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DEPARTMENT OF HEALTH

Adoption of Chapter 11-273
Hawaii Administrative Rules

FEB 25 1999

SUMMARY

Chapter 11-273, Hawaii Administrative Rules, entitled
"Standards for Universal Waste Management", is adopted.



HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 273

HAZARDOUS WASTE MANAGEMENT

STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

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SUBCHAPTER A

GENERAL

§11-273-1 Scope. (a) This chapter establishes requirements for managing the following:
(1) Batteries as described in section 11-273-2;
(2) Pesticides as described in section 11-273-3; and
(3) Thermostats as described in section 11-273-4.
(b) This chapter provides an alternative set of management standards in lieu of regulation under chapters 11-260 through 11-272.

(c) All references in tables and appendices to provisions of the Code of Federal Regulations shall be construed to mean the State rule analogue of the referenced federal regulation (for example, 40 CFR 260.1 shall be construed to mean section 11-260-1 of the Hawaii Administrative Rules). [Eff MAR 13 1999]
 (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.1)

§11-273-2 Applicability -- batteries. (a) Batteries covered under chapter 11-273.

- (1) The requirements of this chapter apply to persons managing batteries, as described in section 11-273-6, except those listed in subsection (b).
- (2) Spent lead-acid batteries which are not managed under chapter 11-266, subchapter G, are subject to management under this chapter.

(b) Batteries not covered under chapter 11-273. The requirements of this chapter do not apply to persons managing the following batteries:

- (1) Spent lead-acid batteries that are managed under chapter 11-266, subchapter G.
 - (2) Batteries, as described in section 11-273-6, that are not yet wastes under chapter 11-261, including those that do not meet the criteria for waste generation in subsection (c).
 - (3) Batteries, as described in section 11-273-6, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in chapter 11-261, subchapter C.
- (c) Generation of waste batteries.

- (1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).
- (2) An unused battery becomes a waste on the date the handler decides to discard it. [Eff MAR 13 1999]
 (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.2)

§11-273-3 Applicability -- pesticides. (a) Pesticides covered under chapter 11-273. The requirements of this chapter apply to persons managing pesticides, as described in section 11-273-6, meeting the following conditions, except those listed in subsection (b):

- (1) Recalled pesticides that are:
 - (i) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under the Federal Insecticide, Fungicide, and Rodenticide Act Section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

- (ii) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act, that are part of a voluntary recall by the registrant.
- (2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.
- (b) Pesticides not covered under chapter 11-273. The requirements of this chapter do not apply to persons managing the following pesticides:
 - (1) Recalled pesticides described in paragraph (a)(1), and unused pesticide products described in paragraph (a)(2), that are managed by farmers in compliance with section 11-262-70. (Section 11-262-70 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with section 11-261-7(b)(3));
 - (2) Pesticides not meeting the conditions set forth in subsection (a). These pesticides must be managed in compliance with the hazardous waste regulations in chapters 11-260 through 11-272;
 - (3) Pesticides that are not wastes under chapter 11-261, including those that do not meet the criteria for waste generation in subsection (c) or those that are not wastes as described in subsection (d); and
 - (4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in chapter 11-261, subchapter D or if it exhibits one or more of the characteristics identified in chapter 11-261, subchapter C.
- (c) When a pesticide becomes a waste.
 - (1) A recalled pesticide described in paragraph (a)(1) becomes a waste on the first date on which both of the following conditions apply:
 - (i) The generator of the recalled pesticide agrees to participate in the recall; and
 - (ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).
 - (2) An unused pesticide product described in paragraph (a)(2) becomes a waste on the date the generator decides to discard it.
- (d) Pesticides that are not wastes. The following pesticides are not wastes:
 - (1) Recalled pesticides described in paragraph (a)(1), provided that the person conducting the recall:
 - (i) Has not made a decision to discard (e.g., burn for energy recovery) the pesticide. Until such a

decision is made, the pesticide does not meet the definition of "solid waste" under section 11-261-2; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this chapter 11-273. This pesticide remains subject to the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); or

- (ii) Has made a decision to use a management option that, under section 11-261-2, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this chapter 11-273. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.)
- (2) Unused pesticide products described in paragraph (a) (2), if the generator of the unused pesticide product has not decided to discard (e.g., burn for energy recovery) them. These pesticides remain subject to the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.)
- [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) Imp: 40 C.F.R. §273.3)

§11-273-4 Applicability -- mercury thermostats. (a)
Thermostats covered under chapter 11-273. The requirements of this chapter apply to persons managing thermostats, as described in section 11-273-6, except those listed in subsection (b).

