

A scenic view of a rocky coastline. The foreground shows a black sand beach composed of dark, rounded volcanic rocks. The water is a vibrant turquoise color, with white foam from waves crashing against the shore. In the background, a dense line of lush green trees and bushes grows on a dark, rocky cliffside. The sky is a clear, bright blue. The text "Compliance with Notice of General Permit Coverage" is overlaid in white, serif font on the left side of the image.

Compliance with Notice of General Permit Coverage

Clean Water - Compliance

1. Legal Duty: Don't put anything in State waters without permission

Hawaii Revised Statutes (HRS) § 342D-50(a):

“No person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters, except as in compliance with the provisions of this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the Director.”



Clean Water - Compliance

1. Legal Duty (continued)

Definitions

Person – includes everyone.

(e.g., human, partnership, corp., trust,
government agencies [incl. counties, U.S.]

Water Pollutant – means anything except pure water
(e.g., silt, oil, litter);

HRS § 342D-1 defines “Water Pollutant” as:

“Dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste.”

Clean Water - Compliance

1. Legal Duty (continued)

Definitions (continued)

State Waters – means all waters, fresh, brackish, or salt, around and within the State, including but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded.

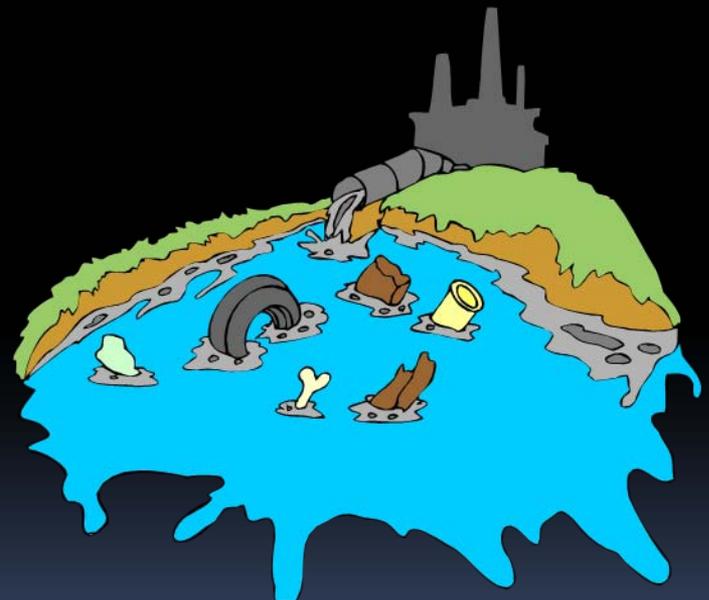


Clean Water - Compliance

2. Legal Duty: Don't violate DOH rules or permits.

HRS § 342D-50(d):

No person, including any public body, shall violate any rule adopted pursuant to this chapter or any permit or variance issued or modified pursuant to this chapter.



Clean Water - Compliance

3. Legal Duty: Don't harm water quality

Hawaii Administrative Rules (HAR) Chapter 11-54, “Water Quality Standards”

- Includes narrative (subjective) and numerical (objective) standards.
- Both types are enforceable.
- Subjective standards can be enforced without water samples in many cases.



Clean Water - Compliance

3. Legal Duty (continued)

Basic water quality criteria is applicable to all waters.

Narrative standards include some of the following:

HAR §11-54-04(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***

Clean Water - Compliance

3. Legal Duty (continued)

- (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, turbidity, or other conditions in the receiving waters.**
- (4) **High or low temperatures; biocides; pathogenic organisms; toxic, radio active, corrosive or other deleterious substances at levels or in**

Clean Water - Compliance

3. Legal Duty (continued)

(4) (continued...)

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;*

Clean Water - Compliance

3. Legal Duty (continued)

- (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. [emphasis added]***

Clean Water - Compliance

4. Legal Duty. No “illicit discharges” to storm water systems

Definition of “illicit discharge” - 40 Code of Federal Regulations (CFR) §122.26(b)(2)

There should be no non-storm water discharges into State waters except for NPDES permitted discharges and *certain non-storm water discharges* provided that the discharges are not a source of pollutants [40 Code of Federal Regulations (CFR) 122.26(d)(2)(iv)(B)(1)].

