

Department of Health (DOH) Clean Water Branch (CWB) National Pollutant Discharge Elimination System Pesticides General Permit

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Clean Water Branch

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Summary

- Department of Health (DOH), Clean Water Branch (CWB) Background.
- Introduction to National Pollutant Discharge Elimination System (NPDES) Permits.
- NPDES Pesticides General Permit (PGP).
- PGP and Wetland Conservation.
- Questions.



DOH-CWB Background



DOH-CWB Background

- State of Hawaii, Department of Health, Environmental Health Administration, Environmental Management Division.
- Administers and enforces Statewide water pollution laws and rules. Achieved through permitting of point sources, compliance monitoring, inspections, investigations of complaints, and ambient water quality monitoring.



DOH-CWB Background

- According to Hawaii law, no person or organization may discharge, place, release, dump, or allow pollutants into State waters except in compliance with the State Water Quality Standards or an NPDES permit issued by the DOH. (Ref: HRS 342D, HAR 11-54, and HAR 11-55)
- State waters include, but are not limited to, streams, lakes, ponds, ocean, wetlands, springs, flooded agricultural fields (e.g. taro or watercress fields), mud flats, natural gulches or ditches, and any thing else that is either fed by a State water or overflows to a State water (e.g. irrigation ditches and reservoirs).



Introduction to NPDES Permits



Introduction to NPDES Permits

- National Pollutant Discharge Elimination System (NPDES).
- Permit system required by federal law.
- NPDES permits required for all point source pollutant discharges into State waters.
- DOH delegated authority to administer NPDES program in Hawaii.



NPDES Pesticides General Permit



NPDES Pesticides General Permit

- DOH-CWB issued a new NPDES General Permit on October 21, 2012, to authorize point source discharges from the application of pesticides (including insecticides, herbicides, fungicides, rodenticides, and various other substances to control pests) to State waters.
- This NPDES Pesticides General Permit is located in Hawaii Administrative Rules (HAR), Chapter 11-55, Appendix M. See DOH-CWB website at: <http://health.hawaii.gov/cwb/>



NPDES Pesticides General Permit

- All discharges authorized by this general permit involve either
 - Pesticide applications made directly to or over State waters to control pests, or
 - Pesticide applications to control pests near water such that pesticides will be unavoidable deposited into State waters.
- You are **not** required to obtain NPDES permit coverage if you apply a pesticide on land.
- This general permit does not cover pesticide commingled in storm water runoff. You are supposed to use BMPs to minimize this type of situation and avoid applying pesticides before it is expected to rain.



Do I Need A Permit?

Will you be applying a pesticide to a State water or will the pesticide get into a State water during its application?

YES

If "NO" — NPDES Permit coverage is NOT required

Is the reason you are applying the pesticide to control:
Mosquitos, other flying insects, weeds, algae, animals, or forest canopy pests?

YES

If "NO" — An Individual NPDES Permit may be required

Are you a county, state, federal government or large entity defined in HAR 11-55-01?

NO

If "YES" — Comply with the Pesticide General Permit

Will you be exceeding any of the following during the calendar year:

- For mosquito or other flying insect pest – adulticide treatment area greater than 6400 acres.
- For weed and algae pest or animal pest – treatment greater than 20 lineal miles or treatment area greater than 80 acres of water.
- For forest canopy pest – treatment area greater than 6400 acres.

NO

If "YES" — Comply with the Pesticide General Permit

You are automatically covered under the Pesticide General Permit and DO NOT need to submit a Notice of Intent (i.e., application), Pesticide Discharge Management Plan, or annual report.

You are required to comply with requirements as applicable. For example:

- HAR Ch. 11-55, Appendix M, Sections 2—Technology based effluent limits. (e.g. Only use amount of pesticide and frequency of pesticide application necessary to control target pest, maintain pesticide equipment, etc.)
- HAR Ch. 11-55, Appendix M, Section 3—Water quality based effluent limits. (e.g. Comply with all numerical and narrative Water Quality Standards as required in HAR 11-54.)
- HAR Ch. 11-55, Appendix M, Section 4—Monitoring. (e.g. Visual monitoring for adverse incidents such as death of non-target organisms.)
- HAR Ch. 11-55, Appendix M, Section 6— Corrective actions.
- HAR Ch. 11-55, Appendix M, Section 7—Record keeping and annual reporting.



PGP and Wetland Conservation



1. What type of pesticides are allowed in PGP?

- PGP and HAR 11-54 requires that any pesticide applied to State waters are:
 - Registered by the U.S. Environmental Protection Agency and licensed by the State Department of Agriculture or other State agency regulating pesticides; and
 - Used for the purpose of controlling mosquito and other flying insect pests; weed and algae pests; animal pests; and forest canopy pests; and
 - Applied in a manner consistent with the labeling of the pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act; and
 - Applied in a manner so applicable narrative and numeric WQS criteria as required in HAR 11-54 are met.



2. Does the PGP cover discharges to Class 1, Inland Waters and Class AA, Marine Waters?

- PGP covers pesticide applications to Class 1, Inland Waters and Class AA, Marine Waters only in the following situations:
 - When made in response to a declared pest emergency situation by the President of United States, State Governor, or County Mayor, with concurrence of the Director of Health;
 - To protect public health or environment in a manner that will not degrade water quality (i.e. follow FIFRA label) or only degrade water quality on a short term basis (i.e. one time application); or
 - To maintain water flow in agricultural irrigation ditches and canals for weed and algae pest control or for animal pest control in flooded agricultural fields.



