TO: All Interested Parties
FROM: Sina Pruder, P.E., Acting Chief
       Environmental Management Division
SUBJECT: E-Opala, Inc. Hawaii Hazardous Waste Permit
         Response to Public Comments and Notice of Permit Decision

This memo serves as the response to public comments and the notice of decision on the Draft Permit for a hazardous waste management facility, E-Opala, Inc., located at 1708 Mary Street, Honolulu, HI 96819. Public notice of the Draft Permit for this facility was published in the Honolulu Star-Advertiser on July 3, 2019 with a public comment period ending August 19, 2019.

Public comments received and responses

Commenter: Department of Planning and Permitting, City and County of Honolulu
Comment #1: The zoning lot is in the 1-2 Intensive Industrial District. In accordance with the Land Use Ordinance (LUO), the proposed activity is a “waste disposal and processing” facility, which requires a Conditional Use Permit-Minor, subject to the standards in LUO Article 5 Section 21-5.680. Please be advised that a Sewer Connection Application must be submitted for review by the Department of Planning and Permitting Wastewater Branch.
Response: The Department of Health (Department) appreciates being informed of additional requirements to which the applicant is subject for the proposed facility/activities. We have shared this information with the applicant.

Commenter: Permits Section, Land Division, U.S. Environmental Protection Agency Region 9
Comment #2: Hawaii Department of Health has been given the authority to issue RCRA hazardous waste permits under Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6091, et seq. and the regulations promulgated thereunder. Activities at E-Opala would not be subject to RCRA permit requirements per the exemptions in 40 CFR Section 261.6. The E-Opala Draft permit is broader in scope than Federal hazardous waste regulations and therefore not subject to Federal enforcement. The permit should state that it is a Hawaii-only hazardous waste permit.
Response: Thank you. A sentence about EPA authorization has been removed from the first paragraph of the first page of the Draft Permit to clarify that this is a Hawaii Hazardous Waste...
Management Permit issued under state authority (chapter 342J, Hawaii Revised Statutes, and chapters 11-260.1 to 11-273.1, Hawaii Administrative Rules [HAR]). All regulatory references in the permit refer to HAR applicable to the facility and enforceable by the Department.

Changes from the Draft Permit
In addition to the change described in response to comment #2 above, the following additional changes have been made from the Draft Permit:

1. A sentence regarding the permit effective date has been removed from the fourth paragraph of the first page of the permit for clarity, since the actual effective date has been specified.
2. Specific references to import and export requirements have been removed from the permit. Import/export notification and consent fall exclusively under EPA’s regulatory purview and these federal requirements apply only to wastes that are defined as hazardous wastes under the federal hazardous waste program (see 40 CFR parts 260 to 273). In addition, the regulatory requirements that were cited apply to generators and are outside the scope of this storage and treatment permit. The Permittee must comply with all applicable generator regulations independently of the permit.
3. Section IV.A of the permit has been revised, and a sentence has been added to section IV.B, to clarify that universal waste handler and transporter activities are outside the scope of the permit. The Permittee may act as a universal waste handler and/or transporter for wastes not covered by the permit and must comply with all applicable universal waste handler and universal waste transporter regulations.
4. Part VI of the permit (Releases from Solid Waste Management Units) has been revised to more accurately reflect the Permittee’s corrective action obligations pursuant to the applicable regulations.
5. A sentence has been added to section VIII.A of the permit to remind the Permittee that the current closure cost estimate must be maintained on-site during the active life of the facility, as required in the regulations.

Notice of Decision
The Department will issue the hazardous waste management permit. Changes made from the draft permit are discussed above. The enclosed permit will become effective on September 24, 2019, unless a written request for a contested case hearing is received by the Department before that date. A contested case hearing must be requested in writing and the request received at noa.klein@doh.hawaii.gov or Solid and Hazardous Waste Branch, 2827 Waimano Home Road, #100, Pearl City, HI 96782 by September 23, 2019.

The administrative record for the final permit, including the response to comments, is available for public review at the Solid and Hazardous Waste Branch address above from 8am to 4pm on weekdays, except state holidays. For more information, call Noa Klein at 808-586-4226.
HAWAII HAZARDOUS WASTE MANAGEMENT PERMIT

Permittee: E-Opala, Inc.
1708 Mary Street
Honolulu, HI 96819

EPA ID Number: HIR000145268

Permit Effective Date: September 24, 2019
Permit Expiration Date: September 24, 2024

This permit is issued by the State of Hawaii Department of Health (hereafter called “Department”) under authority of chapter 342J, Hawaii Revised Statutes (HRS) and chapters 11-260.1 to 11-273.1, Hawaii Administrative Rules (HAR). This permit is issued to E-Opala, Inc. (hereafter called “Permittee”) to operate a hazardous waste storage and treatment facility located at 1708 Mary Street, Honolulu, HI 96819.

