

**CHAPTER 11-55 APPENDIX M**

**NPDES GENERAL PERMIT  
AUTHORIZING POINT SOURCE DISCHARGES FROM THE  
APPLICATION OF PESTICIDES**

This General Permit is effective on

**JUN 26 2023**

and expires five years from this date,  
unless amended earlier.

**1. Coverage under this General Permit.**

This permit covers any Operator of a point source discharge of pollutants (i.e., discharge) resulting from the application of pesticides that meets the eligibility requirements identified in section 1(a) of this pesticide general permit (PGP) and if so required, submits a Notice of Intent (NOI) in accordance with section 1(e) of this general permit. For the purpose of this permit, an Operator is defined in section 11-55-01 to mean any entity associated with the application of pesticides which results in a discharge to state waters that meets either of the following two criteria: (1) any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities); or (2) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. Operators identified in (1) above are referred to in this permit as Applicators while Operators identified in (2) are referred to in this permit as Decision-makers. As defined, more than one Operator may be responsible for complying with this permit for any single discharge from the application of pesticides.

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For purposes of this permit, all Operators are defined as either an Applicator or a Decision-maker or both an Applicator and a Decision-maker.

When an Operator is both an Applicator and a Decision-maker, the Operator must comply with all applicable requirements imposed on both Applicators and Decision-makers. When the permit references all "Operators," both Applicators and Decision-makers must comply.

### (a) Activities Covered.

This permit is available to Operators who discharge to state waters from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (collectively called pesticides), when the pesticide application is for at least one of the following pesticide use patterns:

- (1) Mosquito and Other Flying Insect Pest Control - to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include mosquitoes and black flies.
- (2) Weed and Algae Pest Control - to control weeds, algae, and pathogens that are pests in water and at water's edge, including ditches and/or canals.
- (3) Animal Pest Control - to control animal pests in water and at water's edge. Animal pests in this use category

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include, but are not limited to, fish, lampreys, insects, mollusks, and pathogens.

- (4) Forest Canopy Pest Control - application of a pesticide to a forest canopy to control the population of a pest species (e.g., insect or pathogen) where, to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to water.

- (b) Limitations on Coverage under this General Permit

- (1) Discharges to Water Quality Impaired Waters.

Except for discharges from pesticide applications made in response to a declared pest emergency situation or as determined by the director, Operators are not eligible for coverage under this permit for any discharges from a pesticide application to state waters if the 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. For purposes of this general permit, impaired waters are those that have been identified by the State pursuant to Section 303(d) of the CWA as not meeting applicable State water quality standards. Impaired waters, for the purposes of this general permit, consist of both waters with EPA-approved Total Maximum Daily

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Loads (TMDLs) and waters for which EPA has not yet approved a TMDL. Coverage under this general permit is allowed for discharges to impaired waters listed generically for "pesticides" where the specific pesticide for which the waterbody is impaired has not been identified and without additional information suggesting that the waterbody is impaired for a specific active ingredient or degradate of the active ingredient.

- (2) Discharges to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 entitled "Water Quality Standards."

Operators are not eligible for coverage under this permit for discharges from a pesticide application to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and discharges into natural freshwater lakes, saline lakes, and anchialine pools.

Except for discharges from the following pesticide applications:

- (A) made in response to a declared pest emergency situation or as determined by the director;
- (B) to protect the public health or the environment that either do not

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degrade water quality or only  
degrade water quality on a short  
term basis; or

- (C) to maintain water flow in  
agricultural irrigation ditches  
and canals if the pesticide  
application is for the activity  
covered in 1(a)(2) (i.e., weed and  
algae pest control) or is for the  
activity covered in 1(a)(3) (i.e.,  
animal pest control) in flooded  
agricultural fields.
- (3) Discharges to surface drinking water  
sources (for domestic use) and their  
tributaries up-stream are not eligible  
for coverage under this permit. Such  
discharges will require coverage under  
an individual NPDES permit.

