



# DEPARTMENT OF HEALTH, CLEAN WATER BRANCH

NPDES PERMIT UPDATES  
AUGUST 2019

# SUMMARY

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- DOH-CWB Updates
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  3. Updating Contacts
  4. E-Permitting Electronic Signature
  5. Future Changes to Forms
  6. Other (Antidegradation, WQBEL, CMS, Triennial Review, WQS Revisions)
- Questions



# DOH-CWB

- State of Hawaii, Department of Health (DOH), Environmental Health Administration (EHA), Environmental Management Division (EMD), Clean Water Branch (CWB)
- Administers and enforces Statewide water pollution laws and rules. Achieved through permitting of point sources, compliance monitoring, inspections, investigations of complaints, and State surface water quality monitoring.



# DOH-CWB

- Water Quality Standards (WQS).
  - DOH administers Hawaii's WQS for State surface waters.
  - HAR 11-54.
  - Provisions of the State of Hawaii, approved by EPA, that describes the desired condition of a waterbody and the required level of protection.
  - Legal basis for controlling pollution entering State waters from a variety of sources.
  - Consists of the following:
    - ❑ Designated Uses – Goals of waterbodies.
    - ❑ Criteria – Narrative and numeric water quality criteria to protect designated uses.
    - ❑ Antidegradation Policy – Framework to achieve existing uses and maintain the existing water quality (chemical, physical, biological, thermal characteristics).



# DOH-CWB

- National Pollutant Discharge Elimination System (NPDES).
  - DOH received approval to administer NPDES program in Hawaii.
  - A NPDES permit:
    - ❑ A license, issued by the DOH to a person, granting permission to discharge specified amounts of water pollutants to State surface waters under certain conditions.
    - ❑ Water Quality Standards implementation tool.
    - ❑ Contains limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health.
    - ❑ Required for only point source water pollutant discharges to State surface waters. Point source includes:
      - Any confined, discrete, discernible conveyance from which water pollutants may be discharged.
      - Storm water discharges associated with construction activities disturbing 1 acre or more; storm water associated with industrial activity defined in 40 CFR 122.26(b)(14); and storm water from MS4s.



# DOH-CWB

- Two (2) types of NPDES permits.
  - Individual permit
    - Written to reflect site-specific conditions of a single discharger based on information submitted by that discharger in a permit application.
    - Permit is unique to that discharger
    - Permit issued directly to an individual discharger.
  - General permit
    - Written to cover multiple dischargers with similar operations and types of discharges.
    - Issued in the rules (HAR Appendices) to no one in particular with multiple dischargers obtaining coverage under that general permit after it is issued, consistent with the permit eligibility and authorization provision.
    - Must meet all applicable requirements of a NPDES permit.
- Any discharger that cannot meet all conditions of a General Permit must apply for an individual permit or prevent a discharge to State surface waters.



# 1. DOH-CWB UPDATES: STATUS OF NPDES GENERAL PERMITS

- 12 NPDES General Permits.
  - 10 effective.
  - 2 expired.
- Currently working on re-adopting 2 expired General Permits.



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# 1. DOH-CWB UPDATES: STATUS OF NPDES GENERAL PERMITS

- Effective NPDES General Permits

NPDES General Permit, HAR 11-55 Appendix	Authorized Discharge	Expiration
C	Construction Storm Water	2/8/24
D	Leaking Underground Storage Tank Remedial Activities	7/12/23
E	Once Through Cooling Water Less Than 1 MGD	7/12/22
F	Hydrotesting	7/12/22
G	Dewatering	7/12/22
H	Petroleum Bulk Station and Terminals Process Wastewater	7/12/23
I	Well Drilling	7/12/23
J	Recycled Water Systems	2/8/24
L	Decorative Ponds	2/8/24
M	Pesticide Application to State Waters	7/12/23