The Permittee must comply with all terms and conditions of this permit. This permit consists of the conditions contained herein, including those in any attachments, and the applicable regulations contained in chapters 11-260.1 to 11-273.1, HAR. Applicable regulations are those in effect on the date of issuance of this permit.

This permit is based on the assumption that the information submitted in the permit application dated June 2019 is accurate and that the facility will be operated as specified in the application. Any inaccuracies found in this information may be grounds for the termination or modification of this permit and potential enforcement action [see 40 CFR §§270.41, 270.42, and 270.43, as incorporated and amended in chapter 11-270.1, HAR]. The Permittee shall inform the Department of any deviation from or changes in the information provided in the application which would affect the Permittee’s ability to comply with applicable regulations or permit conditions.

This permit is to remain in effect for five years, unless revoked and reissued or terminated in accordance with 40 CFR §§270.41 and 270.43, as incorporated and amended in chapter 11-270.1, HAR, or continued in accordance with 40 CFR §270.51(a), as incorporated and amended in chapter 11-270.1, HAR.

SINA PRUDER, P.E., ACTING CHIEF
Environmental Management Division

DATE

8/22/19

C: Barbara Gross, LND-4-2, U.S. Environmental Protection Agency, Region IX
# Hawaii Hazardous Waste Management Permit

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I.A. OWNER

The facility owner is E-Opala, Inc. The property upon which the facility is located is held in trust by Roy A. Maruoka, Trust. [40 CFR §270.13, as incorporated and amended in chapter 11-270.1, HAR]

I.B. OPERATOR

The facility operator is E-Opala, Inc., herein referred to as the “Permittee”. [40 CFR §270.13, as incorporated and amended in chapter 11-270.1, HAR]

I.C. LOCATION

I.C.1. Location of Facility

E-Opala, Inc. shall be located in the Kalihi Kai district of Honolulu in Honolulu County (Island of Oahu), Hawaii. The following is the physical address for the area to be covered by this permit:

E-Opala, Inc.
1708 Mary Street
Honolulu, HI 96819

A site location map is provided in Figure 2 (following section 3.7) of the permit application dated June 2019. This location is identified with the EPA ID number HIR000145268.

I.C.2. Facility Layout Map

A figure showing the layout of E-Opala, Inc. is provided in Figure 1 (following section 3.2.1) of the permit application dated June 2019.

I.D. FACILITY DEFINITION FOR CORRECTIVE ACTION

For purposes of Corrective Action (see Part VI of the permit) the facility is defined as all the real and tangible property, including the land, any buildings or structures, any other improvements upon the land, and everything appurtenant thereto, identified under Tax Map Key (TMK) 12006026:0000, which real property corresponds to the postal address 1708 Mary Street, Honolulu, HI 96819.
PART II - GENERAL PERMIT CONDITIONS

II.A. EFFECT OF PERMIT

The Permittee is allowed to store and treat hazardous waste in accordance with the conditions of this permit. Any storage or treatment of hazardous waste not authorized in this permit is prohibited. Subject to 40 CFR §270.4, as incorporated and amended in chapter 11-270.1, HAR, compliance with this permit generally constitutes compliance with chapter 11-264.1, HAR, for purposes of enforcement, only for those management practices specifically authorized by this permit. The Permittee is also required to comply with all applicable requirements of chapters 11-260.1 to 11-279.1, HAR.

Issuance of this permit does not convey any property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local law or regulations. Compliance with the terms of this permit does not constitute a defense to any order issued or any action brought under §§3008(a), 3008(h), 3013, or 7003 of the Resource Conservation and Recovery Act (RCRA), §§3421-7, 3421-8, 3421-9, 3421-10, 3421-11, or 3421-36, HRS, §§106(a), 104, or 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq., commonly known as CERCLA), chapter 128D, HRS, or any other law providing for protection of public health or the environment. [40 CFR §§270.4 and 270.30(g), as incorporated and amended in chapter 11-270.1, HAR]

II.B. PERMIT ACTIONS

II.B.1. Permit Modification

This permit may be modified by initiative of the Director in compliance with 40 CFR §270.41, as incorporated and amended in chapter 11-270.1, HAR, and by request of the Permittee in compliance with 40 CFR §270.42, as incorporated and amended in chapter 11-270.1, HAR.

