


Construction Stormwater: Tips on Completing the Notice of Intent and Complying with the Notice of General Permit Coverage

June 17, 2010
ASCE Hawaii Section Dinner Meeting
Treetops at Paradise Park, Honolulu




- Introduction to Water Pollution Control Regulations
- Completing the Notice of Intent
- Complying with the Notice of General Permit Coverage
- Questions & Answers - Anytime

Introduction to Water Pollution Regulations

The NPDES Program

National Pollutant Discharge Elimination System (NPDES)

- 402 of the Clean Water Act
- Implemented under Hawaii Administrative Rules, Chapter 11-55, Water Pollution Control
- Establishes a program for issuing permits which regulate discharges to State waters



Kahe Generating Station, Hawaii

The NPDES Program regulates nearly all industries which discharge to surface waters

The NPDES Program- Two Types of Permits

<p>General Permits</p> <ul style="list-style-type: none"> • For construction activities of 1 or more acres that discharge into Class 2 or Class A water • For Activities (Hydrotesting, dewatering, etc.) that discharge to a Class 2 or Class A water • Common type of discharge • \$500 filing fee • Takes ~1 Month to issue • Good for between 1 month and 5 years depending on date of issuance 	Vs.	<p>Individual Permits</p> <ul style="list-style-type: none"> • For construction activities of 1 or more acres that discharge into Class 1 or Class AA water • For Activities (Hydrotesting, dewatering, etc.) that discharge into Class 1 or Class AA waters • Are highly specific • \$1000 filing fee • Takes 6 Months to a year to issue • May be good for up to 5 years
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Most "permits" issued by the CWB are Notices of General Permit Coverage (NGPC)

Change to HAR, Chapter 11-55 (effective June 15, 2009)

- The amendments repealed the requirement for applicants to submit the NPDES permit application or NOI to the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD).
- Do not submit a copy of the NPDES Permit Application or NOI for construction coverage to DLNR-SHPD.

EPA Construction Stormwater Rule Takes Effect February 1, 2010

- Requires nearly all construction sites to implement a range of erosion and sediment controls and pollution prevention measures

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EPA Constr'n Stormwater Rule (con't)

- Non-numeric effluent limitations will apply to every construction site over one (1) acre when the rule takes effect on February 1, 2010
- Implementation of best management practices related to:
 - (1) erosion and sedimentation controls,
 - (2) soil stabilization controls, and
 - (3) pollution prevention measures.

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EPA Constr'n Stormwater Rule (con't)

- The rule also prohibits discharges from:
 - (1) dewatering activities and concrete washout activities (unless managed by appropriate controls),
 - (2) wastewater from the washout of stucco, paint, form release oils, curing compounds and other construction materials,
 - (3) fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance, and
 - (4) soaps or solvents used in vehicle and equipment washing.
- The rule also requires that discharges from basins or impoundments on a construction site must withdraw water from the surface, unless infeasible.

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EPA Constr'n Stormwater Rule (con't)

- **Numeric limit and associated monitoring requirements applicable to large sites disturbing 10 acres or more at one time will be phased in over four (4) years.**
 - construction sites that disturb 20 or more acres of land at one time are required to sample and comply with the turbidity limitation by August 1, 2011
 - construction sites that disturb 10 or more acres at one time are required to sample and comply with the turbidity limitation by February 2, 2014
- **Daily maximum limitation for Turbidity = 280 Nephelometric Turbidity Units (NTU)** - averages of the samples taken over the course of a day may not exceed the maximum daily amount

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Completing the Notice of Intent

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NOI and SSBMPs review priorities:

- American Recovery and Reinvestment Act (ARRA) Projects
- Capital Improvement Project (CIP) Strike-Force List Projects
- Clean Energy Projects
- All other projects by date received

Indicate in your transmittal that your project meets one of the above criteria to ensure the priority review.

