

**RATIONALE  
FOR  
PROPOSED REVISIONS**

**TO**

**HAWAII ADMINISTRATIVE RULES  
TITLE 11  
DEPARTMENT OF HEALTH  
CHAPTER 55  
WATER POLLUTION CONTROL**

**DEPARTMENT OF HEALTH  
ENVIRONMENTAL MANAGEMENT DIVISION  
CLEAN WATER BRANCH  
HONOLULU, HAWAII**

**April 2013**

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NPDES General Permit coverage for discharges to State waters (HAR, Chapter 11-55, Appendices B through L) expired at midnight, October 21, 2012. Currently there are no NPDES General Permits. Anyone requiring NPDES permit, although qualified for coverage under a General Permit, must submit an NPDES individual permit.

This rationale serves to provide an explanation for the changes which are proposed for Chapter 11-55. Additional information may be obtained by calling (808) 586-4309 or by writing to the Clean Water Branch (CWB) at the following address:

Clean Water Branch  
Environmental Management Division  
Hawaii Department of Health  
919 Ala Moana Boulevard, Room 301  
Honolulu, HI 96814-4920  
Fax: (808) 586-4352  
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The Department of Health (DOH) proposes to re-adopt, Hawaii Administrative Rules (HAR), Title 11, Chapter 55, Water Pollution Control (hereafter referred to as Chapter 11-55) with the following amendments:

§11-55-01 updated the revision dates within the “13 CFR” and “40 CFR” definitions.

§11-55-15(a) added language to clarify that the Department may administratively extend individual NPDES permits, consistent with HRS 342D-6(h).

§11-55-15(d) revised for two reasons. Federal regulations provide that effluent limitations must be included in permits if there is reasonable potential regardless of whether the permittee can immediately comply with them. Federal regulations also provide that compliance schedules can only be granted if permit-specific conditions are met as required by 40 CFR 122.2 and 122.47. The proposed rule provision is consistent with federal requirements.

§11-55-34.02(b)(1) – (11) delete “dated October 2007.” Instead of updating here, the first page of Appendices B - L were revised to require a date stamp. The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The effective date of the general permit begins on the date stamped and expires three, four, or five years afterwards, unless earlier amended. Appendices E, F, G, and K will expire three years from the effective date. Appendices B, D, H, and I will expire four years from the effective date. Appendices C, J, and L will expire 5 years from the effective date. The purpose of the revision is to clearly identify the term of the permit and to stagger the expiration dates to prevent them from expiring on the same date. After this round of amendments, general permits expiring within three and four years will return back to a five year permit term.

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§11-55-34.02(b)(12) corrected typo, replaced “January” with “August.” Appendix M was recently adopted and expires on October 21, 2017 unless earlier amended. No amendments are proposed for Appendix M.

§11-55-34.04(b) deleted “October 2007.” Revised to require a date stamp. The stamp is of the date ten days after filing with the office of the Lieutenant Governor.

§11-55-34.05(b) added to be consistent with 40 CFR 122.28(b)(3).

§11-55-34.05(c)-(d) copied from §11-55-34.06.

§11-55-34.05(f) added to clarify the Director may require an individual NPDES permit for those activities that discharged prior to obtaining coverage under a General Permit.

§11-55-34.05 (within citation of authority) – updated citation from §122.28(b)(3)(i) to §122.28(b)(3) for amendment to §11-55-34.05(b).

§11-55-34.06 moved to §11-55-34.05(c) – (d) and the section was reserved for future amendments.

§11-55-34.08(j)(2) revised to be consistent with Appendix C. The revision clarifies that for emergency-related construction activities, the NOI may be submitted within 30 calendar days after the start of the construction activity. For non-emergency projects, the existing requirement to submit the NOI 30 calendar days prior to the start of the construction activity remains unchanged.

§11-55-34.09(d) revised to (1) Clarify that an administrative extension may be granted automatically, and (2) Add a provision to automatically terminate an administrative extension for any non-compliance.

