

or liners are empty.⁸ A container or liner that has held a commercial chemical product identified in 40 C.F.R. 261.33(a) is empty if:

- The container or liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;
- The container or 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, or;
- In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

Once emptied by one of these methods, the container is no longer subject to the hazardous waste regulations. Improper disposal of containers not thus emptied subjects the generator to civil and criminal penalties,¹⁰ as well as citizen suits¹¹ for violating the provisions of RCRA.

Exceptions for Farmers

The regulations allow exceptions and provisions for farmers and generators of small quantities of hazardous waste. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the hazardous waste regulations of 40 C.F.R. Parts 122,264, or 265 provided he triple rinses each container as described above and disposes of the residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.¹²

Upon following the triple rinse procedure, the containers are then "empty" and the farmer can discard them without regard to the hazardous waste regulations. Note, however, that the empty containers are still subject to any disposal instructions contained within the labeling of the product and disposal in a manner "inconsistent with the labeling" instructions is a violation of FIFRA.¹³

Exceptions for Small Generators of Hazardous Wastes

Notwithstanding the farmer exception, a person disposing of pesticide containers or residues is exempt from the hazardous waste regulations if he generates less than 1 kilogram (2.2 pounds) per month of the hazardous wastes described in 40 C.F.R. 261.33, or 100 kilograms (220 pounds) of residue or contaminated debris resulting from clean up of a spill.¹⁴ Since it would not take long to generate 2.2 pounds of waste commercial chemical products, residues or unrinsed containers, the small quantity generator exception offers little protection for a farmer who ignores the triple rinse procedures of the farmer exception.¹⁵

Even if an applicator falls within the small quantity generator exception, he must still make a determination of the hazardous nature of the waste as per 40 C.F.R. 262.11, and follow certain procedures for storage and disposal.¹⁶ Hazardous waste that is being legitimately reused, reclaimed or recycled is not subject to the hazardous waste management regulations.¹⁷

Special Regulations for Commercial Applicators

Maintenance of Records and Official Inspection

Commercial pesticide applicators may be required to maintain records of the delivery, movement, or holding of pesticides or pesticide devices. This would include storage and disposal of pesticides and containers. Upon request by EPA or designated state officials these records must be produced for inspection. Prior to inspection, officials must present to the applicator a written statement indicating the reasons for the inspection and whether a violation of the law is suspected.¹⁸