

EMPTY CONTAINER RULE

DATE: 28 NOV 1984

SUBJECT: Empty Container Rule

FROM: John H. Skinner, Directory
Office of Solid Waste (WH-562)

TO: Karl J. Klepitsch, Jr., Chief
Waste Management Branch

This is in response to your October 24, 1984, memorandum in which you requested a clarification of the Headquarters position on emptying tank cars. Let me reiterate the position Alan Corson took during his conversation with Gary Victorine and relate it to the information included in your memorandum. At that time, Gary did not emphasize that the tank cars had bottom valves.

Alan told Gary that if only top unloading is available, the tank car is empty only if as much has been removed as possible and no more than an inch or no more than 0.3% of the total capacity (weight) remains. However, the Agency expects bottom valves to be used, when present, if they provide maximum removal of waste.

Likewise, a 55-gallon drum should be emptied as completely as possible. If pouring from an inverted drum removes more residual than a hand pump does, then pouring is obligatory. Of course, removal must be performed to achieve maximum possible removal, not just to the one-inch level of 0.03% capacity, in order to produce an empty container according to 40 CFR §261.7(b)(1).

40 CFR §261.7(b)(1)(i) sites in part: "all wastes have been removed that can be removed using the practices commonly employed...e.g., pouring, pumping, and aspirating..." The August 18, 1982, preamble says that one inch of waste can be left in an empty container only if it remains after performing normal removal operations. Taken together, these citations support the interpretation that all commonly employed emptying methods have to be employed to empty a container. "Commonly employed" refers to the normal practice of industry, not to what a given

person does. Thus, containers that have not been subjected to all commonly employed methods of emptying are still subject to regulation.

If you have any further questions on this issue, please do not hesitate to contact Alan Corson of my staff at FTS-382-4770.

cc: Hazardous Waste Branch Chiefs, Regions I-X