(b) Thermostats not covered under chapter 11-273. The requirements of this chapter do not apply to persons managing the following thermostats:

- (1) Thermostats that are not yet wastes under chapter 11-261. Subsection (c) describes when thermostats become wastes.
- (2) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in chapter 11-261, subchapter C.
- (c) Generation of waste thermostats.
- (1) A used thermostat becomes a waste on the date it is discarded (e.g., sent for reclamation).
- (2) An unused thermostat becomes a waste on the date the handler decides to discard it. [Eff MAR 13 1999.]

(Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40
C.F.R. §273.4)

§11-273-5 Applicability -- household and conditionally exempt small quantity generator waste. (a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this chapter:

- (1) Household wastes that are exempt under section 11-261-4(b)(1) and are also of the same type as the universal wastes defined at section 11-273-6; and/or
- (2) Conditionally exempt small quantity generator wastes that are exempt under section 11-261-5 and are also of the same type as the universal wastes defined at section 11-273-6.

(b) Persons who commingle the wastes described in paragraphs (a)(1) and (a)(2) together with universal waste regulated under this chapter must manage the commingled waste under the requirements of this chapter. [Eff. MAR 13 1999]
(Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.5)

§11-273-6 Definitions.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in section 11-273-13(a) and (c) and section 11-273-33(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in chapter 11-261 or whose act first causes a hazardous waste to become subject to regulation.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he or she controls and to which the public does not have access, are also considered on-site property.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (a) Is a new animal drug under the Federal Food, Drug, and Cosmetic Act section 201(w), or
- (b) Is an animal drug that has been determined by regulation of the United States Secretary of Health and Human Services not to be a new animal drug, or
- (c) Is an animal feed under the Federal Food, Drug, and Cosmetic Act section 201(x) that bears or contains any substances described by subsection (a) or (b).

"Small quantity handler of universal waste" means a universal waste handler (as defined in this section) who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of section 11-273-13(c)(2) or section 11-273-33(c)(2).

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of chapter 11-273:

- (a) Batteries as described in section 11-273-2;
- (b) Pesticides as described in section 11-273-3; and
- (c) Thermostats as described in section 11-273-4.

"Universal waste handler":

- (a) Means:
 - (1) A generator (as defined in this section) of universal waste; or
 - (2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
- (b) Does not mean:
 - (1) A person who treats (except under the provisions of section 11-273-13(a) or (c), or section 11-273-

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33(a) or (c)), disposes of, or recycles universal waste; or

- (2) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.6)

SUBCHAPTER B

STANDARDS FOR SMALL QUANTITY HANDLERS OF UNIVERSAL WASTE

§11-273-10 Applicability. This subchapter applies to small quantity handlers of universal waste (as defined in § 11-273-6). [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.10)

§11-273-11 Prohibitions. A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in section 11-273-17; or by managing specific wastes as provided in section 11-273-13. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.11)

§11-273-12 Notification. A small quantity handler of universal waste is not required to notify the department of universal waste handling activities. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.12)

§11-273-13 Waste management. (a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (1) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- (2) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
- (i) Sorting batteries by type;
 - (ii) Mixing battery types in one container;
 - (iii) Discharging batteries so as to remove the electric charge;
 - (iv) Regenerating used batteries;
 - (v) Disassembling batteries or battery packs into individual batteries or cells;
 - (vi) Removing batteries from consumer products; or
 - (vii) Removing electrolyte from batteries.
- (3) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in chapter 11-261, subchapter C.
- (i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of chapters 11-260 through 11-272. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to chapter 11-262.
 - (ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.
- (b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevent releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- (1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

- (2) A container that does not meet the requirements of paragraph (b)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1); or
 - (3) A tank that meets the requirements of chapter 11-265, subchapter J, except for sections 11-265-197(c), 11-265-200, and 11-265-201; or
 - (4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- (c) Universal waste thermostats. A small quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1) A small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - (2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:
 - (i) Removes the ampules in a manner designed to prevent breakage of the ampules;
 - (ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of section 11-262-34;
 - (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of section 11-262-34;
 - (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable Federal Occupational Safety and Health Act exposure levels for mercury;
 - (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury

- handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
- (vii) Stores removed ampules in closed, non-leaking containers that are in good condition;
 - (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and
- (3) (i) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in chapter 11-261, subchapter C:
- (A) Mercury or clean-up residues resulting from spills or leaks; and/or
 - (B) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).
- (ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of chapters 11-260 through 11-272. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to chapter 11-262.
- (iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
- [Eff. MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.13)

§11-273-14 Labeling/marking. A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

