

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 262.1

HAZARDOUS WASTE MANAGEMENT:
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

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Historical note: This chapter is based substantially upon chapter 11-262. [Eff 6/18/94; am 3/13/99; comp 9/20/99; R 7/17/17]

§11-262.1-1 Incorporation of 40 C.F.R. part 262.

Title 40, part 262 of the Code of Federal Regulations (C.F.R.), published by the Office of the Federal Register, as amended as of July 1, 2022, is made a part of this chapter subject to the substitutions and amendments set forth in sections 11-262.1-2 to 11-262.1-15. [Eff 7/17/17; am and comp 9/30/18; am and comp 6/25/20; am and comp 6/7/21; am and comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-2 Substitution of state terms and citations for federal terms and citations. (a) The following federal terms are replaced by the indicated state terms in all provisions of 40 C.F.R. part 262, 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", 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 AOC", "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".

(3) "Section 3010 of RCRA" shall be replaced with "section 342J-6.5, HRS".

(b) The federal terms listed in subsection (a) are not replaced with state terms in the following sections of 40 C.F.R. part 262, as incorporated and amended in this chapter:

(1) 40 C.F.R. sections 262.25 and 262.32.

(2) 40 C.F.R. part 262, subparts B and H.

(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 262, 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 Rules analogs are as follows:

<u>Federal citation</u> <u>40 C.F.R. part</u>	<u>State analog</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 262, as incorporated and amended in this

chapter, refer to the federal regulations in the Code of Federal Regulations:

- (1) References in the definition "Exporter" in 40 C.F.R. section 262.81.
- (2) The reference to 40 C.F.R. section 262.25 in 40 C.F.R. section 262.24(a)(1).
- (3) References to 40 C.F.R. part 273, 40 C.F.R. part 266, subpart G, and 40 C.F.R. section 261.6(a)(3)(i) in 40 C.F.R. sections 262.83(b)(1)(xi) and 262.84(b)(1)(xi). [Eff 7/17/17; am and comp 9/30/18; am and comp 6/25/20; am and comp 6/7/21; am and comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-3 Amendments to the incorporation of 40 C.F.R. part 262, subpart A. (a) The incorporation by reference of 40 C.F.R. section 262.1 is amended as follows: the following definitions are amended as follows:

"Condition of exemption" definition. Delete "subpart K or".

"Independent requirement" definition. Delete "subpart K or".

(b) The incorporation by reference of 40 C.F.R. section 262.10 is amended as follows:

- (1) In 40 C.F.R. section 262.10(a)(2), replace "267" with "266".
- (2) In 40 C.F.R. section 262.10(f), delete "267,".
- (3) In 40 C.F.R. section 262.10(g)(1) and (2), insert "and sections 342J-7 and 342J-9, HRS" after each instance of "section 3008 of RCRA".
- (4) In 40 C.F.R. section 262.10(g)(2), replace "267" with "266".
- (5) 40 C.F.R. section 262.10(k) to (l) is excluded from incorporation.

- (6) In 40 C.F.R. section 262.10(n), insert "or electronic nicotine delivery system retailer" after each instance of "healthcare facility", replace each instance of "management of hazardous waste pharmaceuticals" with "management of subpart P hazardous wastes", replace "hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste" with "subpart P hazardous waste and non-subpart P hazardous waste", and replace "hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste" with "subpart P hazardous waste and its non-subpart P hazardous waste".
 - (7) The notes to 40 C.F.R. section 262.10 are excluded from incorporation.
- (c) The incorporation by reference of 40 C.F.R. section 262.11 is amended as follows:
- (1) In 40 C.F.R. section 262.11(c), delete "If the waste is listed, the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the Administrator that the waste from this particular site or operation is not a hazardous waste."
 - (2) In 40 C.F.R. section 262.11(d)(1) and (2), replace "approved by the Administrator under 40 CFR 260.21" with "approved by the Administrator under 40 C.F.R. section 260.21 and approved by the director".
 - (3) In 40 C.F.R. section 262.11(e), delete "267,".
- (d) The incorporation by reference of 40 C.F.R. section 262.13 is amended as follows:
- (1) In 40 C.F.R. section 262.13(a)(3), delete "for the hazardous waste generated".
 - (2) In 40 C.F.R. section 262.13(b)(4), replace "more stringent" with "larger".
 - (3) In 40 C.F.R. section 262.13(c)(6), insert "or" after the semicolon.
 - (4) 40 C.F.R. section 262.13(c)(7) is excluded from incorporation.

