Department of Health Clean Water Branch 2021 Program Updates

AUGUST 2021
GCA ENVIRONMENTAL COMMITTEE PRESENTATION

Department of Health (DOH)
Clean Water Branch (CWB)

The DOH-CWB protects the public health of residents and tourists who enjoy playing in and around Hawaii's coastal and inland water resources. The DOH-CWB also protects and restores inland and coastal waters for marine life and wildlife. This is accomplished through statewide coastal water surveillance and watershed-based environmental management through a combination of National Pollutant Discharge Elimination System (NPDES) permit issuance, Section 401 Water Quality Certification (WQC) processing, monitoring, enforcement, sponsorship of polluted runoff control projects, and public education.

- NPDES Permit
  - License to discharge specified pollutants and pollutant concentrations into a State water subject to compliance with all permit conditions.
  - Sole purpose is to legally impose water pollution control requirements and implement State Water Quality Standards (WQS) on point source pollutant discharges to State surface waters.

- Section 401 WQC
  - Statement from State of Hawaii that a project or activity will comply with WQS and Clean Water Act, Sections 301, 302, 303, 306, and 307.
  - Required for any project or activity that needs a federal license or permit and may result in a discharge to Waters of the United States.
  - Purpose is to ensure that a project or activity with a federal license or permit will not violate State WQS.

Program Updates

- Blanket WQC for 2017 Army Corps Nationwide Permits (NWPs).
- Proposed Blanket WQC for 2021 NWPs.
- WQC pre-application meeting federal requirement.
- E-Permitting electronic signature Electronic Subscriber Agreement.
- Status of rule package for NPDES General Permits in Hawaii Administrative Rules Chapter 11-55, Appendices B, E, F, G, and K.
- EPA's proposed NPDES Construction General Permit and Hawaii's construction storm water NPDES General Permit that expires in 2024.
- CWB public Water Pollution Control Viewer reminder.

Blanket WQC for 2017 NWPs (WQC0901)

- June 2020, DOH-CWB modified Blanket WQC.
- See DOH-CWB website: https://health.hawaii.gov/cwb/permitting/section-401-wqc/blanket-section-401-wqc/.
- Expires March 18, 2022. Coverage will be administratively extended to coincide with any extensions from USACE Regulatory Branch.
- List activities that do not require a WQC [e.g. CWA 404(f)(1) exemptions, DOH HEER response actions, coral transplant with NOAA oversight, etc.]
- Covers 17 different NWPs, LOP, and projects with DOH approved SOPs.
- Contains pollution control requirements which become conditions in DA permit.
- If you are doing work in, under, or over waters of the United States, contact the USACE, Regulatory Branch at 808-835-4303. They will determine if you need a DA permit and if you can be covered under Blanket WQC for 2017 NWPs. Do not contact DOH-CWB.
- Eligible applicants do not submit applications, documents, or reports to DOH-CWB.
- If project cannot be covered under Blanket WQC, submit individual WQC application.

Proposed Blanket WQC for 2021 NWPs (WQC1092)

- September 2020, DOH-CWB public noticed proposed Blanket WQC for renewed 2021 NWPs.
- Proposal followed current Blanket WQC for 2017 NWPs but included more NWPs and referenced regulations for each requirement.
- Proposed Blanket WQC was not issued yet.
- Pending USACE decision on all 2021 NWPs.
- Will supersede and replace current Blanket WQC for 2017 NWPs.

WQC Pre-Application Meeting

- New federal regulations [40 CFR 121.4(a)] requires you to request a pre-filing meeting with DOH at least 30 days prior to submitting individual Section 401 WQC.
- You will have to do this if USACE Regulatory Branch requires you to obtain DA permit and USACE cannot cover your project under Blanket WQC.
- Individual WQC applications submitted without pre-application meeting request will be denied without prejudice.
- DOH-CWB created a Pre-Filing Meeting Request form to assist with this new requirement: https://health.hawaii.gov/cwb/files/2021/03/20210315-Fillable-Pre-Filing-WQC-Meeting-Request.pdf. Form asks for proposed meeting dates/times, a copy of the DA application, and a copy of the draft e-Permitting individual Section 401 WQC Form.
- After submitting this form, wait for response from DOH-CWB who will notify you and USACE via e-mail if your pre-filing meeting request has been granted or if a pre-filing meeting is not necessary.
- Virtual meeting only if DOH-CWB determines that pre-filing meeting required.