II.B.2. Permit Revocation and Re-issuance and Termination

This permit may be revoked and reissued, or terminated for cause, as specified in 40 CFR §§270.30(f), 270.41, and 270.43, as incorporated and amended in chapter 11-270.1, HAR. The filing of a request for a permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any permit condition. [40 CFR §§270.4(a), 270.30(f), and 270.41, as incorporated and amended in chapter 11-270.1, HAR, and 40 CFR §124.5(c), as incorporated and amended in chapter 11-271.1, HAR]
II.B.3. Permit Renewal

This permit may be renewed as specified in 40 CFR 270.30(b), as incorporated and amended in chapter 11-270.1, HAR, and Permit Condition II.E.2. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations. [40 CFR 270.30(b), as incorporated and amended in chapter 11-270.1, HAR]

II.C. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

II.D. DEFINITIONS

For the purposes of this permit, terms used herein shall have the same meaning as those in chapters 11-260.1, 11-266.1, 11-268.1, 11-270.1, 11-271.1, and 11-273.1, HAR, unless this permit specifically provides otherwise. Where terms are not defined in the regulations or the permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

"Director" means the Director of the State of Hawaii Department of Health, or her/his designee or authorized representative.

II.E. DUTIES AND REQUIREMENTS

II.E.1. Duty to Comply

The Permittee shall comply with all conditions of the permit, except to the extent and for the duration that noncompliance is authorized by an emergency permit. Any permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of chapter 342J, HRS, and is grounds for enforcement action, permit termination, revocation and reissuance, or modification, or denial of a permit renewal application. [40 CFR §270.30(a), as incorporated and amended in chapter 11-270.1, HAR]

II.E.2. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this permit after the expiration date of this permit, the Permittee shall submit a complete application for a new permit at least 180 days prior to the permit expiration. An application for a permit is complete when the Director receives an application form and any
II.E.3. Permit Expiration

Pursuant to 40 CFR §270.50, as incorporated and amended in chapter 11-270.1, HAR, this permit shall be effective for a fixed term not to exceed five years. As long as the Department is the permit-issuing authority, this permit and all conditions herein will remain in effect beyond the permit’s expiration date, if the Permittee has submitted a timely and complete application under 40 CFR §§270.13, 270.14, and the applicable sections in §§270.15 to 270.29, as incorporated and amended in chapter 11-270.1, HAR, and the Director, through no fault of the Permittee, has not issued a final permit decision with an effective date under 40 CFR §124.15, as incorporated and amended in chapter 11-271.1, HAR. A timely application is defined as the Department receiving a complete application for a new permit at least 180 days before the expiration date of the effective permit. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to her or his satisfaction. [40 CFR §§270.10(c), 270.10(h), and 270.51(a), as incorporated and amended in chapter 11-270.1, HAR]

II.E.4. Need to Halt or Reduce Activity Not a Defense

The Permittee shall not use as a defense that the Permittee must reduce permitted activities in order to maintain compliance with the conditions of the permit in the event of an enforcement action. [40 CFR §270.30(c), as incorporated and amended in chapter 11-270.1, HAR]

II.E.5. Duty to Mitigate

In the event of noncompliance with the permit, the Permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures that are reasonable to prevent significant adverse impacts on human health or the environment. [40 CFR §270.30(d), as incorporated and amended in chapter 11-270.1, HAR]

II.E.6. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit, in accordance with 40 CFR §270.30(e), as incorporated and amended in chapter 11-270.1, HAR. Air pollution control equipment used in the permitted treatment units must be inspected and maintained in accordance with the manufacturers’ recommendations.
II.E.7. Duty to Provide Information

The Permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit, pursuant to 40 CFR §264.74(a), as incorporated and amended in chapter 11-264.1, HAR and 40 CFR §270.30(h), as incorporated and amended in chapter 11-270.1, HAR.

II.E.8. Inspection and Entry

Pursuant to §3421-6, HRS, and 40 CFR §270.30(i), as incorporated and amended in chapter 11-270.1, HAR, the Permittee shall allow the Director or an authorized representative to have entry to the facility, have access to records, and to conduct sampling.

II.E.9. Reporting Planned Changes

The Permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility at least thirty (30) days before such alteration or addition is commenced. For the purposes of this permit condition only, “physical alterations or additions to the permitted facility” includes, but it not limited to: grading and construction project which impact run-on and run-off controls, changes in the operating practices or design features of any hazardous waste management unit, sampling protocol, analytical techniques, or changes to the Waste Analysis Plan. [40 CFR §270.30(l)(1), as incorporated and amended in chapter 11-270.1, HAR]

II.E.10. Reporting Anticipated Noncompliance

The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [40 CFR §270.30(l)(2), as incorporated and amended in chapter 11-270.1, HAR]

II.E.11. Certification of Unit Modification

In the event of any planned changes to the permitted facility or activity which may result in noncompliance with permit requirements, the Permittee may not treat or store hazardous waste at the facility until the Permittee has submitted to the Director, by certified mail or hand delivery, a letter signed by the Permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and followed the remaining requirements of 40 CFR §270.30(l)(2), as incorporated and amended in chapter 11-270.1, HAR.
II.E.12. Transfer of Permits