- (5) In 40 C.F.R. section 262.13(c)(9), insert "or electronic nicotine delivery system" after the first instance of "hazardous waste pharmaceutical".
- (e) The incorporation by reference of 40 C.F.R. section 262.14 is amended as follows:
 - (1) 40 C.F.R. section 262.14(a)(2) is excluded from incorporation.
 - (2) In 40 C.F.R. section 262.14(a)(5)(i) and (ii), insert "or subtitle C of RCRA" after "of this chapter".
 - (3) In 40 C.F.R. section 262.14(a)(5)(iv), replace "a state" with "the State or any state" and insert "or state rules that correspond to 40 C.F.R. part 258" after "of this chapter".
 - (4) In 40 C.F.R. section 262.14(a)(5)(v), replace "a state" with "the State or any state" and insert "or state rules that correspond to 40 C.F.R. sections 257.5 to 257.30" after "of this chapter".
 - (5) In 40 C.F.R. section 262.14(a)(5)(vii), replace the second instance of "part 273 of this chapter" with "40 C.F.R. part 273 or state rules that correspond to 40 C.F.R. part 273".
 - (6) In 40 C.F.R. section 262.14(a)(5)(ix), replace the period at the end of the paragraph with a semicolon.
 - (7) In 40 C.F.R. section 262.14(a)(5)(x), insert "or electronic nicotine delivery system retailer" after each instance of "healthcare facility", replace "non-creditable hazardous waste pharmaceuticals" with "non-creditable subpart P hazardous waste", and replace the period at the end of the paragraph with "; or".
 - (8) In 40 C.F.R. section 262.14(a)(5)(xi), replace "§ 261.4(j) of this chapter" with "40 C.F.R. section 261.4(j) or corresponding regulations of any authorized state".

(f) The incorporation by reference of 40 C.F.R. section 262.15 is amended as follows: in 40 C.F.R. section 262.15(a), replace "267" with "266".

(g) The incorporation by reference of 40 C.F.R. section 262.16 is amended as follows:

- (1) In the introductory paragraph of 40 C.F.R. section 262.16, replace "267" with "266".
- (2) In 40 C.F.R. section 262.16(b), replace "(d) and (e)" with "(c) and (d)".
- (3) In 40 C.F.R. section 262.16(b)(2)(iv), insert "The owner or operator must record inspections in an inspection log or summary. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, these records 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." at the end of the section.
- (4) In 40 C.F.R. section 262.16(b)(5), delete "of" following "comply with" in the second sentence.
- (5) In 40 C.F.R. section 262.16(b)(8)(iv)(A) and 262.16(b)(8)(iv)(B), replace "(a)(8)(ii)" with "(b)(8)(ii)".
- (6) In 40 C.F.R. section 262.16(b)(9)(ii), delete "next to telephones or" and insert "or, if cellular telephones cannot be safely used in these areas, next to the nearest telephones" before the colon at the end of the clause.
- (7) In 40 C.F.R. section 262.16(b)(9)(iv)(C), insert "and 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" at the end of the first sentence.
- (8) In 40 C.F.R. section 262.16(d), delete "267,".

(h) The incorporation by reference of 40 C.F.R. section 262.17 is amended as follows:

- (1) In the introductory paragraph of 40 C.F.R. section 262.17, replace "267" with "266".
- (2) In 40 C.F.R. section 262.17(a)(1)(v), insert "The owner or operator must record inspections in an inspection log or summary. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, these records 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." at the end of the section.
- (3) In 40 C.F.R. section 262.17(a)(6), replace "complies" with "must comply".
- (4) In 40 C.F.R. section 262.17(a)(7)(i)(A), replace "(a)(7)(iv)" with "(a)(7)(iv)(C)".
- (5) In 40 C.F.R. section 262.17(a)(8)(iii)(A)(4), replace "(a)(8)(ii)(A)(2)" with "(a)(8)(iii)(A)(2)".
- (6) In 40 C.F.R. section 262.17(c) and (d), replace "267" with "266".
- (7) In 40 C.F.R. section 262.17(e), delete "267,". [Eff 7/17/17; am and comp 9/30/18; am and comp 6/25/20; am and comp 6/7/21; am and comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-4 Amendments to the incorporation of 40 C.F.R. part 262, subpart B. The incorporation by reference of 40 C.F.R. section 262.20 is amended as follows: 40 C.F.R. section 262.20(a)(2) is excluded from incorporation. [Eff and comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-5 Amendments to the incorporation of 40 C.F.R. part 262, subpart C. Reserved for amendments to 40 C.F.R. part 262, subpart C. [Eff 7/17/17; am and comp 9/30/18; comp 6/25/20; comp 6/7/21; comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-6 Amendments to the incorporation of 40 C.F.R. part 262, subpart D. (a) The incorporation by reference of 40 C.F.R. section 262.41 is amended as follows: in 40 C.F.R. section 262.41(b), delete "267".

(b) The incorporation by reference of 40 C.F.R. section 262.42 is amended as follows: in 40 C.F.R. section 262.42(a)(2) and 262.42(b), delete "for the Region in which the generator is located".

(c) The incorporation by reference of 40 C.F.R. section 262.43 is amended as follows: replace "sections 2002(a) and 3002(a)(6) of the Act" with "section 342J-6, HRS". [Eff 7/17/17; am and comp 9/30/18; comp 6/25/20; comp 6/7/21; comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-7 Amendments to the incorporation of 40 C.F.R. part 262, subpart E. Reserved for amendments to 40 C.F.R. part 262, subpart E. [Eff 7/17/17; am and comp 9/30/18; comp 6/25/20; comp 6/7/21; comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§§11-262.1-8 to 11-262.1-9 (Reserved).