(e.g. fire hydrant testing water, air condition condensation; spring water; residential car washing; lawn watering; street wash water...)

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

1. Obtain Permit Coverage Before Starting Construction
2. Submit Site Specific SWPPP 30 Days Prior to the Start of Construction
3. Notify the DOH-CWB of the start of construction
4. Implement SWPPP
5. Maintain BMPs as needed
6. Update SWPPP
7. Submit Notice of Cessation upon completion of the project

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

Obtain Permit Coverage Before Starting Construction

1. Delegate authority to submit documents to the DOH-CWB to an appropriate individual or position.
2. Allow time for correspondence with the DOH-CWB which is now primarily conducted through e-mail.
3. Carefully read the issued NGPC as each has specific requirements.
4. Maintain all documents . Documents will be checked during future inspections.

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

Submit Site Specific SWPPP 30 Days Prior to the Start of Construction

- Site-Specific SWPPPs, aka SS-BMP Plans or SWPCPs are reviewed by DOH-CWB staff.
- Any comments made by CWB staff must be answered in full
- There are many BMP options and substitutions. Language used in SWPPP should have enough specificity to enable productive implementation of the plan.
- SWPPPs are management plans which should account for all activities which may cause polluted storm water discharges.

The SWPPP should include all elements of the NOI

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

Notify the DOH-CWB of the start of construction

- Other notable notifications include:
 - Notifying of possible polluted discharges from the Site
 - Any deviations from plan BMP use
 - Changes of any personnel responsible for the submission of documents to the DOH-CWB
 - Notification of the completion of the project (NOC)

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

Implement SWPPP

- BMPs need to be implemented as detailed in the Site-Specific BMP plan
 - All documents maintained as required
 - All training conducted as detailed
 - All designated BMPs installed as specified
 - All site inspections conducted as detailed

Maintain BMPs

BMPs should be evaluated for efficacy and relevance.

- If it doesn't work change it
- If it is causing a problem, there may be a better way to do it

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

Update SWPPP

- Site-Specific SWPPPs can be changed
 - Don't want to use silt fence? Want to use something cheaper and more effective? Go right ahead, but **UPDATE YOUR SWPPP.**
 - Grass completely establish, want to pull your sediment control BMPs? Go right ahead, but **UPDATE YOUR SWPPP.**

Inspections check for applicability and adherence to your sites Site-Specific BMP Plan.

Submit your updated SWPPP to the DOH-CWB as required.