§11-55-34.09(e) replaced “director” with “department.” Notification by the department instead of by the director will help to decrease the processing time.

§11-55-34.11 revised to be consistent with 40 CFR 122.28 where general permits may only be revoked and/or terminated. Any change which would affect the information within an existing Notice of General Permit Coverage (NGPC) will require submittal of a new NOI and reissuance of the NGPC.

§11-55-40 revised to clarify the common and easily verifiable situations in which a Field Citation may be issued and to ensure consistency and accuracy with the HRS 342D-50(a)-(d).

(1) Revisions to word use in 11-55-40(1)(A)(i) are to clarify the types of permit coverage addressed in this section and for the use of field citations for any excess of limitations

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- established by an NPDES permit. “NPDES permit” replaces “individual permit or notice of general permit coverage”. The “no exposure” exclusion was removed from the list of coverage, as the exclusion does not grant permission for storm water discharges.
- (2) Section 11-55-40(1)(A)(ii) previously addressed only violations triggered by performing construction activity without first obtaining required NPDES General permit coverage for discharges of storm water associated with construction activities. The proposed revision of the section will allow the use of Field Citations when activities, not just construction, or discharges of pollutants occur without first obtaining a required NPDES Individual permit or required NPDES General permit coverage.
  - (3) §11-55-40(1)(A)(iv) added “NPDES.”
  - (4) Section 11-55-40(1)(A)(v) proposes that Field Citations may be used to settle violations triggered by the failure to comply with conditions set forth in NPDES permits. This proposal is consistent with and upholds the intent of HRS 342D-9(a), which provides for enforcement “if the director determines that any person has violated or is violating this chapter, any rule adopted pursuant to this chapter, or any permit or variance issued pursuant to this chapter...”
  - (5) Section 11-55-40(1)(B) establishes penalties for each easily verified violation of the HRS342D for which Field Citations may be used. Section 11-55-40(1)(B)(v) was added to establish the penalties for violations described in 11-55-40(1)(A)(v). The penalties established are fair and consistent with Sections 11-55-40(1)(B)(i) through (iv).

Chapter 11-55, Appendix A revisions:

- (1) “October 2007” was replaced with requiring a date stamp. The stamp is of the date ten days after filing with the office of the Lieutenant Governor.
- (2) In the “Note:” after the Table of Contents, updated the “40 CFR” effective date and deleted the Clean Water Act amendment date.
- (3) Sections 34(a) and 34(c) deleted fax number and added email address.
- (4) Section 34(d) deleted requiring the coordinates of the separate storm water drainage system. Locations of the drainage system receiving the discharge are required to be submitted with the NOI.
- (5) Section 34(g) deleted requiring maps on paper.
- (6) Section 34(g)(2) deleted requiring a U.S. Geological Survey map.
- (7) Section 34(h) deleted requiring flow chart for Appendices B, C, and K. Information is not needed for storm water discharges since drainage pattern maps are already required in these appendices.

**Chapter 11-55, Appendix B Fact Sheet**

In accordance with NPDES regulations at 40 CFR 124.8(a) and 124.8(b) the following information is provided for HAR, Chapter 11-55, Appendices B.

1. A brief description of the type of facility or activity which is the subject of the draft permit;

*All industrial facilities regulated under 40 CFR 122.26(b)(14) are subject to the draft NPDES general permit, except construction activities at 40 CFR 122.26(b)(14)(x). The draft permit covers storm water discharges from industrial activities.*

*HAR, Chapter 11-55, Appendix B references EPA’s Multi Sector General Permit (MSGP) which specifies requirements for preventing contamination of storm water discharges from industrial facilities listed in the sectors shown below:*