Except in the following conditions:

- (A) made in response to a declared  
pest emergency situation or as  
determined by the director; or
- (B) the following:
  - (i) the NOI indicates whether  
the proposed application may  
discharge to surface  
drinking water sources; and
  - (ii) the application to surface  
drinking water sources is  
consistent with the FIFRA  
label, including but not  
limited to, following any

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distance restriction and intended use; and

- (iii) the Decision-maker provides the owner (e.g., municipality, private) of the surface drinking water source the following information, including but not limited to: the pesticide(s) to be applied, general location, and approximate frequency and the department receives written consent from the owner of the surface drinking water source for such discharges; and
  - (iv) the Operator adheres to the Safe Drinking Water Act and safe drinking water regulations; and
  - (v) the Operator shall coordinate with the owner of the surface drinking water source to prevent pesticide-treated water from entering the drinking water intake and distribution system (e.g., the valve to the drinking water source is shut, or by diversion).
- (4) Discharges Currently or Previously Covered by another Permit.

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Discharges are not eligible for coverage under this permit if any of the following circumstances apply:

- (A) The discharge is covered by another NPDES permit, or
  - (B) The discharge was included in a permit that in the past five (5) years has been or is in the process of being denied, terminated, or revoked by the State or EPA (this does not apply to the routine reissuance of permits every five (5) years).
- (5) Individual Permit

The Director may require any Operator authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.10.

(c) Term of General Permit

- (1) This general permit becomes effective ten days after filing with the office of the lieutenant governor and shall expire five years after the effective date, unless amended earlier.
- (2) Unless otherwise specified on the notice of general permit coverage, a notice of general permit coverage granted under this general permit prior to the expiration of this general permit shall expire five years after the effective date of this general

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permit, unless it is administratively extended in accordance with section 1(c)(3) of this general permit.

- (3) If the department is unable to reissue this general permit prior to its expiration, a notice of general permit coverage granted under this general permit shall be automatically administratively extended, unless otherwise specified on the notice of general permit coverage. This administrative extension shall expire sixty days after the effective date of the new general permit unless:
  - (A) A notice of intent for coverage under the new general permit is submitted within sixty days after the effective date of the new general permit. The administrative extension shall thus expire on the effective date of the notice of general permit coverage authorizing the existing discharge under the new general permit;
  - (B) An application for an individual NPDES permit coverage is submitted within sixty days after the effective date of the new general permit. The administrative extension shall thus expire on the effective date of the individual NPDES permit authorizing the existing discharge; or



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(C) A notice of cessation is submitted where the administrative extension shall expire on the date that the discharge ceased.

(d) How to Obtain Authorization.

The following discharges, consistent with the activities covered in section 1(a) and limitations on coverage under this general permit in section 1(b), are automatically authorized by this permit beginning when section 11-55-34.02(b)(12) becomes effective ten days after filing with the office of the lieutenant governor:

- (1) Eligible discharges made prior to the Notice of Intent submission deadline. See Table 2;
- (2) Eligible discharges for which submission of an NOI is not required. See sections 1(e) and 1(f).

To obtain authorization under this permit for all other eligible discharges, a Decision-maker must submit a complete, and accurate NOI consistent with the requirements of sections 1(e) and 1(f), be issued a Notice of General Permit Coverage (NGPC) and meet all conditions of the NGPC, unless the Operator claimed automatic coverage in writing under the automatic provision of section 11-55-34.09(e)(2) and assumes the risks in section 11-55-34.09(f); and this general permit to the satisfaction of the department.

(e) Decision-makers Required to Submit an NOI.

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Any "Decision-maker Who is or Will be Required to submit an NOI" is identified in Table 1.

For calculating annual treatment area totals for purposes of determining if an NOI must be submitted, see the definition for, "annual treatment area threshold" in section 11-55-01.

An NOI provides notice to the State that a Decision-maker intends to discharge to state waters from pesticide application activities eligible for coverage under this permit. Information required to be provided is on the NOI form. The NOI must identify the pest management area where the Decision-maker will conduct activities resulting in discharges to state waters to be covered under this permit.