Keys to Maintaining Compliance with Water Pollution Rules and Regulations

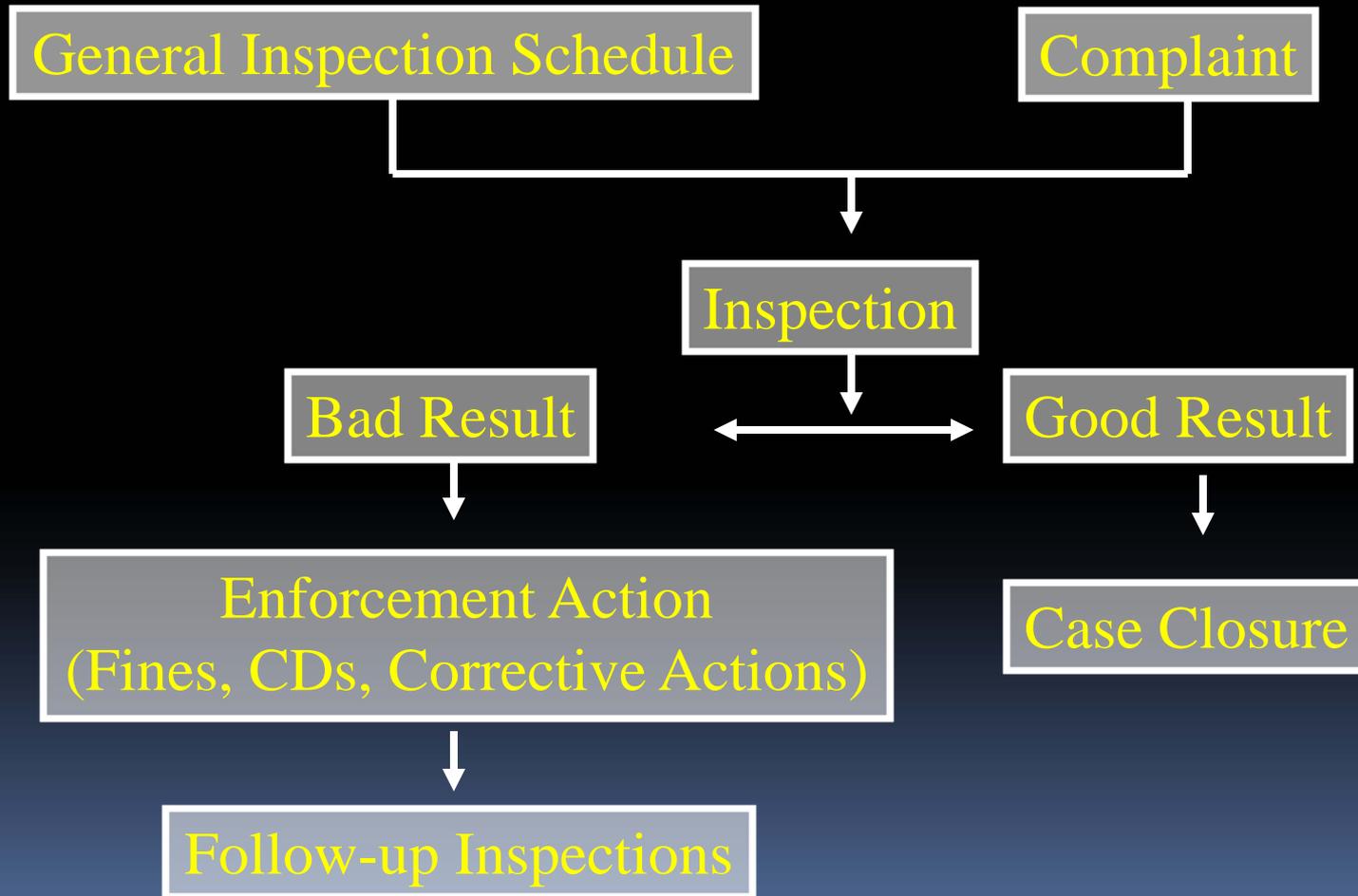
Upon Completion of the Project

Submit the Notice of Cessation form to the DOH-CWB as required.

Inspection Procedures and Resultant Enforcement Actions

Enforcement Policy

General Regulatory Practices



NPDES Program— Inspection



So What's an Inspection Like?

CWB Representative will show up

- Will ask for representative
- Will ask for all documentation
- Will ask lots of questions about:
the Site/project/ company/management
- Will ask to inspect the Site
- Will point all issues and take photos
- Will have an exit interview whereupon findings will be discussed.
- May offer suggestions which should be taken seriously

NPDES Program– After the Inspection



What Happens Between Inspection and Enforcement

CWB Enforcement Section Tasks:

- Give a verbal briefing to our boss(es)
 - Review the file
 - Draft Inspection Report and Enforcement Action
 - Could be NAV or NFVO
 - Calculate penalty if applicable
 - Issue Enforcement Action
-
- Process May Take 1 week to 6 months depending on situation

NPDES Program– How to Pass an Inspection



What Can you Do?

Be Prepared, it's not IF but WHEN

- Have all required documentation consolidated and in USE
- Make time for the inspectors, be forthcoming
- Document what we document
- Be able to describe HOW YOU COMPLY
- Make compliance a daily activity so you don't have to worry about us showing up

Prevent Polluted Discharges

NPDES Program– If You Fail the Inspection



What Can you Do?

