DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-55

Hawaii Administrative Rules

OCT 1 1 2012

SUMMARY

1. §11-55-01 is amended.

2. §11-55-04 is amended.

3. §11-55-19 is amended.

4. §11-55-34.02 is amended.

5. §11-55-34.04 is amended.

6. §11-55-34.08 is amended.

7. Appendix M is new.

8. Chapter 55 is complied.

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"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 55

WATER POLLUTION CONTROL

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Appendix M NPDES General Permit Authorizing Point Source Discharges from the Application of Pesticides

Historical Note: Chapter 55 of Title 11 is based substantially on Public Health Regulations, Chapter 37, Water Pollution Control, Department of Health, State of Hawaii. [Eff 5/25/74, am 1/20/75, 8/19/75, 1/31/81; R 11/27/81]

§11-55-01 Definitions

"13 CFR" means the Code of Federal Regulations, Title 13, Business Credit and Assistance, revised as of January 1, 2011 unless otherwise specified.

"40 CFR" means the Code of Federal Regulations, Title 40, Protection of Environment, revised as of July 1, 2011 unless otherwise specified.

"Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-483 and Public Law 97-117, 33 U.S.C. 1251 et. seq.

"Action threshold" means the point at which pest populations or environmental conditions necessitate that pest control action be taken based on economic, human health, aesthetic, or other effects. An action threshold may be based on current and/or past environmental factors that are or have been demonstrated to be conducive to pest emergence and/or growth, as well as past and/or current pest presence. Action thresholds are those conditions that indicate both the need for control actions and the proper timing of such actions.

"Active ingredient" means any substance (or group of structurally similar substances if specified by the United States Environmental Protection Agency) that

will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 2(a). (See 40 CFR 152.3). Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. (See 40 CFR 174.3).

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or an authorized agent.

"Adverse incident" means an unusual or unexpected incident that an operator has observed upon inspection or of which the operator otherwise becomes aware, in which:

(1) There is evidence that a person or non-target organism has likely been exposed to a pesticide residue; and

(2) The person or non-target organism suffered a toxic or adverse effect.

The phrase "toxic or adverse effects" includes effects that occur within state waters on non-target plants, fish or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include: distressed or dead juvenile and small fishes; washed up or floating fish; fish swimming abnormally or erratically; fish lying lethargically at water surface or in shallow water; fish that are listless or nonresponsive to disturbance; stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants; other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.). The phrase "toxic or adverse effects" also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either from direct contact with or as a secondary effect from a discharge (e.g., sickness from consumption of plants or animals containing

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pesticides) to state waters that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

"Animal feeding operation" or "AFO" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(1) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

"Annual treatment area threshold" means the additive area (in acres) or linear distance (in miles) in a calendar year to which a decision-maker is authorizing and/or performing pesticide applications in that area for activities covered under Appendix M. For calculating annual treatment areas for mosquitoes and other flying insect pest control and forest canopy pest for comparing with any threshold in table 1 of Appendix M, count each pesticide application activity to a treatment area (i.e., that area where a pesticide application is intended to provide pesticidal benefits within the pest management area) as a separate area treated. For example, applying pesticides three times a year to the same three thousand acre site should be counted as nine thousand acres of treatment area for purposes of determining if such an application exceeds an annual treatment area threshold. Similarly, for calculating annual treatment areas for weed and algae control and animal pest control for comparing with any threshold in table 1 of Appendix M, calculations should include either the linear extent of or the surface area of waters for each application made to state waters or at water's edge adjacent to state waters. For calculating the annual treatment area, count each treatment area as a separate area treated. Also, for linear features (e.g., a canal or ditch), count the length of the linear feature each time an application

is made to that feature during the calendar year, including counting separately applications made to each bank of the water feature if pesticides are applied to both banks. For example, applications four times a year to both banks of a three-mile long reach of stream will count as a total of twenty four linear miles (three miles * two banks * four applications per year = twenty four miles to which pesticides are applied in a calendar year).

"Applicable effluent standards and limitations" means all state and federal effluent standards and limitations to which a discharge is subject under the Act; chapter 342D, HRS; and rules of the department including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

"Applicable water quality standards" means all water quality standards to which a discharge is subject under the Act; chapter 342D, HRS; rules of the department; and which have been:

(1) Approved or permitted to remain in effect by the Administrator under Section 303(a) or Section 303(c) of the Act, 33 U.S.C. §1313(a) or §1313(c); or

(2) Promulgated by the Administrator under Section 303(b) of the Act, 33 U.S.C. §1313(b).

"Applicator" means any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities) that results in a discharge to state waters.

"Best management practices" or "BMPs" means schedules of activities, prohibitions or designations of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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"Biological control agents" are organisms that can be introduced to your sites, such as herbivores, predators, parasites, and hyperparasites. (Source: US Fish and Wildlife Service (FWS) Integrated Pest Management (IPM) Guidance, 2004)

"Biological pesticides" (also called biopesticides) include microbial pesticides, biochemical pesticides and plant-incorporated protectants (PIP). "Microbial pesticide" means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or dessicant, that:

(1) is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi;
(2) is a procaryotic microorganism, including, but not limited to, eubacteria and archaebacteria; or
(3) is a parasitically replicating microscopic element, including but not limited to, viruses. (See 40 CFR 158.2100(b)).

"Biochemical pesticide" means a pesticide that is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and has a non-toxic mode of action to the target pest(s). (See 40 CFR 158.2000(a)(1)).

"Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant, or produce thereof. (See 40 CFR 174.3).

"Bypass" means the same thing as defined in 40 CFR §122.41(m).

"Chemical Pesticides" means all pesticides not otherwise classified as biological pesticides.

"Concentrated animal feeding operation" or "CAFO" means an animal feeding operation that is defined as a large CAFO or as a medium CAFO under 40 CFR §122.23(b)(4) or (6), or that is designated as an AFO in accordance with 40 CFR §122.23(c). Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

"Continuous discharge" means a "discharge" which occurs without interruption throughout the operating hours of the facility, except for infrequent shut-downs for maintenance, process changes, or other similar activities.

"Cooling water" means water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used, or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process either before or after it is used for cooling is considered process water for the purposes of calculating the percentage of a facility's intake flow that is used for cooling purposes in 40 CFR §125.91(a)(4).

"Cooling water intake structure" means the total physical structure and any associated constructed waterways used to withdraw cooling water from state waters. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.

"Cultural methods" means manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

"Decision-maker" means any entity with control over the decision to perform pesticide applications including the ability to modify those decisions that result in a discharge to state waters.

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"Decision-maker who is or will be required to submit an NOI" means any decision-maker covered under Appendix M who knows or should have known that an NOI will be required for those discharges beginning 60 calendar days from when section 11-55-34.02(b)(12) becomes effective ten days after filing with the office of the lieutenant governor. Excluded from this definition are those activities for which an NOI is required based solely on that decision-maker exceeding an annual treatment area threshold.

"Declared pest emergency situation" means the same thing as defined in section 11-54-4(e)(1).

"Department" means the state department of health.

"Director" means the director of the department or an authorized agent.

"Discharge" when used without qualification, means the "discharge of a pollutant". (See 40 CFR 122.2).

"Discharge of a pollutant" means any addition of any pollutant or combination of pollutants to state waters from any point source, or any addition of any pollutant or combination of pollutants to the water of the contiguous zone or the ocean from any point source other than a vessel or other floating craft that is being used as a means of transportation. This includes additions of pollutants into state waters from: surface runoff that is collected or channeled by man; or discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. (Excerpted from 40 CFR 122.2).

"Draft permit" means a document prepared under 40 CFR §124.6 indicating the director's tentative decision to issue or modify, revoke and reissue, terminate, or reissue a "permit." A notice of intent to terminate a permit as discussed in 40 CFR §124.5(d) and defined in 40 CFR §124.2, and a notice of intent to deny a permit as defined in 40 CFR §124.2 are types of "draft permit." A denial of a request for modification, revocation and reissuance, or termination, as discussed in 40 CFR §124.5(b), is not a "draft permit."

"Effluent" means any substance discharged into state waters or publicly owned treatment works or sewerage systems, including but not limited to, sewage, waste, garbage, feculent matter, offal, filth, refuse, any animal, mineral, or vegetable matter or substance, and any liquid, gaseous, or solid substances.

"EPA" means the U.S. Environmental Protection Agency.

"EPA approved or established total maximum daily loads (TMDLs)" (EPA Approved TMDLs) means those that are developed by a state and approved by EPA.

"EPA established TMDLs" are those that are issued by EPA.

"Facility" or "activity" means any NPDES "point source" or any facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

"Federal facility" means any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned, operated, or leased by, or constructed or manufactured for the purpose of leasing to, the federal government.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

"General permit" means an NPDES permit issued as a rule or document that authorizes a category of discharges into state waters from a category of sources within a geographical area.

"HRS" means the Hawaii Revised Statutes.

"Hawaiian fishponds" means the same thing as defined in section 183B-1, HRS.

"Impaired water" (or "water quality impaired water" or "water quality limited segment") means waters that have been identified by the state pursuant to Section 303(d) of the Clean Water Act as not meeting applicable state water quality standards (these waters are called "water quality limited segments" under 40 CFR 130.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

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"Indirect discharge" means the introduction of pollutants into a publicly owned treatment works from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

"Individual permit" means an NPDES permit, other than a general permit, issued under this chapter to a specified person to conduct a discharge at a specified location.

"Industrial user" means a source of indirect discharge.

"Inert ingredient" means any substance (or group of structurally similar substances if designated by the EPA), other than an active ingredient, that is intentionally included in a pesticide product, (see 40 CFR 152.3). Inert ingredient also means any substance, such as a selectable marker, other than the active ingredient, where the substance is used to confirm or ensure the presence of the active ingredient, and includes the genetic material necessary for the production of the substance, provided that the genetic material is intentionally introduced into a living plant in addition to the active ingredient (see 40 CFR 174.3).

"Large Entity" means any entity that is not a "small entity".

"Large municipal separate storm sewer system" means the same thing as defined in 40 CFR §122.26(b)(4).

"Major facility" means any NPDES facility or activity classified by the Regional Administrator in conjunction with the director.

"Mechanical/physical methods" means mechanical tools or physical alterations of the environment for pest prevention or removal.

"Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes and potentially contaminated laboratory wastes, dialysis wastes, and additional medical items as the Administrator shall prescribe by regulation.

"Medium municipal separate storm sewer system" means the same thing as defined in 40 CFR §122.26(b)(7).

"Minimize" means to reduce and/or eliminate pollutant discharges to state waters through the use of pest management measures to the extent technologically available and economically practicable and achievable.

"Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains as defined in 40 CFR §122.26(b)(8)).

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems under 40 CFR §122.26(b)(4), (b)(7), and (b)(16) or that the director designates consistently with 40 CFR §122.26(a)(1)(v). A "municipal separate storm sewer system" is also known as a "municipal separate storm water drainage system."

"National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Act.

"New discharger" means any building, structure, facility, activity, or installation:

(1) From which there is or may be a discharge of pollutants;
(2) That did not begin the discharge of pollutants at a particular site before August 13, 1979;
(3) Which is not a new source; and
(4) Which has never received a finally effective NPDES permit for discharges at the site.

"New source" means any building, structure, facility, activity, or installation from which there is or may be a "discharge of pollutants," the construction of which began:

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(1) After the adoption, by the director, of rules prescribing a standard of performance which will be applicable to the source; or

(2) After the publication by the Administrator of regulations prescribing a standard of performance which will be applicable to the source, if the standard is thereafter promulgated by the Administrator,

whichever occurs first.

"No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff or any combination of the above. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

"Non-target Organisms" includes the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

"Notice of cessation" or "NOC" means a form used to notify the director, within a specified time, that a discharge or activity, or phase of discharge or activity has ceased. Submission of this form means that the permittee is no longer authorized to discharge from the facility or project under the NPDES program.

"Notice of general permit coverage" or "NGPC" means an authorization issued to the owner or operator by the department to comply with the NPDES general permit.

"Notice of intent" or "NOI" means a form used to notify the director, within a specified time, that a person seeks coverage under a general permit.

"NPDES form" means any form provided by the Administrator or director for use in obtaining or complying with the individual permit, notice of general permit coverage, or conditional "no exposure" exclusion. These forms include the NPDES permit applications, notice of intent forms, "no exposure" certification form, NPDES discharge monitoring report form, notice of cessation form, and other forms as specified by the director.

"NPDES permit" means an authorization, license, or equivalent control document issued by the EPA or the director to implement the requirements of 40 CFR Parts 122, 123, and 124. NPDES permit includes an NPDES general permit according to 40 CFR §122.28 and a notice of general permit coverage or NGPC, as the context requires. NPDES permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit.

"NPDES permit application" means a form used to apply for an individual permit.

"Once-through cooling water system" means a system designed to withdraw water from a natural or other water source, use it at the facility to support contact or noncontact or both cooling uses, and then discharge it to a waterbody without recirculation. Once-through cooling systems sometimes employ canals, channels, ponds, or nonrecirculating cooling towers to dissipate waste heat from the water before it is discharged.

"Operator" for the purpose of Appendix M, means any entity associated with the application of pesticides which results in a discharge to state waters that meets either of the following two criteria:

(1) Any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities; or

(2) Any entity with control over the decision to perform pesticide applications including the ability to modify those decisions.

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"Owner" or "operator" means the person who owns or operates any "facility" or "activity" subject to regulation under the NPDES program.

"Person" means the same thing as defined in section 342D-1, HRS.

"Permittee" means the person to whom the individual permit or notice of general permit coverage is issued or the person who obtains automatic general permit coverage under section 11-55-34.09(e)(2).

"Pest" means
the same thing as defined in section 11-54-4(e)(1).

"Pest management area" means the area of land, including any water, for which an operator has responsibility and is authorized to conduct pest management activities as covered by Appendix M (e.g., for an operator who is a mosquito control district, the pest management area is the total area of the district).

"Pest management measure" means any practice used to meet the effluent limitations that comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, relevant legal requirements and other provisions that a prudent Operator would implement to reduce and/or eliminate pesticide discharges to state waters.

"Pesticide" means
the same thing as defined in section 11-54-4(e)(1).

"Pesticide product" means a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

"Pesticide residue" includes that portion of a pesticide application that is discharged from a point source to state waters and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

"Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff, except return flows from agriculture irrigated with reclaimed water. (See 40 CFR §122.2).

"Publicly owned treatment works" or "POTW" means any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

"R-1 water" means recycled water that has been oxidized, filtered, and disinfected to meet the corresponding standards set in chapter 11-62.

"Recycled water" or "reclaimed water" means treated wastewater that by design is intended or used for a beneficial purpose.

"Regional Administrator" means the Regional Administrator of the U.S. Environmental Protection Agency Region 9 or an authorized agent.

"Representative storm" means a rainfall that accumulates more than 0.1 inch of rain and occurs at least seventy-two hours after the previous measurable (greater than 0.1 inch) rainfall event.

"Sewage sludge" means the same thing as defined in section 342D-1, HRS.

"Silvicultural point source" means the same thing as defined in 40 CFR §122.27.

"Site" means the land or water area where any "facility" or "activity" is physically located or conducted, including adjacent land used in connection with the "facility" or "activity."

"Small entity" means any:

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(1) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201, or
(2) local government that serves a population of 10,000 or less.

"Small municipal separate storm sewer system" or "small MS4" means all separate storm sewers that are:

(1) Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or under state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Act that discharges to state waters;
(2) Not defined as "large" or "medium" municipal separate storm sewer systems under 40 CFR §122.2(b)(4) and (b)(7), or designated under section 11-55-04(a)(4) or 11-55-34.08(k)(2) or 40 CFR §122.26(a)(1)(v); and
(3) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

"Standard of performance" means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the director determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants; provided that

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the standard shall not be less stringent than required under Section 306 of the Act, 33 U.S.C. §1316.

"State waters" means the same thing as defined in section [342D-1, HRS]11-54-1.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the same thing as defined in 40 CFR §122.26(b)(14).

"Target pest" means the organism(s) toward which pest management measures are being directed.

"Total maximum daily loads (TMDLs)" is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations. (See section 303(d) of the Clean Water Act and 40 CFR 130.2 and 130.7).

"Treatment area" means the entire area, whether over land or water, where a pesticide application is intended to provide pesticidal benefits within the pest management area. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip treatment into a canal includes the entire width and length of the canal over which the pesticide is intended to control weeds. Similarly, the treatment area for a lake or marine area is the water surface area where the application is intended to provide pesticidal benefits.

"Treatment works" means the plant or other facility and the various devices used in the treatment of wastes including the necessary intercepting sewers, outfall sewers or outlets, pumping, power, and other equipment.

"Treatment works treating domestic sewage" or "TWTDS" means a POTW or any other sewage sludge or

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waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works.

"Upset" means the same thing as defined in 40 CFR §122.41(n).

"Waste" means sewage, industrial and agricultural matter, and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute state waters.

"Water pollution" means the same thing as defined in section 342D-1, HRS.

"Water quality impaired" see "Impaired Water".

"Wetlands" means the same thing as defined in section 11-54-1.

The definitions of the following terms contained in Section 502 of the Act, 33 U.S.C. §1362, shall be applicable to the terms as used in this part unless the context otherwise requires: "biological monitoring," "contiguous zone," "discharge," "discharge of a pollutant," "effluent limitations," "municipality," "navigable waters," "ocean," "pollutant," "schedule of compliance," "territorial seas," and "toxic pollutant." [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; am and comp 01/06/01; am and comp 11/07/02; am and comp 08/01/05; am and comp 10/22/07; comp 6/15/09; am and comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§6E-42(a), 183B-1, 342D-1, 342D-2, 342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subpart A and D; Part 125; §122.2)

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§11-55-02 General policy of water pollution control. (a) It is the public policy of this State:

(1) To conserve state waters;

(2) To protect, maintain, and improve the quality of state waters:

(A) For drinking water supply, and food processing;

(B) For the growth, support, and propagation of shellfish, fish, and other desirable species of marine and aquatic life;

(C) For oceanographic research;

(D) For the conservation of coral reefs and wilderness areas; and

(E) For domestic, agricultural, industrial, and other legitimate uses;

(3) To provide that no waste be discharged into any state waters without first being given the degree of treatment necessary to protect the legitimate beneficial uses of the waters;

(4) To provide for the prevention, abatement, and control of new and existing water pollution; and

(5) To cooperate with the federal government in carrying out the objectives listed in paragraphs (1) through (4).

(b) Any industrial, public, or private project or development which could be considered a new source of pollution or an increased source of pollution shall, in its initial project design and subsequent construction, provide the highest and best degree of waste treatment practicable under existing technology.

(c) Permits issued under this chapter, and the related applications, processing, issuance, and post-issuance procedures and requirements, shall be at least as stringent as those required by 40 CFR §123.25(a). [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1251, 1288, 1311, 1312,

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1316, 1317, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §123.25(a))

§11-55-03 General prohibition. No person shall violate any provision of section 342D-50, HRS, or any NPDES permit issued under this chapter. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 603-23; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50, 603-23; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125)

§11-55-04 Application for NPDES permit, notice of intent, or conditional "no exposure" exclusion. (a) Before discharging any pollutant, or beginning construction activities that disturb one or more acres of land, or substantially altering the quality of any discharges, or substantially increasing the quantity of any discharges, a person shall submit a complete NPDES permit application (which shall include whole effluent toxicity testing data as specified in 40 CFR §122.21(j)(5)), submit a complete notice of intent, except for the point source discharges from the application of pesticides, if not required (refer to Appendix M) or, for certain storm water discharges, meet all requirements for a conditional "no exposure" exclusion. Submittal of a notice of intent for coverage under a general permit shall comply with and be regulated by sections 11-55-34.08 through 11-55-34.10. Conditional "no exposure" exclusions shall comply with and be regulated by subsection (e). An NPDES permit application shall be submitted:

(1) At least one hundred eighty days before the discharge or construction begins or before the expiration date of the existing permit. The director may waive this one hundred eighty day requirement by issuing the permit

with an effective date before the one hundred eighty days expire;

(2) In sufficient time prior to the beginning of the discharge of pollutants to ensure compliance with the requirements of new source performance standards under Section 306 of the Act, 33 U.S.C. §1316, or with any applicable zoning or site requirements established under Section 208(b)(2)(C) of the Act, 33 U.S.C. §1288(b)(2)(C), and any other applicable water quality standards and applicable effluent standards and limitations;

(3) For any storm water discharge associated with industrial activity from an existing facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power-plant, or uncontrolled sanitary landfill;

(4) For any discharge from an existing regulated small municipal separate storm sewer system which is not qualified to obtain coverage under the general permit. The permit application shall be made under 40 CFR §122.33 if the small municipal separate storm sewer system is designated under 40 CFR §122.32(a)(1). A small municipal separate storm sewer system, including but not limited to systems operated by federal, state, and local governments, including state departments of transportation, is regulated when it is located in an urbanized area as determined by the latest decennial census by the Bureau of the Census. (If the small municipal separate storm sewer system is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated.) Small municipal separate storm sewer systems located outside of urbanized areas shall submit an NPDES permit

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application if the department determines that the system's storm water discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. The department shall evaluate the small municipal separate storm sewer system with the following elements, at a minimum: discharge to sensitive waters, high growth or growth potential, high population density, contiguity to an urbanized area, significant contributor of pollutants to state waters, and ineffective protection of water quality by other programs. The NPDES permit application shall be submitted within one hundred eighty days of notice from the department;

(5) For any discharge from a regulated concentrated animal feeding operation. The permit application shall be made under 40 CFR §122.21;

(6) (Reserved); or

(7) At least one hundred eighty days before the construction activity as identified in 40 CFR §122.26 (b)(14)(x) or small construction activity as defined in 40 CFR §122.26(b)(15)(i) begins and is not qualified to obtain coverage under the general permit.

(b) Application for an individual permit shall be made by the owner or operator on an NPDES permit application provided by the director. The NPDES permit application shall be submitted with complete data, site information, plan description, specifications, drawings, and other detailed information. The information submitted shall comply with 40 CFR §§122.21(f) through (l) and (r) to determine in what manner the new or existing treatment works or wastes outlet, including a facility described in 40 CFR §§122.23, 122.24, 122.25, 122.26, or 122.27, will be

constructed or modified, operated, and controlled. When a facility or activity is owned by one person, but is operated by another person, it is the operator's duty to obtain a permit on behalf of the owner. The operator shall provide written evidence that the owner authorizes the operator to apply on behalf of the owner and that the owner agrees to comply with all permit conditions. Only one permit is required for a single facility or activity.

(c) The director may require the submission of additional information after an NPDES permit application has been submitted, and shall ensure that, if an NPDES permit application is incomplete or otherwise deficient, processing of the application shall not be completed until the owner or its duly authorized representative has supplied the missing information or otherwise corrected the deficiency.

(d) Every owner or operator applying for an individual permit or renewal of an individual permit shall pay a filing fee of $1,000. This filing fee shall be submitted with the NPDES permit application and shall not be refunded nor applied to any subsequent NPDES permit application following final action of denial of the NPDES permit application.

(1) When an NPDES permit application is submitted for an individual permit for a substantial alteration or addition to a treatment works or waste outlet and where an individual permit had previously been granted for the treatment works or waste outlet, the owner or operator shall pay a $1,000 filing fee which shall be submitted with the NPDES permit application;

(2) A new owner of a discharge facility covered by an individual permit shall submit a new NPDES permit application for a new individual permit unless the new owner submits a notice of automatic transfer that meets 40 CFR §122.61(b). The owner or operator shall pay a $500 filing fee which shall be submitted with the NPDES permit application or notice

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of automatic transfer that meets 40 CFR §122.61(b);

(3) An NPDES individual permittee shall submit a new NPDES permit application for the transfer of discharge from one permanent location to another permanent location. The owner or operator shall pay the $1,000 filing fee which shall be submitted with the NPDES permit application;

(4) Fees shall be made payable to the "State of Hawaii" in the form of a pre-printed check, cashier's check, money order, or as otherwise specified by the director.

(e) Discharges composed entirely of storm water are not storm water discharges associated with industrial activity, and do not require an individual permit or general permit coverage, if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt or runoff or any combination of the above, and the owner or operator of the discharge:

(1) Meets the conditions of 40 CFR §§122.26(g)(1) through 122.26(g)(4), except 40 CFR §122.26(g)(1)(iii);

(2) Submits a properly completed and signed "no exposure" certification on a form provided by the director;

(3) Submits a properly completed and signed "no exposure" certification form at least once every five years, or earlier if specified by the director or upon the change of ownership, operator, or location; and

(4) Provides any additional information requested by the director after a "no exposure" certification has been submitted.

The conditional "no exposure" exclusion is effective upon receipt by the department of the certification, assuming all other conditions are met, and the director may specify the term of a conditional "no exposure" exclusion, or any renewal, for any period not to exceed five years. There is no filing fee for submittal of a "no exposure" certification.

(f) (Reserved)

(g) Industrial activities, except construction activities under 40 CFR §122.26(b)(14)(x) and 40 CFR §122.26(b)(15), which provide calculations and certify that they do not discharge storm water to state waters are not required to obtain an individual permit or general permit coverage.

(h) (Reserved) [Eff 11/27/81; am and comp 10/29/92; am 09/23/96; am and comp 09/22/97; am and comp 01/06/01; am and comp 11/07/02; am and comp 08/01/05; am and comp 10/22/07; am and comp 6/25/09; am and comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§6E-42(a), 342D-2, 342D-4, 342D-5, 342D-6, 342D-13; 33 U.S.C. §§1251, 1288(b)(2)(C), 1316, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.21, 122.23, 122.24, 122.25, 122.26, 122.27, 122.61, 123.25(a), 124.3)

§11-55-05 Receipt of federal information. The director shall receive any relevant information collected by the Regional Administrator prior to participation in the NPDES in a manner as the director and the Regional Administrator shall agree. Any agreement between the director and the Regional Administrator shall provide for at least the following:

(1) Prompt transmittal to the director from the Regional Administrator of copies of any NPDES permit applications, or other relevant information collected by the Regional Administrator prior to the state or interstate agency's participation in the NPDES; and

(2) A procedure to ensure that the director will not issue an individual permit on the basis of any NPDES permit application received from the Regional Administrator which the Regional Administrator has identified as incomplete or otherwise deficient until the director has received information sufficient to correct

the deficiency to the satisfaction of the Regional Administrator. [Eff 11/27/81; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/25/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §123.42)

§11-55-06 Transmission of information to Regional Administrator. The director shall transmit to the Regional Administrator copies of NPDES forms received by the State in a manner as the director and Regional Administrator shall agree. Any agreement between the State and the Regional Administrator shall provide for at least the following:

(1) Prompt transmittal to the Regional Administrator of a complete copy of any NPDES form received by the State;

(2) Procedures for the transmittal to the national data bank of a complete copy, or relevant portions thereof, of any appropriate NPDES forms received by the State;

(3) Procedures for acting on the Regional Administrator's written waiver, if any, of the Regional Administrator's rights to receive copies of NPDES forms with respect to classes, types, and sizes within any category of point sources and with respect to minor discharges or discharges to particular state waters or parts thereof subject to the limits in 40 CFR §123.24(d);

(4) An opportunity for the Regional Administrator to object in writing to deficiencies in any NPDES permit application or reporting form received by the Regional Administrator and to have the deficiency corrected. If the Regional Administrator's objection relates to

an NPDES permit application, the director shall send the Regional Administrator any information necessary to correct the deficiency and shall, if the Regional Administrator so requests, not issue the individual permit until the department receives notice from the Regional Administrator that the deficiency has been corrected;

(5) Procedures for the transmittal, if requested by the Regional Administrator, of copies of any notice received by the director from publicly owned treatment works under section 11-55-23(7) and 11-55-23(8); and

(6) Variance applications shall be processed in accordance with the procedures set forth in section 342D-7, HRS, and 40 CFR §§122.21(m) through (o), 124.62, and 403.13. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6, 342D-14; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-14; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.21(m), 122.21(n), 122.21(o), 123.25(a), 123.43, 123.44, 124.62, 403.13)

§11-55-07 Identity of signatories to NPDES forms. (a) Any NPDES form and its certification, as stated in 40 CFR §122.22(d), submitted to the director shall be signed as follows:

(1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice-president of the corporation in

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charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

(B) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency, or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA);

(4) For a trust. By a trustee; or

(5) For a limited liability company (LLC). By a manager or a member authorized to make management decisions for the LLC and who is in charge of a principal business function, or who performs similar policy- or decision-making functions for the LLC.

(b) All other reports or information required to complete the application or information to comply with the conditions of the individual permit or notice of general permit coverage or responses to requests for information required by the director shall be signed by a person designated in subsection (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.);

(2) The authorization is made in writing by a person designated under subsection (a); and

(3) The written authorization is submitted to the director.

(c) If an authorization under subsection (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (b) must be submitted to the director prior to or together with any reports, information, or applications to be signed by an authorized representative. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; am and comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth:

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HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.22, 123.25(a))

§11-55-08 Formulation of tentative determinations and draft permit. (a) The director shall formulate and prepare tentative staff determinations with respect to an NPDES permit application in advance of public notice of the proposed issuance or denial of an individual permit. Tentative determinations shall include at least the following:

(1) A proposed determination, including those contained in 40 CFR §122.44(m) if applicable, to issue or deny an individual permit for the discharge described in the NPDES permit application; and

(2) If the determination is to issue the individual permit, the following additional tentative determinations:

(A) Proposed effluent limitations, identified under sections 11-55-19 and 11-55-20 for those pollutants proposed to be limited;

(B) A proposed schedule of compliance, if required, including interim dates and requirements, for meeting the proposed effluent limitations, identified under sections 11-55-21 and 11-55-22;

(C) Monitoring requirements identified under sections 11-55-28, 11-55-29, and 11-55-30; and

(D) A brief description of any other proposed special conditions (other than those required in section 11-55-23) which will have a significant impact upon the discharge described in the NPDES permit application.

(b) If a tentative determination is to issue an individual permit, the director shall organize the

tentative determination under subsection (a) into a draft permit.

(c) The director shall prepare draft permits when required by 40 CFR §124.5(c) or (d). [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4,342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4,342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.44(m), 123.25(a), 124.5, 124.6)

§11-55-09 Public notice of applications. (a) The director shall notify the public of every complete application for an individual permit in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue an individual permit for the proposed discharge. Public notification of an application for a variance from an individual permit, under Section 316(a) of the Act, 33 U.S.C. §1326(a), and section 342D-7, HRS, shall also comply with the requirements contained in 40 CFR §124.57(a). Public notice procedures shall include at least the following:

(1) Notice shall be circulated within the geographical areas of the proposed discharge; circulation includes any or all of the following:
   (A) Posting in the post office and public places of the municipality nearest the premises of the owner or operator in which the effluent source is located;
   (B) Posting near the entrance to the owner's or operator's premises and in nearby places; or
   (C) Publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation.

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(2) Notice shall be mailed to any person or group upon request and the persons listed in 40 CFR §§124.10(c)(1)(i) through (v); and

(3) The director shall add the name of any person, including those specified in 40 CFR §§124.10(c)(1)(ix) and (x), or group upon request to a mailing list to receive copies of notices for all NPDES permit applications within the State or within a certain geographical area.

