Transportation shipping requirements may still be applicable during transport.

If you are an industrial solid waste generator, a registration and manifest may be required since RCRA-empty containers can be Class 1 industrial solid waste.

Unless the TCEQ executive director determines otherwise, manifesting is not required **if the containers are non-industrial solid wastes and** are nonhazardous recyclable materials, recyclable materials listed under 30 TAC 335.24 (see Requirements For Recyclable Materials and Nonhazardous Recyclable Materials), and legitimately being recycled.

Must I list RCRA-empty containers on my Notice of Registration?

30 TAC 335.6, 335.502, and 335.508

Since RCRA-empty containers are not considered hazardous waste they may be exempt from being listed on a Notice of Registration. If you are a registered industrial and hazardous waste facility and are classifying the containers as a Class 1 or Class 2 industrial solid waste, then you must list them on the notice.

How do I handle the rinsate or residue generated by cleaning my container or inner liner?

Residue from a container that stored a hazardous waste, and the rinsate or the solution remaining after rinsing a container or inner liner, are regulated as a waste. This newly generated waste must be evaluated when it is generated to determine if it is a hazardous waste according to 30 TAC 335.1. If the container or inner liner held a listed hazardous waste, then the rinsate or residue also may be a listed hazardous waste and therefore must be properly classified. If the container or inner liner held an acutely hazardous listed waste, then the rinsate from triple rinsing them also may be an acutely hazardous listed waste and may be regulated as such.

Can I send my containers to be recycled as scrap metal?

30 TAC 335.17, 40 CFR 261.4(a)(13)

A facility can recycle its empty scrap-metal containers using a legitimate metal recycler through an exemption under 40 CFR 261.4(a)(13) (see Excluded scrap metal...being recycled.) If claiming the exemption, the generator must ensure the recycler collects any residual or rinsate after the metal drums are crushed.

The TCEQ RENEW program is a materials-exchange network listing companies that may want your used empty containers. For more information, visit the RENEW website at <www.renewtx.org>.

Can empty containers go to a landfill?

30 TAC 330.3, 335.171, 335.173

Once meeting all legal requirements, you may dispose of empty containers through a drum disposal company, by placing them in a dumpster going to a landfill, or by taking them to a local transfer station that accepts them.

Before placing them in the garbage or taking them to a landfill consider the quantity, size, and type of material they contained and contact the landfill office for its disposal requirements. The facility may not accept empty containers or containers with free-liquid waste inside them. If the landfill accepts them, it may require you to get an authorization.

Empty containers may be regulated as special waste if they are classified as a municipal hazardous waste from a conditionally exempt small-quantity generator, or if they are a Class 1 nonhazardous industrial waste.

If possible, try to reuse or recycle your empty containers.

What if I have more questions?

Contact the TCEQ Small Business and Local Government Assistance Section at 1-800-447-2827 or visit our website at <texasenvirohelp.org> and click on the “Waste Designation Decision Matrix” link, or review TCEQ guidance documents, such as RG-234 Industrial and Hazardous Waste: Rules and Regulations for Small-Quantity Generators and RG-022 Guidelines for the Classification and Coding of Industrial and Hazardous Wastes.

Copies of publications mentioned in this guidance document can be obtained from TCEQ Publications at 512-239-0028, or online at <www.tceq.state.tx.us/publications>.

You can find the official version of TCEQ rules in the Texas Administrative Code on the Secretary of State’s website, <www.sos.state.tx.us>. For your convenience, the TCEQ website provides **unofficial** versions of the rules, in PDF, at <www.tceq.state.tx.us/goto/rules>.