

# Land Use Comments - Revised January, 2010

1. The Health Department found no environmental health concerns with regulatory implications in the submittals.
2. There are no additional concerns to those made previously.
3. Dispensing site locations and food preparation areas would need to meet the requirements of Chapter 50, Food Safety Code. The applicant may call Ph. 933-0917 to discuss the content of this communication.
4. The development of a new potable water source is regulated by our Safe Drinking Water Branch (Ph. 586-4258) in Honolulu. The reference Administrative Rule is Chapter 20, Potable Water Systems, Title 11, Department of Health, State of Hawaii.
5. Underground Injection Systems (Ph. 586-4258) which receive wastewater or storm runoffs from the proposed development need to address the requirements of Chapter 23, Hawaii State Department of Health Administrative Rules, Title 11, "Underground Injection Control."
6. This office has no additional comments to those made previously. Reference is made to (date) letter to the Planning Director.
7. The applicant would need to meet the permit requirements of our Department of Health Air Pollution Rule, Chapter 60.1, Title 11, State of Hawaii for the proposed quarry operations. If there is need to discuss these requirements, please contact our Clean Air Branch staff in Honolulu, Ph. 586-4200.
8. The applicant would need to meet the requirements of our Department of Health Air Pollution Rules, Chapter 60.1, Title 11, State of Hawaii for fugitive dust control. If there is need to discuss these requirements, please contact our Clean Air Branch staff at Ph. 933-0401.
9. The proposed \_\_\_\_\_ needs to meet the requirements of Chapter 50, Food Safety Code. Please call our office (Ph. 933-0917) for consultation and additional information.
10. The proposed kitchen facility and lunch wagon operation would need to meet the requirements of Chapter 50, Food Safety Code.
11. The submittals for the subject development have been transmitted to our Environmental Management programs for their coordinated review and comments. Upon receipt of their reply, their comments will be forwarded to your office.
12. Please allow us an extension on the  (date)  due date for comments. The submittals for the subject development have been transmitted to our Environmental Management programs for their coordinated review and comments. Upon receipt of their reply, their comments will be forwarded to your office.

13. The Department of Health's Safe Drinking Water Branch authority on drinking water quality is based on the definition of a "public water system." A "public water system" means a system which provides water for human consumption through pipe or other constructed conveyance if such system has fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. All public water systems are regulated by the Department of Health and shall be in compliance with the Hawaii Administrative Rules, Title 11, Chapter 20. Recommend the subdivision lots be connected to an existing public water system.

Concerns on water quality for lead, copper, algae and microbiological and chemical contaminations in private water systems have identified the need for self-monitoring. The Department of Health does not support the use of these private rain catchment systems for drinking water purposes since the quality may not meet National Primary Drinking Water Standards for potable drinking water for human consumption. The U.S. Environmental Protection Agency (EPA) defines human consumption to include drinking, bathing, showering, cooking, dishwashing, maintaining oral hygiene and includes hand washing.

14. The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of the subject document on (date). The CWB has reviewed the limited information contained in the subject document and offers the following comments:

#### **Permit Issuance**

- \* Any project and its potential impacts to State waters must meet the State's:
  - 1) Antidegradation policy, which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected;
  - 2) Designated uses, as determined by the classification of the receiving State waters; and
  - 3) Water quality criteria [Hawaii Administrative Rules (HAR), Chapter 11-54],
  
- \* A Section 401 Water quality Certification (WQC) is required if your project/activity:
  - Requires a federal permit, license, certificate, approval, registration, or Statutory exemption; and
  - May result in a discharge into State waters. The term "discharge" is defined in Clean Water Act, Subsections 502(16), 502(12), and 502(6). Examples of "discharge" include, but are not limited to, allowing the following pollutants to enter State waters from the surface or in-water: solid waste, rock/sand/dirt, heat, sewage, construction debris, any underwater work, chemicals, fugitive dust/spray/paint, agricultural wastes, biological materials, industrial wastes, concrete/sealant/epoxy, and washing/cleaning effluent.