<i>Sector A – Timber Products</i>	<i>Sector P – Land Transportation</i>
<i>Sector B – Paper and Allied Products Manufacturing</i>	<i>Sector Q – Water Transportation</i>
<i>Sector C – Chemical and Allied Products Manufacturing</i>	<i>Sector R – Ship and Boat Building or Repairing Yards</i>
<i>Sector D – Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers</i>	<i>Sector S – Air Transportation Facilities</i>
<i>Sector E – Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing</i>	<i>Sector T – Treatment Works</i>
<i>Sector F – Primary Metals</i>	<i>Sector U – Food and Kindred Products</i>
<i>Sector G – Metal Mining (Ore Mining and Dressing)</i>	<i>Sector V – Textile Mills, Apparel, and other Fabric Products Manufacturing</i>
<i>Sector H – Coal Mines and Coal Mining-Related Facilities</i>	<i>Sector W – Furniture and Fixtures</i>
<i>Sector I – Oil and Gas Extraction and Refining</i>	<i>Sector X – Printing and Publishing</i>
<i>Sector J – Mineral Mining and Dressing</i>	<i>Sector Y – Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries</i>
<i>Sector K – Hazardous Waste Treatment Storage or Disposal</i>	<i>Sector Z – Leather Tanning and Finishing</i>
<i>Sector L – Landfills and Land Application Sites</i>	<i>Sector AA – Fabricated Metal Products</i>
<i>Sector M – Automobile Salvage Yards</i>	<i>Sector AB – Transportation Equipment, Industrial or Commercial Machinery</i>
<i>Sector N – Scrap Recycling Facilities</i>	<i>Sector AC – Electronic, Electrical, Photographic and Optical Goods</i>
<i>Sector O – Steam Electric Generating Facilities</i>	<i>Sector AD – Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director</i>

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*However for Hawaii, storm water discharges that have ELGs, as listed in the Table below, are not eligible for coverage under this General Permit and shall obtain coverage under an NPDES Individual Permit.*

<b><i>Regulated Activity</i></b>	<b><i>40 CFR Part/Subpart</i></b>
<i>Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas</i>	<i>Part 429, Subpart I</i>
<i>Runoff from phosphate fertilizer manufacturing facilities</i>	<i>Part 418, Subpart A</i>
<i>Runoff from asphalt emulsion facilities</i>	<i>Part 443, Subpart A</i>
<i>Runoff from material storage piles at cement manufacturing facilities</i>	<i>Part 411, Subpart C</i>
<i>Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities</i>	<i>Part 436, Subparts B, C, or D</i>
<i>Runoff from hazardous waste landfills</i>	<i>Part 445, Subpart A</i>
<i>Runoff from non-hazardous waste landfills</i>	<i>Part 445, Subpart B</i>
<i>Runoff from coal storage piles at steam electric generating facilities</i>	<i>Part 423</i>
<i>Runoff from airport deicing operations</i>	<i>Part 449</i>

*Currently there are 137 industrial facilities with administrative extensions of their Notice of General Permit Coverage (NGPC) which were granted under the previous (currently expired) General Permit.*

2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

*Storm water discharge associated with industrial activity.*

3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by § 124.9 (for EPA-issued permits);

*Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA), which directed the Environmental Protection Agency (EPA) to develop a phased approach to regulate stormwater discharges under the NPDES program. EPA published a final regulation on the first phase on this program on November 16, 1990, establishing permit application requirements for “stormwater discharges associated with industrial activity.” See 55 FR 48063. EPA defined the term “stormwater discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of*

*facilities. See 40 CFR 122.26(b)(14). The Department used the EPA's Multi Sector General Permit (MSGP) effective 2008 as a basis for HAR, Chapter 11-55, Appendix B.*

Chapter 11-55, Appendix B revisions:

