

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 11-260.1

HAZARDOUS WASTE MANAGEMENT:
GENERAL PROVISIONS

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Historical note: This chapter is based substantially upon chapter 11-260. [Eff 6/18/94; am 3/13/99; comp 9/20/99; R 7/17/17]

§11-260.1-1 Incorporation of 40 C.F.R. part 260.
Title 40, part 260 of the Code of Federal Regulations (C.F.R.), published by the Office of the Federal Register, as amended as of July 1, 2017, is made a part of this chapter subject to the substitutions and amendments set forth in sections 11-260.1-2 to 11-260.1-5. [Eff 7/17/17; am and comp **SEP 30 2018**
] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-35)

§11-260.1-2 Substitution of state terms for federal terms. (a) The following federal terms are replaced by the indicated state terms in all provisions of 40 C.F.R. part 260, as incorporated and amended in this chapter, except as listed in subsection (b):

- (1) "Administrator", "Assistant Administrator", "Assistant Administrator for Solid Waste and Emergency Response", "EPA Administrator", "EPA Regional Administrator", "Regional Administrator", "Regional Administrator or State Director", and "State Director" shall be replaced with "director".
- (2) "Agency", "appropriate regional EPA office", "Environmental Protection Agency", "EPA", "EPA Headquarters", "EPA regional office", "EPA Regions", "U.S. Environmental Protection Agency", and "United States Environmental Protection Agency" shall be replaced with "state department of health" except in references to "EPA Acknowledgment of Consent", "EPA form(s)", "EPA guidance", "EPA hazardous waste numbers(s)", "EPA ID number", "EPA identification number(s)", "EPA manual(s)", "EPA publication(s)", and "EPA test methods".

(b) The federal terms listed in subsection (a) are not replaced with state terms in the following sections of 40 C.F.R. part 260, as incorporated and amended in this chapter:

- (1) 40 C.F.R. section 260.10 definitions of "Administrator", "AES filing compliance date", "Electronic import-export reporting compliance date", "Electronic manifest", "Electronic Manifest System", "EPA hazardous waste number", "EPA identification number", "EPA region", "Equivalent method", "Hazardous waste constituent", and "Regional Administrator", "Replacement unit", and "User of the electronic manifest system".
- (2) 40 C.F.R. sections 260.2(c)(2), 260.11, and 260.34(a)(2) and (3).

(c) All references to provisions of 40 C.F.R. parts 124, 260 to 268, 270, 273, and 279 in 40 C.F.R. part 260, as incorporated and amended in this chapter, shall mean the Hawaii Administrative Rules analog of the referenced federal regulation, as incorporated and amended in chapters 11-260.1 to 11-279.1, except as listed in subsection (d). The Hawaii Administrative Rule analogs are as follows:

<u>Federal citation</u>	<u>State analog</u>
<u>40 C.F.R. part</u>	<u>chapter 11-</u>
124	271.1
260	260.1
261	261.1
262	262.1
263	263.1
264	264.1
265	265.1
266	266.1
268	268.1
270	270.1
273	273.1
279	279.1

(d) The following references to provisions of 40 C.F.R. parts 124, 260 to 268, 270, 273, and 279 in 40 C.F.R. part 260, as incorporated and amended in this chapter, refer to the federal regulations in the Code of Federal Regulations: the references in the definitions "Designated facility" and "Equivalent method" in 40 C.F.R. section 260.10. [Eff 7/17/17; am and comp **SEP 30 2018**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-35)

§11-260.1-3 Amendments to the incorporation of 40 C.F.R. part 260, subpart A. (a) The incorporation by reference of 40 C.F.R. section 260.1 is amended as follows: 40 C.F.R. section 260.1(b)(5) and (6) is excluded from incorporation.