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under chapter 342J, HRS, or chapters 11-260.1 to 11-279.1, HAR. [40 CFR §§270.30(l)(3) and 270.40, as incorporated and amended in chapter 11-270.1, HAR]

Before transferring ownership or operation of the facility during its operating life, the owner or operator must notify the new owner or operator in writing of the requirements of chapters 11-264.1 and 11-270.1, HAR. [40 CFR §264.12(c), as incorporated and amended in chapter 11-264.1, HAR]

II.E.13. Twenty-four Hour Reporting

The Permittee shall report to the Director any noncompliance which may endanger health or the environment orally within 24 hours from the time the Permittee becomes aware of the circumstances and comply with 40 CFR §270.30(l)(6), as incorporated and amended in chapter 11-270.1, HAR. The Permittee shall make a written submission in compliance with 40 CFR §270.30(l)(6)(iii), as incorporated and amended in chapter 11-270.1, HAR, within 5 days of becoming aware of any such circumstances.

II.E.14. Other Information

Whenever the Permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, the Permittee shall promptly submit such facts or information. [40 CFR §270.30(l)(11), as incorporated and amended in chapter 11-270.1, HAR]

II.E.15. Information Repository

The Director may require the Permittee to establish and maintain an information repository at any time, based on the factors set forth in 40 CFR §124.33(b), as incorporated and amended in chapter 11-271.1, HAR. The information repository will be governed by the provisions in 40 CFR §124.33(c) to (f), as incorporated and amended in chapter 11-271.1, HAR.

II.F. SIGNATORY REQUIREMENT

All applications, reports, or information submitted to or requested by the Director shall be signed and certified in accordance with 40 CFR §§270.11 and 270.30(k), as incorporated and amended in chapter 11-270.1, HAR.
II.G. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE DIRECTOR

All reports, notifications, or other submissions which are required by this permit to be sent or given to the Director shall be sent by certified mail or given to:

Lene Ichinotsubo, Acting Branch Chief
[or subsequent Branch Chief or Acting Branch Chief]
Department of Health Solid and Hazardous Waste Branch
2827 Waimano Home Road #100
Pearl City, HI 96782
(808) 586-4226
III.A. DESIGN AND OPERATION OF FACILITY

The Permittee shall design, construct, maintain, and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water, as specified in 40 CFR §264.31, as incorporated and amended in chapter 11-264.1, HAR.

III.B. GENERAL WASTE ANALYSIS

The Permittee shall follow the waste analysis requirements of 40 CFR §264.13, as incorporated and amended in chapter 11-264.1, HAR, and as described in the Waste Analysis Plan included in sections 4.0 to 4.8 of the permit application dated June 2019 for the analysis of waste received from off-site to be stored and treated.

The Waste Analysis Plan provided in the permit application specifies that all electronic items received by the Permittee will be assumed to meet the toxicity characteristic due to metals content—making them electronic item universal waste (hazardous waste)—and that electronics sourced directly from households will be mixed with electronic item universal waste sourced from businesses and must therefore also be managed as hazardous waste.

III.C. SECURITY

The Permittee shall prevent, and minimize the possibility for, livestock and unauthorized people from entering the active portion of the facility, pursuant to 40 CFR §264.14, as incorporated and amended in chapter 11-264.1, HAR.

III.D. GENERAL INSPECTION REQUIREMENTS

The Permittee shall conduct inspections, record keeping, and remedy of problems, according to 40 CFR §264.15, as incorporated and amended in chapter 11-264.1, HAR, and as specified in section 6.3.1 of the permit application dated June 2019. The Permittee shall remedy any deterioration or malfunction discovered by an inspection, as required by 40 CFR §264.15(c), as incorporated and amended in chapter 11-264.1, HAR.

Records of inspections must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions taken. Records of inspection shall be maintained on-site for a minimum of three years from the date of inspection, as required by 40 CFR §264.15(d), as incorporated and amended in chapter 11-264.1, HAR. Please see Part VI of this permit with respect to the Permittee’s obligation to demonstrate the ongoing integrity of the building floor and floor coating at closure.
III.E PERSONNEL TRAINING

The permittee shall ensure that the training requirements of 40 CFR §264.16, as incorporated and amended in chapter 11-264.1, HAR, are met and follow the personnel training program specified in sections 8.0 to 8.2 of the permit application dated June 2019.

III.F. SPECIAL PROVISIONS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTE

The Permittee is not permitted to receive ignitable, reactive, or incompatible waste from off-site. In the event the Permittee generates ignitable, reactive, or incompatible waste, the Permittee shall comply with all applicable requirements of chapter 11-262.1, HAR.