(b) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES permit application. All written comments submitted during the thirty-day comment period shall be retained by the director and considered in the formulation of the director's final determination with respect to the NPDES permit application. The director shall respond to comments, at a minimum, when and as required by 40 CFR §§124.17(a) and (c). The comment period may be extended at the discretion of the director.

(c) The public notice shall include at least the following:

(1) Name and address of the agency issuing the public notice;

(2) Name and address of each owner or operator or both and the name and address of the facility or activity;

(3) A brief description of the activities or operations which result in the discharge described in the NPDES permit application;

(4) Name of the state water to which each discharge is made, a short description of the location of each discharge, and whether the discharge is a new or an existing discharge;

(5) A statement of the tentative determination to issue or deny an individual permit for the discharge described in the NPDES permit application;

(6) A brief description of the procedures for the formulation of final determinations, including the procedures for public comment, requesting a public hearing, and any other means of public participation offered;

(7) Name, address, and telephone number of a person at the state or interstate agency where interested persons may:

(A) Obtain further information;

(B) Request a copy of the draft permit prepared under section 11-55-08(b);

(C) Request a copy of the fact sheet prepared under section 11-55-10 (if prepared); and

(D) Inspect and copy NPDES forms and related documents; and

(8) Requirements applicable to cooling water intake structures under section 316(b) of the Act, in accordance with Part 125, Subparts I and J.

(d) All publication and mailing costs associated with the public notification of the director's tentative determinations with respect to the NPDES permit application shall be paid by the owner or operator to the appropriate publishing agency or agencies determined by the director. The owner or operator shall submit the original signed affidavit of publication to the department within four weeks of the publication date. Failure to provide and pay for public notification, as deemed appropriate by the director, is a basis to delay issuance of an individual permit. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; am and comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4,342D-5, 342D-6, 342D-13; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4,342D-5, 342D-6; 33 U.S.C. §§1251, 1326(a), 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§123.25(a), 124.10, 124.13, 124.17, 124.57)

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§11-55-10 Fact sheet. (a) The director shall prepare a fact sheet for every draft permit for a major facility or activity, for every class I sludge management facility, for every draft permit that incorporates a variance or requires an explanation under 40 CFR §124.56(b), and for every draft permit which the director finds is the subject of widespread public interest or raises major issues. The director shall send the fact sheet to the owner or operator, its authorized representative, and, upon request, to any other person.

(b) Fact sheets shall include at least the following information:

(1) A sketch or detailed description of the location of the discharge described in the NPDES permit application; a brief description of the type of facility or activity which is the subject of the draft permit;

(2) A quantitative description of the discharge described in the NPDES permit application which includes at least the following:

(A) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day or cubic feet per second;

(B) For thermal discharges subject to limitation under the Act, the average summer and winter temperatures in degrees Fahrenheit or Celsius; and

(C) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under Sections 301, 302, 306, or 307 of the Act, 33 U.S.C. §§1311, 1312, 1316 or 1317, and regulations published under those sections;

(3) The tentative determinations required under section 11-55-08;

(4) A brief citation, including a brief identification of the uses for which the receiving state waters have been classified, of the water quality standards, and effluent standards and limitations applied to the proposed discharge;

(5) A more detailed description of the procedures for the formulation of final determinations than that given in the public notice including:

(A) The thirty-day comment period required by section 11-55-09(b);

(B) Procedures for requesting a public hearing and the nature thereof; and

(C) Any other procedures by which the public may participate in the formulation of the final determinations;

(6) The name and telephone number of a person to contact for additional information; and

(7) The information required by 40 CFR §§124.8(b)(5), 124.56(a), 124.56(b), 124.56(c), 124.56(e), and Part 125, subpart M.

(c) The director shall add the name of any person or group upon request to a mailing list to receive copies of fact sheets. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4,342D-5, 342D-6; 33 U.S.C. §§1251, 1311, 1312, 1316, 1317, 1342, 1370, 1252-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 501; §§123.25(a), 124.8, 124.56, 501.15(d)(4))

§11-55-11 Notice to other government agencies. (a) The director shall notify other appropriate government agencies of each complete NPDES permit application for an individual permit and shall provide

the agencies an opportunity to submit their written views and recommendations.

(b) When notifying the public under section 11-55-09, a fact sheet shall be transmitted to the appropriate District Engineer of the Army Corps of Engineers of NPDES permit applications for discharges into state waters.

(c) The director and the District Engineer for each Corps of Engineers district within the State or interested area may arrange for:

(1) Waiver by the District Engineer of the District Engineer's right to receive fact sheets with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular state waters or parts thereof; and

(2) Any procedures for the transmission of forms, period for comment by the District Engineer (e.g., thirty days), and for objections of the District Engineer.

(d) A copy of any written agreement between the director and the District Engineer shall be forwarded to the Regional Administrator and shall be made available to the public for inspection and copying.

(e) The director shall mail copies of public notice (or, upon specific request, copies of fact sheets) of applications for individual permits to any federal, state, or local agency, upon request, and shall provide the agencies an opportunity to respond, comment, or request a public hearing. The notice and opportunity shall extend to at least the following:

(1) The agency responsible for the preparation of an approved plan under Section 208(b) of the Act, 33 U.S.C. §1288(b); and

(2) The state agency responsible for the preparation of a plan under an approved continuous planning process under Section 303(e) of the Act, 33 U.S.C. §1313(e), unless the agency is under the supervision of the director.

(f) The director shall notify and coordinate with appropriate public health agencies for the purpose of assisting the owner or its duly authorized representative in coordinating the applicable requirements of the Act with any applicable requirements of the public health agencies. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1288(b), 1313(e), 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§123.25(a), 124.10)

§11-55-12 Public access to information. (a) In accordance with chapter 2-71, the director shall ensure that any NPDES forms (including the draft permit prepared under section 11-55-08(b)), any public comment upon those forms under section 11-55-09(b), or information required, kept, or submitted under section 11-55-24 shall be available to the public for inspection and copying during established office hours. The director, at the director's discretion, may also make available to the public any other records, reports, plans, or information obtained by the state agency under its participation in NPDES.

(b) The director shall protect any information (other than effluent data) as confidential upon a request and showing by any person at the time of submission that the information, if made public, would divulge methods or processes entitled to protection as trade secrets of a person. Any information obtained from a state and subject to a claim of confidentiality shall be treated in accordance with the regulations in 40 CFR Part 2 and section 92F-13, HRS. Claims of confidentiality shall be denied regarding the following: name and address of any owner or operator or permittee applying for an individual permit, notice of general permit coverage, or "no exposure"

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certification; NPDES permits; and effluent data. Information required by NPDES permit application forms may not be claimed confidential. This includes information supplied in attachments to the NPDES permit application forms. If, however, the information being considered for confidential treatment is contained in an NPDES form, the director shall forward the information to the Regional Administrator for the Regional Administrator's concurrence in any determination of confidentiality. If the Regional Administrator advises the director that the Regional Administrator does not concur in the withholding of the information, the director shall then make available to the public, upon request, that information determined by the Regional Administrator not to constitute trade secrets.

(c) Any information accorded confidential status, whether or not contained in an NPDES form, shall be disclosed, upon request, to the Regional Administrator, who shall maintain the disclosed information as confidential.

(d) The director shall provide facilities for the inspection of information relating to NPDES forms and shall ensure that state employees honor requests for inspection with due regard for the dispatch of other public duties. The director shall either:

(1) Ensure that a machine or device for the copying of papers and documents is available for a reasonable fee; or

(2) Otherwise provide for or coordinate with copying facilities or services so that requests for copies of nonconfidential documents may be honored promptly. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-14; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-14, 342D-55; 33 U.S.C. §§1251, 1342, 1370, 1251-

1387; 40 CFR Parts 2; 122; 123; 124, Subparts A and D; 125; §§122.7, 123.25(a), 123.41)

§11-55-13 Public hearings. (a) The owner or operator, Regional Administrator, any interested agency, person, or group of persons may request or petition for a public hearing with respect to NPDES permit applications. Any request or petition for public hearing shall be submitted within the thirty-day period prescribed in section 11-55-09(b) and shall indicate the interest of the party submitting the request and the reasons why a hearing is warranted.

(b) The director shall provide the public notice of public hearing to the owner or operator or its duly authorized representative for publication according to section 11-55-14. The public notice shall include the information required by 40 CFR §§124.10(d)(1) and (d)(2).

(c) The director shall hold a hearing if the director determines that there is a significant public interest (including the submitting of requests or petitions for a hearing) in holding a hearing. Instances of doubt should be resolved in favor of holding the hearing. Any hearing brought under this subsection shall be held in the geographical area of the proposed discharge or other appropriate area, at the director's discretion, and may, as appropriate, consider related groups of NPDES permit applications.

(d) Any person may submit oral or written statements and data concerning the draft permit. The public comment period under section 11-55-09 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-57; 33 U.S.C.

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§§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§123.25(a), 124.10, 124.11, 124.12)

§11-55-14 Public notice of public hearings. (a) Public notice of any hearing held under section 11-55-13 shall be circulated as widely as the notice of the draft permit. Public notice for hearings held under section 11-55-13 shall be:

(1) Published at least once in a newspaper of general circulation within the geographical area of the discharge;
(2) Sent to all persons and government agencies which received a copy of the notice or the fact sheet for the NPDES permit application;
(3) Mailed to any person or group upon request and the persons listed in 40 CFR §§124.10(c)(1)(i) through (v), (ix), and (x); and
(4) Effected under paragraphs (1) and (3) at least thirty days in advance of the hearing.

(b) The public notice of any hearing held under section 11-55-13 shall include at least the following information:

(1) Name and address of the agency holding the public hearing;
(2) Name and address of each owner or operator or both whose NPDES permit application will be considered at the hearing and the name and address of the facility or activity;
(3) Name of the state water to which each discharge is made, a short description of the location of each discharge, and whether the discharge is a new or an existing discharge;
(4) A brief reference to the public notice for proposed action issued for each NPDES permit application, including identification number and date of issuance, if applicable;
(5) Information regarding the date, time, and location of the hearing;

(6) The purpose of the hearing, including a concise statement of the issues raised by the persons requesting the hearing, as applicable:

(7) A brief description of the nature of the hearing, including the rules and procedures to be followed; and

(8) Name, address, and telephone number of a person at the state or interstate agency where interested persons may:

(A) Obtain further information;

(B) Request a copy of each draft permit prepared under section 11-55-08(b);

(C) Request a copy of the fact sheet prepared under section 11-55-10 (if prepared); and

(D) Inspect and copy NPDES forms and related documents.

(c) All publication and mailing costs associated with the public notification of the director's determinations to hold public hearing with respect to the NPDES permit application shall be paid by the owner or operator to the appropriate publishing agency or agencies determined by the director. The owner or operator shall submit the original signed affidavit of publication to the department within four weeks of the publication date. Failure to provide and pay for public notification, as deemed appropriate by the director, is a basis to delay issuance of an individual permit. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6, 342D-13; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§123.25(a), 124.10)

§11-55-15 Issuance of NPDES permits. (a) The director may issue an NPDES permit for any period not

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exceeding five years and may renew a permit for any additional periods not exceeding five years.

(b) The director shall issue or renew an NPDES permit on the following basis:

(1) The existing treatment works or waste outlet is designed, built, and equipped in accordance with:

(A) The best practicable control technology currently available or the best available technology economically achievable or the best conventional pollutant control technology for point sources other than publicly owned treatment works; and

(B) For publicly owned treatment works, secondary treatment or the best practicable waste treatment technology, so as to reduce wastes to a minimum;

(2) New treatment works or waste outlets are designed and built in compliance with the applicable standards of performance;

(3) The new or existing treatment works or waste outlet is designed and will be constructed or modified to operate without causing a violation of applicable rules of the department;

(4) The new or existing treatment works or waste outlet will not endanger the maintenance or attainment of applicable water quality standards;

(5) The facility shall comply with effluent standards and limitations, water quality standards and other requirements, as applicable in sections 11-55-19, 11-55-20, and 11-55-22; and

(6) The facility shall comply with sections 11-55-27 through 11-55-32.

(c) NPDES permits at a minimum shall include conditions and requirements at least as stringent as:

(1) Those conditions contained in sections 11-55-16, 11-55-17, 11-55-23, and 40 CFR §122.41;

(2) The requirement that the owner or operator provide the facilities as necessary for monitoring of the authorized waste discharge into state waters and the effects of the wastes on the receiving state waters. The monitoring program shall comply with sections 11-55-28 through 11-55-32;

(3) The requirement of compliance with any applicable effluent standards and limitations, water quality standards, and other requirements imposed by the director under sections 11-55-19, 11-55-20, and 11-55-22; and

(4) Conditions requested by the Corps of Engineers and other government agencies as described in 40 CFR §124.59.

(d) The director may issue a permit to an existing facility which does not or cannot presently comply with subsections (b) and (c) only if the permit includes a schedule of compliance with specific deadlines for bringing the facility into compliance with subsections (b) and (c). Schedule of compliance shall comply with section 11-55-21.

(e) In acting upon an NPDES permit application for an individual permit the director shall deny the application unless the information submitted shows that the new or existing treatment works or waste outlet described in the NPDES permit application can, conditionally or otherwise, meet the conditions of subsection (b) or (c).

(f) Notwithstanding the provisions of subsections (a) through (e), the director shall not issue a permit or grant a modification or variance for any of the following:

(1) Discharge of any radiological or biological warfare agent, or high-level radioactive waste into state waters;

(2) Discharge which the Secretary of the Army, acting through the Chief of Engineers, finds would substantially impair anchorage and navigation;

(3) Discharge to which the Regional Administrator has objected in writing under any right to object provided the Administrator in Section 402(d) of the Act, 33 U.S.C. §1342(d);

(4) Discharge from a point source which is in conflict with a plan or amendment thereto approved under Section 208(b) of the Act, 33 U.S.C. §1288(b); or

(5) When prohibited by 40 CFR §122.4.

(g) The issuance of a permit does not convey any property rights of any sort or any exclusive privilege. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-50; 33 U.S.C. §§1251, 1288(b), 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.4, 122.5, 122.41, 122.43, 122.44, 122.45, 122.46, 123.25(a), 124.5, 124.59)

§11-55-16 Modification or revocation and reissuance of NPDES permits. (a) Each NPDES permit shall be subject to modification or revocation and reissuance by the director after notice and opportunity for a contested case hearing.

(b) Permits may be modified for the reasons and under the procedures specified in 40 CFR §§122.62 and 122.63.

(c) Permits may be revoked and reissued for the reasons and under the procedures specified in 40 CFR §122.62.

(d) The procedures and criteria for minor permit modifications are those specified in 40 CFR §122.63.

(e) All applications made under section 342D-7, HRS, for a variance from the terms and conditions of an NPDES permit shall also be deemed as applications for a modification under this section. Any variances, if granted, shall be for a period not to exceed five years. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6, 342D-7; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-7, 342D-50; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.5, 122.62, 122.63, 123.25(a), 124.5)

§11-55-17 Termination of permits and denial of renewal. (a) On the expiration date specified in the NPDES permit, the NPDES permit shall automatically terminate and the permittee shall be divested of all rights therein.

(b) Each NPDES permit renewal application shall be subject to denial and each issued NPDES permit shall be subject to termination by the director after notice and opportunity for a contested case hearing.

(c) The following are causes for terminating a permit during its term or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a publicly owned treatment works).

(d) The director shall follow the applicable state procedures in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a publicly owned treatment works (but not by land application or disposal into a well), the director may terminate the permit by notice to the permittee. Termination by notice shall be effective thirty days after notice is sent ("expedited termination"), unless the permittee objects in writing during that time. If the permittee objects during that period, the director shall follow applicable state procedures for termination. Expedited termination is not available to permittees who are subject to pending state or federal or both enforcement actions including citizen suits brought under state or federal law. If requesting expedited termination, a permittee shall certify that it is not subject to any pending state or federal enforcement actions including citizen suits brought under state or federal law. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under 40 CFR §124.6. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-50; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.5, 122.64, 122.64(b), 123.25(a), 124.5, 124.5(d), 124.15(a))

§11-55-18 Reporting discontinuance or dismantlement. An NPDES permittee shall report within thirty days after the permanent discontinuance or dismantlement of that treatment works or waste outlet for which the NPDES permit had been issued by submitting a notice of cessation. [Eff 11/27/81; comp 10/29/92; comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-50; 33 U.S.C. §§1252, 1342, 1370, 1251-1387; 40 CFR 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §122.64, 124.5)

§11-55-19 Application of effluent standards and limitations, water quality standards, and other requirements. (a) NPDES permits shall apply and ensure compliance with the following whenever applicable:

(1) Effluent limitations under Sections 301 and 302 of the Act, 33 U.S.C. §§1311 and 1312;
(2) Standards of performance for new sources;
(3) Effluent standards, effluent prohibitions, and pretreatment standards under Section 307 of the Act, 33 U.S.C. §1317;
(4) More stringent limitation, including those:
    (A) Necessary to meet water quality standards, treatment standards, or schedules of compliance, established under any state law or rules (under authority preserved by Section 510 of the Act, 33 U.S.C. §1370); or
    (B) Necessary to meet any other federal law or regulations including, but not limited to:
        (i) Toxic pollutant effluent standards in 40 CFR Part 129;
        (ii) Secondary treatment regulation in 40 CFR Part 133;

(iii) Effluent guidelines and standards in 40 CFR Chapter I, subchapter N, Parts 400 to 471;

(iv) Criteria and standards in 40 CFR Part 125, Subparts A, B, C, D, H, I, J, K, and M;

(v) Standards for sludge handling in 40 CFR §122.44(b)(2), 40 CFR Part 503 and state rules; and

(vi) Nutrient management requirements and technical standards for concentrated animal feeding operations in 40 CFR §123.36, 40 CFR §122.42, and 40 CFR Part 412; or

(C) Required to implement any applicable water quality standards; the limitations to include any legally applicable requirements necessary to implement total maximum daily loads established under Section 303(d) of the Act, 33 U.S.C. §1313(d), or incorporated in the continuing planning process approved under Section 303(e) of the Act, 33 U.S.C. §1313(e), and any regulations and guidelines issued pursuant thereto;

(5) More stringent legally applicable requirements necessary to comply with a plan approved under Section 208(b) of the Act, 33 U.S.C. §1288(b);

(6) Prior to promulgation by the Administrator of applicable effluent standards and limitations under Sections 301, 302, 306, and 307 of the Act, 33 U.S.C. §§1311, 1312, 1316, and 1317, the conditions, as the director determines are necessary to carry out the provisions of the Act; and

(7) If the NPDES permit is for the discharge of pollutants into the state waters from a vessel or other floating craft, any applicable regulations promulgated by the

secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(8) Other requirements developed under the continuing planning process under Section 303(e) of the Act and any regulations and guidelines issued under it.

(b) In any case where an issued NPDES permit applies the effluent standards and limitations described in subsection (a)(1), (2), and (3), the director shall state that the discharge authorized by the permit shall not violate applicable water quality standards and shall have prepared some explicit verification of that statement. In any case where an issued NPDES permit applies any more stringent effluent limitation based upon applicable water quality standards, a waste load allocation shall be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; am and comp 08/01/05; am and comp 10/22/07; comp 6/15/09; am and comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-50; 33 U.S.C. §§1251, 1288(b), 1311, 1312, 1313, 1316, 1317, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125, Subparts A, B, C, D, H, I, J, K, L, M; 129; 133; 136; 401; 403; 405-432; 434-436; 439-440; 443; 446-447; 454-455; 457-460; 503; 400-471, Subparts N; §§122.42, 122.43, 122.44, 123.25(a))

§11-55-20 <u>Effluent limitations in issued NPDES permits.</u> In the application of effluent standards and limitations, water quality standards, and other legally applicable requirements under section 11-55-19, each issued NPDES permit shall specify average and maximum daily quantitative limitations for the level of

pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The director, at the director's discretion, in addition to the specification of daily quantitative limitations by weight, may specify other limitations, such as average or maximum concentration limits. [Eff 11/27/81; comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 21 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-50; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §122.45(f), 123.25(a))

§11-55-21 Schedule of compliance in issued NPDES permits. (a) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in section 11-55-19, the permit shall require the permittee to take specific steps to achieve compliance with the following:

(1) In accordance with any legally applicable schedule of compliance contained in:
   (A) Applicable effluent standards and limitations;
   (B) If more stringent, effluent standards and limitations needed to meet water quality standards; or
   (C) If more stringent, effluent standards and limitations needed to meet legally applicable requirements listed in section 11-55-19; or
(2) In the absence of any legally applicable schedule of compliance, in the shortest, reasonable period of time, which shall be consistent with the guidelines and requirements of the Act.

(b) When a schedule specifies compliance longer than one year after permit issuance, the schedule of compliance shall specify interim requirements and the dates for their achievement and in no event shall more than one year elapse between interim dates. If the time necessary for completion of the interim requirement (such as the construction of a treatment facility) exceeds one year and is not readily divided into stages for completion, the schedule shall specify interim dates for the submission of reports of progress towards completion of the interim requirements. For each NPDES permit schedule of compliance, interim dates, reporting dates, and the final date for compliance shall, to the extent practicable, fall on the last day of the month of March, June, September, and December. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-50; 33 U.S.C. §§1251, 1342, 1370, 1251-1387 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.43, 122.47, 123.25(a))

§11-55-22 Compliance schedule reports. (a) Either before or up to fourteen days following each interim date and the final date of compliance, the permittee shall provide the director with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(b) On the last day of the months of February, May, August, and November, the director shall transmit to the Regional Administrator a Quarterly Noncompliance Report (QNCR) which is a list of all instances, as of thirty days prior to the date of the report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the director of compliance or noncompliance with each interim or final requirement (as required under subsection (a). The list shall be available to the public for inspection

and copying and shall contain at least the following information with respect to each instance of noncompliance:

(1) Name, address, and permit number of each noncomplying permittee;

(2) A short description of each instance of noncompliance for which 40 CFR §123.45(a)(2) requires reporting (e.g., failure to submit preliminary plans; two weeks delay in beginning construction of treatment facility; failure to notify director of compliance with interim requirement to complete construction by June 30th, etc.);

(3) The date(s) and a short description of any actions or proposed actions by the permittee or the director to comply or enforce compliance with the interim or final requirement; and

(4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objection from state fish and wildlife agency, etc.).

(c) The first NPDES permit issued to a new source shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after beginning construction but less than three years before beginning the relevant discharge. For permit renewals, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before beginning the discharge again.

(d) If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit, noncompliance shall constitute a violation of the permit for which the director may modify, revoke and reissue, or terminate the permit under sections 11-55-16 and 11-55-17 or may take direct enforcement action. [Eff 11/27/81; am and comp 10/29/92; am and

comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-55; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.43, 122.47, 123.25(a), 123.45)

§11-55-23 Other terms and conditions of issued NPDES permits. In addition to the requirements previously specified, each permit shall be subject to the following terms and conditions:

(1) All discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the NPDES permit;

(2) The permittee shall report at least as required by 40 CFR §122.41(l), and where applicable, 40 CFR §122.42(a), (b), (c), (d), and (e);

(3) Facility expansions, production increase, or process modifications which result in new or increased discharges of pollutants shall be reported by submission of a new NPDES permit application, or, if the discharge does not violate effluent limitations specified in the NPDES permit, by submission to the director of notice of the new or increased discharges of pollutants under 40 CFR §122.42(a);

(4) The discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the NPDES permit shall constitute a violation of the terms and conditions of the NPDES permit;

(5) The permittee shall allow the director or an authorized agent, including a contractor of the Administrator, upon the presentation of credentials to:

(A) Enter the permittee's premises in which an effluent source is located or in

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which any records are kept under terms and conditions of the NPDES permit;

(B) Have access to and copy any records kept under terms and conditions of the NPDES permit;

(C) Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the NPDES permit; or

(D) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location;

(6) Any treatment facility treating domestic sewage and also receiving industrial waste from one or more indirect dischargers may be required to develop for the director's approval a pretreatment program in accordance with applicable requirements in 40 CFR Part 403. The pretreatment program approved by the director may then be incorporated into the NPDES permit as a permit condition;

(7) If the NPDES permit is for a discharge from a publicly or privately owned treatment works, the permittee shall notify the director in writing of the following:

(A) Any new introduction of pollutants into a publicly or privately owned treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Act, 33 U.S.C. §1311 and §1316, if the indirect discharger were directly discharging those pollutants;

(B) Any substantial change in volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit;

(C) The quality and quantity of effluent to be introduced into a treatment works; and

(D) Any anticipated impact caused by a change in the quality or quantity of effluent to be discharged from a publicly or privately owned treatment works;

(8) If the NPDES permit is for a discharge from a publicly owned treatment works with an approved pretreatment program under section 11-55-24, the director shall incorporate the approved pretreatment program into the NPDES permit as a permit condition. The permittee shall require any industrial user of the treatment works to comply with the requirements contained in the approved pretreatment program and the requirements of Sections 204(b), 307, and 308 of the Act, 33 U.S.C. §§1284, 1317, and 1318. The permittee shall also require each industrial user subject to the requirements of Section 307 of the Act, 33 U.S.C. §1317, to forward copies of periodic reports (over intervals not to exceed nine months) of progress towards full compliance with Section 307 of the Act, 33 U.S.C. §1317 requirements, to the permittee and the director;

(9) The permittee at all times shall maintain in good working order and operate as efficiently as possible any facility or system of control installed by the permittee to achieve compliance with the terms and conditions of the NPDES permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is

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necessary to achieve compliance with the conditions of the permit; and

(10) If a toxic effluent standard or prohibition (including any schedule of compliance specified in the effluent standards or prohibition) is promulgated under Section 307(a) of the Act, 33 U.S.C. §1317(a), for a toxic pollutant which is present in the permittee's discharge and the standard or prohibition is more stringent than any limitation upon the pollutant in the NPDES permit, the director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and notify the permittee; and

(11) A copy of the NPDES permit application, notice of intent, "no exposure" certification, individual permit, notice of general permit coverage, and conditional "no exposure" exclusion, as applicable, shall be retained on-site or at a nearby office or field office. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; am and comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-8, 342D-50, 342D-55; 33 U.S.C. §§1251, 1284, 1311, 1316, 1317, 1318, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 403; §§122.41, 122.42, 122.44, 123.25(a))

§11-55-24 National pretreatment standards and users of publicly owned treatment works. (a) Any county desiring to administer its own publicly owned treatment works pretreatment program shall submit to the director for approval a program description which

shall at a minimum include the information set forth in 40 CFR §403.9(a) or 403.9(c).

(b) The director, upon receipt of the request for an approval of a pretreatment program, shall review and decide on the request in accordance with procedures described in 40 CFR §403.11.

(c) Any person discharging any pollutant or effluent into a publicly owned treatment works shall permit the director, upon presentation of credentials, to:

(1) Enter the premises of a person subject to pretreatment requirements in which an effluent source is located or in which any records are kept under terms and conditions of a pretreatment requirement;

(2) Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations required by a pretreatment requirement; and

(3) Sample any discharge of pollutants or effluent.

(d) No person shall introduce into any publicly owned treatment works any pollutant or effluent in violation of 40 CFR §403.5.

(e) The director may require any person discharging any pollutant qr effluent into a publicly owned treatment works to:

(1) Establish and maintain records;

(2) Make reports;

(3) Install, use, and maintain monitoring equipment or methods;

(4) Sample effluent and state waters;

(5) Provide access to and copying of any records which are maintained; and

(6) Provide other information as the department may require. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 21 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2,

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342D-4, 342D-5, 342D-6, 342D-8, 342D-50, 342D-55; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 403, §§122.41(i))

§11-55-25 Transmission to Regional Administrator of proposed NPDES permits. The director shall transmit to the Regional Administrator copies of NPDES permits proposed to be issued by the agency in a manner as the director and Regional Administrator shall agree upon or as stated in 40 CFR §123.44(j). Any agreement between the State and Regional Administrator shall provide for at least the following:

(1) Except as waived under paragraph (4), the transmission by the director of any and all terms, conditions, requirements, or documents which are a part of the proposed NPDES permit or which affect the authorization by the proposed NPDES permit of the discharge of pollutants;

(2) A period of time (up to ninety days) in which the Regional Administrator, under any right to object provided in Section 402(d) of the Act, 33 U.S.C. §1342(d), may comment upon, object to, or make recommendations with respect to the proposed NPDES permit;

(3) Procedures for state acceptance or rejection of a written objection by the Regional Administrator; and

(4) Any written waiver by the Regional Administrator of the Regional Administrator's rights to receive, review, object to, or comment upon proposed NPDES permits for classes, types, or sizes within any category of point sources. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp:

HRS §§342D-2, 342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§123.24(d), 123.43, 123.44)

§11-55-26 Transmission to Regional Administrator of issued NPDES permits. The director shall transmit to the Regional Administrator a copy of every issued NPDES permit, immediately following issuance, along with any and all terms, conditions, requirements, or documents which are a part of the NPDES permit or which affect the authorization by the NPDES permit of the discharge of pollutants. [Eff 11/27/81; comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 123.43(a)(3))

§11-55-27 Renewal of NPDES permits. (a) The director shall review applications for reissuance of NPDES permits. Any permittee who wishes to continue to discharge after the expiration date of the permittee's NPDES permit shall submit for renewal of the permit at least one hundred eighty days prior to its expiration.

(b) The scope and manner of any review of an application for renewal of an NPDES permit shall be within the discretion of the director and shall be sufficiently detailed as to ensure the following:

(1) The permittee is in compliance with or has substantially complied with all the terms, conditions, requirements, and schedules of compliance of the current or expired NPDES permit;

(2) That the director has current information on the permittee's production levels; permittee's waste treatment practices;

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nature, contents, and frequency of permittee's discharge through the submission of new forms and applications or from monitoring records and reports submitted to the director by the permittee; and

(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements, including any additions to, revisions, or modifications of the effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(c) The director shall follow the notice and public participation procedures specified in this chapter in connection with each request for reissuance of an NPDES permit.

(d) Notwithstanding any other provision in this section, any point source, the construction of which began after October 18, 1972 and which is constructed to meet all applicable new source performance standards, shall not be subject to any more stringent new source performance standard, except as specified in 40 CFR §122.29(d)(2), for the earliest ending of the following period;

(1) A ten-year period beginning on the date of completion of the construction;

(2) A ten-year period from the date the source begins to discharge process or other non-construction related wastewater; or

(3) During the period of depreciation or amortization of the facility for the purposes of Section 167 or 169 or both of the Internal Revenue Code of 1954, whichever period ends first.

(e) Application for renewal of an NPDES permit shall comply with section 11-55-04. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS

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§§342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.21(d), 122.29, 122.41(b), 122.41(l), 122.44, 123.25(a))

§11-55-28 Monitoring. (a) Any discharge authorized by an NPDES permit may be subject to monitoring requirements as may be reasonably required by the director, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods).

(b) Any discharge authorized by an NPDES permit which:

(1) Is not a minor discharge;

(2) The Regional Administrator requests, in writing, be monitored; or

(3) Contains toxic pollutants for which an effluent standard has been established by the Administrator under Section 307(a) of the Act, 33 U.S.C. §1317, shall be monitored by the permittee for at least the items listed in subsection (c).