(b) The incorporation by reference of 40 C.F.R. section 260.2 is amended as follows:

- (1) In 40 C.F.R. section 260.2(a), replace "the Freedom of Information Act, 5 U.S.C. section 552, section 3007(b) of RCRA and EPA regulations implementing the Freedom of Information Act and section 3007(b), part 2 of this chapter, as applicable" with "sections 342J-14 and 342J-14.5, HRS, and any applicable provisions of chapter 92F, HRS, and of chapter 2-71".
- (2) In 40 C.F.R. section 260.2(b), delete "by following the procedures set forth in §2.203(b) of this chapter" and replace "part 2, subpart B, of this chapter" with "sections 342J-14 and 342J-14.5, HRS, and any applicable provisions of chapter 92F, HRS, and of chapter 2-71".
- (3) In 40 C.F.R. section 260.2(c)(1), replace "August 6, 2014" with "the effective date of this chapter". [Eff 7/17/17; am and comp
SEP 30 2018] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-35)

§11-260.1-4 Amendments to the incorporation of 40 C.F.R. part 260, subpart B. (a) The incorporation by reference of 40 C.F.R. section 260.10 is amended as follows:

- (1) The following definitions are excluded from incorporation: "Carbon dioxide stream", "Cathode ray tube or CRT", "CRT collector", "CRT exporter", "CRT glass manufacturer", "CRT processing", and "State".
- (2) The following definitions are amended as follows:
"Active portion" definition. Replace "the effective date of part 261 of this chapter" with "November 19, 1980".

"AES filing compliance date" definition. Delete "and exporters of cathode ray tubes for recycling".

"Central accumulation area" definition. Delete "A central accumulation area at an eligible academic entity that chooses to operate under 40 CFR part 262 subpart K is also subject to §262.211 when accumulating unwanted material and/or hazardous waste."

"Designated facility" definition. Add "or corresponding regulations of any authorized state" after "part 266 of this chapter", after "§262.20", and after "§265.72(f) of this chapter".

"Destination facility" definition. Delete "paragraphs (a) and (c) of".

"EPA hazardous waste number" definition. Insert "or the State" after "by EPA".

"EPA identification number" definition. Insert "or the State" after "by EPA".

"Equivalent method" definition. Add "and approved by the director" at the end of the sentence.

"Existing hazardous waste management (HWM) facility or existing facility" definition. Replace "on or before November 19, 1980" with "on or before:

- (1) November 19, 1980;
- (2) The effective date of statutory or regulatory changes made under RCRA prior to June 18, 1994 that made the facility subject to the requirement to have an RCRA permit; or
- (3) The effective date of statutory or regulatory changes made under chapter 342J, HRS, after June 18, 1994 that made the facility subject to the requirement to have a permit under section 342J-30(a), HRS".

"Existing tank system or existing component" definition. Replace "on or prior

to July 14, 1986" with "on or prior to July 14, 1986 for HSWA tanks and June 18, 1994 for non-HSWA tanks".

"Facility" definition. Delete "or 267.101" and replace "RCRA Section 3008(h)" with "42 U.S.C. section 6928(h) or section 342J-36, HRS".

"Inactive portion" definition. Replace "the effective date of part 261 of this chapter" with "November 19, 1980".

"New hazardous waste management facility" definition. Replace in its entirety to read: "New hazardous waste management facility or new facility means a hazardous waste management facility which is not included in the definition of an existing hazardous waste management facility."

"New tank system or new tank component" definition. Replace both occurrences of "July 14, 1986" with "July 14, 1986 for HSWA tanks and June 18, 1994 for non-HSWA tanks".

"Person" definition. Replace in its entirety to read: "Person means any individual, partnership, firm, joint stock company, association, public or private corporation, federal agency, the State or any of its political subdivisions, any state and any of its political subdivisions, trust, estate, interstate body, or any other legal entity."

"Remediation waste management site" definition. Add "or section 342J-36, HRS" after "40 CFR 264.101".

"Universal waste" definition. Replace "(3) Mercury-containing equipment as described in §273.4 of this chapter; and (4) Lamps as described in §273.5 of this chapter" with "(3) Mercury-containing equipment as described in 40 C.F.R. section 273.4, as incorporated and amended in section 11-273.1-1; (4) Lamps as described

in 40 C.F.R. section 273.5, as incorporated and amended in section 11-273.1-1; and (5) Electronic items as described in 40 C.F.R. section 273.6, as incorporated and amended in section 11-273.1-1".