III.G. LOCATION STANDARDS

The permittee has demonstrated in the permit application dated June 2019 that the location standards of 40 CFR §264.18, as incorporated and amended in chapter 11-264.1, HAR, are met.

III.H. PREPAREDNESS AND PREVENTION

III.H.1. Required Equipment

The Permittee shall ensure that the facility will be equipped to meet the requirements of 40 CFR §264.32, as incorporated and amended in chapter 11-264.1, HAR.

III.H.2. Testing and Maintenance of Equipment

The Permittee shall inspect and/or test alarm systems, fire protection equipment, spill control equipment, and decontamination equipment periodically and maintain each of these as needed, to assure their proper operation in time of emergency. [40 CFR §264.33, as incorporated and amended in chapter 11-264.1, HAR]

III.H.3. Access to Communications or Alarm Systems

The Permittee shall ensure that all personnel shall have immediate access to an internal alarm system or emergency communications device as required by 40 CFR §264.34, as incorporated and amended in chapter 11-264.1, HAR.

III.H.4. Required Aisle Space

Permittee shall maintain the aisle space necessary for access by personnel and emergency equipment in the case of spills or releases as required in 40 CFR §264.35, as incorporated and amended in chapter 11-264.1, HAR. The minimum aisle space between rows of storage containers or pallets shall be twenty-four (24) inches.
III.H.5. Arrangements with Local Authorities

The Permittee shall maintain arrangements with local authorities, as required by 40 CFR §264.37, as incorporated and amended in chapter 11-264.1, HAR. If local authorities refuse to enter into preparedness and prevention agreements with the Permittee, the Permittee shall document this refusal in the facility operating record.

III.I. CONTINGENCY PLAN AND EMERGENCY PROCEDURES

III.I.1. Implementation of Contingency Plan

The Permittee shall immediately carry out the provisions of the contingency plan described in Appendix H of the permit application dated June 2019, or a successor plan meeting the requirements of 40 CFR §264.52, as incorporated and amended in chapter 11-264.1, HAR, whenever there is a fire, explosion, or release of hazardous waste or constituents which could threaten human health or the environment, as required by 40 CFR §264.56, as incorporated and amended in chapter 11-264.1, HAR.

If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, she or he must immediately notify the on-scene coordinator from the Hawaii department of health's Hazard Evaluation and Emergency Response Office (via the State Hospital at 808-247-2191 after business hours or directly at 808-586-4249 during business hours) and the National Response Center (using their 24-hour toll free number 800-424-8802). [40 CFR §264.56(d), as incorporated and amended in chapter 11-264.1, HAR]

Within 15 days after any incident in which the contingency plan is activated, the emergency coordinator must submit a written report on the incident to the Director. [40 CFR §264.56(i), as incorporated and amended in chapter 11-264.1, HAR]

III.I.2. Amendment of Contingency Plan

The Permittee shall review and immediately amend, if necessary, the contingency plan, as required by 40 CFR §264.54, as incorporated and amended in chapter 11-264.1, HAR.

III.I.3. Copies of Contingency Plan and Revisions

The Permittee shall comply with the requirements of 40 CFR §264.53, as incorporated and amended in chapter 11-264.1, HAR.
III.I.4. Emergency Coordinator

A trained emergency coordinator shall be available at all times in case of an emergency, as required by 40 CFR §264.55, as incorporated and amended in chapter 11-264.1, HAR.

III.J. RECORDKEEPING, REPORTING, AND NOTIFICATION

III.J.1. Manifest System

The Permittee shall comply with the applicable manifest requirements of 40 CFR §264.71, as incorporated and amended in chapter 11-264.1, HAR. The facility is permitted to receive universal waste electronic items only, which do not require the use of a uniform hazardous waste manifest (UHWM) for shipment. However, it is possible that the facility may receive allowed shipments of universal waste electronic items accompanied by a UHWM.


The Permittee shall comply with 40 CFR §264.72, as incorporated and amended in chapter 11-264.1, HAR. The facility is permitted to receive universal waste electronic items only, which do not require the use of a uniform hazardous waste manifest (UHWM) for shipment. However, it is possible that the facility may receive allowed shipments of universal waste electronic items accompanied by a UHWM. If a significant discrepancy in a manifest is discovered, the Permittee must attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee must submit a letter report, including a copy of the manifest, to the Director. [40 CFR §270.30(l)(7), as incorporated and amended in chapter 11-270.1, HAR]

III.J.3 Operating Record

The Permittee shall keep a written operating record at the facility, until facility closure, as specified at 40 CFR §264.73, as incorporated and amended in chapter 11-264.1, HAR.