- (a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)", or "Waste Battery(ies)," or "Used Battery(ies);"
- (b) A container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in section 11-273-3(a)(1) are contained must be labeled or marked clearly with:
 - (1) The label that was on or accompanied the product as sold or distributed; and
 - (2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

- (c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in section 11-273-3(a)(2) are contained must be labeled or marked clearly with:
 - (1)
 - (i) The label that was on the product when purchased, if still legible;
 - (ii) If using the labels described in subparagraph (c)(1)(i) is not feasible, the appropriate label as required under the United States Department of Transportation regulation 49 CFR part 172;
 - (iii) If using the labels described in subparagraphs (c)(1)(i) and (ii) is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by the State; and
 - (2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."
- (d) Universal waste thermostats (i.e., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)". [Eff. MAR 13 1999]
(Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40
C.F.R. §273.14)

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Accumulation time limits.

- (a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of subsection (b) are met.
- (b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.
- (c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

- (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
- (2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
- (3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
- (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
- (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
- (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.15)

§11-273-16 Employee training. A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.16)

§11-273-17 Response to releases. (a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of chapters 11-260 through 11-272. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with chapter 11-262. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.17)

§11-273-18 Off-site shipments. (a) A small quantity handler of universal waste is prohibited from sending or taking

universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self- transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subchapter D while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable United States Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

- (1) Receive the waste back when notified that the shipment has been rejected, or
- (2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he or she has received from another handler. If a handler rejects a shipment or a portion of a shipment, he or she must contact the originating handler to notify him or her of the rejection and to discuss reshipment of the load. The handler must:

- (1) Send the shipment back to the originating handler, or
- (2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the hazardous waste.

(h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations. [Eff
MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp:
40 C.F.R. §273.18)

§11-273-19 Tracking universal waste shipments. A small quantity handler of universal waste is not required to keep records of shipments of universal waste. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.19)

§11-273-20 Exports. A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those Organization for Economic Cooperation and Development (OECD) countries specified in section 11-262-58(a)(1) (in which case the handler is subject to the requirements of subchapter H of chapter 11-262) must:

- (a) Comply with the requirements applicable to a primary exporter in sections 11-262-53, 11-262-56(a)(1) through (4), (6), and (b) and 11-262-57;
- (b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subchapter E of chapter 11-262; and
- (c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.20)

SUBCHAPTER C

STANDARDS FOR LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE

§11-273-30 Applicability. This subchapter applies to large quantity handlers of universal waste (as defined in section 11-273-6). [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.30)

§11-273-31 Prohibitions. A large quantity handler of universal waste is:

- (a) Prohibited from disposing of universal waste; and
- (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in section 11-273-37; or by managing specific wastes as provided in section 11-273-33. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.31)

§11-273-32 Notification.

- (a)(1) Except as provided in paragraphs (a)(2) and (3), a large quantity handler of universal waste must have sent written notification of universal waste management

to the director, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

- (2) A large quantity handler of universal waste who has already notified the department of his or her hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this section.
- (3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in section 11-273-3(a)(1) and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.
 - (b) This notification must include:
 - (1) The universal waste handler's name and mailing address;
 - (2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
 - (3) The address or physical location of the universal waste management activities;
 - (4) A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, thermostats);
 - (5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, thermostats) the handler is accumulating above this quantity. [Eff: MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.32)

§11-273-33 Waste management. (a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- (2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each

individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- (i) Sorting batteries by type;
 - (ii) Mixing battery types in one container;
 - (iii) Discharging batteries so as to remove the electric charge;
 - (iv) Regenerating used batteries;
 - (v) Disassembling batteries or battery packs into individual batteries or cells;
 - (vi) Removing batteries from consumer products; or
 - (vii) Removing electrolyte from batteries.
- (3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in chapter 11-261, subchapter C.
- (i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of chapters 11-260 through 11-272. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to chapter 11-262.
 - (ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.
- (b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- (1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or
 - (2) A container that does not meet the requirements of paragraph (b) (1), provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b) (1); or
 - (3) A tank that meets the requirements of chapter 11-265, subchapter J, except for sections 11-265-197(c), 11-265-200, and 11-265-201; or
 - (4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage

that could cause leakage under reasonably foreseeable conditions.

