

DSH-HW-03-17 Counting of Container and Packaging Weights	
New York State Department of Environmental Conservation DEC Policy	
Issuing Authority: Carl Johnson, Deputy Commissioner	
Date Issued: 4/23/03	Latest Date Revised:

I. Summary:

The weights of in-use containers and packaging are not counted when determining the quantity of hazardous waste generated.

II. Policy:

The Division of Solid & Hazardous Materials (DSHM) will not include the weight of still-functioning containers and packaging when calculating the quantities of hazardous waste generated, unless the generator is unable to provide sufficient documentation for the DSHM to reliably calculate those quantities independent of the container and packaging. This Program Policy establishes the uniform policy of allowing container and packaging weights to be excluded when determining the quantity of hazardous waste generated for the purpose of reporting on the Annual Report and Hazardous Waste Reduction Plan, and for establishing generator fees, special assessments, and generator-size categories. Generators need not include or report the weight of containers and packaging in making their hazardous waste generator classification determination or in manifests or annual reports; however, for shipments in containers, they must clearly note on the relevant documents whether the weight of the container and packaging is, or is not, included in the weight.

III. Purpose and Background:

The purpose of this guidance is to establish a uniform and consistent policy within the DSHM that the weights of still-functioning containers and packaging are not required to be counted when determining the quantity of hazardous waste generated.

It is the DSHM's determination that containers and packaging used to contain and package hazardous wastes are not themselves wastes for as long as the containers continue to be used as intended. These items perform the essential role of containing the waste (e.g., drums, bottles, vials) or preventing damage to the primary container (e.g., vermiculite used to separate and support individual containers), and are of critical importance in preventing releases to the environment.

Because the quantity of hazardous wastes listed on manifests in units of volume (e.g., gallons) never includes the volume of the container or packaging, the DSHM has, historically, unavoidably excluded container and packaging weights when calculating the weights of those hazardous wastes. In contrast, the DSHM has historically *not* always excluded container and packaging weights when the quantities listed on manifests were in units of weight (e.g., pounds, kilograms, tons). This Policy will allow the container and packaging weights to be excluded regardless of which quantity units the generator selects.

IV. Responsibility:

Responsibility for the interpretation and updating of this Policy document resides with the Bureau of Hazardous Waste Management within the DSHM.

If you have questions about this Policy, please contact:

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V. Procedure:

This policy may be used for purposes of annual reporting and hazardous waste reduction planning, calculation of special assessments and generator fees, and determination of generator size categories whenever sufficient documentation exists to establish the net quantity of hazardous waste being contained or packaged.

Related References

This policy is supported by the following USEPA documents (attached):

- RCRA/Superfund Hotline Monthly Report for November 1983 (“EPA’s position is that when making weight determinations for small-quantity generator status or reporting for the biennial report, the weight of the container is not counted.”).
- USEPA letter dated December 23, 1993 (“If the actual weight of residue remaining in the container can be identified, it is not necessary to include the weight of the container....”).
- USEPA letter dated April 30, 1991 (“containers...are not solid wastes... because [they] continue to fulfill this intended use....”).

Note also that nothing in the hazardous waste regulations contradicts this position in any way. For example, see Parts 371.1(f)(3) and (4) and 372.1(b)(2), which have no requirement for the inclusion of the weight of a vessel holding a generated hazardous waste when determining whether a generator is a Conditionally-Exempt Small-Quantity Generator (CESQG), Small-Quantity Generator (SQG), or Large-Quantity Generator (LQG).