Correct the problems ASAP

- Update the CWB of any changes you've made
- Communicate with us any changes that you've planned

Good Faith Actions are Considered
During an Enforcement Proceedings

Enforcement Actions

Consequences of Non-Compliance

- **Warning Letter - Notice of Apparent Violation (NAV) letter**
- **Field Citations- Penalties from \$200-\$3200.**
- **Administrative / Civil Penalties - Notice and Finding of Violation and Order (NFVO) - monetary penalties up to \$25,000 per day per violation.**
- **Criminal Enforcement - monetary penalties up to \$50,000 per day per violation and jail time possible**

Compliance

Notice of Apparent Violations

LEUNG LUNG
VICE CHIEF OF BUREAU



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96822

CHUIRE L. FURBER, M.D.
DIRECTOR OF HEALTH

HONOLULU, HAWAII
08/11/09

XXXXXXXXXX

August X, 2009

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
XXXXXXXXXX**

Mr. Ima Polluter
President
At-Large Construction, Inc.
1320 Pālu Way
Honolulu, HI 96822

Dear Mr. Polluter:

**Subject: NOTICE OF APPARENT VIOLATION (NAV)
National Pollutant Discharge Elimination System (NPDES)
New Development Construction Site
Kapolei, Hawaii
File No. HI R10D1070**

You are hereby notified of apparent violations of the Hawaii Revised Statutes (HRS), §342D-50(a), which states that "no person, including any public body, shall discharge any water pollutant into State waters, or cause or allow any water pollutant to enter State waters except as in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director:

The HRS, §342D-1, defines "Water pollutant" to include "dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste."

The HRS, §342D-1, defines "State waters" to include "all waters, fresh, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground water, and lakes."

The Hawaii Administrative Rules (HAR), §11-54-4(a)(3), provides in part that "[a]ll waters shall be free of substances attributable to domestic, industrial, or other controllable sources of

Mr. Ima Polluter
January 25, 2010
Page 2

pollutants, including [s]ubstances in amounts sufficient to produce... objectionable color, turbidity or other conditions in the receiving waters."

VIOLATION:

On January 7, 2010, the Department of Health (DOH), Clean Water Branch (CWB), conducted an inspection of the New Development construction site (Site) located at Kapolei, Hawaii. Based on observations from the inspection, it appears the Site is in non-compliance with the issued Notice of General Permit Coverage (NGPC), File No. HI R10D1070. Details regarding the areas of non-compliance with the issued NPDES permit are included in the enclosed Investigation Report, Report ID# PA1234.

Non-compliance with issued NPDES permit, including discharging polluted storm water, failing to implement Best Management Practices (BMPs) detailed in the Site's Storm Water Pollution Control Plan, or failing to maintain an adequate Site Specific Storm Water Pollution Control Plan are violations of Hawaii Water Pollution rules and regulations. Individuals responsible for violations, as well as the company responsible for violations, may both be held responsible. Please be aware that violations of Hawaii Water Pollution rules and regulations may elicit administrative, civil, and/or criminal penalties against any/all responsible persons.

At this time, the DOH-CWB requires that At-Large Construction, Inc., or a contractor under its direction, make corrective actions such that the Site comes into full compliance with the issued NGPC. Corrective actions are to include implementing and maintaining BMPs to prevent the discharge of polluted storm water from the Site to State waters. Further, corrective actions are to include conducting employee storm water NGPC compliance training, maintaining all required submittals at the Site as required by the issued NGPC and revising the Site's Site Specific Storm Water Pollution Control Plan to adequately address all potential polluted discharges from the Site.

Within 20 calendar days of the date of this letter, please submit a report detailing all corrective actions taken or planned as a result of this NAV. The report must include the specific corrective actions implemented or planned as well as any necessary updates to the Site's storm water BMP plan. In your report, please include the reference number located on the upper right hand corner of the first page of this notice.

The HRS, §342D-30, provides for penalties of up to \$25,000 per day for each violation. The DOH-CWB reserves its right to seek penalties for all violations, including those described above or failure to respond adequately to this notice.