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The following may cause the NOI to be incomplete:

- No electronic submittal of CWB NOI General Form (*xml file*), CWB-NOI Form C or SWPPP (*pdf file – minimum 300 dpi*), attachments (*pdf files – minimum 300 dpi*)
- Incorrectly completed form
- No \$500 Filing Fee

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NOI Procedures

To obtain coverage under the Construction Stormwater General Permit, submit the following:

- CWB NOI General Form
- CWB NOI Form C or EPA SWPPP
- \$500 Filing Fee

See handouts for examples.

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Best Management Practices

Definition:
Best Management Practices (BMPs)
 Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage

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Site-Specific BMP Plans: What is a SSBMP Plan?

Site-Specific BMP Plans insure compliance with Hawaii Water Pollution Rules and Regulations by:

- Detailing what pollutant sources exist on site
- What BMPs are going to be used to mitigate sources
- How to use the BMPs (specs and details)
- Detailing inspection procedures for permit compliance



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Site-Specific BMP Plans: When?

Site-Specific BMP Plans are PREFERABLY completed at the time of application.

- Preparing SSBMP Plans before NGPC issuance encourages compliance and make for fair bid practices
- Projects that mobilize without an accepted SSBMP plan submitted 30 days prior to the start of construction activities is already in non-compliance with the NGPC.

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Site-Specific BMP Plans: Who?

Site-Specific BMP Plans may be authored by the design engineer or general contractor.

- Even the best plans will need to be revised during construction
- Revisions must be submitted by the duly authorized representative or certifying person.
- SSBMP Plans are Binding

Is written for contractor's use, not for the CWB!

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Site-Specific BMP Plans: Templates Exist

SSBMP Plans MUST BE USABLE FOR YOU!

- Free templates exist to make the process easier
- If an NGPC has been issued, most of the work is already done. CWB-NOI Form C is 80-90% of a SSBMP Plan.
- Can be changed if needed.



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BMPs are not set in stone. It's about the water!

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Site-Specific BMP Plans: FAQs


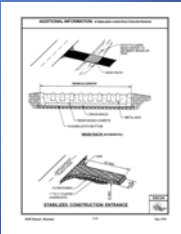
Do SSBMP plans need to be stamped by a license engineer? **No!**

- Can I make changes to SSBMP Plans? **Yes!**
- Does the DOH have a list of "approved" BMPs? **No!**
- Can I use a BMP that has not been readily tested in Hawaii before? **Yes!**
- What are the Best BMPs? Whatever works for you!

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City and County of Honolulu's Best Management Practices Manual for Construction Sites in Honolulu

http://www.cleanwaterhonolulu.com/storm/learning_center/BMP_manual.pdf

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NOI Procedure Changes

- The CWB NOI Form C will be replaced with the requirement to submit a completed EPA Storm Water Pollution Prevention Plan (SWPPP) Template.
 - Template will be revised to incorporate State required information. Check CWB website for updates.
 - Blank template is available on the EPA website at http://www.epa.gov/npdes/pubs/sw_swppp_template_authstates.doc
 - Certain Site-specific construction information/Best Management Practices may be submitted at least 30 calendar days before the start of construction activities. Please see CWB NOI Form C for which items may be submitted later.

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Upcoming Changes

Upcoming Changes to Hawaii's NPDES Program

- eDMR (electronic submittal of Discharge Monitoring Report Form)
- Web-based forms
- Electronic Signatures
- Searchable online database
- Total Maximum Daily Loads and Waste Load Allocations
- Chargeable Filing Fee

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Complying with the Notice of General Permit Coverage (NGPC)


A Common Sense Approach to Compliance

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Compliance with your NGPC

Conditional NGPCs

- Many NGPCs have conditions which need to be fulfilled.
- Read the conditions and make a checklist of conditions:
 - Some come 30 days before start of work (Submitting SSBMP Plans)
 - Some within 7 days before (Start of work notice)
 - Some after work is completed (NOC)



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Compliance with your NGPC

What must be kept onsite?

- Permits/NGPCs
- SSBMP Plan
- Inspection Records
- Copy of the NOI and NGPC

Who's Responsible for compliance?

- Permittee
- Contractor
- Joe Backhoe Driver

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Compliance with your NGPC

What if I need to make changes?

- Make the Change
- Update SSBMP Plan
- Maintain updated plans onsite and available upon request

What about during a big storm?