Determine if your project/activity requires a federal permit, license, certificate, approval, registration, or statutory exemption by contacting the appropriate federal agencies (e.g. Department of the Army (DA), U.S. Army Corps of Engineers (COE), Pacific Ocean Division Honolulu District Office (POH) Tel: 808-835-4303; U.S. Environmental Protection Agency Tel: 415-947-8021;

Federal Energy Regulatory Commission Tel: 866-208-3372; U.S. Coast Guard Office of Bridge Programs Tel: 202-372-1511).

To request a Section 401 WQC, you must complete and submit the Section 401 WQC application. This application is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.

Please see HAR, chapter 11-54 for the State' Water Quality Standards and for more information on the Section 401 WQC. HAR, Chapter 11-54 is available on the CWB website at: <http://health.hawaii.gov/cwb/>.

- National Pollutant Discharge Elimination System (NPDES) permit coverage is required for:
  - Storm water associated with construction activities for land disturbances of one (1) acre or more. Land disturbance includes, but is not limited to, clearing, grading, grubbing, excavation, demolition, uprooting of vegetation, equipment staging, and storage areas.
  - Storm water associated with industrial activities for facilities with Standard Industrial Classification Codes regulated in 40 CFR 122.26(b)(14)(i) through (ix) and (xi).
  - Storm water and certain non-storm water from a small Municipal Separate Storm Sewer System.
  - Discharges of water pollutants into State surface waters. Examples of these discharges include, but are not limited to, cooling water, hydrotesting waters, dewatering effluent, and process wastewater.
  - Discharges from the application of pesticides (including pesticides, herbicides, fungicides, rodenticides, and various other substances to control pest) to State waters.

An application for an NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge or start of construction activities. To request and NPDES individual permit, you must complete and submit the NPDES individual permit application. This application is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.

A Notice of Intent (NOI) for coverage under a specific NPDES general permit must be submitted at least 30 calendar days before the commencement of the discharge or start of construction activities. To request NPDES general permit coverage, you must complete and submit the NOI. The NOI is available on the e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.

Please see HAR, Chapter 11-55 for more information on the NPDES individual permit and NPDES general permits. The specific NPDES general permits located in HAR, Chapter 11-55, Appendices B through M. HAR, Chapter 11-55 and HAR, Chapter 11-55, Appendices B through M are available on the CWB website at: <http://health.hawaii.gov/cwb/>.

- According to State law, all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards.

### **Monitoring**

- Effluent discharge and/or receiving water monitoring may be required as conditions of Section 401 Water Quality Certifications and NPDES General and Individual permits.

### **Enforcement**

- Noncompliance with water quality requirements contained in HAR, Chapter 11-54 and/or permitting requirements specified in HAR, Chapter 11-55 may be subject to penalties of \$25,000 per day per violation.
- Violations of Hawaii Revised Statutes 342D and 342E may elicit administrative, civil and criminal penalties for such violations.

### **Polluted Runoff Control**

- Manage projects identified in watershed-based plans that reduce polluted runoff and educate the public about nonpoint source pollution. Projects are selected through an annual request for proposals. Funding is provided by the EPA through the Clean Water Act. For more information on projects and funding opportunities, please visit: [www.hawaii.gov/doh/pollutedrunoffcontrol](http://www.hawaii.gov/doh/pollutedrunoffcontrol).

If you have any questions, please contact Mr. Darryl Lum, Supervisor of the Engineering Section, CWB, at (808) 586-4317.

15. As a demolition and renovation activity, the Federal Register, 40 CFR Part 61, National Emission Standard for Hazardous Air Pollutants, Asbestos NESHAP Revision; Final Rule, November 20, 1990, requires the owner/operator to inspect the affected areas to determine whether asbestos is present.

Under the Asbestos School Hazard Abatement Response Act (ASHARA), all persons who conduct inspections (i.e. perform sampling and assessment of suspected asbestos-containing material) in schools or public and commercial buildings must have an active Asbestos Hazard Emergency Response (AHERA) certificate-of-training from an accredited training provider.

Under NESHAP's regulation, the owner/operator would be required to file with the Department of Health,

Noise, Radiation and Indoor Air Quality Branch, an Asbestos Demolition/Renovation notification 10 working days prior to demolition of each building or the disturbance of regulated asbestos-containing material. All regulated quantities and types of asbestos-containing materials would be subject to emission controls, proper collection, containerizing, and disposal at a permitted landfill.

