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In reply please refer to:  
File:  
20-204C&E CAB

April 17, 2020

**TO:** All Noncovered Source Permittees, Covered Source Permittees, and Other Entities  
Regulated by the Department of Health, Clean Air Branch

**SUBJECT:** Temporary Policy Regarding Compliance Issues Due to the Coronavirus  
Disease 2019 (COVID-19) Pandemic

As the entire State of Hawaii is adjusting to this unprecedented event, the Department of Health, Clean Air Branch (CAB) understands that regulated entities may encounter potential challenges in maintaining compliance with certain conditions found in their air permits, state statutes, administrative rules, and other regulatory requirements. To address this issue, the CAB, is issuing this temporary policy to provide guidance to our regulated community and to help address compliance questions raised as a result of the COVID-19 pandemic. This temporary policy will apply retroactively beginning on March 16, 2020 and will continue until the CAB determines this temporary policy is no longer necessary.

At this time, all state statutes and regulations remain in effect unless otherwise suspended by the governor. All regulated entities should make every effort to meet their compliance obligations and to operate responsibly to minimize the effects and duration of any noncompliance caused by the COVID-19 situation. Should a non-compliance situation occur that was verifiably unavoidable due to the COVID-19 pandemic, CAB would like to reassure our regulated community that the current circumstances as well as good faith efforts to comply will be considered in exercising enforcement discretion within our authority. Regulated entities are encouraged to contact CAB with any specific issues they are encountering and work with CAB to address potential compliance issues as early as possible.

Please be aware that a permittee's valid air permit does not in any way release the permittee from compliance with other applicable statutes of the State of Hawaii, or with applicable local laws, regulations, or ordinances, including executive orders and proclamations. In the event that compliance with a valid air permit cannot be achieved due to compliance with governmental directives related to COVID-19, the permittee shall, within five (5) working days of the noncompliance, notify CAB and submit in writing or by email the following information:

1. The specific permit condition, regulation, or other requirement that cannot be met.
2. A description of the events that led to the noncompliance;
3. The title and specific condition of an official executive order or proclamation that prevented compliance;
4. A description of how this specific condition of an official executive order, emergency order or proclamation prevented compliance;
5. The anticipated duration (including dates) of the noncompliance;
6. A description of the steps taken to mitigate the noncompliance, including best efforts to comply and to return to compliance as soon as possible; and
7. The expected impact to human health and/or the environment.

Consistent with the general approach being implemented by the CAB, the U.S. Environmental Protection Agency recently issued the COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program temporary policy memorandum dated March 26, 2020, that addresses this topic at a federal level and explains the federal agency's approach to enforcement and compliance discretion during this time. A link to a copy of this memorandum is available on CAB's website at: <https://health.hawaii.gov/cab/>.

To minimize the regulated community's administrative burden during this event, all documents found in a permittee's valid air permit that are required to be submitted to the CAB (with the exception of applications below), may be emailed to the CAB at: [cab.general@doh.hawaii.gov](mailto:cab.general@doh.hawaii.gov). This policy does not apply to the submittal of air permit applications. The following air permit applications may be emailed to the CAB, but the original application with "wet ink" signatures must be submitted to the CAB prior to the issuance of an air permit:

- Initial, renewal, modification, and administrative permit amendment applications for Covered Source Permits (CSPs) and Noncovered Source Permits (NSPs); and
- NSP general permit applications.

While CAB is committed to stopping the spread of COVID-19, it is important that we remain vigilant during these challenging times and continue our mission of protecting the air we breathe. We will continue to adjust to the changing conditions from the COVID-19 pandemic and will regularly evaluate this temporary policy, making appropriate revisions as necessary. This temporary policy as well as any future revisions can be found on CAB's website at: <https://health.hawaii.gov/cab/>.

If there are any questions, please contact Ms. Jill Stensrud of my staff at (808) 586-4200 or by email at [cab.general@doh.hawaii.gov](mailto:cab.general@doh.hawaii.gov).

Sincerely,



MARIANNE ROSSIO, P.E.  
Manager, Clean Air Branch

DW/MR:rkb

c: William Cooper, Deputy Attorney General, State of Hawaii