

9441.1985(04)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

DECEMBER 84

3. A treatment, storage, or disposal facility (TSDF) has agreed to accept "empty containers" per §261.7. Upon receiving the containers (55 gallon drums), the TSDF found that although the containers held less than one inch, the containers could be and were emptied further by inverting the container and pouring out additional hazardous waste. According to §261.7(b)(1)(i), a container that has held hazardous waste is empty if 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. If the TSDF further empties the container by pouring, was the container "empty" when received even though it held under one inch of material?

No; the container was not empty. Preamble language to the August 18, 1982 Federal Register (47 FR 36093) states that "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 normal means." this indicates that a container must be emptied by pouring, pumping and aspirating. Then, if the container holds less than one inch, the container is empty per §261.7.

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