(c) Universal waste thermostats. A large quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (1) A large quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- (2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:
 - (i) Removes the ampules in a manner designed to prevent breakage of the ampules;
 - (ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);
 - (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of section 11-262-34;
 - (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of section 11-262-34;
 - (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable Federal Occupational Safety and Health Act exposure levels for mercury;
 - (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
 - (vii) Stores removed ampules in closed, non-leaking containers that are in good condition; and
 - (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- (3) (i) A large quantity handler of universal waste who removes mercury-containing ampules from

thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in chapter 11-261, subchapter C:

- (A) Mercury or clean-up residues resulting from spills or leaks; and/or
 - (B) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).
- (ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of chapters 11-260 through 11-272. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to chapter 11-262.
- (iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.
- [Eff. **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.33)

§11-273-34 Labeling/markings. A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

- (a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"
- (b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in section 11-273-3(a)(1) are contained must be labeled or marked clearly with:
 - (1) The label that was on or accompanied the product as sold or distributed; and
 - (2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"
- (c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in section 11-273-3(a)(2) are contained must be labeled or marked clearly with:
 - (1) (i) The label that was on the product when purchased, if still legible;
 - (ii) If using the labels described in subparagraph (c)(1)(i) is not feasible, the appropriate label as required under the United States Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in subparagraphs (c)(1)(i) and (1)(ii) is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d) Universal waste thermostats (i.e., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)" or "Used Mercury Thermostat(s)". [Eff MAR 13 1999]
(Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40
C.F.R. §273.34)

§11-273-35

Accumulation time limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of subsection (b) are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

- (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
- (2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
- (3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;
- (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

- (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
- (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.35)

§11-273-36 Employee training. A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.36)

§11-273-37 Response to releases. (a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of chapters 11-260 through 11-272. The handler is considered the generator of the material resulting from the release, and is subject to chapter 11-262. [Eff MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.37)

§11-273-38 Off-site shipments. (a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self- transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subchapter D while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable United States Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

- (1) Receive the waste back when notified that the shipment has been rejected, or
- (2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he or she has received from another handler. If a handler rejects a shipment or a portion of a shipment, he or she must contact the originating handler to notify him or her of the rejection and to discuss reshipping of the load. The handler must:

- (1) Send the shipment back to the originating handler, or
- (2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the hazardous waste.

(h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations. [Eff

MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.38)

§11-273-39

Tracking universal waste shipments.

(a)

Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

- (1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;
- (2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats);
- (3) The date of receipt of the shipment of universal waste.

(b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

- (1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;
- (2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats);
- (3) The date the shipment of universal waste left the facility.

(c) Record retention.

- (1) A large quantity handler of universal waste must retain the records described in subsection (a) for at least three years from the date of receipt of a shipment of universal waste.
- (2) A large quantity handler of universal waste must retain the records described in subsection (b) for at least three years from the date a shipment of universal waste left the facility. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.39)

§11-273-40 Exports. A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those Organization for Economic Cooperation and Development (OECD) countries specified in section 11-262-58(a)(1) (in which case the handler is subject to the requirements of subchapter H of chapter 11-262) must:

(a) Comply with the requirements applicable to a primary exporter in sections 11-262-53, 11-262-56(a)(1) through (4), (6), and (b) and 11-262-57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subchapter E of chapter 11-262; and

(c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.40)

SUBCHAPTER D

STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

§11-273-50 Applicability. This subchapter applies to universal waste transporters (as defined in section 11-273-6). [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.50)

§11-273-51

§11-273-51 Prohibitions. A universal waste transporter

is:

- (a) Prohibited from disposing of universal waste; and
- (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in § 11-273-54. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.51)

§11-273-52 Waste management. (a) A universal waste transporter must comply with all applicable United States Department of Transportation regulations in 49 CFR part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the United States Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the hazardous waste manifest requirements specified in chapter 11-262. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the United States Department of Transportation regulations.

(b) Some universal waste materials are regulated by the United States Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under chapter 11-262, they may not be described by the United States Department of Transportation proper shipping name "hazardous waste, (1) or (s), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste". [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.52)

§11-273-53 Storage time limits. (a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of subchapter B or C while storing the universal waste. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.53)

§11-273-54 Response to releases. (a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of chapters 11-260 through 11-272. If the waste is determined to be a

hazardous waste, the transporter is subject to chapter 11-262.
 [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35)
 (Imp: 40 C.F.R. §273.54)

§11-273-55 Off-site shipments. (a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off-site meets the United States Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable United States Department of Transportation regulations under 49 CFR part 172. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.55)

§11-273-56 Exports. A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those Organization for Economic Cooperation and Development (OECD) countries specified in section 11-262-58(a)(1) (in which case the transporter is subject to the requirements of subchapter H of chapter 11-262) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment. [Eff

MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.56)

SUBCHAPTER E

STANDARDS FOR DESTINATION FACILITIES

§11-273-60 Applicability. (a) The owner or operator of a destination facility (as defined in section 11-273-6) is subject to all applicable requirements of chapters 11-264, 11-265, 11-266, 11-268, 11-270, and 11-271, and the notification requirement under section 342J-6.5, HRS;

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with section 11-261-6(c)(2). [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.60)

§11-273-61

§11-273-61 Off-site shipments. (a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he or she must contact the shipper to notify him or her of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

- (1) Send the shipment back to the original shipper, or
- (2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the shipper. The department will provide instructions for managing the hazardous waste.