(c) Monitored items:

(1) Flow (in gallons per day or cubic feet per second); and

(2) All of the following pollutants:

(A) Pollutants (either directly or indirectly through the use of accepted correlation coefficient or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the NPDES permit;

(B) Pollutants which the director finds, on the basis of available information, could have a significant impact on the quality of state waters;

(C) Pollutants specified by the Administrator in regulations issued

under the Act, as subject to monitoring; and

(D) Any pollutants in addition to the above which the Regional Administrator requests, in writing, to be monitored.

(d) Each effluent flow or pollutant required to be monitored under subsection (c) shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-55; 33 U.S.C. §§1251, 1317, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.41, 122.43, 122.48, 123.25(a))

§11-55-29 Recording of monitoring activities and results. When any NPDES permit requires monitoring of the authorized discharge:

(1) The permittee shall maintain records of all information resulting from any monitoring activities required by the NPDES permit;

(2) Any records of monitoring activities and results shall include for all samples:

(A) The date, exact place, and time of sampling or measurements;

(B) The individual(s) who performed the sampling or measurements;

(C) The date(s) the analyses were performed;

(D) The individual(s) who performed the analyses;

(E) The analytical techniques or methods used; and

(F) The results of the analyses; and

(3) The permittee shall retain for a minimum of five years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator. [Eff 11/27/81; comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-55; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 122.41(j))

§11-55-30 Reporting of monitoring results. The director shall require periodic reporting (at a frequency of not less than once per year) on the proper NPDES discharge monitoring report form, or other form as specified by the director, of monitoring results obtained by a permittee under monitoring requirements in an NPDES permit. In addition to the NPDES discharge monitoring report form, or other form as specified by the director, the director may require submission of any other information regarding monitoring results as determined to be necessary. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-6, 342D-55; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 122.41(l)(4), 122.44(i))

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§11-55-31 Sampling and testing methods. (a) All sampling and testing shall be done in accordance with test procedures approved under 40 CFR Part 136 unless other test procedures have been specified in the permit or approved by the director and, when applicable, with guidelines establishing test procedures for the analysis of pollutants published by the Administrator in accordance with Section 304(h) of the Act, 33 U.S.C. §1314(h). All tests shall be made under the direction of persons knowledgeable in the field of water pollution control.

(b) The director may conduct tests of waste discharges from any source. Upon request of the director, the person responsible for the source to be tested shall provide necessary sampling stations and other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the waste discharge. [Eff 11/27/81; comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-55; 33 U.S.C. §§1251, 1314, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; §§122.41(j)(4), 136)

§11-55-32 Malfunction, maintenance, and repair of equipment. (a) There shall be no shut-down of water pollution treatment facilities for purposes of maintenance unless a schedule or plan for the maintenance has been submitted to and approved by the director prior to the shut-down.

(b) In the case of a shut-down of water pollution control equipment for necessary maintenance, the intent to shut down the equipment shall be reported to and approved by the director at least twenty-four hours prior to the planned shut-down. The prior notice shall include, but is not limited to, the following:

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(1) Identification of the specific facility to be taken out of service, as well as its location and NPDES permit number;
(2) The expected length of time that the water pollution control equipment will be out of service;
(3) The nature and quantity of discharge of water pollutants likely to be emitted during the shut-down period;
(4) Measures that will be taken to minimize the length of the shut-down period, such as the use of off-shift labor and equipment;
(5) Identification of any adverse impacts to the receiving state waters which could be caused by the wastes which are to be bypassed; and
(6) The reasons that it would be impossible or impractical to shut down the source operation during the maintenance period.

(c) In the event that any water pollution control equipment or related facility breaks down in a manner causing the discharge of water pollutants in violation of applicable rules, the person responsible for the equipment shall immediately notify the director of the failure or breakdown and provide a statement giving all pertinent facts, including the estimated duration of the breakdown. The director shall be notified when the condition causing the failure or breakdown has been corrected and the equipment is again in operation. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-55; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125)

§11-55-33 Agency board membership. (a) Any board or body which approves NPDES permit applications, notices of intent, or "no exposure" certifications, or portions thereof shall not include as a member any

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person who receives, or has during the previous two years received, a significant portion of the person's income directly or indirectly from permittees or persons applying for an NPDES permit.

(b) For the purposes of this section, the term "board or body" includes any individual, including the director, who has or shares authority to approve permit applications or portions thereof either in the first instance or on appeal.

(c) For the purposes of this section, the term "significant portion of the person's income" shall mean ten per cent or more of gross personal income for a calendar year, except that it shall mean fifty per cent or more of gross personal income for a calendar year if the recipient is over sixty years of age and is receiving that portion under retirement, pension, or similar arrangement.

(d) For the purposes of this section, the term "permittees or persons applying for an NPDES permit" shall not include any state department or agency.

(e) For the purposes of this section, the term "income" includes retirement benefits, consultant fees, and stock dividends.

(f) For the purposes of this section, income is not received "directly or indirectly from permittees or persons applying for an NPDES permit" where it is derived from mutual fund payments or from other diversified investments over which the recipient does not know the identity of the primary sources of income. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-3, 342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-3, 342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125; 123.25(c))

§11-55-34 General permit definitions. As used in sections 11-55-34.01 through 11-55-34.12:

"Category of sources" means either:

(1) Storm water point sources; or

(2) A group of point sources other than storm water point sources if all sources in the group:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;

(C) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal;

(D) Require the same or similar monitoring; and

(E) In the opinion of the director, are more appropriately controlled under a general permit than under an individual permit.

"Geographical area" means existing geographical or political boundaries such as:

(1) Designated planning areas under Sections 208 and 303 of the Act;

(2) Sewer districts or sewer authorities;

(3) City, county, or state political boundaries;

(4) State highway systems;

(5) Standard metropolitan statistical areas as defined by the Office of Management and Budget;

(6) Urbanized areas as designated by the Bureau of the Census according to criteria in 30 Federal Register 15202 (May 1, 1974); or

(7) Any other appropriate division or combination of boundaries. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342,

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1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §§122.2, 122.28, 123.25(a)(11))

§11-55-34.01 General permit policy. It is the policy of the State that general permits shall comply, at a minimum, with federal requirements for general permits, especially 40 CFR §122.28. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28, 123.25(a)(11))

§11-55-34.02 General permit authority and adoption. (a) The director may adopt general permits.

(b) The appendices located at the end of this chapter are adopted and incorporated by reference as general permits for the following applicable categories of sources:

(1) Appendix B, titled "NPDES General Permit Authorizing Discharges of Storm Water Associated with Industrial Activities," dated October 2007, for discharges composed entirely of storm water associated with certain industrial activities as identified in 40 CFR §§122.26(b)(14)(i) through 122.26(b)(14)(ix) and §122.26(b)(14)(xi);

(2) Appendix C, titled "NPDES General Permit Authorizing Discharges of Storm Water Associated with Construction Activity," dated October 2007, for storm water discharges from construction activities which result in the disturbance of five acres or more of total land area or small construction activities which result in the disturbance of one to less than five acres of total land area;

(3) Appendix D, titled "NPDES General Permit Authorizing Discharges of Treated Effluent from Leaking Underground Storage Tank Remedial Activities," dated October 2007, for the discharge of treated effluent from the leaking underground storage tank remedial activities;

(4) Appendix E, titled "NPDES General Permit Authorizing Discharges of Once Through Cooling Water Less Than One (1) Million Gallons Per Day," dated October 2007, for the discharge of once-through, non-contact cooling water for one million gallons per day or less;

(5) Appendix F, titled "NPDES General Permit Authorizing Discharges of Hydrotesting Waters," dated October 2007, for the discharge of non-polluted hydrotesting water;

(6) Appendix G, titled "NPDES General Permit Authorizing Discharges Associated with Construction Activity Dewatering," dated October 2007, for the discharge of dewatering effluent from a construction activity;

(7) Appendix H, titled "NPDES General Permit Authorizing Discharges of Treated Process Wastewater Associated with Petroleum Bulk Stations and Terminals," dated October 2007, for the discharge of treated process wastewater effluent from petroleum bulk stations and terminals;

(8) Appendix I, titled "NPDES General Permit Authorizing Discharges of Treated Process Wastewater Associated with Well Drilling Activities," dated October 2007, for the discharge of treated process wastewater effluent associated with well drilling activities;

(9) Appendix J, titled "NPDES General Permit Authorizing Occasional or Unintentional Discharges from Recycled Water Systems," dated October 2007, for the discharge of

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treated process wastewater effluent from recycled water distribution systems;

(10) Appendix K, titled "NPDES General Permit Authorizing Discharges of Storm Water and Certain Non-Storm Water Discharges from Small Municipal Separate Storm Sewer Systems," dated October 2007, for the discharge of storm water and certain non-storm water discharges from a small municipal separate storm sewer system as defined in 40 CFR §122.26(b)(16); [and]

(11) Appendix L, titled "NPDES General Permit Authorizing Discharges of Circulation Water from Decorative Ponds or Tanks," dated October 2007, for the discharge of circulation water from decorative ponds or tanks; and

(12) Appendix M, titled "NPDES General Permit Authorizing Point Source Discharges from the Application of Pesticides," dated January 2012. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; am and comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122;; 124; 125; §§122.26, 122.28, 123.25(a)(11))

§11-55-34.03 General permit terms. General permits shall be for terms of not more than five years. [Eff and comp 10/29/92; comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387;

40 CFR Parts 122; 123; 124; 125; §§122.26, 122.28, 122.46, 123.25(a)(11))

§11-55-34.04 General permit conditions. (a) Discharges covered by general permits shall comply with the applicable sections of state water quality standards in chapter 11-54, and the applicable provisions of this chapter, including, but not limited to, sections 11-55-18, 11-55-19, 11-55-20, 11-55-21, 11-55-22, 11-55-23, 11-55-28, 11-55-29, 11-55-30, 11-55-31, 11-55-32, and 11-55-34.07.

(b) Appendix A, titled "Department of Health Standard General Permit Conditions," dated October 2007 and located at the end of this chapter is adopted, incorporated by reference, and applies to each general permit.

(c) Special conditions apply as specified in each general permit, e.g., appendices B through M, respectively. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; am and comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1318, 1319, 1321, 1323, 1342, 1345, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §§122.26, 122.28, 122.41, 122.42, 123.25(a)(11))

§11-55-34.05 Requiring an individual permit. Notwithstanding the provisions of a general permit, the director may require any person covered by a general permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

(1) The discharger or "treatment works treating domestic sewage" is not in compliance with the conditions of the general permit;

(2) A change has occurred in the availability of demonstrated technology or practices for the

control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;

(3) Effluent limitation guidelines are promulgated for point sources covered by the general permit;

(4) A water quality management plan containing requirements applicable to the point sources is approved;

(5) Circumstances have changed since the time of the request to be covered so that the permittee is no longer appropriately controlled under the general permit or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

(6) Standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general permit; or

(7) The discharge(s) is a significant contributor of pollutants to state waters. In making this determination, the director may consider the following factors:

(A) The location of the discharge with respect to state waters;

(B) The size of the discharge;

(C) The quantity and nature of the pollutants discharged to the state waters; and

(D) Other relevant factors. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28(b)(3)(i), 123.25(a)(11))

§11-55-34.06 Relationship of general and individual permits. (a) Any owner or operator covered by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application with reasons supporting the request to the director.

(b) When an individual permit is issued to an owner or operator otherwise covered by a general permit, the coverage of the general permit to the individual permittee is automatically terminated on the effective date of the individual permit.

(c) A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28(b)(3)(iii-v), 123.25(a)(11))

§11-55-34.07 Degree of waste treatment. All discharges covered by a general permit shall receive treatment or corrective action to ensure compliance with the terms and conditions of the issued permit and with the following, whenever applicable:

(1) Effluent limitations established by the EPA under Sections 301, 302, 306, 307, 318, and 405 of the Act;

(2) Criteria and standards for best management practices established by the EPA under Section 304(e) of the Act;

(3) Notwithstanding paragraphs (1) and (2), more stringent effluent limitations may be required as deemed necessary by the director:

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(A) To meet any existing federal laws or regulations; or

(B) To ensure compliance with any applicable state water quality standards, effluent limitations, treatment standards, or schedule of compliance; and

(4) Calculations and specifications of effluent limits and standards shall be made in accordance with the provisions of federal regulations, 40 CFR §122.45. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1312, 1314, 1316, 1317, 1318, 1342, 1345, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28, 123.25(a)(11))

§11-55-34.08 Notice of intent. (a) Persons seeking coverage under a general permit shall submit a notice of intent, except for the point source discharges from the application of pesticides, if not required (refer to Appendix M).

(b) A notice of intent shall:

(1) Be submitted on forms provided by the director;

(2) Comply with the notice of intent requirements of the respective general permit; and

(3) Be accompanied by all pertinent information which the director may require in order to establish effluent limitations or best management practices, including, but not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.

(c) The director may require that all reports, plans, specifications, and other material submitted to the director be prepared by a licensed professional engineer.

(d) Material submitted shall be complete and accurate.

(e) Any notice of intent form submitted to the director shall be signed in accordance with section 11-55-07(a).

(f) All other reports or responses to requests for information required by the director shall be signed in accordance with section 11-55-07(b).

(g) Any change in the written authorization submitted to the director under subsection (f) which occurs after the issuance of a permit shall be reported to the director by submitting a copy of a new written authorization which meets the requirements of subsections (e) and (f).

(h) Any person signing a document under subsections (e) and (f) shall make a certification in accordance with 40 CFR §122.22(d).

(i) Each owner or operator who submits a notice of intent to be covered under the general permit provisions or for renewal of general permit coverage shall pay a filing fee of $500. This filing fee shall be submitted with the notice of intent and shall not be refunded nor applied to any subsequent NPDES individual permit application following final action denying coverage under the general permit provisions.

(1) When a notice of intent is submitted to the director for a substantial alteration or addition to the treatment works or waste outlet and where a general permit authorization has previously been granted for the treatment works or waste outlet, the owner or operator shall be assessed the fee of $500;

(2) A new owner or operator or both of a discharge facility covered by the general permit provisions shall submit a new notice of intent unless the new owner submits a

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notice of automatic transfer that meets 40 CFR §122.61(b). The new owner or operator shall be assessed the fee of $500;

(3) Fees shall be made payable to the "State of Hawaii" in the form of a pre-printed check, cashier's check, money order, or as otherwise specified by the director.

(j) A notice of intent shall be submitted to the director at least thirty days before the earlier of:

(1) The beginning of any discharge, which is not covered under Appendix C or except for coverage under Appendix M for a declared pest emergency situation where the notice of intent shall be submitted no later than thirty days after beginning discharge;

(2) The beginning of any construction activity which is covered under Appendix C;

(3) The expiration date of the existing general permit; or

(4) The expiration date of the existing notice of general permit coverage.

(k) (Reserved).

(l) (Reserved).

(m) A notice of intent shall be submitted to the director for:

(1) Any storm water discharge associated with industrial activity from an existing facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power-plant, or uncontrolled sanitary landfill; or

(2) Any discharge from an existing regulated small municipal separate storm sewer system which is qualified to obtain coverage under the general permit. A small municipal separate storm sewer system, including but not limited to systems operated by federal, state, and local governments, including state departments of transportation, is regulated when it is located in an urbanized area as

determined by the latest decennial census by the Bureau of the Census. (If the small municipal separate storm sewer system is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated.) Small municipal separate storm sewer systems located outside of urbanized areas are designated to submit a notice of intent if the department determines that the storm water discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. The notice of intent shall be submitted within thirty days of notice from the department.

(n) (Reserved).

(o) The submittal date is the date the department receives the notice of intent. The thirty day period includes weekends and holidays. If the director notifies the owner or operator or its duly authorized representative that the notice of intent is incomplete, the thirty day period shall start over upon receipt of the revised notice of intent. The director may waive this thirty day requirement by notifying the owner or operator in writing of a notice of general permit coverage before the thirty days expire. [Eff and comp 10/29/92; am 09/23/96; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; am and comp 6/15/09; am and comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§6E-42(a), 342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §§122.22, 122.26, 122.28(b)(2)(ii) and (iii), 123.25(a)(11))

§11-55-34.09 Notice of intent review, notice of general permit coverage , additional conditions, terms,

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renewals, effective dates, and automatic coverage. (a) After receipt of a notice of intent, the director may notify the owner or operator or its duly authorized representative in writing that the notice of intent is complete or incomplete, whether the proposed activity or discharge(s) is covered under a general permit, or whether an individual permit application is required. The director may deny without prejudice the notice of intent to be covered by a general permit if the owner or operator or its duly authorized representative does not respond or failed to respond in writing within thirty days of the date of the director's written notification that the notice of intent is incomplete.

(b) After receipt of the complete notice of intent, the director may notify the owner or operator in writing of a notice of general permit coverage. This includes issuing a notice of general permit coverage after automatic coverage applies under subsection (e)(2) even if the owner or operator has not waived automatic coverage. The director may impose conditions in a notice of general permit coverage or add conditions to an issued notice of general permit coverage to ensure that the activity or discharge(s) complies with the terms and conditions of the general permit and to ensure that state water quality standards will not be violated.

(c) A notice of general permit coverage may limit coverage under the general permit to a term of less than five years.

(d) The director may administratively extend a notice of general permit coverage upon receipt of a notice of intent for renewal of a notice of general permit coverage before the expiration of the general permit or the term of the notice of general permit coverage, whichever occurs first. The permittee who submits a notice of intent for renewal of the notice of general permit coverage shall be treated as an owner or operator applying for permit renewal under section 342D-6(h), HRS.

(e) Authorization to discharge under the general permit is effective upon the earlier of:

(1) Notification by the director of general permit coverage under subsection (b); or

(2) The thirtieth day after receipt at the clean water branch of the department of a complete notice of intent for a new notice of general permit coverage and the applicable filing fee, unless before the thirtieth day the director notifies the owner or its duly authorized representative that the notice of intent is incomplete. This paragraph does not apply to a notice of intent for renewal of a notice of general permit coverage.

(f) A person claiming coverage in writing under the automatic provision of subsection (e)(2), instead of under an issued notice of general permit coverage under subsections (a) through (d), assumes the risks that:

(1) The notice of intent may later be found to be incomplete by the director or by a court;

(2) The person may not be covered under the terms of the general permit, even if the notice of intent is complete;

(3) The person may be acting in noncompliance with the general permit or this chapter, even if the person is complying with its notice of intent; and

(4) The director may modify, revoke and reissue, or terminate a notice of general permit coverage under section 11-55-34.11. The director may revoke automatic coverage and issue a notice of general permit coverage or terminate an automatic coverage under section 11-55-34.11.

The person claiming automatic coverage on the notice of intent shall submit all site-specific plans, general contractor information, and all necessary permits and approvals (i.e., county-approved erosion and sediment control plan or approved substitute, approval to connect or discharge to a separate storm sewer system, etc.). Nothing in or with the notice of intent shall be

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submitted less than thirty days before the start of construction activities.

(g) A person may waive automatic coverage under subsection (e)(2) by notifying the director in writing that the person will wait for a notice of general permit coverage before starting the activity or discharge.

(h) Written notification by the department under this section is complete upon mailing or sending a facsimile transmission or electronic mailing of the document or actual receipt of the document by the owner or its duly authorized representative.

(i) All submittals in compliance with a condition of the notice of general permit coverage shall be signed in accordance with section 11-55-34.08(e), (f), or (g) and include a certification in accordance with 40 CFR §122.22(d). [Eff and comp 10/29/92; am 09/23/96; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 21 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28, 123.25(a)(11))

§11-55-34.10 <u>Review of coverage issues and notice of intent and notice of general permit coverage decisions.</u> Any interested person may petition the director under section 91-8, HRS, for a declaratory ruling on whether an individual permit is required for, or a general permit covers, a discharge. The director's decision requiring a person to apply for an individual permit or excluding a person from general permit coverage shall remain effective pending the outcome of the petition. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; §11-55-34.1; am, ren, and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 21 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387;

40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28, 123.25(a)(11))

§11-55-34.11 Notice of general permit coverage modification, revocation and reissuance, and termination. (a) A notice of general permit coverage and automatic coverage under section 11-55-34.09(e)(2) may be modified or revoked and reissued under the criteria and procedures of section 11-55-16.

(b) A notice of general permit coverage and automatic coverage under section 11-55-34.09(e)(2) may be terminated under the criteria of sections 11-55-17 and 11-55-34.05 and the procedures of section 11-55-17(d). [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 21 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28, 123.25(a)(11))

§11-55-34.12 General permit compliance. Any person who discharges under a general permit shall comply with section 11-55-34.04, all general permit standard conditions, all applicable special conditions, and all applicable additional notice of general permit coverage conditions. [Eff and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 21 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1342, 1370, 1251-1387; 40 CFR §122.28) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-50; 33 U.S.C. §§1311, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124; 125; §122.28, 123.25(a)(11))

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§11-55-35 Penalties and remedies. Any person who violates any provision of this chapter or the terms or conditions of any permit issued under this chapter shall be subject to the penalties and remedies provided in chapter 342D, HRS. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; am and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-30, 342D-31, 342D-32, 342D-33, 342D-34, 342D-35; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5, 342D-9, 342D-11, 342D-17, 342D-30, 342D-31, 342D-32, 342D-33, 342D-34, 342D-35; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125)

§11-55-36 Hearing and appeals. Hearings before the director on any violations of these rules and appeals from any of the director's decisions shall comply with chapters 91 and 342D, HRS. [Eff 11/27/81; am and comp 10/29/92; am and comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; am and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5, 342D-12, 342D-56, 342D-57; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS Ch. 91 and §§342D-2, 342D-4, 342D-5, 342D-6, 342D-9, 342D-11, 342D-12, 342D-31; 33 U.S.C. §§1251, 1342, 1370, 1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125)

§11-55-37 Severability clause. If any provision of this chapter, or its application to any person or circumstance, is held invalid, the application of the provision to other persons or circumstances, and the remainder of this chapter, shall not be affected. [Eff 11/27/81; comp 10/29/92; comp 09/22/97; comp 01/06/01; comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012] (Auth: HRS §§342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370) (Imp: HRS §§342D-2, 342D-4, 342D-5; 33 U.S.C. §§1251, 1342, 1370,

1251-1387; 40 CFR Parts 122; 123; 124, Subparts A and D; 125)

§11-55-38 Repealed. [Eff and comp 11/07/02; comp 08/01/05; am and comp 10/22/07; R 6/15/09] (Auth: HRS ch. 6E, §§6E-1, 6E-42(a)) (Imp: HRS ch. 6E, §§6E-1, 6E-42(a))

§11-55-39 Public interest. (a) A person submitting an NPDES permit application shall explain in writing why the proposed action meets the public interest as defined in section 342D-6(g), HRS. The explanation shall address:

(1) The environmental impact of the proposed action beside the water quality effects already covered in the application and supporting materials;
(2) Any adverse environmental effects which cannot be avoided should the action be implemented;
(3) The alternatives to the proposed action;
(4) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity;
(5) Any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented; and
(6) The optimum balance between economic development and environmental quality.

(b) The person submitting an NPDES permit application may submit a document prepared for another permit, license, or approval, including an environmental assessment or environmental impact statement prepared under chapter 343, HRS, or other similar document. The person submitting the NPDES permit application may also submit supplementary documents to meet this section. In either case, the department shall review the document(s) submitted for

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compliance with this section. The department shall seek to avoid redundant work.

(c) The department may consider other information relevant to the public interest, including information in an environmental assessment; environmental impact statement; other document prepared for another permit, license, or approval; or elsewhere. If the department considers information unknown to the applicant, the department shall notify the applicant and allow the applicant to respond in a timely manner. [Eff and comp 11/07/02; comp 08/01/05; comp 10/22/07; comp 6/15/09; comp OCT 21 2012](Auth: HRS §§342D-4, 342D-5, 342D-6) (Imp: HRS §§342D-4, 342D-5, 342D-6)

§11-55-40 Field citations. This section authorizes citations to effectively and quickly settle easily verifiable violations of chapter 342D, HRS, and this chapter.

(1) Offer to settle; penalties.

(A) A field citation is an offer to settle an administrative case against a specific violation on a specific day. Instead of issuing a formal notice and finding of violation and order, the director may, in the director's sole discretion, through any authorized employee, issue a field citation by personal service or certified mail to:

(i) Any person who causes or allows a discharge of pollutants into state waters or municipal separate storm sewer systems without coverage under an individual permit or notice of general permit coverage or conditional "no exposure" exclusion;

(ii) Any person who begins any construction activity which involves the disturbance of one

acre or more of total land area or any construction activity that involves the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more of total land area and who has not obtained coverage under an individual permit or notice of general permit coverage;

(iii) Any person who fails to correctly install, implement, maintain, or repair site best management practices as called for in their storm water pollution control plan or best management practices plan or other plan;

(iv) Any person who fails to retain a copy of the NPDES permit application or notice of intent or "no exposure" certification; storm water pollution control plan or best management practices plan or other plan, and all subsequent revisions; individual permit or notice of general permit coverage or conditional "no exposure" exclusion on-site or at a nearby office or field office.

(B) A field citation shall assess the following penalties for violations:

(i) Any person who violates paragraph (1)(A)(i) shall be fined $500 for first violation, and $1,000 for a subsequent violation;

(ii) Any person who violates paragraph (1)(A)(ii) shall be fined $500 for the first violation, and

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$1,000 for a subsequent violation;

(iii) Any person who violates paragraph (1)(A)(iii) shall be fined $500 for first violation, and $1,000 for a subsequent violation;

(iv) Any person who violates paragraph (1)(A)(iv) shall be fined $100 for first violation, and $200 for a subsequent violation.

(2) Resolution of field citation.

(A) A person issued a field citation may accept the citation by:

(i) Signing the field citation;

(ii) Paying the full amount assessed by the field citation. Payment shall be made payable to the "State of Hawaii" in the form of a pre-printed check, cashier's check, money order, or as otherwise specified by the director;

(iii) Mailing or delivering the signed citation and full payment to the clean water branch in Honolulu or to the district health office for the county where the violation occurred. The department must receive the signed field citation and full payment within twenty days after the person receives the field citation; and

(iv) Correction within seven days, or unless otherwise specified on the field citation, of any violation of section 11-55-03;

(B) By signing the field citation, the person to whom it was issued agrees to:

(i) Give up the right to a contested case hearing under chapter 91 or

342D, HRS, or otherwise challenge the field citation;

(ii) Pay the penalty assessed; and

(iii) Correct the violation;

(C) If the field citation is not accepted in compliance with paragraph (2)(A), the director may seek for that cited violation any remedies available under this chapter; chapter 342D, HRS; or any other law. For all other violations the director retains authority to seek any available remedies.

(3) Form of citation. The department shall prescribe a field citation form." [Eff and comp 10/22/07; comp 6/15/09; comp OCT 2 1 2012](Auth: HRS §§321-11, 342D-1, 342D-4, 342D-5) (Imp: HRS §§321-11, 342D-2, 342D-4, 342D-5, 342D-9, 342D-18, 342D-30, 342D-31, 342D-50, 603-23)

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Amendments to and compilation of chapter 11-55, title 11, Hawaii Administrative Rules, titled Water Pollution Control, on the summary page dated OCT 1 1 2012 were adopted on OCT 2 1 2012, following a public hearing held on June 4, 2012, after public notice was given in the Honolulu Star-Advertiser, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Isle newspapers, Docket No. R-1-12 on April 30, 2012.

The amendments and compilation shall take effect ten days after filing with the Office of the Lieutenant Governor.

For LORETTA J. FUDDY, A.C.S.W., M.P.H.
Director of Health

Neil Abercrombie
Governor
State of Hawaii

Dated: 10-11-12

APPROVED AS TO FORM:

Filed: OCT 2 1 2012

Edward G. Bohlen
Deputy Attorney General

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CHAPTER 11-55 APPENDIX A

DEPARTMENT OF HEALTH
STANDARD GENERAL PERMIT CONDITIONS

October 2007

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CHAPTER 11-55 APPENDIX A

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Note: All references to Title 40 of the Code of Federal Regulations (40 CFR) are to regulations that are in effect on July 1, 2006 unless otherwise specified. The Clean Water Act (Act) is also known as the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, and appears at 33 U.S.C. §§1251 to 1387.

The permittee shall comply with the following standard conditions.

1. Basic water quality criteria (section 11-54-4)

   a. The permittee shall not cause or contribute to a violation of the basic water quality criteria specified in section 11-54-4(a) which states:

      "(a) All waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants, including:
      (1) Materials that will settle to form objectionable sludge or bottom deposits;
      (2) Floating debris, oil, grease, scum, or other floating materials;
      (3) Substances in amounts sufficient to produce taste in the water or detectable off-flavor in the flesh of fish, or in amounts sufficient to produce objectionable color,

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turbidity or other conditions in the receiving waters;

(4) High or low temperatures; biocides; pathogenic organisms; toxic, radioactive, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human, animal, plant, or aquatic life, or in amounts sufficient to interfere with any beneficial use of the water;

(5) Substances or conditions or combinations thereof in concentrations which produce undesirable aquatic life; and

(6) Soil particles resulting from erosion on land involved in earthwork, such as the construction of public works; highways; subdivisions; recreational, commercial, or industrial developments; or the cultivation and management of agricultural lands."

b. The discharge shall not cause or contribute to a violation of the basic requirements of section 11-54-4(b).

2. Onshore or offshore construction

The applicable general permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any state waters.

3. Sampling requirements and definitions

(a) Sampling Points

All samples shall be taken at the monitoring points specified in the applicable general permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the director. No discharge is authorized which does not totally pass through the final monitoring point.

(b) Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than plus or minus ten per cent from the true discharge rates throughout the range of expected discharge volumes. Once-through condenser cooling water flow which is monitored by pump logs or pump hour meters as specified in the applicable general permit based on the manufacturer's pump curves shall not be subject to this requirement. Guidance in selection, installation, calibration, and operation of acceptable flow measurement devices can be obtained from the following references:

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CHAPTER 11-55 APPENDIX A

(1) "A Guide of Methods and Standards for the Measurement of Water Flow," U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 421, May 1975, 97 pp. (Available from the U.S. Government Printing Office, Washington, D.C. 20402. Order by SD catalog No. C13.10:421.) (Also available from National Technical Information Service (NTIS). Order by NTIS No. COM-7510683.)

(2) "Water Measurement Manual," U.S. Department of Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001, 485 pp. (Available from the U.S. Government Bookstore. Order by Stock No. 024-003-00186-4 and ISBN 0-16-061763-4.) (Also available from National Technical Information Service (NTIS). Order by NTIS No. PB2002-100323.)

(3) "Flow Measurement in Open Channels and Closed Conduits," U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 484, October 1977, 982 pp. (Available in paper copy or microfiche from National Technical Information Service (NTIS), Springfield, VA 22151. Order by NTIS No. PB-273 535/5ST.)

(4) "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, EPA No. 832B81102, September 1981, 149 pp. (Available from the National Technical Information

Service (NTIS). Order by NTIS No. PB82-131178.)

(c) Calibration

The permittee shall periodically calibrate and perform maintenance on all monitoring and analytical equipment used to monitor the pollutants discharged under the applicable general permit, at intervals which will ensure the accuracy of measurements, but no less than the manufacturer's recommended intervals or six-month intervals (whichever comes first). Records of calibration shall be kept under section 14.