Under a renovation project, if the amount of friable or non-friable material rendered friable is less than 160 square feet, the project would not be subject to the NESHAP requirements. However, the persons who conduct activities related to abatement and/or disturbances to friable material greater than three square feet or three linear feet, must have an active AHERA certificate of training from an accredited provider for that specific discipline (i.e., project designer, abatement supervisor and worker).

If you have any further questions, please feel free to contact the Indoor Air & Radiological Health Branch at (808) 586-5800.

16. Construction activities must comply with the provisions of Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control."

- a. The contractor must obtain a noise permit if the noise levels from the construction activities are expected to exceed the allowable levels of the rules.
- b. Construction equipment and on-site vehicles requiring an exhaust of gas or air must be equipped with mufflers.
- c. The contractor must comply with the requirements pertaining to construction activities as specified in the rules and the conditions issued with the permit.

Should there be any questions on this matter, please contact the Department of Health at 933-0917.

17. The Department of Health does not have any objections to the proposed change in land uses. However, existing or planned land use activities adjacent to the proposed residential area should be compatible with a residential neighborhood.

18. The Department of Health received written communication from the above Use Permit Application. The present/proposed food service operation as stated in the attached letter does not require a food service permit from the Department of Health. Future changes in menu and food service operations will require additional review and approval of the Department of Health.

19. **Guidelines for Bed and Breakfast Operators**

**Purpose**

The purpose of these guidelines is to provide interpretation of the Department of Health's Administrative Rules, Title 11, Chapter 50, Food Safety Code, as it pertains to Bed and Breakfast operations.

**Definitions**

"Bed and Breakfast establishment" means a single-family dwelling, including a single guest house, in which overnight accommodations and only breakfast meals are provided, and the number of guests does not exceed six(6).

“Potentially hazardous food” means any food that consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of four and six-tenths or below or a water activity (aw) value of eighty-five hundredths or less.

### **Notification and Permit Requirements**

When required by the County Planning Department, Bed and Breakfast establishments may request documentation from the Department of Health. The Department of Health will provide documentation to the Planning Department once written communication from the Bed and Breakfast operators are received regarding their food service operations.

If the proposed Bed and Breakfast meal consists of commercial cereal, pastries (except custards or cream filled), breads, fruits, coffee, tea, and juice, a food establishment permit will not be required from the Department of Health at this time. This limited menu must be documented in a letter to the Department of Health. The guests shall be informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Department of Health.

For Bed and Breakfast operations that provide meals which include potentially hazardous foods, a food establishment permit will be required to operate. County landuse approval for operating a food establishment may also be required. A kitchen used to prepare foods for individual family consumption will not be allowed to be permitted. A separate commercial kitchen will need to be constructed.

If you have any questions regarding this guideline, please feel free to call me at 933-0917.

c: B&B Operator  
Revised 2/26/14

20. At the present time, there are no general public exposure limits for electromagnetic radiation. Science has not provided a validated basis for dose response. In other words, the amount of exposure cannot be correlated with long term health effects. A number of scientific studies have been done indicating correlations. However, these studies could not duplicate with the same results and/or had inherent flaws which precluded validation of the study. As such, potential health impacts associated with electromagnetic radiation cannot be determined at this time.

If you have any questions regarding this communication, please feel free to call Jeff Eckerd, Branch Manager of the Indoor Air & Radiological Health Branch, at 586-4700.

21. The State Department of Health has recommended guidelines for all golf courses in Hawaii to promote, protect, and enhance environmental quality and public health. Please call the Groundwater Pollution Control Section of the Safe Drinking Water Branch at 586-4258 (Honolulu) regarding the guidelines.

22. We recommend that you review all of the Standard Comments on our website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html>. Any comments specifically applicable to this project should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.

23. Lands formerly used for sugarcane production are now being developed into communities where residential homes, schools and commercial businesses are being constructed. Chemicals associated with the sugarcane industry persist in soil today and may be a threat to public health and the environment. Elevated arsenic levels were discovered in soil at former sugarcane production areas on the islands. The HEER Office has identified former sugarcane production areas for assessment throughout the state and plans to work with property owners to conduct environmental assessments to identify and address elevated soil arsenic levels prior to finalizing development plans for the properties.