- (1) "October 2007" was revised to "This General Permit is effective on [insert stamped date], and expires four years from this date, unless amended earlier." The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Section 2(a)(4) revised to clarify that if the Permittee is the owner of the drainage system, separate approval is not required.
- (3) Sections 3(a) and (b) revised the permit term from "five" to "four" years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
- (4) Sections 6(a)(7)(A); 6(c); and Table 34.1 Notes 9 and 11 updated the Federal Register reference.
- (5) Section 8(b) was replaced with "Non-numeric Technology-Based Effluent Limitations" consistent with the EPA's 2008 MSGP. Existing Sections 8(b) and (c) were renumbered to 8(c) and 8(d).
- (6) Section 10(a)(2) revised to correct when monitoring results need to be submitted to the Department. The current requirement prevents the Department from receiving monitoring results until 60 days after each monitoring year. The Department needs to receive the monitoring results in a more-timely manner. Receiving these results within 30 calendar days after sample collection is required to ensure the Department's requirements are met [e.g. refer to Section 10(b)(2)]; for the protection of public health and the environment; and for the Department to take appropriate action (if necessary) for any non-compliance.
- (7) Section 10(b)(1) added "of this general permit" for clarification.
- (8) Section 10(b)(2) – For results in exceedance of any limitation, subsequent storm event monitoring was added to verify the effectiveness of corrective actions.
- (9) Table 34.1, Note 3 revised to be consistent with HAR Chapter §11-55-34.04.

"§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,..."

Also, added language to clarify that the Department may include discharge limitations specified in section 11-55-19 and discharge limitations based on Federal Register, Vol. 73, No. 189, pages 56572–56578, dated September 29, 2008.

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Facilities which qualify under HAR 11-55-04(e) may submit a “no exposure” certification rather than applying for coverage under the General Permit.

4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;  
*Not applicable.*
5. A description of the procedures for reaching a final decision on the draft permit including:
  - (i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;
  - (ii) Procedures for requesting a hearing and the nature of that hearing; and
  - (iii) Any other procedures by which the public may participate in the final decision.

*Refer to HAR 11-1-51 procedures for adopting rules. The proposed NPDES General Permit is issued as Appendix B within HAR Chapter 11-55, Water Pollution Control.*

6. Name and telephone number of a person to contact for additional information.

*Mr. Darryl Lum  
Engineering Section Supervisor  
Clean Water Branch  
Department of Health  
Ph. (808) 586-4309*

7. For NPDES permits, provisions satisfying the requirements of § 124.56.  
*The CWA requires that discharges from existing facilities, at a minimum, must meet technology-based effluent limitations reflecting, among other things, the technological capability of permittees to control pollutants in their discharges. Water quality-based effluent limitations (WQBELs) are required by CWA Section 301(b)(1)(C). Both technology-based and water quality-based effluent limitations are implemented through NPDES permits. CWA sections 301(a) and (b).*

For this permit, most of the technology-based limits are based on BPJ decision-making because no ELG applies.

8. Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.  
*Not applicable.*

### **Chapter 11-55, Appendix C Fact Sheet**

In accordance with NPDES regulations at 40 CFR 124.8(a) and 124.8(b) the following information is provided for HAR, Chapter 11-55, Appendix C.

1. A brief description of the type of facility or activity which is the subject of the draft permit;

*National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from construction activities.*

*Construction sites disturbing one or more acres of land or smaller sites that are part of a common plan of development or sale are required to obtain NPDES permit coverage for their storm water discharges.*

*Currently there are 519 construction projects with administrative extensions of their Notice of General Permit Coverage (NGPC) which were granted under the previous (currently expired) General Permit.*

2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

*Storm water discharge associated with construction activity.*

3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by § 124.9 (for EPA-issued permits);

*The Clean Water Act (“CWA”) establishes a comprehensive program “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. 1251(a). The CWA also includes the objective of attaining “water quality which provides for the protection and propagation of fish, shellfish and wildlife and... recreation in and on the water.” 33 U.S.C. 1251(a)(2)). To achieve these goals, the CWA requires EPA to control discharges of pollutants from point sources through the issuance of National Pollutant Discharge Elimination System (“NPDES”) permits.*

