

Requirements to Obtain Pre-Approved Standard Operating Procedures (SOPS) to Use the Kaizen Streamlined Section 401 Water Quality Certification (WQC) Process

Instructions:

1. The Department of Health (DOH), Clean Water Branch (CWB) is implementing a streamlined Section 401 WQC process. The idea for this streamlined process came from a Kaizen event.
2. The Kaizen streamlined Section 401 WQC process is voluntary. Any private or public organization may choose to be a part of this streamlined process.
3. The Kaizen streamlined Section 401 WQC process is as follows:
 - a. The Section 401 WQC applicant (Applicant) develops their own SOPs for the activities they normally perform that require a Section 401 WQC. The SOPs are required to comply with the checklist requirements below. It is highly recommended that the Applicant considers the SOPs they utilized in the past that were approved in a previous Section 401 WQC.
 - b. The Applicant completes the checklist below to the DOH-CWB for review. To complete the checklist, reference the page or section numbers of your SOP in the yellow highlighted cell that addresses the requirements.
 - c. The Applicant submits their SOPs, the completed checklist, and a transmittal letter signed by the Certifying Person that meets 40 CFR 122.22(a) requirements and the following certification paragraph: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
 - d. DOH-CWB reviews the SOPs utilizing the checklist requirements below. The Applicant will be notified of any comments/concerns from the DOH-CWB.
 - e. If DOH-CWB accepts the Applicant's SOPs, DOH-CWB will inform the Applicant in writing that their SOPs have been pre-approved for the Section 401 WQC Kaizen Streamlining Process for the activities in the pre-approved SOPs.
 - f. Once a SOP is pre-approved, it will be assigned a file number.
 - g. The Applicant with a pre-approved SOP will be able to request a Section 401 WQC using the e-Permitting Kaizen Streamlined Section 401 WQC application if their project is covered by a U.S. Army Corps of Engineers (USACE) Nationwide Permit and the activity was included in the pre-approved SOPs. In this streamlined process, water quality monitoring is not required; submittal of a Best Management Practices (BMP) Plan is not required with the application; the application will not have antidegradation questions; and there will be no public notice or public hearing. Instead, the Applicant will be required to certify that they will comply with their pre-approved SOPs. Note: If the e-Permitting Kaizen Streamlined Section 401 WQC application is not released by the time an Applicant is ready to use a pre-approved SOP, the Applicant can contact the DOH-CWB for an alternative application form.
 - h. The Applicant with a pre-approved SOP will be able to request a Section 401 WQC using the Section 401 WQC Blanket Notification Form for 2012 NWP's and the future 2017 NWP's if their project qualifies for coverage under the blanket and the activity was included in the pre-approved SOPs.
 - i. An Applicant with a pre-approved SOP can contact the DOH-CWB to revise or modify their SOPs. If the DOH-CWB pre-approves the revision, a new file number will be assigned.

Checklist Requirements:

Complete the yellow highlighted cells by referencing the section of your proposed SOP that addresses the corresponding requirement.

No.	SOP Requirements	Explanation	SOP Section Reference	DOH-CWB Comments (For DOH-CWB Internal Use. Do Not Write In This Column.)
Design				
1	Planning and design requirements to asses and protect a water body's existing uses and the level of water quality necessary for the existing uses.	All projects/activities shall not adversely impact human uses of water bodies (e.g. fishing, surfing, scientific research, etc.). All projects/activities shall not adversely impact fish and other aquatic organisms (e.g. Oopu migration, no net habitat loss, etc.). Hawaii Administrative Rules (HAR), Chapter 11-54 requires the maintenance and protection of existing uses and the water quality to maintain the existing uses. Existing uses are all uses that have actually been attained in the receiving water body on or after November 28, 1975 whether or not they are included in HAR 11-54.		
2	Design requirements for the structure being built/installed to maintain or improve water quality (physical, chemical, biological, and thermal characteristics)	There shall be no adverse change to the physical; chemical (e.g. DO, temperature, pH, toxics will not be introduced, etc.); biological; and thermal characteristics of the receiving State water. Projects/activities must be designed so that the natural ecosystems of the receiving State water will be maintained or restored.		
3	Criteria for the project/actiivity design to consider restoring the natural function of a receiving water body.	This includes, but is not limited to, restoring natural riparian barriers, decreasing impervious surfaces, preventing hardening and/or the addition of concrete, prioritizing the use of native materials when applicable, improving aquatic habitats (i.e. use of natural stream rock that will act as habitat for different types aquatic animals), phasing to limit the amount of open/exposed area		
4	Design recommendations and options for the use of pollution reducing construction materials and methods			
5	Requirements for the design to consider and incorporate construction sequencing and phasing to limit the amount of open/vulnerable areas at any given time.	The goal is to include construction sequencing and phasing that will be protective of the environment in the design stage so that contractors can include it in their bid.		