Please submit all requested information within 20 calendar days of this notice to:

Clean Water Branch
Department of Health
919 Ala Moana Boulevard, Room 301

Mr. Ima Polluter
January 25, 2010
Page 3

Honolulu, HI 96814-4920
Telephone: 808-586-4309
Fax: 808-586-4352

Should you have any questions, please contact Mr. Matthew Kurano, Enforcement Section, CWB, at 808-586-4309.

Sincerely,

ALEC WONG, P.E., CHIEF
Clean Water Branch

Enclosure: Investigation report, ID# PA1234

MK:

c: Mr. Edward G. Bohlen, Deputy Attorney General, Department of the Attorney General (w/o enclosure)

Compliance

Field Citations

STATE OF HAWAII
DEPARTMENT OF HEALTH
CLEAN WATER BRANCH

TO: Mr./Ms. John or Jane Polluter President	DOCKET NO.: 2010-CW-EO-Sample Date: November 19, 2009
Respondent(s)	
ADDRESS: Notokaoi LLC 55-555 Clean Water Drive Honolulu, Hawaii 96719	FIELD CITATION; NOTICE AND FINDING OF VIOLATION; ORDER; EXPEDITED SETTLEMENT

FIELD CITATION

A. NOTICE AND FINDING OF VIOLATION

The State of Hawaii, Department of Health (DOH), finds that the Respondent(s) violated Hawaii Revised Statutes (HRS) chapter 342D, Water Pollution, and the following sections of Hawaii Administrative Rules (HAR) chapter 11-55, Water Pollution Control,
on (date): December 25, 2009
at (address): Big Bucks Subdivision
41-550 Downda Street
Honolulu, Hawaii 96724
as follows:

1. Caused or allowed a discharge of pollutants into State waters or municipal separate storm sewer systems without coverage under a National Pollutant Discharge Elimination System (NPDES) Individual permit or Notice of General Permit Coverage (NGPC) or conditional "no exposure" exclusion. HAR 11-55-40(1)(A)(i).
FACTS: Discharged polluted storm water from construction activities.
- 2a. Began construction activity which involves the disturbance of one acre or more of total land area and has not obtained coverage under an NPDES Individual permit or NGPC. HAR 11-55-40(1)(A)(ii).
FACTS:
- 2b. Began construction activity which involves the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale where the larger common plan will ultimately disturb one acre or more of total land area, and has not obtained coverage under an NPDES Individual permit or NGPC. HAR 11-55-40(1)(A)(ii).
FACTS:
3. Failed to correctly install, implement, maintain, or repair site best management practices as called for in the applicable storm water pollution control plan or best management practices plan or other plan. HAR 11-55-40(1)(A)(iii).
FACTS: Respondent failed to maintain Best Management Practices such as silt fence and concrete washout containment as detailed in the applicable storm water pollution control plan.

4. On-site or at a nearby office or field office, failed 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 NGPC or conditional "no exposure" exclusion.
FACTS: No storm water pollution control plan was available onsite at the time of inspection.

5. ADDED FACTS:

6. A copy of the Investigation Report for this case is enclosed. If there are any questions regarding the enclosed Investigation Report or Field Citation, contact Mr. Michael Tsui, Supervisor of the Enforcement Section, Clean Water Branch, Department of Health, at (808) 586-4309.

B. ORDER

Under HAR chapter 342D and HAR chapter 11-55, you are ordered to:

- Cease the Discharge(s) immediately or within ___ days; and
- Pay the following penalty(ies) for the violation(s):
 - For violation of HAR 11-55-40(1)(A)(i) (Box 1 above):
 \$500.00 for a first violation, \$1,000.00 for a second violation.
 - For violation of HAR 11-55-40(1)(A)(ii) (Box 2a or 2b above):
 \$500.00 for a first violation, \$1,000.00 for a second violation.
 - For violation of HAR 11-55-40(1)(A)(iii) (Box 3 above):
 \$500.00 for a first violation, \$1,000.00 for a second violation.
 - For violation of HAR 11-55-40(1)(A)(iv) (Box 4 above):
 \$100.00 for a first violation, \$200.00 for a second violation.

