



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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FROM: Steven Y.K. Chang, P.E., Chief  
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SUBJECT: Hawaii State Department of Health P-listed Hazardous Waste Residue/Container  
Weight and Generator Status Interpretation

The Department of Health (“DoH”) has decided to revisit its interpretation of the United States Environmental Protection Agency’s (“EPA”) policy “Containers that Once Held P-listed Pharmaceuticals” (November 4, 2011). In response to concerns that the interpretation in our letter entitled “Hawaii State Department of Health P-Listed Hazardous Waste Residue Determination” (January 29, 2015) may have imposed unnecessary regulatory burdens, we have concluded that our earlier position should be amended. The January 29 letter concluded that the weight of containers with p-listed hazardous waste residue should be applied towards the determination of generator status. In order to maintain consistency with the EPA’s interpretation of the analogous federal rules and to eliminate impracticalities that may result from our previous interpretation, DoH now concurs with the EPA’s policy requiring only that the weight of the residue be counted when determining the amount of hazardous waste generated. Therefore, the weight of the container or inner liner containing the residue is not counted. This is consistent with the intent of the relevant federal rule and its state analog, Hawaii Administrative Rules (HAR) section 11-261-33:

- §11-261-33 *The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded...*
- (c) Any *residue* remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (e) or (f), unless the container is empty as defined in subsection 11-261-7(b)... [emphasis added]

The residue of an acute “p-listed” waste (listed in HAR §11-261-33(e)) remaining inside a container is a hazardous waste, while the container or inner liner itself is not. However, generators must still manage containers or inner liners that are not “RCRA empty” (per HAR §11-261-7(b)(3) – e.g., “triple rinsed”) as hazardous waste because of the remaining hazardous waste residue.

In order to assist generators in determining and documenting the amount of p-listed hazardous waste generated, since this quantity may affect generator status and the applicability of the regulations, DoH makes the following recommendations:

- (1) Containers with p-listed residue should be separated from other wastes and listed on a separate manifest line.
- (2) The Uniform Hazardous Waste Manifest (UHW) instructions (40 CFR Part 262 Appendix; item 11) indicate that “Waste quantities entered should be based on actual measurements or reasonably accurate estimates of actual quantities shipped.” The waste being shipped for management is the contaminated containers and the hazardous waste residue within. Therefore, the manifest should record the total weight of the non-“RCRA empty” containers shipped.
- (3) For purposes of determining generator status (quantifying the amount of hazardous waste generated), only the weight of the residue should be counted. The weight of the contaminated containers is not to be counted because the containers are not themselves hazardous waste; rather, they must be managed as hazardous waste. A note should be entered on the manifest in box 14 (Special Handling Instructions and Additional Information) indicating the approximate weight of hazardous waste residue to be counted when calculating the amount of hazardous waste generated.

If you have any questions regarding this matter, please contact the Hazardous Waste Section at (808) 586-4226.