"Universal waste handler" definition. Delete both instances of "(a) or (c)".

- (3) Add the following additional definitions in alphabetical order:

"Any state" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other U.S. territory.

"CWA" means the federal Clean Water Act, 33 U.S.C. section 1251 et seq.

"Director", or "director of health", means the director of the State of Hawaii department of health or the director's authorized agent.

"Electronic item", also referred to as "universal waste electronic item", means a device containing a circuit board, or other complex circuitry, or a video display. Indicators that a device likely contains a circuit board include the presence of a keypad, touch screen, any type of video or digital display, or common electronic ports or connectors, such as serial, parallel, Rj45 ("network"), or USB. Examples of common universal waste electronic items include, but are not limited to: computer central processing unit; computer monitor; portable computer (including notebook, laptop, and tablet computer); devices designed for use with computers (also known as computer peripherals) such as keyboard, mouse, desktop printer, scanner, and external storage drive; server; television; digital video disc (DVD) recorder or player; videocassette recorder or player (VCR);

eBook reader; digital picture frame; fax machine; video game equipment; cellular telephone; answering machine; digital camera; portable music or video player; wireless paging device; remote control; and smoke detector. Electronic item does not include a device that is physically a part of, connected to, or integrated within a large piece of equipment that is not meant to be hand-carried by one person (for example, an automobile, large medical equipment, or white goods as defined in chapter 11-58.1). A device is considered physically a part of, connected to, or integrated within a large piece of equipment if the device cannot be easily disconnected from the large equipment by a layperson without specialized training. When a device containing a circuit board or a video display is removed, separated, or separate from the large piece of equipment that it is meant to be a part of, it is a universal waste electronic item.

"HRS" means the Hawaii Revised Statutes.

"HSWA" means Hazardous and Solid Waste Amendments.

"HSWA Drip Pad" means a drip pad handling F032 waste, as defined in 40 C.F.R. section 261.31, as incorporated and amended in section 11-261.1-1.

"HSWA Tank" means a tank owned or operated by a generator of less than one thousand kilograms of hazardous waste in any single calendar month; or, a new underground tank; or, an existing underground tank that cannot be entered for inspection.

"Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste

pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

"Non-HSWA Drip Pad" means a drip pad handling F034 and F035 wastes, as defined in 40 C.F.R. section 261.31, as incorporated and amended in section 11-261.1-1.

"Non-HSWA Tank" means all tanks except HSWA tanks as defined in this section.

(b) The incorporation by reference of 40 C.F.R. section 260.11 is amended as follows:

- (1) In 40 C.F.R. section 260.11(a), delete "and 278".
- (2) In 40 C.F.R. section 260.11(c)(3)(xxvii), delete "267.190(a),".
- (3) In 40 C.F.R. section 260.11(d)(1), delete ", 267.202(b)". [Eff 7/17/17; am and comp
SEP 30 2018] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-35)

§11-260.1-5 Amendments to the incorporation of 40 C.F.R. part 260, subpart C. (a) The incorporation by reference of 40 C.F.R. section 260.20 is amended as follows:

- (1) In 40 C.F.R. section 260.20(a), delete "Section 260.21 sets forth additional requirements for petitions to add a testing or analytical method to part 261, 264 or 265 of this chapter. Section 260.22 sets forth additional requirements for petitions to exclude a waste or waste-derived material at a particular facility from §261.3 of this chapter or the lists of hazardous wastes in subpart D of part 261 of this chapter."
- (2) In 40 C.F.R. section 260.20(c) and (e), delete "in the Federal Register".

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(b) 40 C.F.R. sections 260.21 and 260.22 are excluded from incorporation.

(c) The incorporation by reference of 40 C.F.R. section 260.34 is amended as follows: in 40 C.F.R. section 260.34(a), replace "also" with "only". [Eff 7/17/17; am and comp **SEP 30 2018**] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-35)

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