C. EXPEDITED SETTLEMENT

This field citation, including the Notice and Finding of Violation and Order, is not a court proceeding or an administrative contested case hearing under HRS Chapter 91, but it is an offer to settle this administrative case quickly. You may settle this case quickly by accepting this field citation as follows:

- Signing and dating this citation on the lines below;
- Correcting the violation within 20 calendar days of receipt.
- Paying the full amount assessed by this citation. Payment shall be by cashier's check or money order made payable to the "State of Hawaii" within 20 calendar days; and
- Mailing or delivering the signed citation and full payment to the Clean Water Branch, 919 Ala Moana Blvd., Room 301, Honolulu, Hawaii,

96814. The DOH must receive this signed citation and full payment within 20 days after you receive this citation.

- D. By signing this field citation, you agree to:

- Give up your right to contest the finding of violation, order, or penalty in a contested case administrative hearing under HRS chapters 342D and 91, or in court;
- Correct the Violation(s) immediately or within 20 days of receipt;
- Comply with all Water Pollution rules and regulations;
- Pay the \$1100.00 penalty assessed above; and
- By January 20, 2009 submit to the DOH a letter explaining what has been done to comply with the above order.

- E. This citation offers to settle a case for (a) specific violation(s) at a specific place on a specific day. If you do not accept this citation in compliance with part C, then:

- This field citation is withdrawn;
- The DOH has the right to file another case against the violation(s), and to proceed against other violations, and to order higher civil or administrative penalties of up to \$25,000 for each day of each violation, and seek other remedies;
- You will have a right to contest any case the DOH files instead of this citation, including contesting the violation(s) and any penalties and other remedies, in a contested case administrative hearing under HRS chapters 342D and 91, or in court.

ALEC WONG, P.E., CHIEF
Clean Water Branch

Date: _____

I ACCEPT THE SETTLEMENT IN THIS FIELD CITATION:

Signature

Date: _____

Print Name: _____

MK/

CERTIFIED MAIL NO.
RETURN RECEIPT REQUESTED

c: Mr. Edward Bohlen, Deputy Attorney General

Compliance

Notice of Findings of Violation and Order

STATE OF HAWAII
DEPARTMENT OF HEALTH
NOTICE AND FINDING OF VIOLATION

TO: NPDES Permit Holder, LLC 1234 Honolulu Way Honolulu, Hawaii 96822	NFVO No. 2010-CW-EO-X <i>Please write this NFVO number on all correspondence</i>
Respondent	Re: Violation of Hawaii Water Pollution Rules and Regulations
Attn: Mr./Ms. President	Property/Facility: Construction Site Commercial Building Honolulu, Hawaii

The Department of Health (DOH) issues this Notice and Finding of Violation Order (NFVO) under Hawaii Revised Statutes (HRS), Chapters 91 and 342D, and Hawaii Administrative Rules (HAR), Chapter 11-55, based on an inspection conducted on March 24, 2009, and the report attached as Exhibit A. This case deals only with violations alleged below, and DOH may bring other cases for other violations. This case does not limit cases by any other public agency or private party.

Statutes/Rules	Nature of the Violation
HRS, §342D-50(a)	On January 1, 2010, NPDES Permit Holder, LLC violated Hawaii Water Pollution laws by discharging polluted storm water from a commercial building to a State water on Downda Street. The quantity of polluted storm water discharged is estimated at less than 10,000 gallons. The discharge was allowed to continue without the implementation of Best Management Practices.

The facts of this case and the law justify the following order.

ORDER

You are ordered to:

- Report in detail within 20 calendar days after the receipt of this NFVO the steps that were taken to stop and prevent future polluted discharges from entering into State Waters.
- Pay an administrative penalty of \$10,000.00 for the violation. Within 20 calendar days after the receipt of this NFVO, send a certified check to: Clean Water Branch, Department of Health, 919 Ala Moana Boulevard, Room 301, Honolulu, Hawaii, 96814. The check should be made payable to "State of Hawaii" and include the NFVO reference number above.