# 1. DOH-CWB UPDATES: STATUS OF NPDES GENERAL PERMITS

- HAR 11-55, Appendices C, D, E, F, G, H, I, J, L and M.
  - Summary of proposed revisions
    - ❑ Updated effective dates of General Permits.
    - ❑ Deleted Class 1 and AA prohibition (except for Appendix M).
    - ❑ Added language to clarify that State receiving water inspections must be conducted as effluent exits the site and prior to commingling.
    - ❑ Revised WET requirement to TST (Appendix D only).
    - ❑ Revised temperature effluent limit to  $\pm 1^{\circ}\text{C}$  (Appendix E only).
    - ❑ Corrected, updated references to federal and State laws or rules.
  - All dischargers that submitted complete renewal Notice of Intent prior to the expiration of these General Permits were granted administrative extensions.
  - Re-issued all Appendix C renewal NGPCs.
  - Will re-issue renewal NGPCs for remaining effective General Permits.



# 1. DOH-CWB UPDATES: STATUS OF NPDES GENERAL PERMITS

- HAR 11-55, Appendix B (Industrial Storm Water)
  - Held several stakeholder meetings.
  - Currently drafting revised rules.
  - Considering EPA's Multi-Sector General Permit approach and the use of Best Management Practices and potentially benchmark monitoring to address Water Quality Based Effluent Limits.
  - All dischargers that submitted complete renewal Notice of Intent prior to the expiration of this General Permit were granted administrative extensions.



# 1. DOH-CWB UPDATES: STATUS OF NPDES GENERAL PERMITS

- HAR 11-55, Appendix K (Small MS4)
  - Held several stakeholder meetings.
  - Proposed rules drafted and currently being reviewed.
  - Revisions based on December 2016 EPA Final Rule to address partial remand of Phase II stormwater regulations by the U.S. Court of Appeals for the Ninth Circuit. *Environmental Defense Center, et al. v. EPA*, 344 F.3d 832 (9<sup>th</sup> Cir. 2003)
    - ❑ Under Final Rule, permitting authority can choose between two alternatives in establishing permit requirements in general permits for small MS4s – Comprehensive General Permit or Two-Step General Permit.
    - ❑ DOH has chosen the Two-Step General Permit approach. Allows DOH to establish some requirements in the General Permit and other requirements to a specific MS4 through a second step that involves a public comment process.
    - ❑ Allows DOH the flexibility to address unique circumstances, such as different maturity levels of the MS4 and for non-traditional MS4s like DOT, UH, military bases, etc.
  - All dischargers that submitted complete renewal Notice of Intents prior to the expiration of this General Permit were granted administrative extensions.



## 2. EMERGENCY PROCLAMATION CLARIFICATION

- When Governor issues an emergency proclamation that suspend Hawaii Revised Statutes, Chapter 342D:
  - NPDES permits and Section 401 WQCs are not required for projects/activities covered by emergency proclamation.
  - Do not submit anything to the DOH-CWB for projects/activities covered by emergency proclamation.
  - Protect yourself from leptospirosis if conducting activities in freshwater or wet soil.
    - Can cause fever, headache, muscle aches, vomiting, diarrhea, rash, jaundice, etc.
    - Bacteria usually from the urine of infected animals that may be in the water or soil. Enters body through skin when you have cuts or scratches or through the mucous membranes (eyes, nose, or mouth).
    - Exposure to contaminated waters, such as floodwaters, could increase chances of infection.
    - Wear gloves and shoes.
    - Avoid doing activity with open wounds and wear waterproof bandages if have cuts.



## 2. EMERGENCY PROCLAMATION CLARIFICATION

- Sections 1.3 and 7.2.3 of the Appendix C General Permit includes provisions for emergency-related construction activities proclaimed by the Governor or President of the United States.
  - Allows NOI to be submitted within 30 calendar days after the start of construction activities for an official emergency declaration.
  - Purpose is to allow emergency construction activities to proceed in the event that the emergency proclamation from the Governor or President does not mention suspending HRS 342D.



### 3. UPDATING CONTACTS FOR ISSUED NPDES PERMITS

- NPDES application/NOI requires contact information for Certifying Person, Authorized Representative (if applicable), owner contact, and facility contact. Note: If you are covered under the construction storm water General Permit, the General Contractor contact information is included in your SWPPP and not submitted in the NOI.
- All issued NPDES permits and General Permits require that contact information is kept up to date.
- Submit revised contact information using the ePermitting CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs.
- Certifying Person and Authorized Representative contacts are very important.
- DOH-CWB issued approximately 450 construction storm water renewal NGPCs and sent out approximately 1200 emails to contacts in our records. About 130 emails were undeliverable or to individuals no longer working for that company.