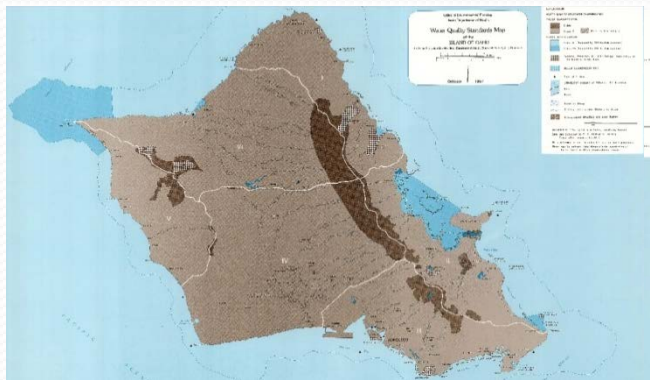
3. What are Class 1/Class AA waters in the WQS?

- WQS contains designated uses of a water body.
- These designated uses are classified in the WQS as Class 1 (1.a and 1.b), Class 2, Class A, and Class AA.
- Each classification has different objectives and uses. Example:
HAR 11-54-3(b)(1)(B) states: “The uses to be protected in class 1.b waters are domestic water supplies, food processing, protection of native breeding stock, the support and propagation of aquatic life.....”
- WQS (HAR, Chapter 11-54) is available on DOH-CWB website at:
<http://health.hawaii.gov/cwb/files/2013/04/HAR1154.pdf>



4. How do I locate Class 1 and Class AA waters?

- To locate Class 1 , A, and AA waters, please use the Water Quality Standards (WQS) Maps in conjunction with HAR 11-54.
- The WQS Maps are available on the CWB website at: <http://health.hawaii.gov/cwb/site-map/home/water-quality-standards>.



- WQS Maps may not contain all Class 1 and Class AA locations.
- WQS indicates that Class 1 waters include: All flowing waters in national and state parks, state or federal fish and wildlife refuges, natural reserves, preserves, sanctuaries.



5. What is the intent of the “no discharge” policy in WQS?

- WQS requires natural freshwater lakes, saline lakes, and anchialine pools be maintained in their natural state through Hawaii's "no discharge" policy for these waters in which waste discharge is prohibited, except as provided in HAR 11-54-4(e).
- “No discharge” means no waste discharge. Waste is defined in HRS 342D-1.
- HAR 11-54-4(e) allows pesticides to be applied to these waters under certain conditions.



6. What are the PGP limitations for 303(d) listed waters.

- CWA 303(d) listed waters or impaired waters are water bodies identified by the State as not meeting certain water quality parameters in the WQS.
- **PGP does not cover discharges from a pesticide application to a State water if this water is identified as impaired by a substance which either is an active ingredient in that pesticide or is a degradate of such an active ingredient.**
- Exceptions :
 - Does not apply to impaired waters listed generically for “pesticides” where the specific pesticide, active ingredient, or degradate of the active ingredient was not identified.
 - Does not apply to discharges from pesticide applications made in response to a declared pest emergency situation.



7. Has anyone submitted a NOI for invasive fish control?

- No.



8. What is the process to submit an NOI for coverage under the PGP?

- Read HAR 11-54. Determine if your proposed activity will comply.
- Read HAR 11-55. Understand the NPDES permit process.
- Read PGP (HAR 11-55, Appendix M).
 - Determine if your organization can and will comply with every requirement.
 - PGP only authorizes discharges if you comply with every requirement.
 - Do not submit the NOI if you cannot or will not comply.
- Go to e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/View/default.aspx>.
 - Press Application Finder button.
 - Type “CWB NOI Form M.”
 - Read instructions and complete form.
 - \$500 filing fee.
- DOH will issue a Notice of General Permit Coverage (NGPC) if we determine you can be covered under PGP.



9. What is the process to obtain NPDES individual permit coverage for a pesticide application that does not meet the eligibility requirements of the PGP?
- If you do not meet the PGP eligibility requirements you can request NPDES individual permit coverage, however, you need to make sure your proposed activity will comply with HAR 11-54.
 - HAR 11-54-4(e) contains requirements for pesticide applications to State waters.
 - An NPDES individual permit cannot be issued for an activity that will violate HAR 11-54.
 - Go to e-Permitting Portal website located at: <https://eha-cloud.doh.hawaii.gov/epermit/View/default.aspx>.
 - Press Application Finder button.
 - Type “CWB Individual NPDES Form.”
 - Read instructions and complete the form.
 - In Section 9 of the CWB Individual NPDES Form you will have to complete Form M.
 - \$1000 filing fee and public notice required.



10. Can you “stump treat” mangrove and hau in wetlands and other aquatic habitats?

- You will need NPDES permit coverage if the pesticide will or unavoidably will enter State waters (e.g. wetland).
- You should also contact the Army Corps of Engineers, Regulatory Branch (Tel: 835-4303).
- HAR 11-54 requires all State waters to receive the best degree of treatment and control and does not allow State waters to be used as treatment.
 - You may not stockpile debris or cleared vegetation in State waters.
 - You may not use State waters as treatment (e.g. composting cannot be located in the wetland).



Questions?

- Contact information for NPDES Pesticides General Permit questions.
 - DOH-CWB Email: cleanwaterbranch@doh.hawaii.gov
 - DOH-CWB website: <http://health.hawaii.gov/cwb/>
 - DOH Phone: (808) 586-4309
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