(d) pH Effluent Limitations Under Continuous Monitoring

If the permittee continuously measures the pH of the effluent under a requirement or option in the applicable general permit, excursions from the range provided in the general permit or as specified in chapter 11-54 are permitted, provided:

(1) The pH limitation in the general permit is based upon a requirement imposed under 40 CFR Subchapter N, Effluent Guidelines and Standards;

(2) The total time during which the pH values are outside the required range of pH values shall not exceed four hundred forty-six minutes in any calendar month;

(3) No individual excursions from the range of pH values shall exceed sixty minutes; and

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(4) For purposes of this section, an "excursion" is an unintentional and temporary incident in which the pH value of the effluent exceeds the range set forth in the applicable general permit. The number of individual excursions exceeding sixty minutes and the total accumulated excursion time in minutes occurring in any calendar month shall be reported in accordance with the applicable general permit.

(e) Average

As used in the applicable general permit, unless otherwise stated, the term "average" means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For fecal coliform, enterococcus, or *clostridium perfringens*, the "average" shall be the geometric mean. For total coliform, the "average" shall be the median.

(f) Mass/Day Measurements

(1) The "daily discharge" is the total mass (weight) of a pollutant discharged during a calendar day. The daily discharge shall be determined by using the following equations:

Daily Discharge(lbs/day) = 8.34 x Q x C;

Daily Discharge(kg/day) = 3.785 x Q x C; and

where "C" (in mg/l) is the measured daily concentration of the pollutant and "Q" (in million gallons per day) is the

measured effluent flow rate for the same calendar day.

If only one sample is taken during any calendar day, the mass (weight) of pollutant discharged that is calculated from it is the "daily discharge."

(2) The "average monthly discharge" is defined as the total mass of all daily discharges sampled or measured or both during a calendar month on which daily discharges are sampled and measured, divided by the number of daily discharges sampled or measured or both during such month. It is, therefore, an arithmetic mean found by adding the weights of the pollutant found each day of the month and then dividing this sum by the number of days. This limitation is identified as "Monthly Average" in the applicable general permit and the average monthly discharge value is reported in the "Average" column under "Quantity" on the discharge monitoring report form.

(3) The "average weekly discharge" is defined as the total mass of all daily discharges sampled or measured or both during the calendar week in which daily discharges are sampled or measured or both. It is, therefore, an arithmetic mean found by adding the weights of pollutants found each day of the week and then dividing this sum by the number of days. This limitation is identified as "Weekly Average" in the applicable general permit and the average weekly discharge value is reported in the

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"Maximum" column under "Quantity" on the discharge monitoring report form.

(4) The "maximum daily discharge" is the highest daily discharge value recorded, sampled, or measured during the reporting period. This limitation is identified as "Daily Maximum" in the applicable general permit and the maximum daily discharge value is reported in the "Maximum" column under "Quantity" on the discharge monitoring report form.

(g) Concentration Measurements

(1) The "daily concentration" is the concentration of a pollutant discharged during a calendar day. It is equal to the concentration of a composite sample or in the case of grab samples, it is the arithmetic mean (weighted by flow value) of all samples collected during that calendar day. If only one sample is taken during any calendar day, it represents the "daily concentration."

(2) The "average monthly concentration," other than for fecal coliform, enterococcus, *clostridium perfringens,* or total coliform, is the sum of the daily concentrations sampled or measured or both divided by the number of daily discharges sampled or measured or both during such month (arithmetic mean of the daily concentration values). The average monthly count for fecal coliform, enterococcus, or *clostridium perfringens* is the geometric mean of the counts for samples collected during a

calendar month. The average monthly count for total coliform is the median of the counts for samples collected (not less than five discrete samples) during a calendar month. This limitation is identified as "Monthly Average" or "Daily Average" under "Other Limits" in the applicable general permit and the average monthly concentration value is reported under the "Average" column under "Quality" on the discharge monitoring report form.

(3) The "average weekly concentration," other than for fecal coliform, enterococcus, or *clostridium perfringens*, or total coliform, is the sum of the concentrations of all daily discharges sampled or measured or both during a calendar week on which daily discharges are sampled and measured divided by the number of daily discharges sampled or measured or both during such week (arithmetic mean of the daily concentration values). The average weekly count for fecal coliform, enterococcus, or *clostridium perfringens* is the geometric mean of the counts for samples collected during a calendar week. The average weekly count for total coliform is the median of the counts for samples collected during a calendar week. This limitation is identified as "Weekly Average" under "Other Limits" in the applicable general permit and the average weekly concentration value is reported under the "Maximum" column under "Quality" on the discharge monitoring report form.

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(4) The "maximum daily concentration" is the highest daily concentration value recorded, sampled, or measured during the reporting period. This limitation identified as "Daily Maximum" under "Other Limits" in the applicable general permit and the maximum daily concentration is reported under the "Maximum" column under "Quality" on the discharge monitoring report form.

(h) The effluent flow expressed as cubic meters per day or million gallons per day (MGD), is the twenty-four-hour average flow averaged monthly. It is the arithmetic mean of the total daily flows recorded during the calendar month. Where monitoring requirements for flow are specified in the applicable general permit, the flow rate values are reported in the "Average" column under "Quantity" on the discharge monitoring report form.

(1) An "instantaneous flow measurement" is a measure of flow taken at the time of sampling, when both the sample and flow will be representative of the total discharge.

(2) Where monitoring requirements for pH, dissolved oxygen or fecal coliform, enterococcus, or *clostridium perfringens* are specified in the applicable general permit, the values are generally reported in the "Quality or Concentration" column on the discharge monitoring report form.

(i) The "arithmetic mean" of any set of values is the summation of the individual values divided by the number of individual values.

(j) The "geometric mean" of any set of values is the Nth root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero shall be considered to be one.

(k) "Weighted by flow value" means the summation of each concentration times its respective flow divided by the summation of the respective flows.

(l) The "median" of any set of ordered values is the value below and above which there is an equal number of values or which is the arithmetic mean of the two middle values if there is no one middle number.

(m) A calendar day is defined as the period from midnight of one day until midnight of the next day. However, for the purposes of the applicable general permit, any consecutive twenty-four-hour period that reasonably represents the calendar day may be used for sampling.

(n) "Removal efficiency" is the ratio of pollutants removed by the treatment unit to pollutants entering the treatment unit. Removal efficiencies of a treatment plant shall be determined using the average monthly concentrations (C, in mg/l) of influent and effluent samples collected about the same

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time and the following equation (or its equivalent):

$$\text{Removal Efficiency (per cent)} = 100 \times \left(1 - \frac{C_{effluent}}{C_{influent}}\right)$$

4. Duty to reapply

   If the permittee wishes to continue an activity regulated by the applicable general permit after the expiration of the notice of general permit coverage or in the case of automatic coverage, the expiration of the general permit itself, the permittee shall follow the procedures as specified in sections 11-55-34.08 and 11-55-34.09.

5. Applications (comply with 40 CFR §122.22)

6. Duty to comply (comply with 40 CFR §122.41(a))

7. Need to halt or reduce activity not a defense (comply with 40 CFR §122.41(c))

8. Duty to mitigate (based in part on 40 CFR §122.41(d))

   The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the applicable general permit or applicable law.

9. Proper operation and maintenance (comply with 40 CFR §122.41(e))

10. Permit actions (comply with 40 CFR §122.41(f))

11. Property rights (comply with 40 CFR §122.41(g))

12. Duty to provide information (comply with 40 CFR §122.41(h))

13. Inspection and entry (comply with 40 CFR §122.41(i))

14. Monitoring and records (based in part on 40 CFR §122.41(j))

    (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

    As used in this section, a representative sample means that the content of the sample shall:

    (1) Be identical to the content of the substance sampled at the time of the sampling;

    (2) Accurately represent the monitored item (for example, sampling to monitor final effluent quality shall accurately represent that quality, even though the sampling is done upstream of the discharge point); and

    (3) Accurately represent the monitored item for the monitored time period (for example, sampling to represent monthly average effluent flows shall be taken at times and on days that cover significant variations). Representative sampling may include weekends and storm events and may mean taking more samples than the minimum number specified elsewhere in the applicable general permit.

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The burden of proving that sampling or monitoring is representative is on the permittee.

(b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the applicable general permit, and records of all data used to complete the application for the applicable general permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the director at any time.

(c) Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) the analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of the analyses.

(d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or

disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the applicable general permit.

(e) The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by the applicable general permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, the person is subject to a fine of not more than $20,000 per day of violation, or by imprisonment for not more than four years, or both. (Updated under the Water Quality Act of 1987)

15. Signatory requirement (comply with 40 CFR §§122.22 and 122.41(k))

16. Reporting requirements (comply with 40 CFR §122.41(l))

17. Bypass (based in part on 40 CFR §122.41(m))

(a) Definitions

(1) "Bypass" means the intentional diversion of any waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably

be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Prohibition of bypass. Every bypass is prohibited, and the director may take enforcement action against a permittee for bypass, except as provided in section 17(c).

(c) Exceptions to bypass prohibition

(1) Bypass not exceeding limitations. A bypass is allowable under this paragraph only if it does not cause any effluent limitation to be exceeded, and only if the bypass is necessary for essential maintenance to assure efficient operation.

(2) Bypass unavoidable to prevent specified harm. A bypass is allowable under this paragraph if:

(A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment

downtime or preventative maintenance; and

(C) The permittee submitted notices as required under section 17(d).

(3) Approved anticipated bypass. An anticipated bypass is allowable if the director approves it. The director shall approve the anticipated bypass only if the director receives information sufficient to show compliance with section 17(c)(2), including information on the potential adverse effects with and without the bypass, and information on the search for and the availability of alternatives, whether the permittee ultimately considers the alternatives feasible or not.

(d) Notice

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall report unanticipated bypasses.

(A) Reports required by the reporting requirements of the applicable general permit shall be made in accordance with that section. If the permittee questions whether the reporting requirements of the applicable general permit applies, it shall follow the reporting

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requirements of the applicable general permit;

(B) For all other bypasses, reports shall be made orally within twenty-four hours from the time the permittee becomes aware of the bypass. Written reports may be required on a case-by-case basis.

(e) Burden of proof. In any enforcement proceeding the party seeking to establish that any exception to the bypass prohibition applies has the burden of proof. Proof that effluent limitations were met requires effluent monitoring during the bypass.

18. Upset (based in part on 40 CFR §122.41(n))

(a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with the technology based permit effluent limitations if the requirements of section 18(c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for

noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted within twenty-four hours a notice of any upset which exceeded any effluent limitation in the applicable general permit; and

(4) The permittee complied with any remedial measures required under 40 CFR §122.41(d).

d. Burden of proof. In any enforcement proceeding, any person seeking to establish the occurrence of an upset has the burden of proof.

19. Existing manufacturing, commercial, mining, and silvicultural dischargers (comply with 40 CFR §122.42(a))

20. Publicly owned treatment works (comply with 40 CFR §122.42(b))

21. Reopener clause (comply with 40 CFR §122.44(c) and 40 CFR §125.123(d)(4))

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22. Privately owned treatment works (The following conditions were established by EPA Region 9 to enforce applicable requirements of the Resource Conservation and Recovery Act and 40 CFR §122.44(m))

This section applies only to privately owned treatment works as defined at 40 CFR §122.2.

(a) Materials authorized to be disposed of into the privately owned treatment works and collection system are typical domestic sewage. Unauthorized materials are hazardous waste (as defined at 40 CFR Part 261), motor oil, gasoline, paints, varnishes, solvents, pesticides, fertilizers, industrial wastes, or other materials not generally associated with toilet flushing or personal hygiene, laundry, or food preparation, unless specifically listed under "Authorized Non-domestic Sewer Dischargers" elsewhere in the applicable general permit. The Domestic Sewage Exclusion (40 CFR §261.4) does not apply to hazardous wastes mixed with domestic sewage in a sewer leading to a privately owned treatment works.

(b) It is the permittee's responsibility to inform users of the privately owned treatment works and collection system of the prohibition against unauthorized materials and to ensure compliance with the prohibition. The permittee must have the authority and capability to sample all discharges to the collection system, including any from septic haulers or other unsewered dischargers, and shall take and analyze such samples for conventional, toxic, or hazardous pollutants when instructed by the permitting authority or by an EPA or

state inspector. The permittee must provide adequate security to prevent unauthorized discharges to the collection system.

(c) Should a user of the privately owned treatment works desire authorization to discharge non-domestic wastes, the permittee shall submit a request for permit modification and an application, under 40 CFR §122.44(m), describing the proposed discharge. The application shall, to the extent possible, be submitted using forms provided by the Administrator, unless another format is requested by the permitting authority. If the privately owned treatment works or collection system user is different from the permittee, and the permittee agrees to allow the non-domestic discharge, the user shall submit the application and the permittee shall submit the applicable general permit modification request. The application and request for modification shall be submitted at least six months before authorization to discharge non-domestic wastes to the privately owned treatment works or collection system is desired.

23. Transfers by modification (comply with 40 CFR §122.61(a))

24. Automatic transfers (comply with 40 CFR §122.61(b) and section 11-55-34.08(i)(2))

25. Minor modification of permits (comply with 40 CFR §122.63)

26. Termination of permits (comply with 40 CFR §122.64)

27. Removed substances (under Sections 301 and 405 of the Act and 40 CFR §125.3(g))

    Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner which prevents any pollutant from the materials from entering state waters.

28. Availability of reports (under Section 308 of the Act)

    Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of the applicable general permit shall be available for public inspection at the offices of the director. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

29. Civil and criminal liability (under Section 309 of the Act)

    Except as provided in the applicable general permit conditions on "Bypass" (section 17) and "Upset" (section 18), nothing in the applicable general permit shall be construed to relieve the permittee from civil or criminal penalties or remedies for noncompliance.

30. Oil and hazardous substance liability (under Section 311 of the Act)

    Nothing in the applicable general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

31. Federal facility construction (under Section 313(b) of the Act)

    Construction shall not be initiated for facilities for treatment of wastewater at any federal property or facility if alternative methods for wastewater treatment at the property or facility utilizing innovative treatment processes and techniques, including, but not limited to, methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most effective alternative by more than fifteen per cent.

32. State law (under Section 510 of the Act)

    Nothing in the applicable general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established under any applicable state law or regulation.

33. Severability (under Section 512 of the Act)

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

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34. Notice of Intent Requirements (comply with section 11-55-34.08)

The owner or its duly authorized representative shall include the following information in the notice of intent (NOI):

(a) Legal name(s), street address, contact person's name and position title, and telephone and fax numbers of the owner and operator and duly authorized representative, if applicable.

For a construction activity, the operator is usually the general contractor. In this case, the general contractor's legal name, street address, contact person's name and position title, and telephone and fax numbers shall be submitted to the director with the notice of intent or thirty days before the start of construction activities;

(b) Ownership status as federal, state, private, public or other entity;

(c) Name, street address, island, tax map key number(s), contact person's name and position title, and telephone and fax numbers of the facility or project for which the notice of intent is submitted;

(d) Name(s) of the receiving state water(s) that the effluent enters or will enter, the latitude and longitude of each outfall or discharge point to the nearest receiving state water(s) or separate storm water drainage system, and the classification of the receiving state water(s).

If the effluent initially enters a separate storm water drainage system, the owner or its duly authorized representative shall provide the following information:

(1) Name of the owner of the drainage system; and

(2) Copy of the permit, license, or equivalent written approval granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s).

(e) Type of general permit required for the proposed discharge;

(f) Quantity of discharge; the source of the discharge; and the period of discharge, i.e., continuous, seasonal, occasional, or emergency;

(g) Topographic map or maps of the area on 8-1/2 by 11 inches sized paper extending at least one mile beyond the property boundaries of the site which clearly show the following:

(1) Legal boundaries of the site;

(2) Location and an identification number for each of the site's existing and proposed intake and discharge structures.

If the intake or discharge structure associated with the site is located less than one mile from the construction site or treatment system(s) or control device(s) associated with the site(s), the owner or its duly authorized

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representative shall show it on the map. If not, the owner or its duly authorized representative shall attach additional sheets describing the location of the structure or disposal site and identify it on a 7-1/2 minute series U.S. Geological Survey or other map corresponding to the location. If a 7-1/2 minute series map has not been published for the site, then the owner or its duly authorized representative shall use a 15 minute series map from the U.S. Geological Survey. If neither a 7-1/2 nor 15 minute series map has been published for the site, the owner or its duly authorized representative shall use a plat map or other appropriate map, including all of the required information; and

(3) Receiving state water(s) or receiving storm water drainage system(s) identified and labeled. If the receiving state water is a wetland, submit a map showing the delineated wetland.

(h) Flow chart or line drawing showing the general route taken by the discharge from the intake or source to the discharge point. The owner or its duly authorized representative shall show any treatment system(s) or erosion control(s) used or to be used for new discharges. The flow contributed by each source may be estimated if no data is available;

(i) List of existing or pending permits, licenses, or approvals and corresponding file numbers; and

(j) Certifying person's name and position title, company name, and telephone and fax numbers.

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CHAPTER 11-55 APPENDIX B

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF STORM WATER
ASSOCIATED WITH INDUSTRIAL ACTIVITIES

October 2007

1. Coverage under this General Permit

   (a) This general permit covers discharges composed entirely of storm water runoff associated with industrial activity, as defined in 40 CFR §§122.26(b)(14)(i) through 122.26(b)(14)(ix) and 122.26(b)(14)(xi).

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Storm water discharges associated with industrial facilities which flow into a sanitary sewer system;

      (2) Storm water discharges in categories for which storm water discharge limitation guidelines have been promulgated by the EPA;

      (3) Storm water discharges associated with construction activities;

(4) Storm water discharges from industrial facilities which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s);

(5) Storm water discharges for which the director has issued a notice of general permit coverage under another general permit specific to that type of industrial activity;

(6) Storm water discharges for which the director has received a "no exposure" certification for a conditional "no exposure" exclusion;

(7) Storm water discharges from municipal separate storm water drainage systems;

(8) Storm water discharges the director finds more appropriately regulated under an individual permit; and

(9) Storm water discharges where the circumstances have changed since the time of the request to be covered so that the permittee is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in

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accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(1) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(1) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(1) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the facility industrial activity or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) List of up to four Standard Industrial Classification codes or North American Industrial Classification System codes that best represent the products or activities of the facility;

(3) Existing quantitative and qualitative data which describe the concentrations of pollutants in storm water discharges. In cases when this data is not available at the time of notice of intent submission due to lack of representative rainfall event for sampling, the permittee shall monitor the next representative rainfall event and submit the data to the director of health within thirty days of the sampling;

(4) Facility site map; and

(5) Storm water pollution control plan, which meets the applicable requirements as specified in sections 6 or 7 or both of this general permit.

(A) The applicant for a proposed facility shall submit the storm water pollution control plan to the director within one hundred twenty days after the issuance date of the notice of general permit coverage or by the date the applicant claimed automatic coverage as

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specified in section 11-55-34.09(e)(2), or by the date the facility begins operations. The permittee for a proposed facility shall implement its storm water pollution control plan within one hundred eighty days after submittal to the director.

(B) The permittee for a facility which is currently covered by a notice of general permit coverage shall submit its existing or updated storm water pollution control plan, which meets the applicable requirements as specified in sections 6 or 7 or both of this general permit, with the notice of intent and shall continue to implement the storm water pollution control plan during the processing of the notice of intent.

(C) The applicant for an existing facility not currently covered by a notice of general permit coverage shall submit a storm water pollution control plan with the notice of intent, which meets the applicable requirements in sections 6 or 7 or both of this general permit. If a storm water pollution control plan is not available at the time of the notice of intent submittal, the applicant may request that the storm water pollution control plan be submitted within one hundred twenty days after the issuance date of the notice of general permit coverage

or by the date the applicant claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall implement its storm water pollution control plan upon submittal to the director.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Storm Water Pollution Control Plan Requirements

(a) The permittee shall develop and implement a storm water pollution control plan to minimize the discharge of pollutants in storm water runoff and to maintain compliance with conditions of this general permit. The storm

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water pollution control plan shall include the following:

(1) Brief facility description;

(2) Site map identifying the locations of drainage structures; outline of each drainage area; paved areas and buildings and other ground cover within each drainage area; each past or present area for outdoor storage, industrial activities, or disposal of materials; each past or present area of a significant spill (as identified in sections 6(a)(5) and 6(a)(6) of this general permit); structural measures for the control of storm water; material loading and access areas; areas where pesticides, herbicides, soil conditioners and fertilizers are applied; hazardous waste storage or disposal areas or both; underground injection wells; sampling locations, outfall locations; and the nearest receiving state water(s);

(3) Pollutant control strategy identifying potential pollutants, pollutant sources, and control strategies used to minimize the discharge of pollutants. The permittee shall consider the use of containment structures, covering materials by roof or tarpaulin, preventive maintenance, good housekeeping measures, waste minimization, removal of exposed pollutants, and spill prevention practices;

(4) Spill prevention and response plan that identifies spill prevention and response measures and facility personnel responsible for its implementation and conforms with the reporting requirements. Responsible personnel shall be available at all times when the facility is in operation;

(5) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the five years before the submittal of this storm water pollution control plan;

(6) Existing information regarding any discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required under 40 CFR §110.6 at anytime since November 16, 1987;

(7) Storm water monitoring plan that includes the following:

(A) Rationale for selecting sampling locations. Where two or more outfalls are expected, based on the features and activities within the drainage areas, to convey substantially similar storm water discharges, the permittee may request to monitor only one of those outfalls. The director may approve the request if the permittee demonstrates that the outfalls monitored are representative for the overall storm water discharges from the

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facility. The justification for the outfall sampling locations chosen shall be incorporated into the monitoring plan. The permittee shall sample for all potentially present pollutants as identified in the notice of intent; as listed in Federal Register, Vol. 65, No. 210, pages 64746-64880, dated October 30, 2000, as amended in Federal Register, Vol. 66, No. 6, pages 1675-1678, dated January 9. 2001, and Federal Register, Vol. 66, No. 57, pages 16233-16237, dated March 23, 2001; or the storm water pollution control plan;

(B) Sample collection methods, including quality assurance/quality control methods;

(C) List of parameters to be monitored;

(D) Type of sample to be taken for each parameter to be monitored;

(E) Test procedures to be used for each parameter to be monitored;

(F) Detection limit for each test procedure;

(G) Method to calculate storm water flow;

(H) Procedures to collect storm event information, including the date, duration, and starting and ending times of the storm event, and the duration between the storm event

and the end of the previous rainfall event with rainfall greater than 0.1 inches; and

(I) Procedures to inspect receiving state waters, storm water runoff, control measures, and best management practices to detect violations of the basic water quality criteria as specified in section 11-54-4;

(8) Procedures for implementing, reviewing, and updating the storm water pollution control plan including:

(A) Annual employee education or training program that ensures the storm water pollution control plan will be properly implemented;

(B) Protocol for inspections that ensures the pollutant control strategy and the spill prevention and response plan are being effectively carried out; and

(C) Documentation procedures for all inspections and reviews required in the storm water pollution control plan.

(9) If the industrial facility discharges storm water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall develop and submit an implementation and monitoring plan with the notice of intent or within ninety days after the issuance date of the notice of general

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permit coverage or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall incorporate the total maximum daily load into the facility's storm water pollution control plan within sixty days of the date of submittal of the plan and implement necessary steps to meet the plan.

(b) The permittee shall retain the storm water pollution control plan, and all subsequent revisions, on-site or at a nearby office.

(c) The permittee shall conduct facility inspections as specified in Federal Register, Vol. 65, No. 210, pages 64746-64880, dated October 30, 2000, as amended in Federal Register, Vol. 66, No. 6, pages 1675-1678, dated January 9. 2001, and Federal Register, Vol. 66, No. 57, page 16233-16237, dated March 23, 2001; to ensure that the storm water pollution control plan remains effective. Otherwise, the permittee shall conduct facility inspections at least semi-annually. The permittee shall maintain a record of the following:

(1) Dates on which inspections were conducted;

(2) Inspection findings; and

(3) Corrective actions taken.

(d) The permittee shall review and update the storm water pollution control plan as often as needed to comply with the conditions of this general permit or conditions of the notice of general permit coverage, whichever

is more stringent, or as required by the director. The permittee shall document and report any changes to the storm water pollution control plan to the director within thirty days of when the changes arise. The permittee shall retain the storm water pollution control plan and all accompanying records, reports, and changes, for a period of at least five years after the expiration of this general permit unless otherwise noted in section 13 of this general permit.

7. Additional Conditions for Facilities Subject to Superfund Amendments and Reauthorization Act Section 313 Requirements.

The permittee for facilities subject to reporting requirements under Superfund Amendments and Reauthorization Act of 1986, Title III, Section 313, 42 U.S.C. §11023 for chemicals which are classified as "Section 313 water priority chemicals" in accordance with the definition in section 7(c) shall describe and ensure in the storm water pollution control plan the implementation of practices which are necessary to provide conformance with the following guidelines:

(a) In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, the permittee shall provide appropriate containment, drainage control or diversionary structures or both. At a minimum, the permittee shall use one of the following preventive systems or its equivalent:

(1) Curbing, culverting, gutters, sewers or other forms of drainage control to prevent or minimize the potential for storm water runoff to come into contact

with significant sources of pollutants; or

(2) Roofs, covers or other forms of protection to prevent storage piles from exposure to storm water and wind.

(b) In addition to the minimum standards listed under section 7(a) above, the permittee shall include in the storm water pollution control plan a complete discussion of measures taken to conform with the following applicable guidelines, other effective storm water pollution control procedures, and applicable state rules, regulations, and guidelines:

(1) Liquid storage areas where storm water comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals.

(A) The permittee shall not use any tank or container for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

(B) The permittee shall operate liquid storage areas for Section 313 water priority chemicals to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include secondary containment provided for at least the entire contents of the largest

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single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan or other equivalent measures or both.

(2) The permittee shall incorporate drainage or other control features which will minimize the discharge of Section 313 water priority chemicals from material storage areas for Section 313 water priority chemicals other than liquids which are subject to runoff, leaching, or wind.

(3) The permittee shall operate truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals to minimize discharges of Section 313 water priority chemicals. The permittee shall provide protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks as appropriate. Appropriate measures to minimize discharges of Section 313 chemicals may include: the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a strong spill contingency and integrity testing plan; or other equivalent measures or any combination thereof.

(4) The permittee shall operate processing equipment and materials handling

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equipment in facility areas where Section 313 water priority chemicals are transferred, processed, or otherwise handled to minimize discharges of Section 313 water priority chemicals. Materials used in piping and equipment shall be compatible with substances handled. The permittee shall provide drainage from process and materials handling areas to minimize storm water contact with Section 313 water priority chemicals. The permittee shall provide additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system as appropriate. The Permittee shall perform visual inspections or leak tests for overhead piping conveying Section 313 water priority chemicals without secondary containment.

(5) Discharges from areas covered by section 7(b)(1), 7(b)(2), 7(b)(3), or 7(b)(4).

(A) The permittee shall prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals by restraining drainage from areas covered by section 7(b)(1), 7(b)(2), 7(b)(3), or 7(b)(4) by valves or other positive means. Where containment units are employed, the permittee shall manually activate pumps or ejectors to empty units.

(B) The Permittee shall not use flapper-type drain valves to drain containment areas. As much as practicable, the Permittee shall use manual valves designed to open-and-close.

(C) If facility drainage is not engineered as described above, the permittee shall equip all in-facility storm sewers with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

(D) The permittee shall keep records of the frequency and estimated volume (in gallons) of discharges from containment areas.

(6) The permittee shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed Section 313 water priority chemicals from other areas of the facility not addressed in sections 7(b)(1), 7(b)(2), 7(b)(3), or 7(b)(4) and ensure the mitigation of pollutants in runoff or leachate, from which runoff which may contain or spills of Section 313 water priority chemicals could cause a discharge.

(7) The permittee shall inspect all areas of the facility at specific intervals for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or direct contact of storm

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water with raw materials, intermediate materials, waste materials or products. In particular, the permittee shall examine facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas for any conditions or failures which could cause a discharge.

(A) The permittee shall include an inspection for leaks, areas affected by wind, corrosion, support or foundation failure, or other forms of deterioration or noncontainment.

(B) The permittee shall specify inspection intervals in the storm water pollution control plan. The permittee shall base inspection intervals on design and operational experience where different areas may require different inspection intervals.

(C) Where a leak or other condition is discovered which may result in significant releases of Section 313 water priority chemicals to state waters, the permittee shall take immediate action to stop the leak or otherwise prevent the significant release of Section 313 water priority chemicals to state waters or immediately shut down the unit or process until such action can be taken.

(D) When a leak or noncontainment of a Section 313 water priority chemical has occurred, the permittee shall promptly remove and dispose contaminated soil, debris, or other material in accordance with federal, state, and local requirements and as described in the storm water pollution control plan.

(8) The permittee shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge from the facility. The permittee shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings in the storm water pollution control plan.

(9) The permittee shall train and inform employees and contractor personnel (who work in areas where Section 313 water priority chemicals are used or stored) on preventive measures at the facility.

(A) The permittee shall conduct employee training at intervals specified in the storm water pollution control plan, but not less than once a year, in matters of pollution laws and regulations, and in the storm water pollution control plan and the particular features of the facility and its operation which are designed to minimize discharges of Section 313 water priority chemicals.

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(B) The permittee shall designate and include in the storm water pollution control plan a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of a Section 313 water priority chemical can occur.

(C) The permittee shall inform contractors or temporary personnel of plant operation and design features in order to prevent discharges or spills from occurring.

(10) The permittee shall have the storm water pollution control plan for a facility subject to Superfund Amendments and Reauthorization Act, Title III, Section 313 requirements for chemicals which are classified as "Section 313 water priority chemicals" reviewed and certified by a licensed professional engineer. The permittee shall have the licensed professional engineer recertify the storm water pollution control plan every three years thereafter or as soon as practical after significant modifications are made to the facility. The licensed professional engineer, having examined the facility and being familiar with the provisions of this part, shall attest that the storm water pollution control plan has been prepared

in accordance with good engineering practices. The certification shall in no way relieve the permittee of a facility covered by the storm water pollution control plan of their duty to prepare and fully implement the storm water pollution control plan.

(c) "Section 313 water priority chemical" means a chemical or chemical categories which:

(1) Are listed at 40 CFR §372.65 under Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 also titled the Emergency Planning and Community Right-to-Know Act;

(2) Are present at or above threshold levels at a facility subject to Superfund Amendments and Reauthorization Act, Title III, Section 313 reporting requirements; and

(3) Meet at least one of the following criteria:

(A) Are listed in Appendix D of 40 CFR §122 on either Table II (organic priority pollutants), Table III (certain metals, cyanide, and phenols) or Table V (certain toxic pollutants and hazardous substances);

(B) Are listed as a hazardous substance under Section 311(b)(2)(A) of the Act at 40 CFR §116.4; or

(C) Are pollutants for which the EPA has published acute or chronic water quality criteria.

8. Storm Water Discharge Limitations and Monitoring Requirements

(a) The storm water discharge shall be limited and monitored by the permittee as specified in this section and in Table 34.1. (Daily maximum storm water discharge limitations for saline water apply only when discharges to saline water occur and daily maximum storm water discharge limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Points

The permittee shall monitor the storm water outfalls, prior to mixing with receiving state water or entering separate storm water drainage systems, as identified in the storm water pollution control plan.