*The Water Quality Act of 1987 (WQA) added section 402(p) to the Clean Water Act (CWA), which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. 33 U.S.C. 1342(p). EPA published a final regulation in the Federal Register, often called the “Phase I Rule”, on November 16, 1990, establishing permit application requirements for, among other things, “storm water discharges associated with industrial activity.” See 55 FR 47990. EPA defines the term “storm water discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of facilities. Construction activities, including activities that are part of a larger common plan of development or sale, that ultimately disturb at*

*least five acres of land and have point source discharges to waters of the U.S. were included in the definition of “industrial activity” pursuant to 40 CFR 122.26(b)(14)(x). The second rule implementing section 402(p), often called the Phase II Rule, was published in the Federal Register on December 8, 1999. It requires NPDES permits for discharges from construction sites disturbing at least one acre but less than five acres, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre but less than five acres, pursuant to 40 CFR 122.26(b)(15)(i). See 64 FR 68722. NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions to meet technology-based effluent limits established under Section 301 and, where applicable, Section 306. Effluent limitations guidelines (ELGs) and New Source Performance Standards (NSPS) are technology-based effluent limitations that are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Subchapter III of the CWA. Once a new national standard is established in accordance with these sections, NPDES permits must incorporate limits based on such technology-based standards. See CWA sections 301 and 306, 33 U.S.C. 1311 and 1316, and 40 CFR 122.44(a)(1). Prior to the issuance of such national standards, permitting authorities are required to incorporate technology based limits on a best professional judgment basis. CWA section 402(a)(1); 40 CFR 125.3(a)(2)(ii)(B). On December 1, 2009, EPA published final regulations establishing technology-based Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for the Construction & Development (C&D) point source category. See 40 CFR Part 450, and 74 FR 62996 (December 1, 2009). The Construction & Development Rule, or “C&D rule”, became effective on February 1, 2010; therefore, all NPDES construction permits issued by EPA or states after this date must incorporate the C&D rule requirements.*

*In accordance with HAR §11-55-02(c), §11-55-19(a)(4)(B), and 40 CFR 123.25(a), Appendix C was revised to be consistent with the EPA’s Construction General Permit (CGP) and Effluent Limit Guidelines in 40 CFR 450, which the Department of Health (Department), Clean Water Branch believes would also be appropriate for Hawaii. The buffer requirement in Section 5.1.2.1 of Appendix C differ from the EPA’s CGP, but are the Department’s BPJ determination of appropriate requirements for Hawaii.*

4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;

*Not applicable.*

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5. A description of the procedures for reaching a final decision on the draft permit including:
  - (i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;
  - (ii) Procedures for requesting a hearing and the nature of that hearing; and
  - (iii) Any other procedures by which the public may participate in the final decision.

*Refer to HAR 11-1-51 procedures for adopting rules. The proposed NPDES General Permit is issued as Appendix C within HAR Chapter 11-55, Water Pollution Control.*

6. Name and telephone number of a person to contact for additional information.

*Mr. Darryl Lum  
Engineering Section Supervisor  
Clean Water Branch  
Department of Health  
Ph. (808) 586-4309*

7. For NPDES permits, provisions satisfying the requirements of § 124.56.

*Refer to 40 CFR 450.*

8. Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.

*Not applicable.*

Chapter 11-55, Appendix D revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires four years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Sections 3(a) and (b) revised the permit term from “five” to “four” years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
- (3) Section 6(a)(3)(B) corrected typos.
- (4) Section 9(b) added language for clarification.
- (5) Section 9(c)(3)(D) corrected typo.
- (6) Table 34.2 Note 2 revised to clarify that the Department may include discharge limitations as specified in §11-55-19.

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- (7) Table 34.2 Note 10 revised to clarify that the Director may require additional monitoring for toxic pollutants.