(d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations. [Eff: **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.61)

§11-273-62 Tracking universal waste shipments. (a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

- (1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
- (2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats);
- (3) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility must retain the records described in subsection (a) for at least three years from the date of receipt of a shipment of universal waste. [Eff: **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.62)

SUBCHAPTER F
IMPORT REQUIREMENTS

§11-273-70 Imports. Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this chapter, immediately after the waste enters the United States, as indicated in subsections (a) through (c):

- (a) A universal waste transporter is subject to the universal waste transporter requirements of subchapter D.
- (b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subchapter B or C, as applicable.
- (c) An owner or operator of a destination facility is subject to the destination facility requirements of subchapter E.
- (d) Persons managing universal waste that is imported from an Organization for Economic Cooperation and Development (OECD) country as specified in § 11-262-58(a)(1) are subject to subsections (a) through (c), in addition to the requirements of subchapter H of chapter 11-262. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.70)

SUBCHAPTER G

PETITIONS TO INCLUDE OTHER WASTES UNDER CHAPTER 11-273

§11-273-80. General. (a) Any person seeking to add a hazardous waste or a category of hazardous waste to this chapter may petition for a rule amendment under this subchapter.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the director that regulation under the universal waste rules of chapter 11-273 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by section 11-273-80.1. The petition should also address as many of the factors listed in section 11-273-81 as are appropriate for the waste or waste category addressed in the petition.

(c) The director will evaluate petitions using the factors listed in section 11-273-81. The director will grant or deny a petition using the factors listed in section 11-273-81. The decision will be based on the weight of evidence showing that regulation under chapter 11-273 is appropriate for the waste or category of waste, will improve management practices for the

§11-273-80

waste or category of waste, and will improve implementation of the hazardous waste program. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §273.80)

§11-273-80.1 Petitions to amend chapter 11-273 to include additional hazardous wastes. (a) Each petition to amend chapter 11-273 to include additional hazardous wastes or categories of hazardous waste as universal waste must be submitted to the director by certified mail and must include:

- (1) The petitioner's name and address;
- (2) A statement of the petitioner's interest in the proposed action;
- (3) A description of the proposed action, including (where appropriate) suggested regulatory language; and
- (4) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(b) The director will make a tentative decision to grant or deny a petition and will publish notice of such tentative decision for written public comment.

(c) Upon the written request of any interested person, the director may, at the director's discretion, hold an informal public hearing to consider oral comments on the tentative decision. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on the director's own motion to hold an informal public hearing.

(d) The director may request from the petitioner additional information needed to evaluate the merits of the petition.

(e) After evaluating all public comments the director will make and publish a final decision. [Eff **MAR 13 1999**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: None)

§11-273-81 Factors for petitions to include other wastes under chapter 11-273. (a) The waste or category of waste, as generated by a wide variety of generators, is listed in subchapter D of chapter 11-261, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in subchapter C of chapter 11-261. (When a characteristic waste is added to the universal waste regulations of chapter 11-273 by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in sections 11-260-10 and 11-273-6 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e.,

is hazardous waste) is subject to the universal waste regulations of chapter 11-273;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to sections 11-273-13, 11-273-33, and 11-273-52; and/or applicable United States Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under chapter 11-273 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with chapter 342J, HRS.

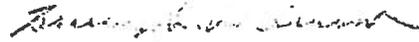
(g) Regulation of the waste or category of waste under chapter 11-273 will improve implementation of and compliance with the hazardous waste regulatory program; and/or

(h) Such other factors as may be appropriate. [Eff
MAR 13 1999] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp:
40 C.F.R. §273.81)

DEPARTMENT OF HEALTH

Chapter 11-273, Hawaii Administrative Rules, on the Summary page dated **FEB 25 1999**, was adopted on **FEB 25 1999** following a public hearing held on February 8, 1999, after public notice was given in The Honolulu Advertiser, Honolulu Star-Bulletin, Hawaii Tribune-Herald, Maui News, and The Garden Island on January 7, 1999.

These amendments take effect ten days after filing with the Office of the Lieutenant Governor.



BRUCE S. ANDERSON, Ph.D., M.P.H.
Director of Health

APPROVED AS TO FORM:



Adina L.K. Cunningham
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Benjamin J. Cayetano
Governor
State of Hawaii

Date: 3/1/99

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