(2) Collection of Samples

(A) The permittee shall collect samples from a discharge resulting from a representative storm event as defined in section 11-55-01.

(B) The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

Definitions for grab sample and composite sample are in note {2} of Table 34.1.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limitations that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or

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sample taken under the requirements of this general permit.

(6) Quantity of Flow

The permittee shall estimate or calculate the quantity of storm water discharged and submit the calculations.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, storm water runoff, control measures, and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at the storm water discharge and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

(c) Storm Event Information

The permittee shall collect the following information for the storm event monitored:

(1) Date, duration (in hours), and starting and ending times of the storm event; and

(2) Duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch) rainfall event.

9. Corrective Action

The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

10. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.1 and other requirements of this general permit.

(2) The permittee shall submit monitoring results at least annually and the results shall be postmarked or received by the department no later than sixty days after the end of each monitoring year. The first monitoring year shall start on January 1st of the year of the issuance date of the notice of general permit coverage or other date specified by the director in written correspondence to the permittee and end

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on December 31st. The subsequent monitoring years shall be calendar years.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; storm water flow calculations; date, duration, starting and ending times of the storm event; date of the previous 0.1 inch rainfall event; and any additional pollutant control strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 8(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of a storm water discharge limitation specified in Table 34.1 or a basic water quality criteria specified in section 8(b) of this general permit;

(B) Discharge or noncompliance with storm water discharge limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is

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expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) Planned Changes

The permittee shall report any planned physical alterations or additions to the permitted facility, not covered by 40 CFR §122.41(l)(1)(i), (ii), and (iii) to the director on a quarterly basis.

11. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original

signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

12. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

13. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for

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a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

14. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

CHAPTER 11-55 APPENDIX B

TABLE 34.1

LIMITATIONS AND MINIMUM MONITORING REQUIREMENTS FOR STORM WATER DISCHARGES

Storm Water Discharge Parameter	Storm Water Discharge Limitation (1)	Minimum Monitoring Frequency	Type of Sample (2)
Quantity of Discharge (gallons)	(3)	Annually	Calculated or Estimated
Biochemical Oxygen Demand (5-day) (mg/l)	(3)	Annually	Composite (4)
Chemical Oxygen Demand (mg/l)	(3)	Annually	Composite (4)
Total Suspended Solids (mg/l)	(3)	Annually	Composite (4)
Total Phosphorus (mg/l)	(3)	Annually	Composite (4)
Total Nitrogen (5) (mg/l)	(3)	Annually	Composite (4)
Nitrate+Nitrite Nitrogen (mg/l)	(3)	Annually	Composite (4)
Oil and Grease (mg/l)	15	Annually	Grab (6)
pH (standard units)	(7)	Annually	Grab (8)
Toxic Pollutants (mg/l) (9)	(10)	Annually	(11)

mg/l = milligrams per liter

NOTES:

{1} Pollutant concentration levels shall not exceed the storm water discharge limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those storm water discharge limits or are outside those ranges shall be reported to the director as required in section 10(c) of this general permit.

{2} The permittee shall collect samples for analysis from a discharge resulting from a representative storm. A representative storm means a rainfall that accumulates more than 0.1 inch of rain and occurs at least seventy-two hours after the previous measurable (greater than 0.1 inch) rainfall event.

"Grab sample" means a sample collected during the first fifteen minutes of the discharge.

"Composite sample" means a combination of at least two sample aliquots, collected at periodic intervals. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to the total flow of storm water discharge flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically, unless otherwise stated.

Samples for analysis shall be collected during the first fifteen minutes of the discharge and at fifteen-minute intervals thereafter for the duration of the discharge, as applicable. If the discharge lasts for over an hour, sample collection may cease.

{3} No limitation at this time. Only monitoring and reporting is required.

{4} If the duration of the discharge event is less than thirty minutes, the sample collected during the first fifteen minutes of the discharge shall be analyzed as a grab sample and reported toward the fulfillment of this composite sample specification. If the duration of the discharge event is greater than thirty minutes, the Permittee shall analyze two or more sample aliquots as a composite sample.

{5} The total nitrogen parameter is a measure of all nitrogen compounds in the sample (nitrate, nitrite, ammonia, dissolved organic nitrogen, and organic matter present as particulates).

{6} Oil and Grease shall be measured by EPA Method 1664, Revision A.

{7} The pH value shall not be outside the range as specified in chapter 11-54 for the applicable classification of the receiving state waters.

{8} The pH shall be measured within fifteen minutes of obtaining the grab sample.

{9} The permittee shall measure for toxic pollutants, as identified in Appendix D of 40 CFR Part 122; in the Federal Register, Vol. 65, No. 210, pages 64746-64880, dated October 30, 2000, as amended in Federal Register, Vol. 66, No. 6, pages 1675-1678, dated January 9. 2001, and Federal Register, Vol. 66, No. 57, pages 16233-16237, dated March 23, 2001; or in section 11-54-4. The permittee shall measure for the total recoverable portion of all metals. If monitoring results indicate that the discharge limitation was equaled or exceeded, the storm water pollution control

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plan shall be amended to include additional best management practices targeted to reduce the parameter which was in excess of the discharge limitation.

{10} Storm water discharge limitations are the acute water quality standards established in section 11-54-4, for either fresh or saline waters. For pollutants which do not have established acute water quality standards, the permittee shall report any detected concentration greater than 0.01 µg/l.

{11} The permittee shall measure for cyanide and the volatile fraction of the toxic organic compounds using a grab sample. The permittee shall measure for all other pollutants, as identified in Appendix D of 40 CFR Part 122; in Federal Register Vol. 65, No. 210, pages 64746-64880, dated October 30, 2000, as amended in Federal Register, Vol. 66, No. 6, pages 1675-1678, dated January 9. 2001, and Federal Register, Vol. 66, No. 57, pages 16233-16237, dated March 23, 2001; or in section 11-54-4 using a composite sample.

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CHAPTER 11-55 APPENDIX C

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF STORM WATER
ASSOCIATED WITH CONSTRUCTION ACTIVITY

October 2007

1. Coverage under this General Permit

   (a) This general permit covers discharges composed entirely of storm water runoff associated with construction activities, including, but not limited to, clearing, grading, and excavation that result in the disturbance of one acre or more of total land area. This general permit also covers activities that disturb less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more of total land area.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 entitled "Water Quality Standards."

   (c) "Disturbance of land" refers to the penetration, turning, or moving of soil or resurfacing of pavement with exposure of the base course or the exposure of bare soil or ground surface, including the land surface exposed by construction roads, baseyards, staging areas, demolition, headquarters, and parking areas. It does not include grass or weed cutting, bush or tree trimming or felling that leaves soil or ground intact.

It includes "grubbing" in its normal meaning of the use of equipment to knock down and push vegetation out of the way, typically uprooting vegetation and disturbing the ground surface.

(d) A "larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. "Common plan" is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

2. Limitations on Coverage under this General Permit

(a) This general permit does not cover the following:

(1) Storm water discharges associated with construction activity which flow into a sanitary sewer system;

(2) Storm water discharges associated with construction activity that are regulated by existing individual permits;

(3) Storm water discharges in categories for which storm water discharge limitation guidelines have been promulgated by the EPA;

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(4) Storm water discharges from a construction activity which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s);

(5) Storm water discharges for which the director has issued a notice of general permit coverage under another general permit specific to that type of construction or industrial activity; and

(6) Storm water discharges that the director finds more appropriately regulated under an individual permit.

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(2) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(2) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(2) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the construction activity or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Construction site best management practices plan containing, at a minimum, the following information:

(A) Site characterization report which describes at a minimum, the history of the land use at the proposed construction site, the potential pollution source(s) in the history

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and from the operation of the proposed construction activity, the potential pollutant(s) present at the existing site, and any proposed corrective measures;

(B) Description of the nature of the construction activity, including a proposed timetable for major activities with the date when the contractor will begin the site disturbance;

(C) Total area of the site and the area of the site that is expected to be disturbed, including clearing, grading, excavation, staging or any combination of the above;

(D) Quantity of storm water runoff, with supporting calculations;

(E) Description of the nature of the fill material to be used and existing data describing the soil or the quality of any discharge from the site;

(F) Site map showing, at a minimum: approximate slopes anticipated after major grading activities; areas of soil disturbance; drainage patterns; areas used for the storage of soils or wastes; the location where stabilization practices are expected to occur; the location of all structural controls; the areas where vegetative practices are to be

implemented; the location of impervious structures (including buildings, roads, parking lots, etc.) after construction is completed; wetlands and other state water(s); and the boundaries of 100-year flood plains, if determined. A site-specific site map shall be submitted at least thirty days before the start of construction activities;

(G) Descriptions of construction management techniques, vegetation controls, and structural controls. At a minimum, the requirement listed in section 11 of this general permit must be addressed;

(H) A county-approved erosion and sediment control plan as appropriate for the activity and a schedule for implementing each control shall be submitted to the director with the notice of intent or thirty days before the start of construction activities. Construction may start before the end of the thirty day period as soon as the department accepts the county-approved erosion and sediment control plan;

(I) Site-specific plan to minimize erosion of soil and discharge of other pollutants into state waters, including removal procedures for the construction site best management practices, shall be

submitted to the director with the notice of intent or thirty days before the start of construction activities. The transmittal of the plan must be signed in accordance with section 11-55-34.08(f). The plan, and all subsequent revisions, shall be kept at the construction site or nearby field office;

(J) Descriptions of measures that will minimize the discharge of pollutants via storm water discharges after construction operations have been finished. Examples include: open, vegetated swales and natural depressions; structures for storm water retention, detention, or recycle; velocity dissipation devices to be placed at the outfalls of detention structures or along with the length of outfall channels; and other appropriate measures;

(K) The identification of all non-storm water sources that connect to the storm water drainage system and non-storm water pollution prevention measures that will be implemented during construction.

(L) If the construction project discharges storm water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall incorporate measures or controls to comply with the total maximum daily

load into the project's site-specific construction best management practices plan. The measures or controls shall be submitted to the director with the notice of intent or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2) or at least thirty days before the start of construction activities. The measures or controls to meet the total maximum daily load shall be implemented at the start of construction activities.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Implementation of the Construction Site Best Management Practices Plan

   (a) The permittee shall design, operate, implement, and maintain the construction site best management practices plan to ensure that storm water discharges associated with construction activities will not cause or contribute to a violation of applicable state water quality standards.

   (b) The permittee shall implement the construction site best management practices plan as often as needed to improve the quality of storm water discharges or when instructed by the director.

7. Basic Water Quality Criteria and Inspections

   (a) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

   (b) The permittee shall timely inspect the receiving state waters, storm water runoff and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

8. Corrective Action

The permittee shall immediately stop, reduce, or modify construction, or implement new or revised best management practices as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

9. Reporting Requirements

(a) The permittee shall immediately notify the director of the incident and identify the pollutant(s) source(s) and the proposed and implemented control or mitigative measures as required in section 16 of appendix A of chapter 11-55.

(b) The permittee shall notify the director of the start of the construction activities in writing within one week before the start of the construction activities.

10. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of all reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following

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certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

11. Special Conditions for Land Disturbances

The following special conditions apply to all land disturbance work conducted under this general permit:

(a) Construction Management Techniques

(1) Clearing and grubbing shall be held to the minimum necessary for grading and equipment operation.

(2) Construction shall be sequenced to minimize the exposure time of the cleared surface area.

(3) Construction shall be staged or phased for large projects. Areas of one phase shall be stabilized before another phase is initiated. Stabilization shall be accomplished by temporarily or permanently protecting the disturbed soil surface from rainfall impacts and runoff.

(4) Erosion and sediment control measures shall be in place and functional before earth moving operations begin. These measures shall be properly constructed and maintained throughout the construction period.

(5) All control measures shall be checked and repaired as necessary, for example, weekly in dry periods and within twenty-four hours after any rainfall of 0.5 inches or greater within a twenty-four-hour period. During prolonged rainfall, daily checking is necessary. The permittee shall maintain records of checks and repairs.

(6) The permittee shall maintain records of the duration and estimated volume of storm water discharge(s).

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(7) A specific individual shall be designated to be responsible for erosion and sediment controls on each project site.

(b) Vegetation Controls

(1) Pre-construction vegetative ground cover shall not be destroyed, removed, or disturbed more than twenty calendar days prior to land disturbance.

(2) Temporary soil stabilization with appropriate vegetation shall be applied on areas that will remain unfinished for more than thirty calendar days.

(3) Permanent soil stabilization with perennial vegetation or pavement shall be applied as soon as practical after final grading. Irrigation and maintenance of the perennial vegetation shall be provided for thirty calendar days or until the vegetation takes root, whichever is shorter.

(c) Structural Controls

(1) Storm water flowing toward the construction area shall be diverted by using appropriate control measures, as practical.

(2) Erosion control measures shall be designed according to the size of disturbed or drainage areas to detain runoff and trap sediment.

(3) Water must be discharged in a manner that the discharge shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

12. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

13. Record Retention

The permittee shall retain all records and information resulting from the activities required by this general permit for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

14. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

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CHAPTER 11-55 APPENDIX D

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF TREATED EFFLUENT FROM
LEAKING UNDERGROUND STORAGE TANK REMEDIAL ACTIVITIES

October 2007

1. Coverage under this General Permit

   (a) This general permit covers only facilities where petroleum hydrocarbons have been released from underground storage tanks and the cleanup (or remedial action) involves a release or discharge of treated ground water to state waters.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of treated ground water into a sanitary sewer system and

      (2) Discharges of treated ground water which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject

discharge to enter their drainage system(s).

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(3) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(3) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(3) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

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4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) List of up to four Standard Industrial Classification codes or North American Industrial Classification System codes that best represent the products or activities of the facility;

(3) Quantitative data on pollutants that the owner or operator of the facility knows or reasonably should know are or will be present in the discharge and for which pollutants numerical criteria for the existing or proposed receiving state waters are specified in section 11-54-4;

(4) Treatment system operations plan which specifies the treatment system to be used and describes its operation in detail. If any treatment technology is being considered other than the Granular-Activated Carbon Process or the Air-Stripping Process, then additional technical information on the technology

which is consistent with this permit shall be submitted to the director for review as soon as the decision for its use has been made. The treatment system operations plan shall include a contingency plan to be activated in the event of an emergency; provisions for system shut-down and any other measures for the protection of health and safety of employees and the public; a sampling plan; and a detailed schedule for sampling and analysis of the treated groundwater. The treatment system operations plan shall be modified as required by the director. The permittee shall retain the plan, and all subsequent revisions, on-site or at a nearby office.

(5) Certification report certifying the adequacy of each component of the proposed treatment facility along with the associated treatment system operations plan. The certification report shall describe accepted engineering practice of how the process and physical design of the treatment facilities will ensure compliance with this general permit. The signature and professional engineering license number of the design engineer shall be placed on the report. Each report shall also certify that:

(A) All of the startup and operation instruction manuals for the treatment facility are adequate and available to operating personnel;

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(B) All treatment facility maintenance and testing schedules are included in the treatment facility treatment system operations plan; and

(C) Effluent sampling locations and ports are located in areas where samples representative of the waste stream to be monitored can be obtained.

(6) The average and maximum daily flow rates of effluent discharge;

(7) The best estimate of the date(s) on which the facility will begin and terminate the discharge.

(8) If the remedial activities of the project discharges storm water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall incorporate measures or controls to comply with the total maximum daily load into the project's treatment system operations plan. The measures or controls shall be submitted to the director with the notice of intent or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2) or at least thirty days before the start of remedial activities. The measures or controls to meet the total maximum daily load shall be implemented at the start of the remedial activities.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements

(a) The effluent shall be limited and monitored by the permittee as specified in this section and in Table 34.2. (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Point

The permittee shall collect representative discharge samples at the

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nearest accessible point after final treatment and prior to actual discharge or mixing with the receiving state waters.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

(A) "Grab sample" means an individual sample collected within the first fifteen minutes of a discharge.

(B) "Composite sample" means a combination of a least eight samples aliquots, collected at periodic intervals during the operating hours of the facility over a twenty-four-hour period. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot shall be proportional to the total effluent flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically unless otherwise stated.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

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(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

(c) There shall be no visible oil sheen in the effluent.

(d) The permittee shall take all reasonable steps to minimize or prevent any discharge, use, or disposal of sludge or sediments in violation of this general permit or applicable law. Sludge, sediments, or any other material generated by any treatment process must be disposed of in a manner which prevents its entrance into or pollution of any state waters. Additionally, the disposal of such sludge or other material shall be in compliance with 40 CFR Parts 501 and 503.

7. Whole Effluent Toxicity Limitations And Monitoring Requirements

(a) Monitoring Requirements

(1) The permittee shall conduct, or have a contract laboratory conduct, monthly static or flow-through bioassays on composite effluent samples in accordance with the methods described in "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms" (EPA 821/R-02-013, October 2002), and "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms" (EPA 821/R-02-014, October 2002).

(2) Tests shall be conducted in one hundred per cent effluent for a period of ninety-six hours unless the methods specify a shorter period for a definitive test for a particular species (e.g. forty-eight hours for *ceriodaphnia dubia*).

(3) If the permittee uses static tests, the daily renewal solutions shall be fresh twenty-four-hour composite samples. The permittee may conduct tests using locally available species at ambient temperature.

(4) Test results for each species used shall be reported on the permittee's monthly discharge monitoring report form.

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Results shall be reported as per cent survival with respect to controls.

(5) If necessary, the permittee may adjust the salinity of a discharge using salts to allow testing with marine species.

(b) Species Selection

(1) The permittee shall select three species for monitoring from the EPA manual identified in section 7(a)(1). The Permittee may use *ceriodaphnia dubia* (life stage - twenty-four hours) in freshwater only. The permittee shall submit the selection to the director for approval within thirty days after receiving written approval from the director to perform chronic toxicity tests.

(2) The permittee shall obtain written approval from the director before changing any of the three selected species after the initial notification.

(3) The permittee shall conduct monitoring, at a minimum, on one of the three selected species each month. The permittee shall rotate the three selected species on a monthly basis.

(c) Preparation of Initial Investigation Toxicity Reduction Evaluation Workplan

The Permittee shall submit to the director an initial investigation toxicity reduction evaluation workplan (approximately one to two pages) within one hundred twenty days after

the issuance date of the notice of general permit coverage, the date the permitee claimed automatic coverage as specified in section 11-55-34.09(e)(2), or the date the facility begins operations. This workplan shall describe steps which the permittee intends to follow in the event that toxicity is detected, and should include at a minimum the following information:

(1) Description of the investigation and evaluation techniques that would be used to identify potential causes or sources or both of toxicity, effluent variability, treatment system efficiency;

(2) Description of the facility's method of maximizing in-house treatment efficiency, good housekeeping practices, and a list of all chemicals used in operation of the facility; and

(3) If a toxicity identification evaluation is necessary, who (e.g., contract laboratory, etc.) will conduct the toxicity identification evaluation.

(d) Additional Toxicity Testing

(1) If toxicity is detected, then the permittee shall conduct six additional weekly tests. Effluent sampling for the first test of the six additional tests shall begin within approximately twenty-four hours of receipt of the test results exceeding a toxicity discharge limitation;

(2) However, if implementation of the initial investigation toxicity reduction evaluation workplan indicates the source of toxicity (e.g., a temporary plant upset, etc.), then the permittee shall conduct only the first test of the six additional tests required above. If toxicity is not detected in this first test, the permittee may return to the normal sampling frequency as specified in Table 34.2. If toxicity is detected in this first test, then section 7(e) of this general permit shall apply.

(3) If toxicity is not detected in any of the six additional tests required above, then the permittee may return to the normal sampling frequency as specified in Table 34.2.

(e) Toxicity Reduction Evaluation/Toxicity Identification Evaluation

(1) If toxicity is detected in any of the six additional tests, then, based on an evaluation of the test results and additional available information, the director may determine that the permittee shall initiate a toxicity reduction evaluation, in accordance with the permittee's initial investigation toxicity reduction evaluation workplan and "Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants" (EPA 833-B-99-002, 1999). Moreover, the permittee shall develop a detailed toxicity reduction evaluation workplan which includes:

(A) Further actions to investigate and identify the cause(s) of toxicity;

(B) Actions the permittee has taken or will take to mitigate the impact of the discharge, to correct the noncompliance, and to prevent the recurrence of toxicity;

(C) A schedule under which these actions will be implemented;

and shall submit this workplan to the director for approval.

(2) As part of this toxicity reduction evaluation process, the permittee may initiate a toxicity identification evaluation using the test methods manuals, EPA/600/6-91/005F (Phase I), EPA/600/R-92/080 (Phase II), and EPA/600/R-92/081 (Phase III), to identify the cause(s) of toxicity.

(3) If a toxicity reduction evaluation/toxicity identification evaluation is initiated prior to completion of the accelerated testing schedule required by section 7(d) of this general permit, then the accelerated testing schedule may be terminated, or used as necessary in performing the toxicity reduction evaluation/toxicity identification evaluation.

(f) Reporting

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(1) The permittee shall submit a full report of toxicity test results, including any toxicity testing required by sections 7(d) and 7(e) of this general permit, with the discharge monitoring report for the month in which the toxicity tests are conducted. A full report shall consist of: toxicity test results; dates of sample collection and initiation of each toxicity test; and toxicity discharge limitation. Toxicity test results shall be reported according to the test methods manual chapter on report preparation.

If the initial investigation toxicity reduction evaluation workplan is used to determine that additional toxicity testing is unnecessary, these results shall be submitted with the discharge monitoring report for the month in which investigations conducted under the toxicity reduction evaluation workplan occurred.

(2) Within fourteen days of receipt of test results exceeding a toxicity discharge limitation, the permittee shall provide to the director written notification of:

(1) Findings of the toxicity reduction evaluation or other investigation to identify the cause(s) of toxicity;

(2) Actions the permittee has taken or will take, to mitigate the impact of the discharge and to prevent the recurrence of toxicity;

(3) When corrective actions, including a toxicity reduction evaluation, have not been completed, a schedule under which corrective actions will be implemented; or

(4) The reason for not taking corrective action, if no action has been taken.

8. Corrective Action

The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent a violation of the basic water quality critera as specified in section 11-54-4.

9. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.2 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month, postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

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(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.2 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence

of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) Planned Changes

The permittee shall report any planned physical alterations or additions to the permitted facility, not covered by 40 CFR §122.41(l)(1)(i), (ii), and (iii) to the director on a quarterly basis.

(e) Reporting of Chemical Uses

The permittee shall submit to the director by the twenty-eighth of January of each year an annual summary of the quantities of all chemicals (including the material safety data sheet), listed by both chemical and trade names, which are used in ground water treatment and which are discharged.

(f) Schedule of Maintenance

The permittee shall submit a schedule for approval by the director at least fourteen days prior to any maintenance of facilities which might result in exceedance of effluent limitations. The schedule shall include a description of the maintenance and its reason; the period of maintenance, including exact dates and times; and steps taken or planned to reduce, eliminate, and prevent occurrence of noncompliance.

10. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

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(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

11. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

12. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

13. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

TABLE 34.2

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS FOR DISCHARGE OF TREATED EFFLUENT FROM LEAKING UNDERGROUND STORAGE TANK REMEDIAL ACTIVITIES

Effluent Parameter	Effluent Limitations {1}		Monitoring Requirements	
	For Saline Water	For Fresh Water	Minimum Frequency	Type of Sample
Flow (GPD)	{2}	{2}	Continuous	Calculated or Estimated
Total Petroleum Hydrocarbons as Gasoline (mg/l) {3}	{2}	{2}	Weekly	Grab
Total Petroleum Hydrocarbons as Diesel (mg/l) {3}	{2}	{2}	Weekly	Grab
Benzene (mg/l) {4}	1.7	1.8	Weekly	Grab
Toluene (mg/l) {4}	2.1	5.8	Weekly	Grab
Xylenes (mg/l) {4}	{2}	{2}	Weekly	Grab
Ethylbenzene (mg/l) {4}	0.14	11	Weekly	Grab
Lead (mg/l) {5}	0.14	0.029	Weekly	Grab
Organic Lead (mg/l){6}	{2}	{2}	Weekly	Grab
pH (standard units)	{7}		Weekly	Grab {8}
Whole Effluent Toxicity	80% survival in 100% effluent {9}		Monthly	Composite

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Effluent Parameter	Effluent Limitations {1}		Monitoring Requirements	
	For Saline Water	For Fresh Water	Minimum Frequency	Type of Sample
Toxic Pollutants mg/l {10}	{11}		Annually	{12}

GPD = gallons per day
mg/l = milligrams per liter

NOTES:

{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section(9(c) of this general permit.

{2} No limitation at this time. Only monitoring and reporting is required.

{3} The permittee shall use "Test Methods for Evaluating Solid Wastes" (EPA-SW-846-03-03B, November 2004) method 5030/8015 for the measurement of Total Petroleum Hydrocarbons as Gasoline and EPA method 3550/8015 shall be used for the measurement of Total Petroleum Hydrocarbons as Diesel.

{4} The permittee shall use "Test Methods for Evaluating Solid Wastes" (EPA-SW-846-03-03B, November 2004), or "Standard Methods for the Examination of Water and Wastewater" (ISBN 0-87553-047-8, 2005;), or EPA methods 5030/8015, or 5030/8021B, or 5030/8260B, or 602, or 624, for the measurement of benzene, ethylbenzene, and toluene. EPA method 8260B, or

an equivalent method, shall be used for the measurement of xylenes.

{5} The permittee shall measure for the total recoverable portion of all metals.

{6} The method for measuring for organic lead shall be the one referenced in the State of Hawaii's Technical Guidance Manual for Underground Storage Tank Closure and Release Response (March 2000).

{7} The pH value shall not be outside the range as specified in chapter 11-54 for the applicable classification of the receiving state waters.

{8} The pH shall be measured within fifteen minutes of obtaining the grab sample.

{9} Whole Effluent Toxicity measuring shall be performed in accordance with the provisions of section 7 of this general permit.

{10} The permittee shall measure for toxic pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4, only if they are identified as potential pollutants requiring monitoring in the notice of intent. If monitoring results indicate that the discharge limitation was equaled or exceeded, the treatment system operations plan shall be amended to include additional best management practices targeted to reduce the parameter which was in excess of the discharge limitation.

{11} Storm water discharge limitations are the chronic water quality standards established in section 11-54-4, for either fresh or saline waters. For pollutants which do not have established chronic water quality standards, the

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permittee shall report any detected concentration greater than 0.01 µg/l.

{12} The permittee shall measure for cyanide and the volatile fraction of the toxic organic compounds using a grab sample. The permittee shall measure for all other pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 using a composite sample.

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CHAPTER 11-55 APPENDIX E

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF ONCE THROUGH COOLING WATER
LESS THAN ONE (1) MILLION GALLONS PER DAY

October 2007

1. Coverage under this General Permit

   (a) This general permit covers only once through cooling water discharges of a total flow of less than one million gallons per day (mgd) to state waters. "Once through cooling water" means water passed through the main cooling condensers one or two times for the purpose of removing waste heat.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of once through cooling water into a sanitary sewer system and

      (2) Discharges of once through cooling water which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject

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discharge to enter their drainage system(s).

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(4) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(4) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(4) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

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4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) List of up to four Standard Industrial Classification codes or North American Industrial Classification System codes that best represent the products or activities of the facility;

(3) The average frequency of flow and duration of any intermittent or seasonal discharge. The frequency of flow means the number of days or months per year when there is an intermittent discharge. Duration means the number of days or hours per discharge. The owner or its duly authorized representative shall provide the best estimate for new discharges;

(4) Source(s) of the once-through cooling water;

(5) Quantitative data of the pollutant or parameter as specified in 40 CFR §122.21(h)(4)(i);

(6) The name of the cooling water additives, if any used;

(7) The best estimate of the date on which the facility will begin to discharge; and

(8) A brief description of any treatment system used or to be used. The permittee shall retain the treatment system plan, and all subsequent revisions, on-site or at a nearby office.

(9) If the facility discharges cooling water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall develop and submit an implementation and monitoring plan with the notice of intent or within ninety days after the issuance date of the notice of general permit coverage or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall incorporate provisions to comply with the total maximum daily load into the facility's treatment system within sixty days of the date of submittal of the plan and implement necessary steps to meet the plan.

(c) The director may require additional information to be submitted.

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(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements

(a) The effluent shall be limited and monitored by the permittee as specified in this section and in Table 34.3. (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Points

Samples taken in compliance with the monitoring requirements shall be taken at the following point(s):

(A) The permittee shall collect influent samples downstream from any additions to the source water and prior to the cooling system.

(B) The permittee shall collect effluent samples downstream from the cooling system and prior to actual discharge or mixing with the receiving state waters.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Type of Sample

"Grab sample" means an individual sample collected within the first fifteen minutes of a discharge.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of

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the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity,

color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

(c) The date, duration (in hours), starting and ending times, and volume of each discharge shall be collected for intermittent discharges.

(d) There shall be no visible oil sheen in the effluent.

(e) There shall be no discharge of waste from the physical cleaning of the cooling system.

(f) There should be no discharge of compounds used in closed-loop systems.

7. Corrective Action

The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

8. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general

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permit in a format that demonstrates compliance with the limitations in Table 34.3 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; influent and effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.3 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

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(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) Planned Changes

The permittee shall report any planned physical alterations or additions to the permitted facility, not covered by 40 CFR §122.41(l)(1)(i), (ii), and (iii) to the director on a quarterly basis.

(e) Reporting of Chemical Uses

The permittee shall submit to the director by the twenty-eighth of January of each year an annual summary of the quantities of all chemicals (including the material safety data sheet), listed by both chemical and trade

names, which are used in once through cooling water treatment and which are discharged.

(f) Schedule of Maintenance

The permittee shall submit a schedule for approval by the director at least fourteen days prior to any maintenance of facilities, which might result in exceedance of effluent limitations. The schedule shall include a description of the maintenance and its reason; the period of maintenance, including exact dates and times; and steps taken or planned to reduce, eliminate, and prevent occurrence of noncompliance.

9. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared

under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

10. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

11. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation shall be retained for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the

discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

12. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

TABLE 34.3

EFFLUENT LIMITATION AND MONITORING REQUIREMENTS
FOR DISCHARGE OF ONCE THROUGH COOLING WATER
LESS THAN ONE (1) MILLION GALLONS PER DAY

Effluent Parameter	Effluent Limitation {1}	Minimum Monitoring Frequency	Type of Sample
Flow (MGD)	{2}	Continuous	Recorder/ Totalizer
Temperature (°C)	30	Once/Quarter	Grab
Total Residual Oxidants (mg/l) {3}	0.013{4} 0.019{5}	Once/Quarter	Grab
Total Suspended Solids (mg/l)	5 {6}	Once/Quarter	Grab {7}
Oil and Grease (mg/l)	15	Once/Quarter	Grab {8}
pH (standard units)	{9}	Once/Quarter	Grab {10}

MGD = million gallons per day
°C = degrees celsius
mg/l = milligrams per liter

NOTES:

{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} No limitation at this time. Only monitoring and reporting is required.

{3} Total residual oxidants (TRO) is obtained using the amperometric titration method for total residual chlorine described in 40 CFR Part 136.

{4} Applicable to discharges that enter saline waters as per chapter 11-54.