§11-262.1-10 Amendments to the incorporation of 40 C.F.R. part 262, subpart H. (a) The incorporation by reference of 40 C.F.R. section 262.83 is amended as follows:

- (1) In 40 C.F.R. section 262.83(a)(6)(i) and (ii), replace "the AES filing compliance date" with "December 31, 2017".
- (2) In 40 C.F.R. section 262.83(g), replace "one year after the AES filing compliance date" with "December 31, 2018".
- (3) In 40 C.F.R. section 262.83(i)(1)(v), replace "\$262.85" with "\$262.83(f)".
- (4) In 40 C.F.R. section 262.83(i)(3), insert "or director" after "the Administrator".

(b) The incorporation by reference of 40 C.F.R. section 262.84 is amended as follows: in 40 C.F.R. section 262.84(h)(4), insert "or director" after "the Administrator". [Eff 7/17/17; am and comp 9/30/18; am and comp 6/25/20; am and comp 6/7/21; am and comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-11 Amendments to the incorporation of 40 C.F.R. part 262, subpart I. Reserved for amendments to 40 C.F.R. part 262, subpart I. [Eff 7/17/17; am and comp 9/30/18; comp 6/25/20; comp 6/7/21; comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-12 Amendments to the incorporation of 40 C.F.R. part 262, subpart J. Reserved for amendments to 40 C.F.R. part 262, subpart J. [Eff 7/17/17; am and comp 9/30/18; comp 6/25/20; comp

6/7/21; comp JAN 29 2024] (Auth: HRS §§342J-4,
342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4,
342J-31, 342J-32, 342J-35)

**§11-262.1-13 Amendments to the incorporation of
40 C.F.R. part 262, subpart K.** 40 C.F.R. part 262,
subpart K is excluded from the incorporation by
reference of 40 C.F.R. part 262. [Eff 7/17/17; comp
9/30/18; comp 6/25/20; comp 6/7/21; comp
JAN 29 2024] (Auth: HRS §§342J-4, 342J-31,
342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31,
342J-32, 342J-35)

**§11-262.1-14 Amendments to the incorporation of
40 C.F.R. part 262, subpart L.** The incorporation by
reference of 40 C.F.R. section 262.232 is amended as
follows:

- (1) In 40 C.F.R. section 262.232(a), delete "for
hazardous waste generated".
- (2) In 40 C.F.R. section 262.232(a)(4)(ii)(C),
replace "each episodic event begins" with
"the episodic event began".
- (3) In 40 C.F.R. section 262.232(b)(4), delete
"waste" following "episodic event" in the
second sentence.
- (4) In 40 C.F.R. section 262.232(b)(4)(ii)(C),
replace "each period of accumulation begins
and ends" with "the episodic event began".
[Eff and comp 9/30/18; comp 6/25/20; am and
comp 6/7/21; comp JAN 29 2024] (Auth:
HRS §§342J-4, 342J-31, 342J-32, 342J-35)
(Imp: HRS §§342J-4, 342J-31, 342J-32,
342J-35)

**§11-262.1-15 Amendments to the incorporation of
40 C.F.R. part 262, subpart M.** (a) The incorporation

§11-271.1-15

by reference of 40 C.F.R. section 262.262 is amended as follows: in 40 C.F.R. section 262.262(b), replace "May 30, 2017" with "September 30, 2018".

(b) The incorporation by reference of 40 C.F.R. section 262.265 is amended as follows: in 40 C.F.R. section 262.265(d)(2), replace "either the government official designated as the on-scene coordinator for that geographical area, or" with "the government official designated as 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". [Eff and comp 9/30/18; am and comp 6/25/20; comp 6/7/21; comp
JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)

§11-262.1-16 Imports of hazardous waste. (a)

In addition to the requirements of 40 C.F.R. part 262, subpart H, as incorporated and amended in this chapter, any person who imports hazardous waste from a foreign country into the State must submit the following information in writing to the director within thirty days after the waste has arrived in the State:

- (1) The date the waste arrived in the State; and
- (2) The disposition of the waste, i.e., storage, treatment, recycling, or disposal.

(b) Any person who imports hazardous waste from any state into the State must comply with the requirements of 40 C.F.R. section 262.20, as incorporated and amended in this chapter, and submit the following information in writing to the director within thirty days after the waste has arrived in the State:

- (1) The date the waste arrived in the State; and
- (2) The disposition of the waste, i.e., storage, treatment, recycling, or disposal.

(c) The requirements of subsections (a) and (b) shall not apply if:

- (1) The waste does not stay in the State for more than ten days; and
- (2) A generator with an EPA identification number does not assume the generator status for the waste. [Eff 7/17/17; comp 9/30/18; comp 6/25/20; comp 6/7/21; am and comp JAN 29 2024] (Auth: HRS §§342J-4, 342J-31, 342J-32, 342J-35) (Imp: HRS §§342J-4, 342J-31, 342J-32, 342J-35)