The provisions of this Notice and Finding of Violation and Order (NFVO) shall become final unless, within 20 calendar days after receipt, you submit a **written** request for a hearing, along with a copy of the NFVO, without exhibit(s), to:

Hearing Officer
c/o Director of Health
1250 Punchbowl St., Third Floor
Honolulu, Hawaii 96813

You may file the hearing request in person at the Director's office listed above, during regular business hours, or may mail the same to the above address within the allotted time. **Failure to timely file the hearing request and related documents may result in a denial of your hearing request.**

If a hearing is properly requested, a pre-hearing conference will be set by the Hearings Officer and you will be notified of the date, time and place of the pre-hearing conference.

The hearing will be conducted in accordance with Chapter 91 of the Hawaii Revised Statutes and Title 11, Chapter 1 of the Hawaii Administrative Rules.

At the hearing, the parties may present relevant evidence and argument on the issues raised by this case. The parties may also examine and cross-examine witnesses and present exhibits. The parties may seek to avoid any penalty, and DOH may seek the maximum penalty of Twenty-five Thousand Dollars (\$25,000) per day, per violation, although the actual penalty amount may be lower, or none.

Parties may be represented by legal counsel at their own expense. An individual may appear on his/her own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, or trust, or association may represent the corporation, trust or association.

After such hearing, the Order shall be affirmed, modified or rescinded by the Director or Hearings Officer.

All inquires regarding this matter, besides the request for hearing, shall be directed to: Mr. Michael Tsuji, Supervisor of the Enforcement Section, CWB, at (808) 586-4309.

If you have special needs due to a disability that will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.

LAURENCE K. LAU
Deputy Director for
Environmental Health

Date: _____

Approved As To Form By:
Mr. Edward G. Bohlen
Deputy Attorney General

NPDES Program– Who's Responsible

Storm Water Associated With Construction Activities



Who gets the bill?

- The Permit holder for NPDES permitted projects
- The general contractor for not maintaining Best Management Practices or for having prior violations of a similar nature
- The individual responsible for discharge

It is the prerogative of the Clean Water Branch to assign responsibility for the enforcement action. However, the Attorney General may also assign responsibility for enforcement actions.



U.S. Environmental Protection Agency

Civil Enforcement

Recent Additions | Contact Us | Print Version Search:

EPA Home > Compliance and Enforcement > Civil Enforcement > Information Resources > Cases and Settlements > Wal-Mart II Storm Water Settlement

WAL-MART II STORM WATER SETTLEMENT

The largest settlement for storm water violations EPA and DOJ have achieved

On Wednesday, May 12, 2004, the Department of Justice and the U.S. Environmental Protection Agency, along with the U.S. Attorneys General for the States of Tennessee, and Utah reached a settlement for storm water violations at Wal-Mart stores across the country. Under this Clean Water Act settlement, Wal-Mart has agreed to pay \$3.1 million civil penalty and reduce storm water runoff at its sites by instituting better control measures. Storm water runoff is one of the most significant sources of water pollution in the nation, comparable to contamination from industrial and sewage sources. This settlement sets a very high bar for regulation of this pervasive problem

Wal-Mart is one of the largest commercial developers in the country, building well over 200 stores each year across the U. S. under the brand names Wal-Mart Stores, Wal-Mart Supercenters, and Sam's Clubs.

"Storm water requirements have been in place for a long time. Developers like Wal-Mart must share responsibility with their construction contractors to ensure compliance," said Assistant Attorney General Thomas L. Sansonetti of the Justice Department's Environment and Natural Resources Division. "Today's settlement is a strong signal of this Administration's commitment to increase enforcement of our nation's environmental laws and regulations."

"Runoff from construction sites is a primary contributor to the impairment of water quality in the nation. EPA is vigorously enforcing federal regulations to help reduce this problem," said Thomas V. Skinner, acting Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance. "I want to commend Wal-Mart for negotiating a settlement that will be good for the environment and good for business."

Today's settlement is the second enforcement action resulting in a settlement with Wal-Mart for violations of the Clean Water Act. In 2001, Wal-Mart and several contractors entered into a settlement with the U.S. to address storm water violations at 17 sites in several states. The settlement included a penalty of \$1 million and required Wal-Mart to develop a storm water training program for its contractors and to inspect and oversee storm water controls at construction sites. EPA subsequently determined through inspections that Wal-Mart had not achieved consistent compliance at construction sites.