Chapter 11-55, Appendix E revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires three years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Sections 3(a) and (b) revised the permit term from “five” to “three” years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
- (3) Section 8(b) added language for clarification.
- (4) Table 34.3 Note 2 revised “No limitation at this time” to “Report” for flow monitoring.

Chapter 11-55, Appendix F revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires three years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Section 1(a) revised to clarify the definition of hydrotesting water.
- (3) Sections 3(a) and (b) revised the permit term from “five” to “three” years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
- (4) Section 6(a) deleted “Daily maximum.”
- (5) Section 6(a)(3)(B) corrected typos.
- (6) Section 8(b) added language for clarification.
- (7) Section 8(d) revised to clarify that notification should be before the start of hydrotesting activities.
- (8) Table 34.4 Note 9 revised to clarify that the Director may require additional monitoring for toxic pollutants.

Chapter 11-55, Appendix G revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires five years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Section 1(a) revised to clarify the definition of construction activity dewatering.
- (3) Section 4(b)(4) added to determine if project requires NPDES permit coverage for storm water associated with construction activities.

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- (4) Section 6(a)(3)(B) corrected typo.
- (5) Section 8(a)(1) corrected typo.
- (6) Section 8(b) added language for clarification.
- (7) Section 8(d) corrected lettering typo. Revised to clarify that notification should be before the start of dewatering activities.
- (8) Table 34.5 Note 2 revised for clarification.

Chapter 11-55, Appendix H revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires four years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Sections 3(a) and (b) revised the permit term from “five” to “four” years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
- (3) Section 8(b) revised for clarification.
- (4) Table 34.6 Note 3 deleted “No limitation at this time.” Added, reporting of the results.

Chapter 11-55, Appendix I revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires four years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Sections 3(a) and (b) revised the permit term from “five” to “four” years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
- (3) Section 6(a)(3)(B) corrected typos.
- (2) Section 8(b) revised for clarification.
- (3) Table 34.7 Note 2 deleted “No limitation at this time.” Added, reporting of the results.

Chapter 11-55, Appendix J revisions:

“October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires five years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.

**Chapter 11-55, Appendix K Fact Sheet**

In accordance with NPDES regulations at 40 CFR 124.8(a) and 124.8(b) the following information is provided for HAR, Chapter 11-55, Appendix K.

1. A brief description of the type of facility or activity which is the subject of the draft permit;

*The subject of the draft National Pollutant Discharge Elimination System (NPDES) general permit is Small Municipal Separate Storm Sewer Systems (MS4s).*

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

- (a) *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;*
- (b) *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*
- (c) *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.*

*The following table lists the MS4s currently being covered under administrative extensions of their Notice of General Permit Coverage (NGPC) which were granted under the previous (currently expired) General Permit.*

File Number	Facility Name
HI03KB482	Honolulu Harbor
HI03KB487	Kewalo Basin
HI03KB488	Kalaeloa Barbers Point Harbor
HI03KB495	University of Hawaii
HI05KC128	Kaena Point Satellite Tracking Station
HI06KC589	University of Hawai'i John A. Burns School of Medicine (JABSOM)
HI06KC635	Pearl Harbor Naval Shipyard & Intermediate Maintenance Facility (1)
HI06KC682	University of Hawaii Pearl City Urban Garden Center Small Municipal

File Number	Facility Name
	Separate Storm Sewer System (Small MS4)
HI06KC738	Villages of Kapolei Small Municipal Separate Storm Sewer System (Small MS4)
HI07KC817	UH Leeward Community College
HI07KC926	Kapiolani Community College
HI07KC937	Windward Community College
HI08KD270	Kakaako Community Development District

*New MS4s subject to the permit based on urbanized area designations from the 2010 census include the County of Maui, the University of Hawaii Maui College, and the Department of Transportation Highways, Airports, and Harbors Maui facilities.*