The Permittee shall submit a biennial report by March 1 of each even numbered calendar year covering facility activities during odd numbered calendar years. [40 CFR §264.75, as incorporated and amended in chapter 11-264.1, HAR, and 40 CFR §270.30(l)(9), as incorporated and amended in chapter 11-270.1, HAR]

III.J.5. Availability, Retention, and Disposition of Records

Records must be maintained and furnished to the Director upon request in accordance with 40 CFR §264.74, as incorporated and amended in chapter 11-264.1, HAR.
III.J.6. Additional Reports

The Permittee shall report to the Director the following:

a. Releases, fires, and explosions, as specified in 40 CFR §264.56(i), as incorporated and amended in chapter 11-264.1, HAR. Also see Permit Condition III.I.1. [40 CFR §264.77(a), as incorporated and amended in chapter 11-264.1, HAR].

b. Facility closures specified in 40 CFR §264.115, as incorporated and amended in chapter 11-264.1, HAR. Also see Permit Condition VII.C. [40 CFR §264.77(b), as incorporated and amended in chapter 11-264.1, HAR]

III.K. GENERATOR REQUIREMENTS

The Permittee shall comply with all applicable requirements for generators for any hazardous waste generated by the facility. [Chapters 11-262.1, 11-266.1, 11-268.1, 11-273.1, and 11-279.1, HAR]

III.L. WASTE MINIMIZATION PROGRAM

The Permittee shall certify at least annually that the facility has a program in place to reduce the volume and toxicity of waste generated by the facility to the maximum degree economically practicable, and the method used to manage the waste is the practicable method currently available to the Permittee that minimizes present and future threat to human health and the environment. [40 CFR §264.73(b)(9), as incorporated and amended in chapter 11-264.1, HAR]

III.M. LAND DISPOSAL RESTRICTIONS

The Permittee shall comply with all applicable requirements in chapter 11-268.1, HAR, for any hazardous waste received at the facility from off-site.
IV.A. PERMITTED AND PROHIBITED WASTE IDENTIFICATION

The Permittee will operate as a Destination Facility for universal waste electronic items, as defined in 40 CFR §273.9, as incorporated and amended in chapter 11-273.1, HAR. These items are assumed to be hazardous due to the toxicity characteristic for lead, arsenic, cadmium, chromium, mercury, and/or silver. The Permittee may receive from off-site, store, and treat hazardous waste meeting the definition of universal waste electronic item and parts of items that would meet this definition in accordance with Part V of this permit, except for televisions, cathode ray tubes (CRTs), monitors, and printers.

Household hazardous waste and very small quantity generator (VSQG) waste mixed with regulated waste generated by small quantity generator (SQG) and large quantity generator (LQG) businesses is regulated as hazardous waste. The permit application indicates that waste will be comingled and therefore all electronic items received by the Permittee shall be managed in compliance with the conditions of this permit and all applicable regulations. [40 CFR §273.8(b), as incorporated and amended in chapter 11-273.1]

IV.A.1. Universal Waste Electronic Items Not Covered by This Permit

This permit does not cover the Permittee's activities as a universal waste handler or transporter. Televisions, cathode ray tubes (CRTs), monitors, and printers may be managed as universal waste in accordance with 40 CFR part 273 subparts C and D, as incorporated and amended in chapter 11-273.1, HAR.

IV.B. TRANSPORT

This permit does not cover the Permittee's activities as a universal waste transporter. The Permittee may transport universal waste electronic items and must comply with the requirements of 40 CFR §§273.51(a), 273.52, 273.54, 273.55, and 273.56, as incorporated and amended in chapter 11-273.1, HAR, and applicable Department of Transportation regulations.

IV.C. OFF-SITE SHIPMENTS AND TRACKING

The Permittee must comply with 40 CFR §§273.61 and 273.62, as incorporated and amended in chapter 11-273.1, HAR. The Permittee must keep a record of each shipment of universal waste received at the facility for at least three years from the date of receipt of the shipment.

IV.C.1. Recyclable Materials

Metals and plastics to be recycled must be shipped to a facility permitted by the Solid Waste Section of the State of Hawaii Department of Health Solid and Hazardous Waste Branch or to an appropriate facility outside the state.
HAwAIi HAzARDOUS WASTE MANAGEMENT PERMIT

PART V – WASTE STORAGE AND TREATMENT

V.A. PERMITTED AND PROHIBITED WASTE IDENTIFICATION

The waste permitted to be stored and treated at the facility is described in Permit Condition IV.A. If the Permittee receives a shipment of hazardous waste it is not permitted to accept, the shipment must be rejected.

V.B. STORAGE

The facility design described in sections 5.0 and 5.1 of the permit application dated June 2019 and the controls to prevent off-site migration of contaminated materials described in sections 6.3 and 6.3.1 of the permit application dated June 2019 must be maintained while waste is being stored. The Permittee may store the specified universal waste electronic items in accordance with the following requirements. [40 CFR §§264.31 and 264.601, as incorporated and amended in chapter 11-264.1, HAR]

V.B.1. Storage Conditions

Electronic items must be stored inside the warehouse in a way that prevents releases of any universal waste or component of a universal waste to the environment. Storage areas and containers must be constructed and maintained to minimize breakage of electronic items.