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Construction				
6	The SOP must specify the type of in-water work (projects, activities) you want to utilize the Kaizen streamlined Section 401 WQC process for. All of the BMPs and in-water activities must be connected in your SOP to ensure that BMPs are utilized in appropriate situations.			
7	BMPs must be inert and not sources of pollution themselves.	Examples of inappropriate in-water BMPs include, but are not limited to compost biosocks since they are a source of nutrients and a soil berm since the soil particles will erode away.		
8	BMPs to contain water pollutants to capture and collect pollutants and construction debris from localized work areas before reaching the state water. The BMPs are intended to minimize or prevent the release of these pollutants into State waters, including the in-water work area.	Examples of water pollutants include, but are not limited to concrete slurry, concrete chips, concrete surface preparation washing effluent, airborne particulates, etc.		
9	BMPs for in-water isolation. You are also required to list situations in which isolation and confinement are not feasible.	Examples of in-water isolation BMPs include, but are not limited to sheetpiles, aqua barriers, and turbidity curtains. Earthen berms, compost biosocks, or silt fence are not acceptable in-water BMP containment methods.		
10	BMPs for working in, over, or adjacent to State waters.	Indicate "N/A" if your organization does not perform these types of activities.		
11	BMPs for demolition over or adjacent to State waters.	Indicate "N/A" if your organization does not perform these types of activities.		
12	BMPs for temporary stream/river crossing.	Indicate "N/A" if your organization does not perform these types of activities.		
13	BMPs for streambank stabilization.	Indicate "N/A" if your organization does not perform these types of activities.		
14	Flow diversion BMPs that allow unimpeded flow around the in-water work areas in streams, ditches, and gulches to allow for aquatic animal migration and/or to prevent work site and downstream flooding situations. The unimpeded flow shall be equivalent to a two (2) year, 24 hour duration storm event and/or the existing flow capacity of the stream, ditch, or gulch.	For this requirement, you may indicate "N/A" if your organization does not perform work in streams, ditches, or gulches.		

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15	Upland erosion, sediment control, and general construction BMPs that minimize the discharge of water pollutants into State waters, including the in-water work area.	Upland is defined as the area not within the State water starting from the "top of bank" or the area mauka of the certified shoreline.		
16	BMPs for materials handling.	Examples: Stockpiling and staging are prohibited in State waters. All debris and waste must be removed from the project site and disposed at upland State and County approved sites. Concrete washout shall be into containers that are impervious and have freeboard specified.		
17	BMPs for wastewater and effluent handling	Discharge to a State water is prohibited without an NPDES permit that authorizes the specific discharge.		
18	Requirement for all in-water and upland BMPS for that phase/activity to be deployed prior to the commencement of the associated work;			
19	Requirement for BMPs to be properly maintained throughout the entire period of the associated work; and be removed from the project site after the associated work is completed and properly stored or disposed of unless the BMP is intended to become a permanent BMP.			

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Project Specific In-Water BMPs Plan				
20	Requirement for a project specific, in-water BMPs Plan that describes the processes by which your organization will manage project/activity related pollutants.	An example of an in-water BMP is DOT-HWYS' In-Water Pollution Prevention Plan template.		
		In-water means in the State water. State water is defined in HAR, Chapter 11-54. A State water does not have to have flowing and/or standing water. It can be dry, such as a dry, natural gulch or intermittent stream. For streams and gulches, the State water is from the top of bank to the opposite top of bank.		
		In-water work area is out to a maximum of 10 feet from the toe of the activity authorized by the USACE.		
21	The BMP Plan must include BMPs from your SOP that will minimize the discharge of all potential water pollutants associated with the project/activity construction and operation activities.	Minimize means to reduce and/or eliminate to the extent achievable using treatment or control measures that are technologically available and economically practicable and achievable in light of best industry practices.		
22	The BMP Plan must address and prescribe BMPs for all potential pollutants associated with the project/activity.			
23	The BMP Plan must prioritize isolation and confinement BMPs. If isolation and confinement BMPs are infeasible, a explanation based off SOP criteria for infeasibility needs to be provided.			
24	The BMP Plan must require BMPs from your SOP to be utilized around the entire in-water work area where water pollution producing activities are occurring.			
25	The BMP plan must contain BMP maps for each phase or step in construction that requires a significantly different BMP approach	"Significantly different" is a judgment call that can be made by your organization.		

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Administrative				
26	Processes by which your SOPs are institutionalized in your contract and bid packages.	This may include identifying key parts of the organization that will execute tasks (i.e. contract writers and how they will include language included in the SOP). Organizational charts and visual aids can be really helpful. This can also include example documents or excerpts of language that will be utilized by the key parts of the organization.		
27	Requirement for various parts of the organization to self-enforce use and execution of the SOPs			
28	Processes by which various parts of the organization will enforce against any of their contractors who are not complying with the SOP.			
29	Inspection/self-monitoring program utilizing trained/qualified inspectors. You define in the SOPs what is trained and qualified. Inspections must occur at a minimum frequency and include specific elements.	At a minimum, daily visual monitoring using an inspection template is required. Weekly compliance reporting is required through the ePermitting CWB compliance submittal form.		
30	Reporting program for unauthorized discharges, "significant" non-compliances	All non-compliance must be reported through the ePermitting CWB compliance submittal form.		
31	A contingency plan that addresses adverse weather actions, corrective actions, changing BMP Plan, and documentation.			
32	A requirement to immediately cease the portion of the construction work that may be causing the non-compliance if your inspections or observations indicate noncompliance with HAR 11-54 will occur or is occurring. The construction activity shall not resume until adequate measures are implemented and appropriate corrective actions are taken to cease the non-compliance. You are also required to discontinue work during storm events or during flooding conditions. When storm events or flood conditions are expected or observed, stabilize the site to prevent polluted runoff and erosion and cease work until conditions are normal.			
33	Notification of project completion.	Notification must be made via the ePermitting CWB compliance submittal form.		