2. The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

*Storm water discharge and certain allowable non-storm water from Small MS4s.*

3. A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by § 124.9 (for EPA-issued permits);

*Polluted storm water runoff is often transported to municipal separate storm sewer systems (MS4s) and ultimately discharged into local rivers and streams without treatment. EPA’s Stormwater Phase II Rule establishes an MS4 stormwater management program that is intended to improve the Nation’s waterways by reducing the quantity of pollutants that stormwater picks up and carries into storm sewer systems during storm events. Common pollutants include oil and grease from roadways, pesticides from lawns, sediment from construction sites, and carelessly discarded trash, such as cigarette butts, paper wrappers, and plastic bottles. When deposited into nearby waterways through MS4 discharges, these pollutants can impair the waterways, thereby discouraging recreational use of the resource, contaminating drinking water supplies, and interfering with the habitat for fish, other aquatic organisms, and wildlife.*

*In 1990, EPA promulgated rules establishing Phase I of the National Pollutant Discharge Elimination System (NPDES) stormwater program. The Phase I program for MS4s requires operators of “medium” and “large” MS4s, that is, those that generally serve populations of 100,000 or greater, to implement a stormwater management program as a means to control polluted discharges from these MS4s. The Stormwater Phase II Rule (64 FR 68722) extends coverage of the NPDES stormwater program to certain “small” MS4s but takes a slightly different approach to how the stormwater management program is developed and implemented.*

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*A small MS4 is any MS4 not already covered by the Phase I program as a medium or large MS4. The Phase II Rule automatically covers on a nationwide basis all small MS4s located in “urbanized areas” (UAs) as defined by the Bureau of the Census (unless waived by the NPDES permitting authority), and on a case-by-case basis those small MS4s located outside of UAs that the NPDES permitting authority designates.*

*If discharge is to a State water for which a Total Maximum Daily Load (TMDL) has been adopted by the Department and approved by the EPA, the Department will inform the Permittee if any additional limits or controls are necessary to meet water quality standards, including for it to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL, or if coverage under an individual permit is required. Refer to HAR §11-55-19 and §11-55-34.09.*

Chapter 11-55, Appendix K revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires three years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
  - (2) Sections 3(a) and (b) revised the permit term from “five” to “three” years. The reason for the change is to stagger the expiration dates of the general permits to prevent having to readopt all general permits at the same time.
4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;
- Not applicable.*
5. A description of the procedures for reaching a final decision on the draft permit including:
- (i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;
  - (ii) Procedures for requesting a hearing and the nature of that hearing; and
  - (iii) Any other procedures by which the public may participate in the final decision.

*Refer to HAR 11-1-51 procedures for adopting rules. The proposed NPDES General Permit is issued as Appendix K within HAR Chapter 11-55, Water Pollution Control.*

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6. Name and telephone number of a person to contact for additional information.

*Mr. Darryl Lum  
Engineering Section Supervisor  
Clean Water Branch  
Department of Health  
Ph. (808) 586-4309*

7. For NPDES permits, provisions satisfying the requirements of § 124.56.

*Refer to 40 CFR 122.30 through 122.37. 40 CFR 122.34 requires Small MS4 to reduce pollutant discharge to the Maximum Extent Practicable which includes minimum control measures required to be implemented.*

8. Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.

*Not applicable.*

Chapter 11-55, Appendix L revisions:

- (1) “October 2007” was revised to “This General Permit is effective on [insert stamped date], and expires five years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.
- (2) Table 34.8 Note 2 deleted “No limitation at this time. Only monitoring and reporting requiring.” Added, language to be consistent with HAR Chapter 11-54.

Chapter 11-55, Appendix M revisions:

“August 2012” was revised to “This General Permit is effective on October 21, 2012, and expires five years from this date, unless amended earlier.” The stamp is of the date ten days after filing with the office of the Lieutenant Governor. The purpose of the revision is to clearly identify the term of the permit.