The Permittee shall immediately clean up and place in a container any universal waste electronic item that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, and compatible with the contents of the electronic item, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. [40 CFR §264.171, as incorporated and amended in chapter 11-264.1, HAR]

V.B.2. Labeling

Each electronic item, or container or pallet containing universal waste electronic items, must be labeled or marked clearly with one of the following phrases: “Universal Waste—electronic item(s),” or “Waste electronic item(s),” or “Used electronic item(s).”

V.B.3. Storage Time Limit

The Permittee may store universal waste electronic items for no longer than one year from the date each item is received. The Permittee must be able to demonstrate the length of time that the universal waste electronic item has been stored from the date it is received. The Permittee may make this demonstration by:

(1) Placing the item in a container and marking or labeling the container with the earliest date that any item in the container was received;

(2) Marking or labeling the individual item with the date it was received;
(3) Maintaining an inventory system on-site that identifies the date the item being stored was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any item in a group of items or a group of containers of universal waste electronic items was received;

(5) Placing the item in a specific accumulation area and identifying the earliest date that any item in the area was received; or

(6) Any other method which clearly demonstrates the length of time that the item has been stored from the date it is received.

V.C. TREATMENT

The facility design described in sections 5.0 and 5.1 of the permit application dated June 2019 and the controls to prevent off-site migration of contaminated materials described in sections 6.3 and 6.3.1 of the permit application dated June 2019 must be maintained while waste is being treated. The Permittee may treat the specified universal waste electronic items in accordance with the descriptions of treatment units and processes found in sections 6.6 to 6.8 of the permit application dated June 2019 only. [40 CFR §§264.31 and 264.601, as incorporated and amended in chapter 11-264.1, HAR]
VI.A. CORRECTIVE ACTION REQUIREMENT

If any of the following conditions occur, the Department may require the Permittee to investigate, mitigate, and/or take other applicable action to address any immediate or potential threats to human health and/or the environment and newly identified Solid Waste Management Units (SWMUs) or releases of hazardous waste and/or hazardous constituents:

- The Permittee or the Department identify an immediate or potential threat to human health and/or the environment at the facility or caused by the Permittee’s operations;
- The Permittee or the Department identify new releases of hazardous waste and/or hazardous constituents;
- The Permittee discovers new SWMUs not previously identified;
- The Permittee fails to maintain the facility design described in sections 5.0 and 5.1 of the permit application dated June 2019 and the controls to prevent off-site migration of contaminated materials described in sections 6.3 and 6.3.1 of the permit application dated June 2019; or
- The Department determines that the Permittee cannot adequately document compliance with Permit Condition III.D. (general facility inspections, including remedy of any deterioration or malfunction discovered) for the life of the facility.

If and when corrective action is required at the facility, the Permittee shall conduct corrective action under either an enforceable consent agreement or an enforcement order issued by the Department pursuant to §§342J-8 and/or 342J-36, HRS.

Nothing in this Part of the Permit shall be construed to limit or otherwise affect the Permittee’s liability and obligation to perform corrective action including corrective action beyond the facility boundary, notwithstanding the lack of access. The Department may determine that additional on-site measures must be taken to address releases beyond the facility boundary if access to off-site areas cannot be obtained. [40 CFR §264.101, as incorporated and amended in chapter 11-264.1, HAR]

VI. B. NOTIFICATION

In the event the Permittee identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous constituents, or discovers new Solid Waste Management Units (SWMUs) not previously identified, the Permittee shall notify the Department orally within 24 hours of discovery and notify the Department in writing within ten days of such discovery summarizing the findings including the immediacy and magnitude of any potential threat to human health and/or the environment.

VI.C. ACCESS BEYOND FACILITY BOUNDARIES

To the extent that work being performed pursuant this Part of the permit must be done on property not owned or controlled by the Permittee, the Permittee shall use its best efforts to obtain access agreements necessary to complete work required by this Part of the permit from the
present owner(s) of such property within 30 days of approval of any workplan for which access is required. "Best efforts" as used in this paragraph shall include, at a minimum, a certified letter from the Permittee to the present owner(s) of such property requesting access agreement(s) to allow the Permittee and the Department and its authorized representatives access to such property and the payment of reasonable sums of money in consideration of granting access. The Permittee shall provide the Department with a copy of any access agreement(s). In the event that agreements for the access are not obtained within 30 days of approval of any workplan for which access is required, or of the date that the need for access becomes known to the Permittee, the Permittee shall notify the Department in writing within 14 days thereafter regarding both efforts undertaken to obtain access and its failure to obtain such agreements. In the event the Department obtains access, the Permittee shall undertake approved work on such property. If there is any conflict between this permit condition on access and the access requirements in any agreement entered into between the Department and the Permittee, this permit condition on access shall govern.
PART VII - CLOSURE

VII.A. CLOSURE PERFORMANCE STANDARD

The Permittee shall close the facility as required in 40 CFR §264.111, as incorporated and amended in chapter 11-264.1, HAR, and in accordance with the closure plan in sections 11.1 and 11.1.1 of the permit application dated June 2019. Closure requirements will apply upon the cessation of all hazardous waste activities at the facility.