{5} Applicable to discharges that enter fresh waters as per chapter 11-54.

{6} The total suspended solids limits are net increase restrictions of the effluent above that of the influent.

{7} Both the influent and effluent shall be monitored concurrently.

{8} Oil and Grease shall be measured by EPA Method 1664, Revision A.

{9} The pH value shall not be outside the range as specified in chapter 11-54 for the applicable classification of the receiving state waters.

{10} The pH shall be measured within fifteen minutes of obtaining the grab sample.

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CHAPTER 11-55 APPENDIX F

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF HYDROTESTING WATERS

October 2007

1. Coverage under this General Permit

   (a) This general permit covers facilities or activities which involve a release or discharge of hydrotesting waters to state waters. "Hydrotesting Waters" means water used to test the integrity of a tank or pipeline.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of hydrotesting waters into a sanitary sewer system and

      (2) Discharges of hydrotesting waters which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s).

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(5) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(5) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(5) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before

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the proposed starting date of the discharge or thirty days before the expiration of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Brief description of the project including an overview of the hydrotesting activities; an estimated timetable for major construction activities; dates on which the hydrotesting activities are projected to occur; estimated average and maximum daily flow rates; and a list of pollutants that may be present in the hydrotesting water and an explanation of its origins;

(3) Water quality analysis of the hydrotesting water including any toxic pollutants believed to be present in the hydrotesting water. For the hydrotesting of transmission lines, the water quality analysis for the source water may be substituted for the water quality analysis of the hydrotesting water; and

(4) Hydrotesting best management practices plan, including good housekeeping and mitigative measures to prevent pollutants that may be present in the hydrotesting water from entering state waters, to ensure that the hydrotesting

water discharge will meet the conditions of this general permit, basic water quality criteria, and applicable specific water quality parameters. The hydrotesting best management practices plan may be submitted with the notice of intent or thirty days before the start of hydrotesting activities.

(5) If the project or facility discharges hydrotesting water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall incorporate measures or controls to comply with the total maximum daily load into the project or facility's hydrotesting best management practices plan. The measures or controls shall be submitted to the director with the notice of intent or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2) or at least thirty days before the start of project or facility activities. The measures or controls to meet the total maximum daily load shall be implemented at the start of the project or facility activities.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements for Transmission Line Testing

(a) If a water quality analysis of the hydrotesting water was not provided with the notice of intent, then the water quality of the hydrotesting water shall be limited and monitored by the permittee as specified in this section and in Table 34.4. (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Point

The permittee shall collect representative discharge samples at the end of the effluent discharge point(s) prior to entering the receiving state water or separate storm water drainage systems.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

(A) "Grab sample" means an individual sample collected within the first fifteen minutes of a discharge.

(B) "Composite sample" means a combination of a least eight samples aliquots, collected at periodic intervals during the operating hours of the facility over a 24-hour period. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot shall be proportional to the total effluent flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically, unless otherwise stated.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.

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(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, the permittee shall indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

(6) Quantity of Flow

The permittee shall estimate or calculate the quantity of hydrotesting water discharged and submit the calculations.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

7. Corrective Action

The permittee shall immediately stop, reduce, or modify construction, hydrotesting, or implement new or revised best management practices as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

8. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all

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monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.4 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month, postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.4 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; and

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

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(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) The permittee shall notify the director of the start of the construction activities in writing within one week before the start of the construction activities.

9. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

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10. Additional Conditions

    The director may impose additional conditions under section 11-55-34.09(b).

11. Record Retention

    The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

12. Falsifying Report

    Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

TABLE 34.4

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
FOR HYDROTESTING WATER DISCHARGES

Effluent Parameter	Effluent Limitations {1}	Minimum Monitoring Frequency	Type of Sample
Quantity of Discharge (gallons)	{2}	Once/Discharge	Calculated or Estimated
Total Suspended Solids (mg/l)	{2}	Once/Discharge	Grab {3}
Turbidity (NTU)	{2}	Once/Discharge	Grab {3}
pH (standard units)	{4}	Once/Discharge	Grab {3}, {5}
Total Residual Chlorine (µg/l) {6}	19 {7} 13 {8}	Once/Discharge	Grab {3}
Toxic Pollutants {9}	{10}	Once/Discharge	{3}, {11}

mg/l = milligrams per liter
µg/l = micrograms per liter
NTU = nephelometric turbidity units

NOTES:

{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} The value shall not exceed the applicable limit as specified in chapter 11-54 for the applicable classification of the receiving state waters. If

no limitation is specified in chapter 11-54, then only monitoring and reporting is required.

{3} The Permittee shall sample the discharge after dechlorination and/or filtration within the first five minutes of discharge.

{4} The pH value shall not be outside the range as specified in chapter 11-54 for the applicable classification of the receiving state waters.

{5} The pH shall be measured within fifteen minutes of obtaining the grab sample.

{6} The permittee shall measure for total residual chlorine immediately after obtaining a sample and only when effluent from disinfection operations is discharged.

{7} This limitation applies when hydrotesting water is discharged into fresh waters.

{8} This limitation applies when hydrotesting water is discharged into saline waters.

{9} The permittee shall measure for toxic pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4, only if they are identified as potential pollutants requiring monitoring in the notice of intent. The permittee shall measure for the total recoverable portion of all metals.

{10} Effluent limitations are the acute water quality standards established in section 11-54-4, for either fresh or saline waters. For pollutants which do not have established acute water quality standards, the permittee shall report any detected concentration greater than 0.01 µg/l.

(11) The permittee shall measure for cyanide and the volatile fraction of the toxic organic compounds using a grab sample. The permittee shall measure for all other pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 using a composite sample.

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CHAPTER 11-55 APPENDIX G

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES ASSOCIATED WITH
CONSTRUCTION ACTIVITY DEWATERING

October 2007

1. Coverage under this General Permit

   (a) This general permit covers discharges from the dewatering process of construction activities of any size upon compliance with the applicable general permit requirements.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of construction dewatering effluent into a sanitary sewer system;

      (2) Storm water discharges associated with construction activities for which the director has issued a notice of general permit coverage under another general permit;

      (3) Return flow or overflow from dredged material dewatering process that are

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regulated by the U.S. Army Corps of Engineers under Section 404 of the Act;

(4) Discharges of construction dewatering effluent which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s);

(5) Discharges of construction dewatering effluent that is subject to the general permit specified in appendix D of chapter 11-55; and

(6) Discharges of construction dewatering effluent that the director finds more appropriately regulated under an individual permit.

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(6) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(6) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(6) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Legal name, street address, telephone and fax numbers, and contact person(s) for the designer(s) of the dewatering or treatment facility(ies) or both;

(3) Site characterization report including the history of the land use at the proposed construction site and surrounding area, the potential pollution source(s) at the proposed construction site and surrounding area, the potential pollutant(s) present at the proposed construction site and surrounding area, any proposed corrective measures, and pollutants that may be in the discharge;

(4) Brief description of the project including the portion of the project involving construction dewatering, an estimated timetable for major activities (including the date when the contractor will begin site disturbance), the date when the contractor will begin the construction dewatering process, estimates of the quantity, rate, and frequency of the proposed discharges, and the time frame of the proposed discharges;

(5) An analysis of the source water quality as specified by the director. The source water quality data may be collected from sites allowed by the director. The analysis shall:

(A) Include an explanation addressing the selection of the toxic pollutants provided and an evaluation of the source water quality data collected with respect to the applicable numeric criteria and numeric standards for the toxic

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pollutants specified under section 11-54-4,

(B) Be based on the history of the land use as reported in paragraph 4(b)(3) or as believed to be present in the discharge,

(C) Use test methods as specified in section 6(a)(4)(B), and

(D) Be submitted to the director with the notice of intent;

(6) Dewatering plan designed to comply with the basic water quality criteria specified under chapter 11-54. The plan shall include the pumping devices to be used, their pumping capacity, and the number of devices to be used; treatment design; design concerns; calculations used in the treatment design; and proposed mitigative measures. The site-specific dewatering plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office;

(7) Dewatering system maintenance plan to ensure that the dewatering effluent discharge will meet conditions of this general permit, basic water quality criteria, and applicable specific water quality parameters. The dewatering system maintenance plan shall include:

(A) Schedule of activities,

(B) Operation and maintenance procedures to prevent or reduce the pollution of state waters, including:

(i) Responsible field person of the system, by title or name;

(ii) Operations plan;

(iii) Maintenance scheduling or action criteria;

(iv) Maintenance program;

(v) Sediment handling and disposal plan;

(vi) Monitoring and visual inspection program;

(vii) Cessation of discharge plan; and

(viii) Effluent control plan, and

(C) Treatment requirements.

The site-specific dewatering system maintenance plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office;

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(8) Construction pollution prevention plan to prevent or reduce the pollution of state waters due to other discharges. The construction pollution prevention plan shall include:

(A) Prohibited practices,

(B) Other management practices to prevent or reduce the pollution of state waters, and

(C) Practices to control project site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage or stockpiling area(s).

The site-specific construction pollution prevention plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office; and

(9) For construction projects which are one acre or more, submit a county approved site-specific erosion control plan with the notice of intent or thirty days before the start of construction dewatering activities, as applicable.

(10) If the construction project discharges dewatering effluent to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall incorporate measures or controls

to comply with the total maximum daily load into the project's site-specific dewatering plan. The measures or controls shall be submitted to the director with the notice of intent or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2) or at least thirty days before the start of construction activities dewatering. The measures or controls to meet the total maximum daily load shall be implemented at the start of construction activities dewatering.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

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6. Effluent Limitations and Monitoring Requirements

(a) The effluent shall be limited and monitored by the permittee as specified in this section and in Table 34.5 (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Point

The permittee shall collect representative discharge samples at the end of the effluent discharge point(s) prior to entering the receiving state water or separate storm water drainage systems.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

(A) "Grab sample" means an individual sample collected within the first fifteen minutes of a discharge.

(B) "Composite sample" means a combination of a least eight samples aliquots, collected at periodic intervals during the operating hours of the facility

over a 24-hour period. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot shall be proportional to the total effluent flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically, unless otherwise stated.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #,"

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where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

7. Corrective Action

The permittee shall immediately stop, reduce, or modify construction, or implement a new or revised

dewatering system maintenance plan as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

8. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.4 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month, postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

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If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.5 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State

Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(b) The permittee shall notify the director of the start of the construction activities in writing within one week before the start of the construction activities.

9. Submittal Requirements

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(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned

notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

10. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

11. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

12. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

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TABLE 34.5

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
FOR CONSTRUCTION DEWATERING DISCHARGES

Effluent Parameter	Effluent Limitations {1}	Minimum Monitoring Frequency	Type of Sample
Quantity of Discharge (GPD or gpm)	{2}	{3}	Calculated or Estimated
Total Suspended Solids (mg/l)	{2}	{4}	Grab
Turbidity (NTU)	{2}	{4}	Grab
Oil and Grease (mg/l)	15	{4}	Grab {5}
pH (standard units)	{6}	{4}	Grab {7}
Toxic Pollutants {8}	{9}	{4}	{10}

GPD = gallons per day
gpm = gallons per minute
mg/l = milligrams per liter
NTU = nephelometric turbidity units

NOTES:

{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} No limitation at this time. Only monitoring and reporting is required.

{3} For intermittent discharges, flow measurement shall be taken once for each discharge for the duration of the discharge. For continuous discharge, continuous flow measurement is required.

{4} For intermittent discharges, the sample shall be taken once for each discharge. For continuous discharge, the sample shall be taken at least once per week.

{5} Oil and Grease shall be measured by EPA Method 1664, Revision A.

{6} The pH value shall not be outside the range as specified in chapter 11-54 for the applicable classification of the receiving state waters.

{7} The pH shall be measured within fifteen minutes of obtaining the grab sample.

{8} The permittee shall measure for toxic pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 only if they are identified as potential pollutants requiring monitoring in the notice of intent. For dewatering processes involving only the treated storm water discharges, only those potential pollutants identified in the site characterization report need to be monitored. The permittee shall measure for the total recoverable portion of all metals.

{9} Effluent limitations are the acute water quality standards established in section 11-54-4, for either fresh or saline waters. For pollutants which do not have established acute water quality standards, the permittee shall report any detected concentration greater than 0.01 µg/l.

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{10} The permittee shall measure for cyanide, temperature, bacterial counts, and the volatile fraction of the toxic organic compounds using a grab sample. The permittee shall measure for all other pollutants as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 using a composite sample.

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CHAPTER 11-55 APPENDIX H

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF TREATED
PROCESS WASTEWATER ASSOCIATED WITH
PETROLEUM BULK STATIONS AND TERMINALS

October 2007

1. Coverage under this General Permit

   (a) This general permit covers only discharges of treated process wastewater effluent from petroleum bulk stations and terminals upon compliance with the applicable general permit requirements. Treated process wastewater effluent covered by this general permit includes tank water draws; product displacement process wastewater; wash down and fire hydrant system test waters; service station tank draws; recovered groundwater; and contaminated storm water runoff from the product storage and handling areas.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of treated effluent into a sanitary sewer system and

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(2) Discharges of treated effluent which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s).

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(7) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(7) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(7) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) List of up to four Standard Industrial Classification codes or North American Industrial Classification System codes that best represent the products or activities of the facility;

(3) Brief description of the nature of business conducted at the facility;

(4) Description of the following for each outfall:

(A) All operations contributing wastewater and contaminated storm water runoff to the effluent;

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(B) The average flow contributed by each operation and contaminated storm water runoff;

(C) The treatment received by the wastewater and contaminated storm water runoff; and

(D) The average and maximum daily flow rates of the effluent discharge;

(5) Quantitative data on pollutants that the owner or operator of the facility knows or reasonably should know are or will be present in the discharge and for which the pollutants numerical criteria for the existing or proposed receiving state waters are specified in chapter 11-54, especially section 11-54-4;

(6) Name, street address, and phone and fax numbers of each contract laboratory or consulting firm that performed any of the analyses in accordance with section 4(b)(5), as applicable. This information shall be submitted with the notice of intent or thirty days before the start of discharge(s); and

(7) Treatment system operations plan which specifies the treatment system to be used and describes its operation in detail. The plan shall include a sampling plan and a detailed schedule for sampling and analysis of the effluent. The treatment system operations plan shall be modified by the permittee as requested by the director. The plan, and all subsequent revisions,

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shall be retained on-site or at a nearby field office.

(8) If the facility discharges treated process wastewater effluent to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall develop and submit an implementation and monitoring plan with the notice of intent or within ninety days after the issuance date of the notice of general permit coverage or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall incorporate provisions to comply with the total maximum daily load into the facility's treatment system operations plan within sixty days of the date of submittal of the plan and implement necessary steps to meet the plan.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements

(a) The effluent shall be limited and monitored by the permittee as specified in this section and in Table 34.6. (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Points

The permittee shall collect representative discharge samples at the end of effluent discharge point(s) prior to entering the receiving state water or separate storm water drainage systems.

(2) Collection of samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Type of Sample

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"Grab Sample" means an individual sample collected within the first fifteen minutes of a discharge.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants that conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or

sample taken under the requirements of this general permit.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

(c) The permittee shall collect the following information for each batch discharge: date, duration (in hours), starting and ending times, and volume.

(d) There shall be no discharge of floating solids or visible foam.

(e) There shall be no visible oil sheen in the effluent.

7. Corrective Action

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The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

8. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.6 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month and the results shall be postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.6 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday

(excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) Planned Changes

The permittee shall report any planned physical alterations or additions to the

permitted facility, not covered by 40 CFR §122.41(l)(l)(i), (ii), and (iii) to the director on a quarterly basis.

(e) Schedule of Maintenance

The permittee shall submit a schedule for approval by the director at least fourteen days prior to any maintenance of facilities which might result in exceedance of effluent limitations. The schedule shall include a description of the maintenance and its reason; the period of maintenance, including exact dates and times; and steps taken or planned to reduce, eliminate, and prevent occurrence of noncompliance.

9. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

10. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

11. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any

unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

12. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

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TABLE 34.6

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS FOR DISCHARGES OF TREATED EFFLUENT FROM PETROLEUM BULK STATIONS AND TERMINALS

Effluent Parameter	Effluent Limitations {1}		Monitoring Requirements {2}	
	For Saline Water	For Fresh Water	Minimum Frequency	Type of Sample
Quantity of Discharge (gallons)	{3}	{3}	Once/Batch Discharge	Calculated or Estimated
Oil and Grease (mg/l)	15	15	Once/Batch Discharge	Grab {4}
Total Recoverable Lead (mg/l) {5}	0.14	0.029	Once/Batch Discharge	Grab
Benzene (mg/l) {6}	1.7	1.8	Once/Batch Discharge	Grab
Toluene (mg/l) {6}	2.1	5.8	Once/Batch Discharge	Grab
Xylenes (mg/l) {6}	{3}	{3}	Once/Batch Discharge	Grab
Ethyl benzene (mg/l) {6}	0.14	11	Once/Batch Discharge	Grab
Turbidity (NTU)	{7}	{7}	Once/Batch Discharge	Grab
Ammonia Nitrogen (NH_4-N mg/l)	{7}	{7}	Once/Batch Discharge	Grab
pH (standard units) {8}	{7}	{7}	Once/Batch Discharge	Grab {9}

Effluent Parameter	Effluent Limitations {1}		Monitoring Requirements {2}	
	For Saline Water	For Fresh Water	Minimum Frequency	Type of Sample
Dissolved Oxygen (%saturation)	{7}	{7}	Once/Batch Discharge	Grab

mg/l = milligrams per liter
NTU = nephelometric turbidity units

NOTES:

{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} No monitoring of storm water discharge is required if the associated storm event occurs less than seventy-two hours from a previous storm event or provided that the preceding storm event generates storm water which is discharged and monitored for all effluent characteristics specified in accordance with Table 34.6 or both.

{3} No limitation at this time. Only monitoring and reporting is required.

{4} Oil and Grease shall be measured by EPA Method 1664, Revision A.

{5} The permittee shall measure for the total recoverable portion of all metals.

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{6} The permittee shall use "Test Methods for Evaluating Solid Wastes" (EPA-SW-846-03-03B, November 2004), or "Standard Methods for the Examination of Water and Wastewater" (ISBN 0-87553-047-8, 2005;), or EPA method 5030/8015, or 5030/8021B, or 5030/8260B, or 602, or 624, for the measurement of benzene, ethylbenzene, and toluene. EPA method 8260B, or an equivalent method, shall be used for the measurement of xylenes.

{7} Effluent limitations are the specific criteria established in sections 11-54-5 and 11-54-6 for the classification of the receiving state waters, as applicable. For pollutants which do not have established specific criteria, the permittee shall report any detected concentration greater than 0.01 µg/l.

{8} The permittee may determine compliance for pH by either monitoring the effluent or the receiving state water. Receiving state water monitoring shall be performed at a minimum of two stations. One sample station shall be monitored at the point where the discharge initially mixes with the receiving state water. One control station shall be monitored at a point where impacts from the discharge would not be expected. The monitoring specification shall be set forth in a monitoring program as approved by the director.

{9} The pH shall be measured within fifteen minutes of obtaining the grab sample.

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CHAPTER 11-55 APPENDIX I

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF TREATED
PROCESS WASTEWATER ASSOCIATED WITH
WELL DRILLING ACTIVITIES

October 2007

1. Coverage under this General Permit

   (a) This general permit covers only discharges of treated process wastewater associated with well drilling activities upon compliance with the applicable general permit requirements. Treated process wastewater covered by this general permit includes well drilling slurries, lubricating fluids wastewaters, and well purge wastewaters.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of treated process wastewater into a sanitary sewer system;

      (2) Discharges of treated process wastewater which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval

is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s); and

(3) Discharges of well pump testing wastewaters which are not associated with well drilling activities.

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(8) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(8) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(8) are adopted,

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whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Legal name, street address, telephone and fax numbers, and contact person(s) for the designer(s) of the well drilling process wastewater treatment facility(ies);

(3) Site characterization report which includes:

(A) The history of the land use at the proposed drilling site,

(B) The potential pollution source(s) at the proposed drilling site,

(C) The potential pollutant(s) present at the proposed drilling site,

(D) Any proposed corrective measures, and

(E) Pollutants that may be in the effluent;

(4) Brief description of the project, including:

(A) An estimated timetable of the drilling activities, including the date when the contractor will begin the well drilling process;

(B) Details of the proposed wastewater(s) discharge(s):

(i) Estimates of the quantity and frequency of the proposed discharge(s) and

(ii) The name(s) of the chemical(s) or material(s) listed by both chemical and trade names that is(are) present in the proposed wastewater(s) discharge(s). Also, provide the material safety data sheet (MSDS) for the chemical(s) or materials; and

(C) The time frame of the proposed discharges;

(5) Quantitative data on pollutants that the owner or operator of the activity knows or reasonably should know are or will be present in the discharge and for which

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pollutants numerical criteria for the receiving state waters are specified in section 11-54-4;

(6) Name, street address, and phone and fax numbers of each contract laboratory or consulting firm that performed any of the analyses in accordance with section 4(b)(5), as applicable. This information shall be submitted with the notice of intent or thirty days before the start of well drilling activities;

(7) Well drilling plan designed to comply with the basic water quality criteria specified under chapter 11-54. The plan shall include:

(A) The well drilling equipment to be used,

(B) Process wastewater treatment design,

(C) Design concerns,

(D) Calculations used in the treatment design, and

(E) Proposed mitigative measures.

The site-specific detailed well drilling plan shall be submitted to the director with the notice of intent or thirty days before the start of well drilling activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office; and

(8) Well drilling best management practices plan to ensure that the well drilling effluent discharge will meet conditions of this general permit, basic water quality criteria, and applicable specific water quality parameters. The well drilling best management practices plan shall include:

(A) A schedule of activities;

(B) Prohibited practices;

(C) Operation and maintenance procedures to prevent or reduce the pollution of state waters, including:

(i) Responsible field person of the system, by title or name;

(ii) Operations plan;

(iii) Maintenance scheduling or action criteria, and program;

(iv) Effluent monitoring program (e.g. visual inspection);

(v) Cessation of discharge plan; and

(vi) Effluent control plan;

(D) Other management practices to prevent or reduce the pollution of state waters;

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(E) Treatment requirements; and

(F) Practices to control project site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage or stockpiling area(s).

The site-specific detailed well drilling best management practices plan shall be submitted to the director with the notice of intent or thirty days before the start of well drilling activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office.

(9) If the project discharges treated process wastewater associated with the well drilling activity to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall incorporate measures or controls to comply with the total maximum daily load into the project's site-specific well drilling best management practices plan. The measures or controls shall be submitted to the director with the notice of intent or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2) or at least thirty days before the start of well drilling activities. The measures or controls to meet the total maximum daily load shall be implemented at the start of well drilling activities.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements

(a) The discharges shall be limited and monitored by the permittee as specified in this section and in Table 34.7 (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(1) Sampling Points

The permittee shall collect representative discharge samples at the

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end of effluent discharge point(s) prior to entering the receiving state water or separate storm water drainage systems.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

(A) "Grab Sample" means an individual sample collected within the first fifteen minutes of a discharge.

(B) "Composite sample" means a combination of a least eight samples aliquots, collected at periodic intervals during the operating hours of the facility over a 24hour period. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot shall be proportional to the total effluent flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically, unless otherwise stated.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of

pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The] permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

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(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce odor or off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

(c) There shall be no discharge of floating solids or visible foam.

(d) There shall be no visible oil sheen in the effluent.

(e) The permittee shall take all reasonable steps to minimize or prevent any discharge, use, or disposal of sludge or sediments in violation of this general permit or applicable law. Sludge, sediments, or any other material generated by any treatment process shall be disposed of in a manner which prevents its entrance into or pollution of any surface or subsurface waters. Additionally, the disposal of such sludge or other material shall be in compliance with 40 CFR Parts 501 and 503.

7. Corrective Action

The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent

a violation of the basic water quality criteria as specified in section 11-54-4.

8. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.7 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month, postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

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If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.7 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State

Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) Planned Changes

The permittee shall report any planned physical alterations or additions to the permitted facility, not covered by 40 CFR

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§122.41(l)(1)(i), (ii), and (iii) to the director on a quarterly basis.

(e) Schedule of Maintenance

The permittee shall submit a schedule for approval by the director at least fourteen days prior to any maintenance of facilities which might result in exceedance of effluent limitations. The schedule shall include a description of the maintenance and its reason; the period of maintenance, including exact dates and times; and steps taken or planned to reduce, eliminate, and prevent occurrence of noncompliance.

9. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared

under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

10. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

11. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of

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pollutants by the permittee or when requested by the director or Regional Administrator.

12. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

TABLE 34.7

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
FOR DISCHARGE OF TREATED EFFLUENT
FROM WELL DRILLING ACTIVITIES

Effluent Parameters	Effluent Limitations {1}		Monitoring Requirements	
	For Saline Water	For Fresh Water	Minimum Frequency	Type of Sample
Quantity of Discharge (gallons)	{2}	{2}	Daily	Calculated or Estimated
Oil and Grease (mg/l)	15	15	{3}	Grab {4}
Benzene (mg/l) {5}	1.7	1.8	{3}	Grab
Total Suspended Solids (mg/l)	{6}	{6}	{3}	Grab
Turbidity (NTU)	{6}	{6}	{3}	Grab
Ammonia Nitrogen (NH_4-N/l) {7}	{6}	{6}	{3}	Grab
pH (standard units)	{6}	{6}	{3}	Grab {8}
Toxic Pollutants {7}	{6}	{6}	{3}	{9}

mg/l = milligrams per liter
NTU = nephelometric turbidity units

NOTES:

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{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} No limitation at this time. Only monitoring and reporting is required.

{3} For intermittent discharges, the sample shall be taken once for each discharge. For continuous discharge a sample shall be taken at least once per week.

{4} Oil and Grease shall be measured by EPA Method 1664, Revision A.

{5} The permittee shall use "Test Methods for Evaluating Solid Wastes" (EPA-SW-846-03-03B, November 2004), or "Standard Methods for the Examination of Water and Wastewater" (ISBN 0-87553-047-8, 2005;), or EPA methods 5030/8015, or 5030/8021B, or 5030/8260B, or 602, or 624, or 1624 for the measurement of benzene.

{6} Effluent limitations are the acute water quality standards established in section 11-54-4, for either fresh or saline waters and specific criteria established in section 11-54-5 and 11-54-6 for the classification of the receiving state waters, as applicable. For pollutants which do not have established acute water quality standards or specific criteria, the permittee shall report any detected concentration greater than 0.01 µg/l.

{7} The permittee shall measure for toxic pollutants, as identified in appendix D of 40 CFR Part 122 or

in section 11-54-4 only if they are identified as potential pollutants requiring monitoring in the notice of intent. The permittee shall measure for the total recoverable portion of all metals.

{8} The pH shall be measured within fifteen minutes of obtaining the grab sample.

{9} The permittee shall measure for cyanide and the volatile fraction of the toxic organic compounds using a grab sample. The permittee shall measure for all other pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 using a composite sample.

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CHAPTER 11-55 APPENDIX J

NPDES GENERAL PERMIT
AUTHORIZING OCCASIONAL OR UNINTENTIONAL DISCHARGES
FROM RECYCLED WATER SYSTEMS

October 2007

1. Coverage under this General Permit

   (a) This general permit covers occasional or unintentional discharges composed entirely of:

      (1) R-1 water, or

      (2) R-1 water with any combination of stormwater or potable water or water used primarily for irrigation,

      where the R-1 water is supplied from a treatment works and is conveyed or used by a recycled water system.

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

   (a) This general permit does not cover the following:

      (1) Recycled water system discharges into a sanitary sewer system;

      (2) Recycled water system discharges which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval

is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s);

(3) Recycled water system discharges which are regulated by an existing individual permit;

(4) Recycled water systems which the director finds to have violated, be violating, or contributing to a violation of chapter 11-62;

(5) Recycled water system discharges that the director finds more appropriately should be regulated under an individual permit; and

(6) Treatment works discharges that are not from an approved recycled water system.

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(9) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(9) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

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(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(9) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent (NOI) Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Activity for which the recycled water is to be used and the amount in gallons per day of recycled water to be used or conveyed;

(3) Name of the owner or operator of treatment works producing or supplying the R-1 water, if different from the permittee;

(4) Copy of the agreement(s) relating to R-1 water use between the permittee and the owner or operator of treatment works

producing the R-1 water, if the owner or operator is different from the permittee; and

(5) Quantitative data of the R-1 water in the recycled water system.

(6) If the recycled water system discharges recycled water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall develop and submit an implementation and monitoring plan with the notice of intent or within ninety days after the issuance date of the notice of general permit coverage or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall incorporate the total maximum daily load into the recycled water system's best management practices plan within sixty days of the date of submittal of the plan and implement necessary steps to meet the plan.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Wastewater Branch
Environmental Management Division
Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

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5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Implementation of Best Management Practices

(a) The permittee shall:

(1) Implement the best management practices approved by the director under chapter 11-62 before and during the use or conveyance of recycled water;

(2) Minimize discharges to state waters to the maximum extent practicable; and

(b) The permittee shall implement or supplement the best management practices as needed to improve the quality of discharges to state waters, reduce the risk of discharges to state waters, reduce contamination of R-1 water after it is produced, or when instructed by the director.

7. Effluent Limitations and Monitoring Requirements

(a) The discharges shall be limited and monitored by the permittee's supplier as specified under chapter 11-62. (Daily maximum effluent limitations for saline water apply only when discharges to saline water occur and daily maximum effluent limitations for fresh water apply only when discharges to fresh water occur.)

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, the recycled water, and the implementation of control measures and best management practices to prevent and detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4.

(3) During each discharge or as soon afterwards as possible, the permittee shall inspect the discharge area and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.

(4) Discharge and receiving water quality may also be monitored by grab samples or other means, and it shall be monitored by any means and at times specified by the director.

8. Corrective Action

(a) If the permittee notices any item(s) which adversely affects receiving water quality, the permittee shall immediately stop, reduce, or modify operations, or implement new or revised best management practices as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

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(b) If the discharge is not of R-1 quality or the best management practices as approved by the director were not being implemented, then the permittee shall immediately stop, reduce, or modify operations, or implement new or revised best management practices as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

9. Reporting Requirements

(a) If the discharge is of R-1 quality water and the best management practices as approved by the director were implemented, then the permittee shall orally report within twenty-four hours information regarding the discharge and the best management practices implemented. A summary of all discharges shall be tabulated quarterly and submitted to the wastewater branch within thirty days after the quarters ending March, June, September, and December.

(b) If the discharge is not of R-1 quality, best management practices approved by the director were not being implemented, or water quality is adversely affected, then the permittee shall immediately notify the director of any discharge to state waters, corrective measures taken, and shall report in writing all of a month's discharges and corrective measures within five days after that month.

(c) The permittee shall make oral reports by telephone to the Wastewater Branch at (808) 586-4294 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

10. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Wastewater Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or

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submittals may be a basis for delay of the processing of the document(s).

11. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

12. Record Retention

The permittee shall retain all records and information resulting from the activities required by this general permit for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

13. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

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CHAPTER 11-55 APPENDIX K

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF STORM WATER AND
CERTAIN NON-STORM WATER DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

October 2007

1. Coverage under this General Permit

(a) This general permit covers storm water and certain non-storm water discharges, provided they do not cause or contribute to any violation of water quality standards, to state waters from small municipal separate storm sewer systems.