- Inspect Site
- Secure BMPs
- Rebuild, Redesign as needed
- Document, Document, Document



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Compliance with your NGPC: Inspections

What's the Point?

1. Insure Water Pollution Prevention by:
 - A. Determine Applicability of the SSBMP
 - B. Evaluate Adherence to the SSBMP

What are the Penalties?

- Notices of Apparent Violation (NAVs)
- Field Citations (\$100-\$3600)
- Notice and Finding of Violation and Order (\$500-\$25,000/per day)
- Criminal Felony Prosecution



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Compliance with your NGPC: Inspections

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 out all issues and take photos
- Will have an exit interview whereupon findings will be discussed.
- May offer suggestions which should be taken seriously

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Compliance with your NGPC: Inspections

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

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Compliance with your NGPC: Good Results


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 to State Waters

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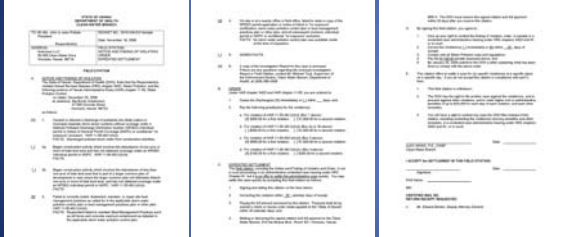
Compliance with your NGPC: NAVs



Notice of Apparent Violations (NAVs)
20 Days to make corrections
May result in a monetary penalty

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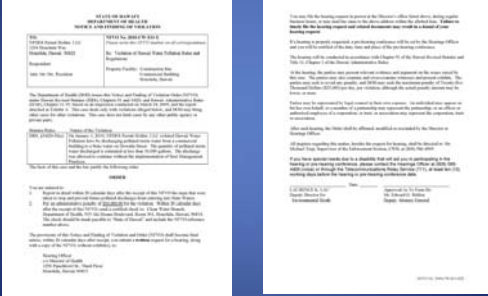
Compliance with your NGPC: Field Citations



Field Citations

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Compliance with your NGPC: NFVOs



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NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities



Failing to Maintain/Implement BMPs as required

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NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

Case Details:

- Routine Compliance Inspection
- Construction project NGPC had been issued by the CWB.
- Previous inspections of other related projects had been conducted with non-discharge related findings
- No discharges were identified

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NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

Field Citation Orders:

- Cease the Discharge Immediately
- Make Changes to Prevent Similar Violations from Occurring
- Report Changes
- Pay a Penalty of \$600.00

NFVO Result

- Changes Made
- Changes Reported
- Penalty Paid

Future Penalties will be Substantially Higher and may be referred for Criminal Prosecution!

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NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

Why a Field Citation and Not NFVO:

- No observed polluted discharge
- Good downstream BMP
- Rapid Good Faith actions to comply



Large Capacity Retention Basin

Good Permanent BMPs go a long way!

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Compliance with your NPDES Permit: Examples

Ingress/Egress BMPs

Bad



Good



Tracking is the leading complaint we receive about construction sites

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Compliance with your NPDES Permit: Examples

Contain Concrete Washout

Bad



Good



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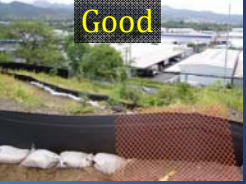
Compliance with your NPDES Permit: Examples

Perimeter Sediment Control

Bad



Good




Perimeter Sediment Control is only part of the BMP system
Source control and good planning is critical.
Maintain your BMPs.

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Compliance with your NPDES Permit: Examples

Inlet Protection Devices (IPD)

Good? Bad?



Good



The best way to think about protecting your inlets is to NOT use IPDs as your primary BMP.

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Compliance with your NPDES Permit: Examples

Fuel/Oil Storage



Bad
No Secondary Containment
No Overhead Cover



OK
Secondary Containment
No Overhead Cover

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Compliance with your NPDES Permit: Examples

Tire Washing



Bad
Grounds for a Fine



Good
Wastewater Contained
Onsite

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Our Goal...

Keep Hawaii's water clean!



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