TWO MINUTE TRAINING

TO: *CENTRAL PLATEAU CLEANUP COMPANY*

FROM: *PAUL W. MARTIN, RCRA Subject Matter Expert*
CPCCo Environmental Protection, Hanford, WA

SUBJECT: *PUMPS CONTAINING LIQUID HAZARDOUS WASTES AND RCRA EMPTY CONTAINERS*

DATE: *NOVEMBER 18, 2021*

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TWO MINUTE TRAINING

SUBJECT: Pumps Containing Liquid Hazardous Wastes and RCRA Empty Containers

Q: The Two Minute Trainings for the last two weeks have discussed scenarios where a pump contained some liquid hazardous wastes but could still be land disposed due to containing small amounts of liquid for purposes other than storage; however, the Land Disposal Restrictions were still applicable. If a customer completely emptied a pump of all liquid hazardous wastes, could the pump be disposed as a nonhazardous waste, i.e., as a RCRA empty container?

A: Per WAC 173-303-040 *[40 CFR 260.10]*, "Definitions", a container is "any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled". Then, per WAC 173-303-160, "Containers", paragraph (2), *[40 CFR 261.7]*, it basically states that a container is empty when all wastes have been removed that can be removed by commonly employed practices. This means that if the pump is portable and handles material, a pump can meet the definition of container. When the container is compliantly emptied of wastes, the remaining container residues are not regulated as dangerous wastes.

Note that the RCRA empty container standards vary if the container held a dangerous waste, an acutely hazardous waste or a compressed gas. Also note that any residues generated from emptying a dangerous waste container may be regulated as listed, characteristic, or meets a WA State dangerous wastes criteria.

As further clarification, an EPA guidance letter (RO 11647) dated October 22, 1991, stated:

"It is our view that if the pumps meet the definition of "container" in 40 CFR 260.10, they are exempt from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA) after they are emptied in accordance with 40 CFR 261.7. Section 260.10 defines "container" as "any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled". If the pumps you describe are portable, they may be managed as a non-hazardous waste under federal law."

Therefore, the customer could render the pump RCRA empty of any dangerous/hazardous waste, and then dispose of the pump as nondangerous waste in a Subtitle D nondangerous waste landfill, e.g., a municipal landfill. This is assuming that the pump does not meet any other dangerous waste listings, or exhibit any other dangerous waste characteristics, or meets WA State dangerous waste criteria.

SUMMARY:

- A container is any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
- If a dangerous waste container is emptied per WAC 173-303-160(2), the container and residues remaining in the container are no longer subject to dangerous waste regulation.
- If a pump meets the definition of a RCRA empty container, the pump is nondangerous and can be disposed in a Subtitle D, nondangerous waste landfill.

Excerpts from WAC 173-303-160(2) and the EPA guidance letter are attached to the e-mail. If you have any questions, please contact me at Paul_W_Martin@rl.gov or at (509) 376-6620.

FROM: Paul W. Martin **DATE:** 11/18/2021 **FILE:** 2MT\2021\111821.rtf

TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Pumps Containing Liquid Hazardous Wastes and RCRA Empty Containers

WAC 173-303-160 Containers.

(2) A container or inner liner is "empty" when:

(a) All wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (for example, pouring, pumping, aspirating, etc.) and:

(i) No more than one inch of waste remains at the bottom of the container or inner liner; or

(ii) 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 119 gallons in size; or

(iii) 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 119 gallons in size.

A container that held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040, toxic EHW as defined in WAC 173-303-100 or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing must be ten percent or more of the container's or inner liner's capacity or of sufficient quantity to thoroughly decontaminate the container. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (for example, fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (for example, on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department. A container or inner liner is also considered "empty" if 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.

(Extraneous wording deleted to save space; see hyperlink for full details.)

(3)

(a) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities.

(b) Any dangerous waste in either: A container that is not empty, or an inner liner removed from a container that is not empty (as defined in subsection (2) of this section) is subject to the requirements of this chapter.

SUBJECT: Pumps Containing Liquid Hazardous Wastes and RCRA Empty Containers

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Mr. Kevin S. Dunn, Project Manager
Environmental Policy Center
Law Companies Environmental Group
1828 L Street, N.W.
Suite 711
Washington, D.C. 20036

Dear Mr. Dunn:

Thank you for your letter of May 28, 1991 regarding the regulatory status of industrial equipment which formerly contained a hazardous waste. I apologize for the delay in responding to your inquiry.

In your letter, you described a situation in which pumps containing elemental mercury were taken out of service and used as containers for temporary storage, transportation and handling of the mercury before its treatment and disposal. You asked whether the pumps could be regulated as non-hazardous wastes if the mercury were removed from the pumps in a manner consistent with the requirements of 40 CFR 261.7 for empty containers.

It is our view that if the pumps meet the definition of "container" in 40 CFR 260.10, they are exempt from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA) after they are emptied in accordance with 40 CFR 261.7. Section 260.10 defines "container" as "any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled". If the pumps you describe are portable, they may be managed as a non-hazardous waste under federal law.

This interpretation reflects the federal regulations governing hazardous waste. States with authorized RCRA programs may impose more stringent requirements. Such States also have the authority to make regulatory determinations about the materials which constitute hazardous wastes under their systems.

I hope this letter has addressed your concerns. If you have any further questions, please contact Mitch Kidwell of my staff at (202) 260-8551.

Sincerely,

David Bussard,
Director Characterization and
Assessment Division

RO 11647