Non-storm water discharges authorized by this general permit, provided that they do not cause or contribute to any violation of water quality standards, include:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows;

(4) Rising ground waters;

(5) Uncontaminated ground water infiltration (as defined in 40 CFR §35.2005(20));

(6) Uncontaminated pumped ground water;

(7) Discharges from potable water sources and foundation drains;

(8) Air conditioning condensate;

(9) Irrigation water;

(10) Springs;

(11) Water from crawl space pumps and footing drains;

(12) Lawn watering runoff;

(13) Water from individual residential car washing;

(14) Flows from riparian habitats and wetlands;

(15) Dechlorinated swimming pool discharges;

(16) Residual street wash water; and

(17) Discharges or flows from fire fighting activities.

(b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage under this General Permit

(a) This general permit does not cover the following:

(1) Storm water discharges into a sanitary sewer system;

(2) Storm water discharges from construction activities greater than one acre which

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discharges into the permittee's small municipal separate storm sewer system;

(3) Storm water discharges from industrial facilities as defined in 40 CFR §§122.26(b)(14)(i) through 122.26(b)(14)(ix) and 122.26(b)(14)(xi) which discharges into the permittee's small municipal separate storm sewer system;

(4) Storm water discharges from small municipal separate storm sewer systems which initially enter a separate storm water drainage system(s), unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s);

(5) Storm water discharges for which the director has issued a notice of general permit coverage under another general permit specific to that type of industrial activity; and

(6) Storm water discharges the director finds more appropriately regulated under an individual permit.

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(b)(10) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(10) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(10) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

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(2) Non-storm water discharge information;

(3) Facility site map;

(4) An assessment of the effectiveness of the storm water management plan implemented during the previous permit term in reducing discharges of pollutants to the maximum extent practicable and protecting water quality, and any modifications to the plan proposed to be implemented for compliance with this general permit;

(5) Storm water management plan, which meets the applicable requirements as specified in section 6 of this general permit, and which has been updated based on the assessment required by section 4(b)(4) of this general permit. The storm water management plan may be submitted to the director with the notice of intent or within one hundred twenty days after the issuance date of the notice of general permit coverage or by the date the applicant claimed automatic coverage as specified in section 11-55-34.09(e)(2), or for proposed small municipal separate storm sewer systems, by the date the permittee's small municipal separate storm sewer system becomes operational. The plan, and all subsequent revisions, shall be kept on-site or at a nearby office or field office; and

(6) If the small municipal separate storm sewer system discharges storm water and other allowable non-storm water to a state water for which a total maximum daily load has been approved by the EPA,

the permittee shall develop and submit an implementation and monitoring plan with the notice of intent or within ninety days after the issuance date of the notice of general permit coverage or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall incorporate the total maximum daily load into the small municipal separate storm sewer system's storm water management plan within sixty days of the date of submittal of the plan and implement necessary steps to meet the plan.

(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

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6. Storm Water Management Plan Requirements

The permittee shall develop, implement, and enforce a storm water management plan designed to reduce the discharge of pollutants from the permittee's small municipal separate storm sewer system to the maximum extent practicable in order to protect water quality and satisfy the appropriate water quality requirements of the Clean Water Act. The storm water management plan shall include the minimum control measures identified below with implementation dates and rationales for each measure:

(a) Minimum Control Measures

(1) Public Education and Outreach

Develop and implement a public education program to distribute educational materials to users of the permittee's small municipal separate storm sewer system or equivalent outreach activities emphasizing the following:

(A) Impacts of storm water discharges on water bodies,

(B) Hazards associated with illicit discharges, and

(C) Measures that users of the permittee's small municipal separate storm sewer system can take to reduce pollutants in storm water runoff, including, but not limited to, minimizing fertilizer application and practicing proper storage and disposal of chemicals and wastes;

(2) Public Involvement/Participation

Include users of the permittee's small municipal separate storm sewer system in developing, implementing, and reviewing the storm water management plan;

(3) Illicit Discharge Detection and Elimination

Develop, implement, and enforce a program to detect and eliminate illicit discharges that, at a minimum, includes the following:

(A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that prohibit non-storm water discharges, except those listed in section 1 that do not cause or contribute to any violations of water quality standards, into the permittee's small municipal separate storm sewer system,

(B) Procedures to detect and eliminate illicit discharges (as defined in 40 CFR Section 122.26(b)(2)), and

(C) Compilation of a list of non-storm water discharges or flows that are considered to be significant contributors of pollutants to the system and measures to be taken to prevent these discharges into the permittee's small municipal separate storm sewer system, or

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reduce the amount of pollutants in these discharges;

(4) Construction Site Runoff Control

Develop, implement, and enforce a program to reduce pollutants in storm water runoff entering the permittee's small municipal separate storm sewer system from construction activities disturbing one acre or more, including construction activities less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more, that, at a minimum, includes the following:

(A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that require erosion and sediment controls,

(B) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices,

(C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality,

(D) Procedures for site plan review which incorporate consideration of potential water quality impacts,

(E) Procedures for receipt and consideration of information submitted by the public, and

(F) Procedures for site inspection and enforcement of control measures;

(5) Post-Construction Storm Water Management in New Development and Redevelopment

Develop, implement, and enforce a program to reduce pollutants in storm water runoff entering the permittee's small municipal separate storm sewer system from new development and redevelopment projects that disturb greater than or equal to one acre, including construction sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more, that, at a minimum, includes the following:

(A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that address post-construction runoff from new development and redevelopment projects,

(B) Structural and/or non-structural best management practices to minimize water quality impacts and attempt to maintain pre-development runoff conditions, and

(C) Procedures for long-term operation and maintenance of best management practices.

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(6) Pollution Prevention/Good Housekeeping

Develop, implement, and enforce an operation and maintenance program to prevent and reduce storm water pollution from activities, including, but not limited to, park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance that, at a minimum, includes the following:

(A) Good housekeeping and other control measures, and

(B) Employee and contractor training on good housekeeping practices to ensure that good housekeeping measures and best management practices are properly implemented.

(b) Measurable Goals

The permittee shall develop measurable goals to gauge permit compliance and program effectiveness for each minimum control measure identified above. The permittee shall select measurable goals using an integrated approach that fully addresses the requirements and intent of the minimum control measure.

(c) Modifications

(1) Significant Modifications

(A) Modifications to the storm water management plan that would result in a major reduction in the overall

scope or level of effort or both of the storm water management plan must be made for cause and in compliance with 40 CFR §122.62 and 40 CFR Part 124.

(B) The permittee shall report in writing any proposed modification described above to the Director of Health for approval at least thirty days prior to the initiation date of the modification.

(2) Other Modifications

The permittee shall report and justify all other modifications made to the storm water management plan in the annual report for the year in which the modification was made.

7. Basic Water Quality Criteria and Inspections

(a) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(b) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and

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inspect for items that may be toxic or harmful to human or other life.)

8. Corrective Action

The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

9. Reporting Requirements

(a) Annual Report

The submittal of the annual report by the permittee shall be postmarked or received by the department by the twenty-eighth day of January of the following year. The annual report shall cover each calendar year during the term of this permit and include the following:

(1) Status of compliance with conditions of this permit;

(2) Assessment of the storm water management plan, including progress towards implementing each minimum control measure;

(3) Modifications made to the storm water management plan and implementation schedule during that calendar year, including justifications;

(4) Summary of the storm water activities planned to be undertaken during the next calendar year; and

(5) Major modifications made to the permittee's small municipal separate storm sewer system, including, but not limited to, addition and removal of outfalls, drainage lines, and treatment facilities.

(b) Planned Changes

The permittee shall report any planned physical alterations or additions to the permitted facility, not covered by 40 CFR §122.41(l)(1)(i), (ii), and (iii) to the director on a quarterly basis.

10. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e)or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure

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that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

11. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

12. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

13. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

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CHAPTER 11-55 APPENDIX L

NPDES GENERAL PERMIT
AUTHORIZING DISCHARGES OF CIRCULATION WATER
FROM DECORATIVE PONDS OR TANKS

October 2007

1. Coverage under this General Permit

   (a) This general permit covers discharges of circulation water from decorative ponds or tanks containing fish or other aquatic species, not including mammals. This general permit also covers discharges of circulation water from decorative ponds or tanks that do not contain fish or other aquatic species provided that the discharge complies with chapter 11-54 titled "Water Quality Standards."

   (b) This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."

2. Limitations on Coverage Under the General Permit

   (a) This general permit does not cover the following:

      (1) Discharges of circulation water from decorative ponds or tanks into a sanitary sewer system and

      (2) Discharges of circulation water from decorative ponds or tanks which

initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s).

(b) The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

3. Term of General Permit

(a) This general permit becomes effective when section 11-55-34.02(11) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires when amendments to section 11-55-34.02(b)(11) are adopted, whichever is earlier.

(b) A notice of general permit coverage under this general permit expires:

(1) Five years after the effective date of this general permit;

(2) When the notice of general permit coverage specifies; or

(3) When amendments to section 11-55-34.02(b)(11) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

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4. Notice of Intent Requirements

(a) The owner or its duly authorized representative shall submit a complete notice of intent no later than thirty days before the proposed starting date of the discharge.

(b) The owner or its duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Description of the decorative fish pond or tank and the type of aquatic species being housed. The description should include, but not be limited to: material type of the pond or tank; water volume contained; the type, size, and number of aquatic species being housed; and, the type(s) and quantity of food utilized;

(3) Description of the average frequency of flow and duration of any intermittent or seasonal discharge. The frequency of flow means the number of days or months per year when there is an intermittent discharge. Duration means the number of days or hours per discharge. Provide the best estimate for new discharges;

(4) Source(s) of the circulation water for the decorative fish pond or tank;

(5) Quantitative data on pollutants that the owner or operator of the facility knows or reasonably should know are or will be present in the discharge and for which

the pollutants numerical criteria for the existing or proposed receiving state waters are specified in chapter 11-54, especially section 11-54-4;

(6) Name and chemical composition of any water enhancement or treatment additives, if any used;

(7) Best management practices applied to minimize or eliminate the discharge of pollutants (e.g., feeding procedures, pond or tank cleaning operations, and control measures); and

(8) A brief description of any treatment system used or to be used. The treatment system plan, and all subsequent revisions, shall be retained on-site or at a nearby office.

(9) If the decorative fish pond or tank discharges circulation water to a state water for which a total maximum daily load has been approved by the EPA, the permittee shall develop and submit an implementation and monitoring plan with the notice of intent or within ninety days after the issuance date of the notice of general permit coverage or by the date the permittee claimed automatic coverage as specified in section 11-55-34.09(e)(2). The permittee shall incorporate provisions to comply with the total maximum daily load into the facility's best management practices plan within sixty days of the date of submittal of the plan and implement necessary steps to meet the plan.

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(c) The director may require additional information to be submitted.

(d) The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements

(a) The effluent shall be limited and monitored by the permittee as specified in this section and in Table 34.8.

(1) Sampling Points

The permittee shall collect representative discharge samples downstream from the decorative fish pond or tank circulation water discharge point(s) and prior to entering the receiving state water or separate storm water drainage systems or at a location

that is approved by the department which is representative of the decorative fish pond or tank effluent water quality.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

(A) "Grab sample" means an individual sample collected within the first fifteen minutes of a discharge.

(B) "Composite sample" means a combination of a least eight samples aliquots, collected at periodic intervals during the operating hours of the facility over a 24-hour period. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot shall be proportional to the total effluent flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically, unless otherwise stated.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of

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pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. If the test result is not detectable, indicate that the test result is "less than #," where the # is the lowest detection limit of the test method used.

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

(b) Basic Water Quality Criteria and Inspections

(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.

(2) The permittee shall timely inspect the receiving state waters, effluent, and control measures and best management practices to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

(c) There shall be no floating solids, foam, or visible oil sheen in the effluent.

(d) There shall be no discharge of pond or tank cleaning wastewaters that are generated during the cleaning of a pond or tank that has been drained of water below the normal operating level(s).

(e) There shall be no discharge of filter backwash effluent.

(f) There shall be no discharge of any water enhancement or treatment additives above applicable water quality standards or above detectable levels or quantities if no applicable water quality standard for such constituents exists.

7. Corrective Action

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The permittee shall immediately stop, reduce, or modify the discharge as needed to stop or prevent a violation of the basic water quality criteria as specified in section 11-54-4.

8. Reporting Requirements

(a) Reporting of Monitoring Results

(1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.8 and other requirements of this general permit.

(2) The permittee shall submit monitoring results obtained during the previous calendar month, postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period.

(3) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.

(4) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.

(b) Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

(1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.8 or a basic water quality criteria specified in section 6(b) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

(2) The permittee shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday

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(excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

(3) The permittee shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:

(A) Description of the noncompliance, unanticipated bypass, or upset and its cause;

(B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;

(C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and

(D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.

(4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

(d) Schedule of Maintenance

The permittee shall submit a schedule for approval by the director at least fourteen

days prior to any maintenance of facilities which might result in exceedance of effluent limitations. For purposes of this general permit only, maintenance shall include, but not be limited to, the routine cleaning of the pond or tank while filled with water and otherwise still operated under normal conditions. The schedule shall include a description of the maintenance and its reason; the period of maintenance, including exact dates and times; and steps taken or planned to reduce, eliminate, and prevent occurrence of noncompliance.

9. Submittal Requirements

(a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(b) The owner or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure

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that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

(c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

10. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b).

11. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

12. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

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TABLE 34.8

EFFLUENT LIMITATION AND MONITORING REQUIREMENTS
FOR CIRCULATION WATER FROM DECORATIVE PONDS AND TANKS

Effluent Parameter	Effluent Limitation {1}	Minimum Monitoring Frequency	Type of Sample
Flow (GPD)	{2}	Once/Quarter	Estimate
Total Nitrogen (mg/l)	{2}	Once/Quarter	Grab
Nitrate + Nitrite Nitrogen (mg/l)	{2}	Once/Quarter	Grab
Ammonia Nitrogen (mg/l)	{2}	Once/Quarter	Grab
Total Phosphorus (mg/l)	{2}	Once/Quarter	Grab
Chlorophyl a (µg/l)	{2}	Once/Quarter	Grab
Total Suspended Solids (mg/l)	10	Once/Quarter	Grab
Turbidity (NTU)	{3}	Once/Quarter	Grab
pH (standard units)	{4}	Once/Quarter	Grab {5}
Fecal coliform or Enterococcus (no./100 ml) {6}	{7}	Once/Quarter	Grab
Toxic Pollutants {8}	{9}	Once/Quarter	{10}

GPD = gallons per day
mg/l = milligrams per liter
µg/l = micrograms per liter
NTU = Nephelometric Turbidity Units
no./100 ml = number per 100 milliliters

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NOTES:

{1} Pollutant concentration levels shall not exceed the effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} No limitation at this time. Only monitoring and reporting required.

{3} Effluent limitation is the specific criteria established in sections 11-54-5 and 11-54-6 for the classification of the receiving state waters, as applicable.

{4} The pH value shall not be outside the range as specified in chapter 11-54 for the applicable classification of the receiving state waters.

{5} The pH shall be measured within fifteen minutes of obtaining the grab sample.

{6} Applicable if potentially present in the discharge.

{7} Effluent limitation is the specific criteria established in section 11-54-8 for the classification of the receiving state waters, as applicable.

{8} The permittee shall measure for toxic pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 only if they are identified as potential pollutants requiring monitoring in the notice of intent. The permittee shall measure for the total recoverable portion of all metals.

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{9} Effluent limitations are the acute water quality standards established in section 11-54-4, for either fresh or saline waters and specific criteria established in section 11-54-5 and 11-54-6 for the classification of the receiving state waters, as applicable. For pollutants which do not have established acute water quality standards or specific criteria, the permittee shall report any detected concentration greater than 0.01 µg/l.

{10} The permittee shall measure for cyanide and the volatile fraction of the toxic organic compounds using a grab sample. The permittee shall measure for all other pollutants, as identified in Appendix D of 40 CFR Part 122 or in section 11-54-4 using a composite sample.

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CHAPTER 11-55 APPENDIX M

NPDES GENERAL PERMIT
AUTHORIZING POINT SOURCE DISCHARGES FROM THE
APPLICATION OF PESTICIDES

August 2012

1. Coverage under this General Permit.

This permit covers any Operator of a point source discharge of pollutants (i.e., discharge) resulting from the application of pesticides that meets the eligibility requirements identified in section 1(a) of this pesticide general permit (PGP) and if so required, submits a Notice of Intent (NOI) in accordance with section 1(e) of this general permit. For the purpose of this permit, an Operator is defined in section 11-55-01 to mean any entity associated with the application of pesticides which results in a discharge to state waters that meets either of the following two criteria: (1) any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities); or (2) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. Operators identified in (1) above are referred to in this permit as Applicators while Operators identified in (2) are referred to in this permit as Decision-makers. As defined, more than one Operator may be responsible for complying with this permit for any single discharge from the application of pesticides.

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For purposes of this permit, all Operators are defined as either an Applicator or a Decision-Maker or both an Applicator and a Decision-maker.

When an Operator is both an Applicator and a Decision-maker, the Operator must comply with all applicable requirements imposed on both Applicators and Decision-makers. When the permit references all "Operators," both Applicators and Decision-makers must comply.

(a) Activities Covered.

This permit is available to Operators who discharge to state waters from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (collectively called pesticides), when the pesticide application is for at least one of the following pesticide use patterns:

(1) Mosquito and Other Flying Insect Pest Control - to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include mosquitoes and black flies.

(2) Weed and Algae Pest Control - to control weeds, algae, and pathogens that are pests in water and at water's edge, including ditches and/or canals.

(3) Animal Pest Control -to control animal pests in water and at water's edge.

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Animal pests in this use category include, but are not limited to, fish, lampreys, insects, mollusks, and pathogens.

(4) Forest Canopy Pest Control - application of a pesticide to a forest canopy to control the population of a pest species (e.g., insect or pathogen) where to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to water.

(b) Limitations on Coverage under this General Permit

(1) Discharges to Water Quality Impaired Waters.

Except for discharges from pesticide applications made in response to a declared pest emergency situation or as determined by the director, Operators are not eligible for coverage under this permit for any discharges from a pesticide application to state waters if the water is identified as impaired by a substance which either is an active ingredient in that pesticide or is a degradate of such an active ingredient. For purposes of this general permit, impaired waters are those that have been identified by the State pursuant to Section 303(d) of the CWA as not meeting applicable State water quality standards. Impaired waters, for the purposes of this

general permit consist of both waters with EPA-approved Total Maximum Daily Loads (TMDLs) and waters for which EPA has not yet approved a TMDL. Coverage under this general permit is allowed for discharges to impaired waters listed generically for "pesticides" where the specific pesticide for which the waterbody is impaired has not been identified and without additional information suggesting that the waterbody is impaired for a specific active ingredient or degradate of the active ingredient.

(2) Discharges to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 entitled "Water Quality Standards."

Operators are not eligible for coverage under this permit for discharges from a pesticide application to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 entitled "Water Quality Standards."

Except for discharges from the following pesticide applications:

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(A) made in response to a declared pest emergency situation or as determined by the director;

(B) to protect the public health or the environment that either do not degrade water quality or only degrade water quality on a short term basis; or

(C) to maintain water flow in agricultural irrigation ditches and canals if the pesticide application is for the activity covered in 1(a)(2) (i.e., weed and algae pest control) or is for the activity covered in 1(a)(3) (i.e., animal pest control) in flooded agricultural fields.

(3) Discharges to surface drinking water sources (for domestic use) and their tributaries up-stream are not eligible for coverage under this permit. Such discharges will require coverage under an individual NPDES permit.

Except in the following conditions:

(A) made in response to a declared pest emergency situation or as determined by the director; or

(B) the following:

(i) the NOI indicates whether the proposed application may

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discharge to surface drinking water sources; and

(ii) the application to surface drinking water sources is consistent with the FIFRA label, including but not limited to, following any distance restriction and intended use; and

(iii) the Decision-maker provides the owner (e.g., municipality, private) of the surface drinking water source the following information, including but not limited to: the pesticide(s) to be applied, general location, and approximate frequency and the department receives written consent from the owner of the surface drinking water source for such discharges; and

(iv) the Operator adheres to the Safe Drinking Water Act and safe drinking water regulations; and

(v) the Operator shall coordinate with the owner of the surface drinking water source to prevent pesticide-treated water from entering the drinking water intake

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and distribution system (e.g., the valve to the drinking water source is shut, or by diversion).

(4) Discharges Currently or Previously Covered by another Permit.

Discharges are not eligible for coverage under this permit if any of the following circumstances apply:

(A) The discharge is covered by another NPDES permit, or

(B) The discharge was included in a permit that in the past five (5) years has been or is in the process of being denied, terminated, or revoked by the State or EPA (this does not apply to the routine reissuance of permits every five (5) years).

(5) Individual Permit

The Director may require any Operator authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

(c) Term of General Permit

(1) This general permit becomes effective when section 11-55-34.02(b)(12) becomes effective ten days after filing with the office of the lieutenant governor.

Hereinafter, the date when section 11-55-34.02(b)(12) becomes effective (i.e., ten days after filing with the office of the lieutenant governor) shall be referred to as "the effective date of the permit." This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(12) are adopted, whichever is earlier.

(2) A notice of general permit coverage under this general permit expires:

(C) Five years after the effective date of this general permit;

(D) When the notice of general permit coverage specifies; or

(E) When amendments to section 11-55-34.02(b)(12) are adopted,

Whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

(d) How to Obtain Authorization.

The following discharges, consistent with the activities covered in section 1(a) and limitations on coverage under this general permit in section 1(b), are automatically authorized by this permit beginning when section 11-55-34.02(b)(12) becomes effective ten days after filing with the office of the lieutenant governor:

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(1) Eligible discharges made prior to the Notice of Intent submission deadline. See Table 2;

(2) Eligible discharges for which submission of an NOI is not required. See sections 1(e) and 1(f).

To obtain authorization under this permit for all other eligible discharges, a Decision-maker must submit a timely, complete, and accurate NOI consistent with the requirements of sections 1(e) and 1(f), be issued a Notice of General Permit Coverage (NGPC) and meet all conditions of the NGPC, unless the Operator claimed automatic coverage in writing under the automatic provision of section 11-55-34.09(e)(2) and assumes the risks in section 11-55-34.09(f); and this general permit to the satisfaction of the department.

(e) Decision-makers Required to Submit an NOI.

Any "Decision-maker Who is or Will be Required to submit an NOI" is identified in Table 1.

For calculating annual treatment area totals for purposes of determining if an NOI must be submitted, see the definition for, "annual treatment area threshold" in section 11-55-01.

An NOI provides notice to the State that a Decision-maker intends to discharge to state waters from pesticide application activities eligible for coverage under this permit.

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Information required to be provided is on the NOI form. The NOI must identify the pest management area where the Decision-maker will conduct activities resulting in discharges to state waters to be covered under this permit.

If required to submit an NOI, a Decision-maker must submit the NOI once, in accordance with the deadlines in Section 1(f), Table 2. The Decision-maker must submit an updated NOI if the criteria in section 1(f), Table 3 are met. Late NOIs may be accepted, but authorization to discharge will not be retroactive.

Coverage will be available for the duration of this general permit for Decision-makers who file an NOI and are issued an NGPC and who meet all conditions of the NGPC and this general permit to the satisfaction of the department or for those rightfully (refer to the risks in section 11-55-34.09(f)) claiming coverage in writing under the automatic provision of section 11-55-34.09(e)(2), including the Decision-makers' employees, contractors, subcontractors, and other agents, for all activities identified on the NOI unless coverage is terminated pursuant to appendix A of chapter 11-55. If a submitted NOI is not timely, accurate, or complete, and an NGPC is not issued or any condition not met, any employee, contractor, subcontractor or other entity that discharges is not covered by this permit.

Applicators who are not also Decision-makers do not need to submit an NOI, however they

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are still required to comply with other requirements, as applicable in this general permit.

(f) Discharge Authorization Date

Except for discharges identified in Tables 1 through 3, any Operator with eligible discharges is automatically authorized to discharge under this permit without submission of an NOI. Decision-makers with eligible discharges identified in Tables 1 through 3 are authorized under this permit consistent with the requirements in those tables.

On the basis of a review of an NOI or other information, the Director may delay authorization to discharge beyond any timeframe identified in Table 2, determine that additional technology-based and/or water quality-based effluent limitations or other conditions are necessary, or deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in section 1(b)(5).

All Operators with eligible discharges are authorized for permit coverage up until 60 calendar days from the effective date of the permit without submission of an NOI. Hereinafter, the 60 calendar day timeframe provided after the effective date of the permit shall be referred to as the "adjustment period." After the adjustment period, all Operators with eligible discharges for which an NOI is not required

also are automatically covered under this permit. By the adjustment period, all Decision-makers with eligible discharges for which an NOI is required are required to submit an NOI consistent with the earliest applicable due date identified in Table 2. Decision-makers may submit multiple NOIs with different activities on each of those NOIs when a pesticide use pattern is not already covered within the same treatment area under another NOI.

Decision-makers who are required to submit an NOI must begin complying with Section 2(b) when section 11-55-34.02(b)(12) becomes effective ten days after filing with the office of the lieutenant governor.

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Table 1. Decision-makers Required to Submit NOIs

PGP Section/ Pesticide Use	Which Decision-makers Must Submit NOIs?	For Which Pesticide Application Activities?
All four use patterns identified in section 1(a)	Any Decision-maker with an eligible discharge to water quality impaired waters; class 1, inland or class AA, marine waters, or areas restricted in accordance with the State's "no discharge" policy; or to surface drinking waters and their tributaries up-stream consistent with sections 1(b)(1), 1(b)(2), or 1(b)(3).	Activities resulting in a discharge to water quality impaired waters, class 1, inland or class AA, marine waters, or areas restricted in accordance with the State's "no discharge" policy, or to surface drinking waters and their tributaries up-stream.
1(a)(1) - Mosquito and Other Flying Insect Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's operations.	All mosquito and other flying insect pest control activities resulting in a discharge to state waters.
	Mosquito control districts, or similar pest control districts.	All mosquito and other flying insect pest control activities

		resulting in a discharge to state waters.
	Counties or other entities that exceed the annual treatment area threshold identified here.	Adulticide treatment if more than 6,400 acres during a calendar year. {1}
1(a)(2) - Weed and Algae Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's operations.	All weed and algae pest control activities resulting in a discharge to state waters.
	Irrigation and weed control districts, or similar pest control districts.	All weed and algae pest control activities resulting in a discharge to state waters.
	Counties or other entities that exceed the annual treatment area threshold identified here.	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water. {2}
1(a)(3) - Animal Pest Control	Any Federal or State government entities for which pest management for land resource	All animal pest control activities resulting in a discharge to state waters.

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	stewardship is an integral part of the organization's operations.	
	Counties or other entities that exceed the annual treatment area threshold identified here.	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water. {2}
1(a)(4) - Forest Canopy Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's operations.	All forest canopy pest control activities resulting in a discharge to state waters.
	Counties or other entities that exceed the annual treatment area threshold identified here.	Treatment if more than 6,400 acres during a calendar year. {1}

Table 2. NOI Submittal Deadlines and Discharge Authorization Dates for Discharges from the Application of Pesticides

After the adjustment period, any eligible discharge for which an NOI is required must submit an NOI consistent with the earliest due date identified below. If the Director receives an NOI at least 30 calendar days before the end of the adjustment period, uninterrupted coverage may continue {3}. NOI due dates for any discharges occurring on or after the adjustment period are as follows:		
Operator Type	NOI Submission Deadline	Discharge Authorization Date {3}
Any Decision-maker with a discharge in response to a Declared Pest Emergency for which that activity triggers the NOI requirement identified in Section 1(e).	At least 30 calendar days after beginning discharge.	Immediately upon beginning to discharge for activities conducted in response to a Declared Pest Emergency Situation {4}.
Any Decision-maker that exceeds any annual treatment area threshold.	At least 30 calendar days before exceeding an annual treatment area threshold.	Upon NGPC issuance {5} or if the operator claimed automatic coverage in writing under the automatic provision of section 11-55-34.09(e)(2) and assumes the risks in section 11-55-34.09(f).

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Any Decision-maker otherwise required to submit an NOI as identified in Table 1.	At least 30 calendar days before any discharge for which an NOI is required.	Upon NGPC issuance {5} or if the Operator claimed automatic coverage in writing under the automatic provision of section 11-55-34.09(e)(2) and assumes the risks in section 11-55-34.09(f).

Table 3. Change of Information, resulting in a Major Modification {6} of the NGPC, Submittal Deadlines and Discharge Authorization Dates

Operator Type	NOI Submission Deadline	Discharge Authorization Date
Any Decision-makers discharging to a class 1, inland water; class AA, marine water; or area restricted in accordance with the State's "no discharge" policy not specifically identified by name on a previously submitted NOI for this permit.	At least 30 calendar days before beginning to discharge in that newly identified class 1, inland water; class AA, marine water; or area restricted in accordance with the State's "no discharge" policy unless discharges are in response to a declared pest emergency in which case not later than 30 days after beginning discharge.	After reissuance of the NGPC to include the change {5}, unless discharges are in response to a declared pest emergency in which case coverage is available immediately upon beginning to discharge from activities conducted in response to declared pest emergency {4}.
Any Decision-maker with any discharge to state waters requiring permit coverage for a newly identified pest management	At least 30 calendar days before beginning to discharge in that newly identified pest management area or new pesticide	After reissuance of the NGPC to include the change {5}, unless discharges are in response to a declared pest

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area or new pesticide use pattern not identified on a previously submitted NOI for this permit. This includes changes in any treatment area, pesticide product, method or rate of application, or approximate dates of applications.	use pattern not identified on a previously submitted NOI for this permit unless discharges are in response to a declared pest emergency in which case not later than 30 days after beginning discharge.	emergency in which case coverage is available immediately upon beginning to discharge from activities conducted in response to declared pest emergency {4}.

Notes:

{1} Treatment during a calendar year if more than 6,400 acres, as discussed for the categories "Mosquito and Other Flying Insect Pest Control" and "Forest Canopy Pest Control," refers to the total area to which pesticide applications (e.g. aerial spraying) are made, when any part of those areas is a state water and shall be treated as separate treatment areas to be additive in a calendar year. If the additive total areas in a calendar year to which pesticides application are made exceeds 6,400 acres, when any part of these areas is a state water, submittal of an NOI is required for those Decision-makers required to submit an NOI as identified in Table 1. For example, applying pesticides three times a year to the same three thousand acre site (i.e., total area to which pesticide applications are made, when any part of those areas is a state water)

should be counted as nine thousand acres of treatment area.

{2} For the categories "Weed and Algae Pest Control" and "Animal Pest Control", "20 linear miles" means 20 linear miles of river, stream, riverbank, or other linear water feature subject to coverage under this permit, counting each bank of the water feature separately if pesticides are applied to both banks. This means that applications four times a year to both banks of a three-mile long reach of stream will count as a total of twenty four linear miles (three miles * two banks * for applications per year = twenty four miles to which pesticides are applied in a calendar year) and require submission of an NOI. For applications made to the water of a linear water feature, the length of the reach or surface area may be used to determine if the annual treatment area threshold is exceeded. Treatment during a calendar year if more than "80 acres of water (i.e., surface area)" means application of pesticides to a waterbody surface area of greater than 80 acres.