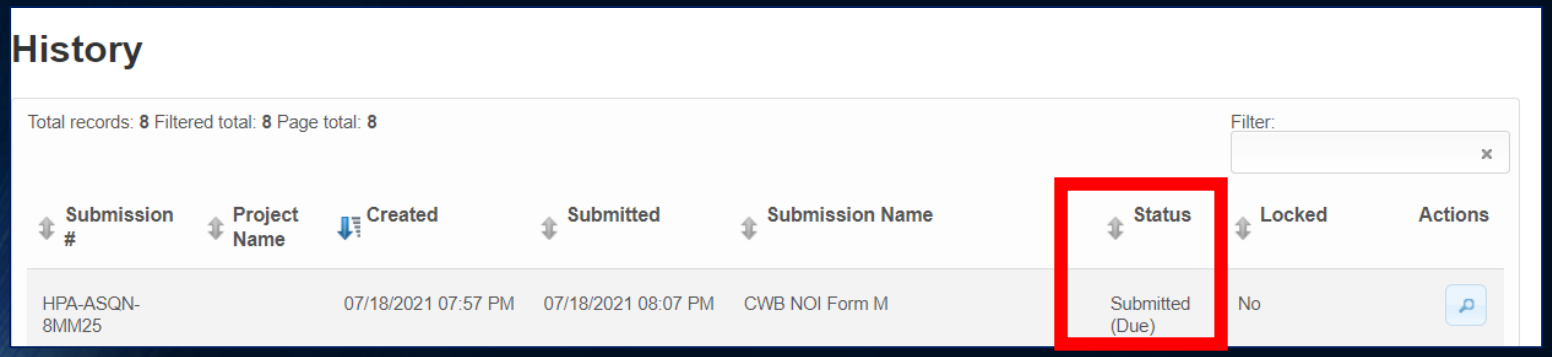
E-Permitting Electronic Subscriber Agreement (ESA)

- All NPDES and WQC application and compliance forms are on e-Permitting Portal website: https://eha-cloud.doh.hawaii.gov/epermit/.
- Currently you can choose hard copy signature certification forms or electronic signature forms.
  - Hard copy signature certification forms require wet signature, applicable filing fee, and CD/DVD/flash drive with downloaded submission. Processing does not begin until these items are received.
  - Electronic signature forms require one-time notarized Electronic Subscriber Agreement approval by DOH. Once approved for a Certifying Person or Authorized Rep, they just press Submit. No more wet signatures and CD/DVD/flash drives. Processing begins after Submit button is pressed and applicable filing fee received.
- In the future, DOH-CWB will require all submittals via electronic signature only. It is highly recommended to get setup now.
- Please see DOH-CWB website for more information: https://health.hawaii.gov/cwb/permitting-faqs/. There are instructions, FAQs, and a YouTube video.

Reminder

- If you filled out <u>hard copy signature certification e-Permitting form</u>:
  - Please make sure to press Submit Form button after entering required information.

  - Check status of your submission by pressing History button. Submitted status means you pressed Submit Form button and your online submission was completed. Draft status means your online submission was <u>not</u> completed. DOH cannot see Draft submissions.



  - Mail or deliver required wet signature and CD/DVD/flash drive with downloaded submission. Processing does not begin until these items are received.

Status of General Permit Rule Package

- Hawaii's industrial storm water and Small MS4 NPDES General Permits expired.
- Hawaii's once through cooling water, hydrotesting, and dewatering NPDES General Permits expire July 2022.
- DOH-CWB public noticed a request for written comments and a public hearing on amendments to these 5 NPDES General Permits.
- Written comments will be accepted until 4:30 p.m. on Wednesday, August 25, 2021, through e-mail at: cleanwaterbranch@doh.hawaii.gov or postal mail at P.O. Box 3378, Honolulu, HI 96801-3378.
- The virtual public hearing, to allow interested parties to orally convey short comments or summaries of their written comments, will be held at 9:00 a.m. on Wednesday, August 25, 2021. Although not required, the DOH strongly encourages and requests that all comments be submitted in writing.
- For the proposed texts and other information on the proposed new rules and amendments, how to submit written comments, details on the virtual public hearing, and how to register to participate, please visit: https://health.hawaii.gov/cwb/clean-water-branch-home-page/public-notices-andupdates/.

EPA's CGP and Hawaii's Construction Storm Water General Permit

- EPA requested comments on their proposed 2022 NPDES Construction General Permit (CGP). This is for non-delegated states and tribes where EPA issue the permits.
- Hawaii's construction storm water NPDES General Permit expires in February 2024.
- Hawaii does not have to follow EPA's CGP amendments. Note: All NPDES programs are required to incorporate the Construction and Development effluent limit guideline (40 CFR 450) requirements.

WPC Viewer Reminder

- All permits, fact sheets, NGPCs, and applications prior to late 2018 are online on the public WPC Viewer (https://wpc-viewer.doh.hawaii.gov/).
- Due to server issues and outdated technology used in DOH-CWB's database, documents after late 2018 cannot be viewed on the WPC Viewer.
- All individual NPDES permits and fact sheets issued after late 2018 are available on the CWB website (https://health.hawaii.gov/cwb/final-individual-permits/).
- Public can request NGPCs and applications using the Request to Access a Government Record (https://health.hawaii.gov/cwb/files/2013/05/Forms_RequestToAccessAGovernmentRecord.pdf).
- DOH-CWB is working with a vendor to overhaul our database and fix the public viewer so all non-confidential documents will be available over the internet.

Questions?

<u>Contact Information</u>
State of Hawaii
Clean Water Branch
2827 Waimano Home Rd #225
Pearl City, HI 96782

Tel: 808-586-4309
Email: cleanwaterbranch@doh.hawaii.gov