## 4. DOH-CWB UPDATES: E-PERMITTING ELECTRONIC SIGNATURE

- DOH-CWB utilizes e-Permitting Portal for all NPDES and Section 401 WQC applications and compliance submittals.
- Currently, submittals require hard copy certification, original signature, and CD/DVD.
- DOH received Cross-Media Electronic Reporting Rule (CROMERR) approval for e-Permitting electronic signatures.
- However.....we are still not accepting them because:
  - DOH-CWB is in the process of updating our internal database and potentially changing our external user interface.
  - After we are ready to accept electronic signatures, each Certifying Person and Authorized Representative will have to complete a one-time notarized subscriber agreement.
  - Dischargers will have to amend their own internal workflow to adjust to the electronic signature requirements.



## 5. DOH-CWB UPDATES: FUTURE CHANGES TO FORMS

- There will be changes to all CWB forms due to:
  - February 2019 EPA NPDES Updates Rule – Provided clarification and updates to permit application requirements to improve consistency, accuracy, and usability.
  - December 2015 e-Reporting Rule – Requires electronic reporting and sharing of NPDES program information.
  - E-Permitting electronic signature.
  - Updates to CWB database to integrate e-Permitting.





## 6. OTHER DOH-CWB UPDATES

Other updates that impact NPDES permits for operational discharges (smaller impact for construction related discharges).

- Hawaii's antidegradation implementation procedures for NPDES permits and Section 401 WQCs
  - Procedures to implement Hawaii's antidegradation policy in HAR 11-54-1.1.
  - All states required to have antidegradation policies and implementing procedures consistent with 40 CFR 131.12.
  - Antidegradation review must be conducted for all proposed activities that may degrade water quality defined in HAR 11-54-1.1.
  - February 2019 Public hearing.
  - Requirements for construction storm water discharges are to comply with BMPs.



## 6. OTHER DOH-CWB UPDATES

- Comprehensive Monitoring Strategy for Surface Waters of Hawaii
  - Draft document.
  - Lays out DOH's strategy for generating and gathering analytical water quality data for inland and coastal State waters.
  - Strategy designed to answer what overall quality of State's waters are, as well as who and what are sources of pollution impacting State waters.



## 6. OTHER DOH-CWB UPDATES

- Implementation procedures for Water Quality Based Effluent Limits (WQBELs) in NPDES permits.
  - Technology versus WQBELs.
  - 40 CFR 122.44(d) requires WQBELs for all pollutant parameters that may be discharged at a level that may cause, have the reasonable potential to cause, or contribute to an excursion above any State Water Quality Standard.
  - Reasonable potential analysis.
  - Assimilative capacity for Zone of Mixing.
  - WQBEL calculations.
  - Intake credits, compliance schedules, monitoring requirements, etc.



## 6. OTHER DOH-CWB UPDATES

- Triennial Review.
  - 40 CFR 131.2 requires States to hold public hearings for the purpose of reviewing their WQS and federally promulgated WQS at least once every 3 years.
  - Public hearing held March 2019.
- Potential Water Quality Standard Revisions (HAR 11-54)
  - Revising HAR 11-54-4 with EPA's national recommended toxic criteria.
  - Authorization to utilize use attainability analysis (UAA) for revisions to designated uses – consistent with 40 CFR 131.10(g).
  - Provisions to allow water quality standard variances in NPDES permits.
  - Provisions to allow for site-specific water quality criteria using EPA's recalculation, water effects ratio, streamlined water effects ratio, and biotic ligand model procedures.



# Questions?

Contact information for questions on  
NPDES permits and Section 401 WQCs:

<b>DOH-CWB Email:</b>	<a href="mailto:cleanwaterbranch@doh.hawaii.gov">cleanwaterbranch@doh.hawaii.gov</a>
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