{3} On the basis of a review of an NOI or other information, the Director may delay authorization to discharge beyond any timeframe identified in Table 1, determine that additional technology-based and/or water quality-based effluent limitations or other conditions are necessary, or deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Section 1(b)(5).

{4} To remain authorized, an NOI must be submitted no later than 30 calendar days after beginning discharge and result in issuance of an NGPC. At

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no time, during the processing the NOI, shall the time between the department's request for more information, and its receipt from the Decision-maker be longer than 30 calendar days. If longer than 30 calendar days, coverage under this general permit may be terminated automatically.

{5} All requirements in the NGPC must be complied with and in the timeframe as specified, including this general permit and any additional requirements as determined by the State to the satisfaction of the department.

{6} The department may require submittal of a new NOI if it is determined that the modification of the information is significant or more than one (1) change to the information used in the issuance of its NGPC is required.

(g) Standard Conditions

The Decision-maker shall comply with the standard conditions as specified in appendix A of chapter 11-55, excluding biocides as identified in section 1.a.(4) of appendix A. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, excluding biocides as identified in section 1.a.(4) of appendix A, the more stringent conditions shall apply.

(h) Other Federal and State Laws.

Operators must comply with all other applicable federal and state laws and regulations that pertain to pesticides. The pesticide must be registered by the EPA, licensed by the State Department of Agriculture or other lead state agency regulating pesticides, and used in a manner consistent with the labeling of the pesticide under the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA). This permit does not negate the requirements under FIFRA and its implementing regulations to use registered pesticides consistent with the product's labeling. In fact, applications in violation of certain FIFRA requirements could also be a violation of the permit and therefore a violation of the CWA (e.g. exceeding label application rates). Additionally, other laws and regulations might apply to certain activities that are also covered under this permit (e.g., United States Coast Guard regulations).

2. Technology-Based Effluent Limitations

This Section includes technology-based effluent limitations applicable to all Operators, as defined in section 11-55-01, for any discharges authorized under this permit, with compliance required upon beginning such discharge. All Operators are classified as either "Applicators" or "Decision-makers," as defined in section 11-55-01, or both. Applicators must perform the tasks identified in section 2(a) - Applicators' Responsibilities. Decision-makers must perform

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the tasks identified in section 2(b) - Decision-makers' Responsibilities. There may be instances when a single entity acts as both an Applicator and a Decision-maker.

As stated in section 1(h), this general permit requires all Operators to comply with all other applicable federal or state laws and regulations that pertain to application of pesticides by the Operator.

(a) Applicators' Responsibilities

To meet the effluent limitations of this permit, all Applicators must implement section 2(a) to minimize the discharge of pesticides to state waters from the application of pesticides, through the use of Pest Management Measures, as defined in section 11-55-01.

(1) To the extent not determined by the Decision-maker, use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task.

(2) Maintain pesticide application equipment in proper operating condition, including requirement to calibrate, clean, and repair such equipment and prevent leaks, spills, or other unintended discharges.

(3) Assess weather conditions (e.g. temperature, precipitation and wind

speed) in the treatment area to ensure application is consistent with all applicable federal requirements.

(b) Decision-makers' Responsibilities

For All Decision-makers

To meet the effluent limitations in section 2(b), all Decision-makers must minimize the discharge of pesticides to state waters from the application of pesticides, through the use of Pest Management Measures, as defined in section 11-55-01.

To the extent the Decision-maker determines the amount of pesticide or frequency of pesticide application, the Decision-maker must use only the amount of pesticide and frequency of pesticide application necessary to control the target pest.

For Any Decision-maker Who is or Will be Required to Submit an NOI

To meet the effluent limitations of this permit, prior to pesticide application, any Decision-maker who is or will be required to submit an NOI as required in section 1(e) must also implement sections 2(b)(1) - 2(b)(4) to minimize the discharge of pesticides to state waters from the application of pesticides, through the use of Pest Management Measures, as defined in section 11-55-01.

(1) Mosquito and Other Flying Insect Pest Control

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This section applies to discharges from the application of pesticides for mosquito and other flying insect pest control as defined in section 1(a)(1) of this general permit.

(A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

(i) Establish densities for larval and adult mosquito or flying insect pest populations or identify environmental condition(s), either current or based on historical data, to serve as action threshold(s) for implementing Pest Management Measures;

(ii) Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral

considerations for each pest;

(iii) Identify known breeding sites for source reduction, larval control program, and habitat management;

(iv) Analyze existing surveillance data to identify new or unidentified sources of mosquito or flying insect pest problems as well as sites that have recurring pest problems; and

(v) In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(b)(1)(A) of this general permit.

(B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective

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means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control mosquitoes or other flying insect pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

(i) No action

(ii) Prevention

(iii) Mechanical or physical methods

(iv) Cultural methods

(v) Biological control agents

(vi) Pesticides

(C) Pesticide Use.

If a pesticide is selected to manage mosquitoes or flying insect pests, and application of the pesticide will result in a discharge to a state water, any Decision-maker who is or will be required to submit an NOI must:

(i) Conduct larval and/or adult surveillance in an area that is representative of the pest problem or evaluate existing larval surveillance data, environmental conditions, or data from adjacent area(s) prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) is met;

(ii) Reduce the impact on the environment and on non-target organisms by applying the pesticide only when the action threshold(s) has been met;

(iii) In situations or locations where practicable and feasible for efficacious control, use larvicides as a preferred pesticide for mosquito or flying insect pest control when the larval action threshold(s) has been met; and

(iv) In situations or locations where larvicide use is not practicable or feasible for efficacious control, use adulticides for mosquito or flying insect pest control

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when the adult action threshold(s) has been met.

(2) Weed and Algae Pest Control

This section applies to discharges from the application of pesticides for control of weeds, algae, and pathogens as defined in section 1(a)(2) of this general permit.

(A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

(i) Identify areas with pest problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);

(ii) Identify target pest(s);

(iii) Identify possible factors causing or contributing to the pest problem (e.g., nutrients, invasive species, etc.);

(iv) Establish any pest- and site-specific action threshold, as defined in HAR, Chapter 11-55-01, for implementing section 2(b)(2)(B); and

(v) In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(b)(2)(A) of this general permit.

(B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides

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to pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

(i) No action

(ii) Prevention

(iii) Mechanical or physical methods

(iv) Cultural methods

(v) Biological control agents

(vi) Pesticides

(C) Pesticide Use.

If a pesticide is selected to manage pests, and application of the pesticide will result in a discharge to state waters, any Decision-maker who is or will be required to submit an NOI must:

(i) Conduct surveillance in an area that is representative of the pest problem prior to each pesticide application to assess the pest

management area and to determine when the action threshold(s) is met; and

(ii) Reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold has been met.

(3) Animal Pest Control

This section applies to discharges from the application of pesticides for control of animal pests as defined in section 1(a)(3) of this general permit.

(A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

(i) Identify areas with pest problems and characterize the extent of the problems, including, for example,

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water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);

(ii) Identify target pest(s);

(iii) Identify possible factors causing or contributing to the problem (e.g., nutrients, invasive species);

(iv) Establish any pest- and site-specific action threshold, as defined in section 11-55-01, for implementing section 2(b)(3)(B); and

(v) In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(B)(3)(A).

(B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each year thereafter prior to the first pesticide application during that calendar year, any Decision-maker who is or

will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

(i) No action

(ii) Prevention

(iii) Mechanical or physical methods

(iv) Biological control agents

(v) Pesticides

(C) Pesticide Use.

If a pesticide is selected to manage pests, and application of the pesticide will result in a discharge to state waters, any Decision-maker who is or will be required to submit an NOI must:

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(i) Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the action threshold(s) is met; and

(ii) Reduce the impact on the environment and non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold(s) has been met.

(4) Forest Canopy Pest Control

This section applies to discharges from the application of pesticides for forest canopy pest control as defined in section 1(a)(4) of this general permit.

(A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application in that calendar year, any Decision-maker who is or will be required to submit an NOI must do the

following for each pest management area, as defined in section 11-55-01:

(i) Establish any pest- and site-specific action threshold, as defined in section 11-55-01, for implementing section 2(b)(4)(B);

(ii) Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral considerations for each pest;

(iii) Identify current distribution of the target pest and assess potential distribution in the absence of Pest Management Measures; and

(iv) In the event there are no data for pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(B)(4)(A).

(B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a

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discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control pests. In developing the Pest Management Measures for pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

(i) No action

(ii) Prevention

(iii) Mechanical or physical methods

(iv) Cultural methods

(v) Biological control agents

(vi) Pesticides

(C) Pesticide Use.

If a pesticide is selected to manage forestry pests, and application of the pesticide will result in a discharge to state waters, any Decision-maker who is or will be required to submit an NOI must:

(i) Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the pest action threshold is met;

(ii) Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action threshold(s) has been met; and

(iii) Evaluate using pesticides against the most susceptible developmental stage.

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3. Water Quality-Based Effluent Limitations

All Operators must control discharges as necessary to meet applicable numeric and narrative state water quality standards, as required in chapter 11-54, for discharges authorized under this permit, with compliance required upon beginning such discharge.

If at any time an Operator becomes aware (e.g., through self-monitoring or by notification from the state or EPA), or the Director determines, that the Operator's discharge causes or contributes to an excursion of any applicable water quality standard, the Operator must take corrective action as required in section 6 and section 7 of appendix A, chapter 11-55, up to and including the ceasing of the discharge, if necessary.

4. Monitoring

(a) Visual Monitoring Requirements for Pesticide Applicators.

During any pesticide application with discharges authorized under this permit, all Applicators must, when considerations for safety and feasibility allow, visually assess the area to and around where pesticides are applied for possible and observable adverse incidents, as defined in section 11-55-01, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

(b) Visual Monitoring Requirements for all Operators.

During any Operator post-application surveillance
of any pesticide application with discharges authorized under this permit, all Operators must visually assess the area to and around where pesticides were applied for possible and observable adverse incidents, as defined in section 11-55-01, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

5. Pesticide Discharge Management Plan

Any Decision-maker who is or will be required to submit an NOI, as required in section 1(e), and is a large entity, as defined in section 11-55-01, must prepare a Pesticide Discharge Management Plan (PDMP) by the time the NOI is submitted to the department, except (for which a PDMP is not required to be developed) any applications made in response to a Declared Pest Emergency Situation, as defined in section 11-55-01.

The PDMP does not contain effluent limitations; the effluent limitations are specified in sections 2 and 3 of this general permit. The PDMP documents how Decision-makers will implement the effluent limitations in sections 2 and 3 of this general permit, including the evaluation and selection of Pest Management Measures to meet those effluent limitations in order to minimize discharges. In the PDMP, Decision-makers may incorporate by reference any procedures or plans

in other documents that meet the requirements of this general permit. If Decision-makers rely upon other documents to comply with the effluent limitations in this general permit, such as a pre-existing pest management plan, the Decision-makers must attach to the PDMP a copy of any portions of any documents that are used to document the implementation of the effluent limitations.

(a) Contents of the Pesticide Discharge Management Plan.

The PDMP must include the following elements:

(1) Pesticide Discharge Management Team

Decision-makers must identify all the persons (by name and contact information) that compose the team as well as each person's individual responsibilities, including:

(A) Person(s) responsible for managing pests in relation to the pest management area

(B) Person(s) responsible for developing and revising the PDMP; and

(C) Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements.

(2) Problem Identification

(A) Pest problem description.

Document a description of the pest problem at the pest management area, including identification of the target pest(s), source(s) of the pest problem, and source of data used to identify the problem in sections 2(b)(1), 2(b)(2), 2(b)(3), and 2(b)(4).

(B) Action Threshold(s).

Describe the action threshold(s) for the pest management area, including data used in developing the action threshold(s) and method(s) to determine when the action threshold(s) has been met.

(C) General location map.

In the plan, include a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) that identifies the geographic boundaries of the area to which the plan applies and location of the state water and

(D) Water quality standards.

Document any water(s) identified as impaired by a substance which either is an active ingredient or

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a degradate of such an active ingredient.

(3) Pest Management Options Evaluation

Decision-makers must document the evaluation of the pest management options, including combination of the pest management options, to control the target pest(s). Pest management options include the following: No action, prevention, mechanical/physical methods, cultural methods, biological control agents, and pesticides. In the evaluation, Decision-makers must consider the impact to water quality, impact to non-target organisms, feasibility, cost effectiveness, and any relevant previous Pest Management Measures.

(4) Response Procedures.

Decision-makers must document the following procedures in the PDMP:

(A) Spill Response Procedures.

At a minimum, Decision-makers must have:

(i) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases to state waters.

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Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the PDMP team.

(ii) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

(B) Adverse Incident Response Procedures.

At a minimum, Decision-makers must have:

(i) Procedures for responding to any adverse incident resulting from pesticide applications;

(ii) Procedures for notification of the adverse incident, both internal to the Decision-maker's agency/organization and external.

Contact information for state/federal permitting agency, nearest emergency

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medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.

(5) Signature Requirements.

Decision-makers must sign, date and certify the PDMP in accordance with section 15 of appendix A, chapter 11-55.

(b) Pesticide Discharge Management Plan Modifications.

Decision-makers must modify the PDMP whenever necessary to address any of the triggering conditions for corrective action in section 6(a) or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to the PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, no later than 90 calendar days after any change in pesticide application activities. The revised PDMP must be signed and dated in accordance with section 15 of appendix A, chapter 11-55.

(c) Pesticide Discharge Management Plan Availability.

Decision-makers must retain a copy of the current PDMP, along with all supporting maps and documents, at each address provided in the NOI. The PDMP and all supporting

documents must be readily available, upon request, and copies of any of these documents provided, upon request, to the state, EPA, or local agency governing discharges or pesticide applications within their respective jurisdictions; and representatives of the United States Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS). The Director may provide copies of the PDMP or other information related to this permit that is in its possession to members of the public. Any Confidential Business Information (CBI), as defined in 40 CFR Part 2, may be withheld from the public provided that a claim of confidentiality is properly asserted and documented in accordance with 40 CFR Part 2; however, CBI must be submitted to the Director, if requested, and may not be withheld from those staff within EPA, FWS, and NMFS cleared for CBI review.

6. Corrective Action

All Operators must comply with the provisions of section 6 for any discharges authorized under this general permit, with compliance required upon beginning such discharge.

(a) Situations Requiring Revision of Pest Management Measures.
Operators must review and, as necessary, revise the evaluation and selection of Pest Management Measures consistent with section 2(a) and 2(b) for the following situations:

(1) An unauthorized release or discharge associated with the application of

pesticides (e.g., spill, leak, or discharge not authorized by this or another NPDES permit) occurs.

(2) Operators become aware, or the Director concludes, that Pest Management Measures are not adequate/sufficient for the discharge to meet applicable water quality standards.

(3) Any monitoring activities indicate failure to meet applicable technology-based effluent limitations in section 2.

(4) An inspection or evaluation of activities by the Director, an EPA official, local, or state entity, reveals that modifications to the Pest Management Measures are necessary to meet the effluent limitations in this general permit.

(5) Any Operator observes or is otherwise made aware of an adverse incident as defined in section 11-55-01.

(b) Corrective Action Deadlines.

If an Operator determines that changes to Pest Management Measures are necessary to eliminate any situation identified in section 6(a), such changes must be made before or, if not practicable, as soon as possible after the next pesticide application that results in a discharge.

(c) Effect of Corrective Action.

The occurrence of a situation identified in section 6(a) of this general permit may constitute a violation of the permit. Correcting the situation according to section 6(a) of this general permit does not absolve the Operator of liability for any original violation. However, failure to comply with Section 6(a) of this general permit constitutes an additional permit violation. The Director will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

The Director, EPA or a court may impose additional requirements and schedules of compliance, including requirements to submit additional information concerning the condition(s) triggering corrective action or schedules and requirements more stringent than specified in this permit. Those requirements and schedules will supersede those of Section 6(a) of this general permit if such requirements conflict.

(d) Adverse Incident Documentation and Reporting

(1) Twenty-Four (24) Hour Adverse Incident Notification

(A) Adverse Incident Notification Required

Except as provided for in section 6(d)(4), if an Operator observes or is otherwise made aware of an

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adverse incident, as defined in section 11-55-01, which may have resulted from a discharge from a pesticide application, the Operator must immediately notify the Director. This notification must be made by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours, which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State hospital Operator at (808) 247-2191 outside of regular office hours, within 24 hours of the Operator becoming aware of the adverse incident; and State Department of Agriculture or other state lead agency for pesticide regulation and must include at least the following information:

(i) The caller's name and telephone number;

(ii) Operator name and mailing address;

(iii) If covered under an NOI, the NPDES file number, if applicable;

(iv) The name and telephone number of a contact person, if different than the person providing the 24-hour notice;

(v) How and when the Operator became aware of the adverse incident;

(vi) Description of the location of the adverse incident;

(vii) Description of the adverse incident identified and the pesticide product, including EPA pesticide registration number, for each product applied in the area of the adverse incident;

(viii) Description of any steps the Operator has taken or will take to correct, repair, remedy, clean up, or otherwise address any adverse effects; and

(ix) If known, the identity of any other Operators authorized for coverage under this permit for discharges from the pesticide application activities that resulted in the adverse incident.

If an Operator is unable to notify the Clean Water Branch within 24 hours, the Operator must do so as soon as possible and also provide an appropriate rationale for why the Operator was unable to provide such notification within 24 hours.

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The adverse incident notification and reporting requirements are in addition to what the registrant is required to submit under FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159.

(B) Adverse Incident Notification Not Required

Reporting of adverse incidents is not required under this permit in the following situations:

(i) An Operator is aware of facts that indicate that the adverse incident was not related to toxic effects or exposure from the pesticide application;

(ii) An Operator has been notified by the Director, and retains such notification, that the reporting requirement has been waived for this incident or category of incidents;

(iii) An Operator receives information of an adverse incident, but that information is clearly erroneous; or

(iv) An adverse incident occurs to pests that are similar in kind to potential target pests identified on the FIFRA label.

(2) Thirty (30) Calendar Day Adverse Incident Written Report.

Except as provided for in section 6(d)(4), within 30 calendar days of a reportable adverse incident pursuant to section 6(d)(1), Operators must provide a written report of the adverse incident to the Clean Water Branch and to the State Department of Agriculture or other state lead agency for pesticide regulation. The adverse incident report must include at least the following information:

(A) Information required to be provided in Section 6(d)(1);

(B) Date and time the Operator notified the Clean Water Branch and the State Department of Agriculture of the adverse incident and who the Operator spoke with and any instructions you received;

(C) Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc.);

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(D) A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;

(E) Magnitude and scope of the affected area (e.g. aquatic square area or total stream distance affected);

(F) Pesticide application rate; intended use site (e.g., on the bank, above waters, or directly to water); method of application; and the name of pesticide product and EPA registration number;

(G) Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);

(H) If laboratory tests were performed, an indications or which test(s) were performed, and when; additionally, a summary of the test results must be provided within five (5) calendar days after they become available if not available at the time of submission of the 30-day report;

(I) Description of actions to be taken to prevent recurrence of adverse incidents; and

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(J) Signature, date, and certification in accordance with section 15 of appendix A, chapter 11-55.

(3) Adverse Incident to Threatened or Endangered Species or Critical Habitat

Notwithstanding any of the other adverse incident notification requirements of this section, if an Operator becomes aware of an adverse incident affecting a federally-listed threatened or endangered species or its federally-designated critical habitat, which may have resulted from a discharge from the Operator's pesticide application, the Operator must immediately notify the NMFS in the case of an anadromous or marine species, or the FWS in the case of a terrestrial or freshwater species. This notification must be made by telephone immediately upon the Operator becoming aware of the adverse incident and must include at least the following information:

(A) The caller's name and telephone number;

(B) Operator name and mailing address;

(C) The name of the affected species;

(D) How and when the Operator became aware of the adverse incident;

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(E) Description of the location of the adverse incident;

(F) Description of the adverse incident and the pesticide product, including the EPA pesticide registration number for each product applied in the area of the adverse incident; and

(G) Description of any steps the Operator has taken or will take to alleviate the adverse impact to the species.

Additional information on federally-listed threatened or endangered species and federally-designated critical habitat is available from NMFS (www.nmfs.noaa.gov) for anadromous or marine species or FWS (www.fws.gov) for terrestrial or freshwater species.

(4) Notification and Reporting for Adverse Incidents Involving Multiple Operators

Where multiple Operators are authorized for a discharge that results in an adverse incident, notification and reporting by any one of the Operators constitutes compliance for all of the Operators, provided a copy of the written report required in section 6(d)(2) is also provided to all of the other authorized Operators within 30 calendar days of the reportable adverse incident.

(e) Reportable Spills and Leaks

(1) Spill, Leak, or Other Unpermitted Discharge Notification

Where a leak, spill, or other release into state waters containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs in any 24-hour period, an Operator must notify the Clean Water Branch at (808) 586-4309 during regular office hours, which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State hospital Operator at (808) 247-2191 outside of regular office hours and the National Response Center immediately at (800) 424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as the Operator has knowledge of the release. Contact information must be in locations that are readily accessible and available in the area where the spill, leak, or other unpermitted discharge may occur.

State or local requirements may necessitate also reporting spills or leaks to local emergency response, public health, or drinking water supply agencies.

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(2) Thirty-Day Spill, Leak, or Other Unpermitted Discharge Documentation

If an Operator becomes aware of a spill, leak, or other unpermitted discharge which triggers the notification in section 6(e)(1) and results in an adverse incident, then the Operator must report the incident per the guidelines in section 6(d)(1) and 6(d)(2). If the spill, leak, or other unpermitted discharge triggers the notification in section 6(e)(1), but does not result in an adverse incident, then the Operator must document and retain the following information within 30 calendar days of becoming aware of the situation:

(A) Information required to be provided in section 6(e)(1);

(B) Summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed; and

(C) Any measures to prevent recurrence of such a spill or leak or other discharge, including notice of whether PDMP modifications are required as a result of the spill or leak.

(f) Other Corrective Action Documentation.

For situations identified in section 6(a), other than for adverse incidents (addressed in section 6(d)), or reportable spills or leaks (addressed in section 6(e)), Operators must document the situation triggering corrective action and planned corrective action within 30 calendar days of becoming aware of that situation, and retain a copy of this documentation. This documentation must include the following information:

(1) Identification of the condition triggering the need for corrective action review, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;

(2) Brief description of the situation;

(3) Date the problem was identified;

(4) Brief description of how the problem was identified, how the Operator learned of the situation, and date the Operator learned of the situation;

(5) Summary of corrective action taken or to be taken, including date initiated and date completed or expected to be completed; and

(6) Any measures to prevent reoccurrence of such an incident, including notice of whether PDMP modifications are required as a result of the incident.

7. Recordkeeping and Annual Reporting

The recordkeeping and annual reporting requirements vary depending on the type of Operator and whether a Decision-maker is a small or large entity. Table 4 references applicable requirements for the range of Operators covered under this permit.

Table 4: Applicable Recordkeeping and Annual Reporting Requirements for Different Types of Operators.

PGP Section	Applicable Type of Operator
7(a)	Recordkeeping: All Operators
7(b)	Recordkeeping: All Operators who are Applicators, as defined in section 11-55-01
7(c)	Recordkeeping: Any Decision-maker required to submit an NOI and who is a small entity{1}
7(d)	Recordkeeping: Any Decision-maker required to submit an NOI and who is a large entity{2}
7(e)	Retention of Records: All Operators
7(f)	Annual Reporting: Any Decision-maker required to submit an NOI and who is a large entity{2}

{1} Small Entity - As defined in section 11-55-01, is any (1) public entity that serves a population of 10,000 or less or (2) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201.

{2} Large Entity - As defined in section 11-55-01, is any (1) public entity that serves a population greater than 10,000 or (2) private enterprise that exceeds the Small Business Administration size standard as identified at 13 CFR 121.201.

Operators must keep written records as required in this permit for all discharges covered under this general permit. These records must be accurate and complete to demonstrate the Operator's compliance with the conditions of this general permit. Operator's may rely on records and documents developed for other obligations, such as requirements under FIFRA, and state or local pesticide programs, provided that all requirements of this general permit are satisfied.

The Director recommends that all Decision-makers, who are or may be required to submit an NOI based on their annual treatment area, keep records of acres or linear miles treated for all applicable use patterns covered under this general permit. The records should be kept up-to-date to help Decision-makers determine if the annual treatment area threshold, is exceeded during any calendar year.

(a) Recordkeeping For All Operators.

All Operators must keep the following records:

(1) A copy of any Adverse Incident Reports (See section 6(d)(2));

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(2) Rationale for any determination that reporting of an identified adverse incident is not required consistent with allowances identified in Section 6(d)(1)(B);

(3) A copy of any corrective action documentation (See section 6(f)); and

(4) A copy of any spill and leak or other unpermitted discharge documentation (See section 6(e)(2)).

(b) Recordkeeping for All Operators who are Applicators.

After the adjustment period, any Operator who is an Applicator, as defined in section 11-55-01, must retain the following records:

(1) Documentation of equipment calibration; and

(2) Information on each treatment area to which pesticides are discharged, including:

(A) Description of each treatment area, including location and size (acres or linear feet) of treatment area and identification of any waters, either by name or by location, to which pesticide(s) are discharged;

(B) Pesticide use pattern(s) (i.e., mosquito and other flying insects,

weed and algae, animal pest, or forest canopy);

(C) Target pest(s);

(D) Documentation of any assessment of weather conditions in the treatment area prior to and during application to ensure application is consistent with all applicable federal requirements;

(E) Name of each pesticide product used including the EPA registration number;

(F) Quantity of each pesticide product applied to each treatment area;

(G) Pesticide application date(s); and

(H) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

(c) Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Small Entity.

After the adjustment period, any Decision-maker required to submit an NOI that is defined as a small entity, must retain the

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following records at the address provided on the NOI.

(1) Copy of the NOI submitted to the Director, any correspondence exchanged between the Decision-maker and the Director specific to coverage under this permit, and a copy of the NGPC;

(2) Documentation of equipment calibration (only if Decision-maker is also the Applicator);

(3) Information on each treatment area to which pesticides are discharged, including:

(A) Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any state waters, either by name or by location, to which pesticides are discharged;

(B) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy);

(C) Target pest(s) and explanation of need for pest control;

(D) Description of pest management measure(s) implemented prior to the first pesticide application;

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(E) Company name and contact information for pesticide applicator;

(F) Name of each pesticide product used including the EPA registration number;

(G) Quantity of each pesticide product applied to each treatment area;

(H) Pesticide Application Start Date;

(I) Pesticide Application End Date; and

(J) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

(d) Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Large Entity.

After the adjustment period, any Decision-maker required to submit an NOI that is defined as a large entity must retain the following records at the Operator's business address provided on the NOI:

(1) Copy of the NOI submitted to the Director, any correspondence exchanged between the Decision-maker and the

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Director specific to coverage under this permit, and a copy of the NGPC;

(2) A copy of your PDMP, including any modifications made to the PDMP during the term of this general permit.

(3) Copy of annual reports submitted to the Director;

(4) Documentation of equipment calibration (only if Decision-maker is also the Applicator);

(5) Information on each treatment area to which pesticides are discharged, including:

(A) Description of each treatment area, including location and size (acres or linear feet) of treatment area and identification of any state waters, either by name or by location, to which pesticide(s) are discharged;

(B) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy);

(C) Target pest(s) and explanation of need for pest control;

(D) Action Thresholds;

(E) Method and/or data used to determine that action threshold(s) has been met;

(F) Description of pest management measure(s) implemented prior to the first pesticide application;

(G) Company name and contact information for pesticide applicator;

(H) Name of each pesticide product used including the EPA registration number;

(I) Quantity of each pesticide product applied to each treatment area;

(J) Pesticide application date(s); and

(K) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

(e) Retention of Records for All Operators.

All required records must be documented as soon as possible but no later than 14 calendar days following completion of each pesticide application. Operators must retain any records required under this permit for at least five (5) years after the

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Operator's coverage under this permit expires or is terminated. Operators must make available to the State, including EPA or an authorized representative of EPA, all records kept under this permit upon request and provide copies of such records, upon request.

(f) Annual Reporting for Any Decision-maker Required to Submit an NOI and Who is a Large Entity.

Any Decision-makers required to submit an NOI and are defined as a large entity in section 11-55-01, must submit an annual report to the Director. Once a Decision-maker meets the obligation to submit an annual report, the Decision-maker must submit the annual report each calendar year thereafter for the duration of coverage under this general permit, whether or not the Decision-maker has discharges from the application of pesticides in any subsequent calendar year. The Decision-maker must submit the annual report to the Director no later than February 15, in pdf format (minimum of 300 dpi) on CD/DVD, of the following year for all pesticide activities covered under this permit occurring during the previous calendar year. Annual reporting requirements begin with those discharges occurring after the adjustment period.

Any Decision-maker required to submit an NOI based on an annual treatment area threshold must include information for the calendar year, with the first annual report required

to include activities for the portion of the calendar year after the point at which the Decision-maker exceeded the annual treatment area threshold. If the Decision-maker first exceeds an annual treatment area threshold after December 1, an annual report is not required for that first partial year but an annual report is required thereafter, with the first annual report submitted also including information from the first partial year.

When Decision-makers terminate permit coverage, as specified in appendix A of chapter 11-55, an annual report must be submitted for the portion of the year up through the date of termination. The annual report is due no later than February 15 of the next year.

The annual report must contain the following information:

(1) Decision-maker's name and contact information;

(2) NPDES file number

(3) Contact person name, title, e-mail address (if any), and phone number; and

(4) For each treatment area, report the following information:

(A) Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any state

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waters, either by name or by location, to which pesticide(s) are discharged;

(B) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy) and target pest(s);

(C) Company name(s) and contact information for pesticide applicator(s), if different from the Decision-maker;

(D) Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);

(E) Whether this pest control activity was addressed in the PDMP prior to pesticide application;

(F) The approximate date(s) of any discharge;

(G) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents, as described in Section 6(d)(1) of this general permit; and

(H) If applicable, description of any corrective action(s), including

spill responses, resulting from pesticide application activities and the rationale for such action(s).

(g) Submittal Requirements

(1) All submittals shall be addressed to the Director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

(2) The operator or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(3) The operator or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number on future correspondence or submittals may be a basis for delay of the processing of the document(s).

8. Notice of Intent Requirements

(a) The owner or duly authorized representative shall submit a complete NOI in accordance with the deadline in Section 1(f), Table 2 or thirty days before the expiration date of the applicable notice of general permit coverage.

(b) The owner or duly authorized representative shall include the following information in the notice of intent:

(1) Information required in section 34 of appendix A of chapter 11-55;

(2) Pesticide use activities that trigger the PGP requirements;

(3) If the operator is a Large entity that triggers developing a PDMP and submittal of an annual report;

(4) Pest Management Area name and map of the location of the area or description of the Pest Management Area in detail; and

(5) Name of the water quality impaired waters; class 1, inland or class AA, marine waters, or areas restricted in accordance with the State's "no discharge" policy; or to surface drinking waters and their tributaries up-stream for which permit coverage is being requested and demonstration of eligibility for such discharges.

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