VII.B. AMENDMENT OF CLOSURE PLAN

The Permittee shall amend the closure plan whenever necessary. Amendment of the closure plan requires application for a permit modification, in accordance with 40 CFR §264.112(c), as incorporated and amended in chapter 11-264.1, HAR.

VII.C. NOTIFICATION OF CLOSURE

The Permittee shall notify the Director in writing at least 45 days prior to the date on which he expects to begin partial or final closure of the facility. The date when he expects to begin closure must be no later than 30 days after the date on which the facility receives the known final volume of universal waste electronic items. [40 CFR §264.112(d), as incorporated and amended in chapter 11-264.1, HAR]

VII.D. CERTIFICATION OF CLOSURE

Within 60 days of closure of each hazardous waste management unit and completion of final facility closure, the Permittee shall submit certification that closure has been completed in accordance with the specifications in the approved closure plan and in compliance with 40 CFR §§264.111 to 264.115, as incorporated and amended in chapter 11-264.1, HAR, or, if clean closure is not obtainable, the Permittee shall obtain a post-closure permit separate from this permit.

VII.E. POST-CLOSURE REQUIREMENTS

If any of the permitted storage or treatment units cannot be decontaminated during closure, the unit must also meet the requirements of 40 CFR §264.601, as incorporated and amended in chapter 11-264.1, HAR, during post-closure care and the facility must meet the applicable post-closure requirements of 40 CFR §264.116 to 264.120, as incorporated and amended in chapter 11-264.1, HAR. The post-closure plan required under 40 CFR §264.118, as incorporated and amended in chapter 11-264.1, HAR, must specify the procedures that will be used to satisfy the requirements of 40 CFR §264.601, as incorporated and amended in chapter 11-264.1, HAR.
PART VIII - FINANCIAL REQUIREMENTS AND LIABILITY

The permittee must comply continuously with the requirements of 40 CFR part 264 subpart H, as incorporated and amended in chapter 11-264.1, HAR.

VIII.A. COST ESTIMATE FOR FACILITY CLOSURE

The cost estimate for facility closure shall comply with the requirements of in 40 CFR §264.142(a), as incorporated and amended in chapter 11-264.1, HAR. At the time of permit issuance, the cost estimate for closure is included in section 11.1.2 of the permit application dated June 2019.

The Permittee will update the closure cost estimate annually as required in 40 CFR §264.142(b), as incorporated and amended in chapter 11-264.1, HAR, and within 30 days after the Director approves a request to modify the closure plan, as required in 40 CFR §264.142(c), as incorporated and amended in chapter 11-264.1, HAR.

The Permittee shall keep the latest closure cost estimate on-site during the active life of the facility, as required in 40 CFR §264.142(d), as incorporated and amended in chapter 11-264.1, HAR.

VIII.B. FINANCIAL ASSURANCE FOR FACILITY CLOSURE

The Permittee shall establish and maintain financial assurance for the amount of the closure cost estimate using one or a combination of the mechanisms specified in 40 CFR §264.143, as incorporated and amended in chapter 11-264.1, HAR. Financial assurance must be in place at least 60 days before the date on which hazardous waste is first received from off-site and must be maintained until the Director releases the Permittee from this requirement following receipt of final closure certification. [40 CFR §264.143, as incorporated and amended in chapter 11-264.1, HAR]

VIII.C. LIABILITY COVERAGE

The Permittee shall establish and maintain a financial mechanism demonstrating responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operation of the facility. The Permittee shall establish and maintain such liability coverage in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs, using one or a combination of the mechanisms specified in 40 CFR §264.147(a), as incorporated and amended in chapter 11-264.1, HAR. Liability coverage must be effective before the initial receipt of hazardous waste from off-site and must be maintained until the Director releases the Permittee from this requirement following receipt of final closure certification. [40 CFR §264.147, as incorporated and amended in chapter 11-264.1, HAR]
VIII.D. INCAPACITY OF OWNERS OR OPERATORS

The Permittee shall notify the Director within 10 days after the commencement of a bankruptcy proceeding naming the owner or operator as debtor.