The settlement resolves violations of discharging pollutants without a permit and violations of storm water regulations by Wal-Mart and its contractors for alleged violations at over 24 construction sites in California, Colorado, Delaware, Michigan, New Jersey, South Dakota, Tennessee, Texas and Utah. The settlement includes a civil penalty of \$3.1 million, and an environmental project costing \$250,000 that will protect sensitive wetlands or waterways in one of the affected states. This settlement requires Wal-Mart to comply with storm water permitting requirements and ensures rigorous oversight of its 150 contractors. Wal-Mart will be required to use qualified personnel to oversee construction, conduct training and frequent inspections, report to EPA and take quick corrective action.

The settlement was lodged today for a 30-day public comment period in the United States District Court for Delaware.

"... Wal-Mart has agreed to pay \$3.1 million civil penalty and reduce storm water runoff at its sites by instituting better control measures."

"Runoff from construction sites is a primary contributor to the impairment of water quality in the nation. EPA is vigorously enforcing federal regulations..."



Storm Events

What's Expected of You

NPDES Program– Compliance



Storm Water Associated With Construction Activities

What's Expected of You

- Maintain copies of all permits and plans onsite
- Upkeep the designed pollution prevention measures
- Keep records of maintenance and any corrective actions made to prevent polluted discharges
- Make pollution prevention part of your daily routine- Just like Safety!

You are expected to protect the environment's health to the best of your ability!

NPDES Program– BMPs



Storm Water Associated With Construction Activities

Can they be overrun? Of Course!

What are we supposed to do then?

- Report to the CWB
- Implement measures to reduce polluted discharge
- Account for the previously unaccounted for upon repair



NPDES Program– Minimum BMPs



Storm Water Associated With Construction Activities

Enough BMPs To Address All Potential Pollutant Sources

- Subjective
- Should be variable depending on job
- SITE SPECIFIC

- Is Perimeter Control Enough? Hydromulching?
Fiber Roll Matting
- Dependent on Job
- Site Specific, Site Specific, Site Specific

NPDES Program– If You Fail the Inspection



What Can you Do?

Correct the problems ASAP

- Update the CWB of any changes you've made
- Communicate with us any changes that you've planned

Good Faith Actions Are Considered
During Enforcement Proceedings

Free Storm Water Materials

Helpful EPA Website Links

- *Developing Your Stormwater Pollution Prevention Plan: A guide for construction sites (05/01/2007)*
<http://www.epa.gov/npdes/swpppguide>
- *National Menu of Best Management Practices (BMPs) for NPDES Stormwater Phase II (10/27/2000)*
<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>
- *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices (01/08/2008)* <http://www.epa.gov/owow/nps/lid/costs07/>
- *EPA NPDES Website* <http://cfpub.epa.gov/npdes/index.cfm>

More Free Storm Water Materials

Helpful EPA Website Links

- *NPDES Compliance and Enforcement Manual*
<http://www.epa.gov/compliance/resources/publications/monitoring/cwa/inspections/npdesinspect/npdesinspect.pdf>

The Clean Water Branch Goal

Keeping Hawaii's water clean for "Beneficial uses" which include recreation and the protection and propagation of fish and aquatic life.



For More Information, Contact:

Clean Water Branch

919 Ala Moana Blvd., Rm. 301

Honolulu, Hawaii 96814-4920

Phone: 808-586-4309

Fax: 808-586-4352

Email: cleanwaterbranch@doh.hawaii.gov



<http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>

NPDES Q and A Agenda

- **Consistency of Enforcement**
- **Enforcement of Discharge Quantities**
- **Storm Events-What's Expected of You**
 - **Record keeping & Documentation**
- **Self-Policing Issues**
- **Does the NOI have to be kept in the field?**
- **BMP Contractor Review Process**
- **Tracks leaving Project Site and Road Washing**
- **Field Citations**
- **Questions?**

Questions?

Thank you!