If required to submit an NOI, a Decision-maker must submit the NOI once, in accordance with the deadlines in Section 1(f), Table 2. The Decision-maker must submit an updated NOI if the criteria in section 1(f), Table 3 are met. Late NOIs may be accepted, but authorization to discharge will not be retroactive.

Coverage will be available for the duration of this general permit for Decision-makers who file an NOI and are issued an NGPC and who meet all conditions of the NGPC and this general permit to the satisfaction of the department or for those rightfully (refer to the risks in section 11-55-34.09(f)) claiming coverage in writing under the automatic provision of section 11-55-

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34.09(e)(2), including the Decision-makers' employees, contractors, subcontractors, and other agents, for all activities identified on the NOI unless coverage is terminated pursuant to appendix A of chapter 11-55. If a submitted NOI is not timely, accurate, or complete, and an NGPC is not issued or any condition not met, any employee, contractor, subcontractor or other entity that discharges is not covered by this permit.

Applicators who are not also Decision-makers do not need to submit an NOI, however they are still required to comply with other requirements, as applicable in this general permit.

### (f) Discharge Authorization Date

Except for discharges identified in Tables 1 through 3, any Operator with eligible discharges is automatically authorized to discharge under this permit without submission of an NOI. Decision-makers with eligible discharges identified in Tables 1 through 3 are authorized under this permit consistent with the requirements in those tables.

On the basis of a review of an NOI or other information, the Director may delay authorization to discharge beyond any timeframe identified in Table 2, determine that additional technology-based and/or water quality-based effluent limitations or other conditions are necessary, or deny coverage under this permit and require submission of an application for an

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individual NPDES permit, as detailed in section 1(b)(5).

All Decision-makers with eligible discharges for which an NOI is required are required to submit an NOI consistent with the earliest applicable due date identified in Table 1-2. Decision-makers may submit multiple NOIs with different activities on each of those NOIs such that discharges from different activities are authorized at different times.

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Table 1. Decision-makers Required to Submit NOIs

PGP Section/ Pesticide Use	Which Decision- makers Must Submit NOIs?	For Which Pesticide Application Activities?
All four use patterns identified in section 1(a)	Any Decision-maker with an eligible discharge to water quality impaired waters; class 1, inland or class AA, marine waters, or areas restricted in accordance with the State's "no discharge" policy; or to surface drinking waters and their tributaries up- stream consistent with sections 1(b)(1), 1(b)(2), or 1(b)(3).	Activities resulting in a discharge to water quality impaired waters, class 1, inland or class AA, marine waters, or areas restricted in accordance with the State's "no discharge" policy, or to surface drinking waters and their tributaries up-stream.
1(a)(1) - Mosquito and Other Flying Insect Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's operations.	All mosquito and other flying insect pest control activities resulting in a discharge to state waters.
	Mosquito control districts, or similar pest control districts.	All mosquito and other flying insect pest control activities resulting in a discharge to state

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		waters.
	Counties or other entities that exceed the annual treatment area threshold identified here.	Adulticide treatment if more than 6,400 acres during a calendar year. {1}
1(a)(2) - Weed and Algae Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's operations.	All weed and algae pest control activities resulting in a discharge to state waters.
	Irrigation and weed control districts, or similar pest control districts.	All weed and algae pest control activities resulting in a discharge to state waters.
	Counties or other entities that exceed the annual treatment area threshold identified here.	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water. {2}
1(a)(3) - Animal Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's	All animal pest control activities resulting in a discharge to state waters.

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	operations.	
	Counties or other entities that exceed the annual treatment area threshold identified here.	Treatment during a calendar year if more than either: 20 linear miles OR 80 acres of water. {2}
1(a)(4) - Forest Canopy Pest Control	Any Federal or State government entities for which pest management for land resource stewardship is an integral part of the organization's operations.	All forest canopy pest control activities resulting in a discharge to state waters.
	Counties or other entities that exceed the annual treatment area threshold identified here.	Treatment if more than 6,400 acres during a calendar year. {1}

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Table 2. NOI Submittal Deadlines and Discharge Authorization Dates for Discharges from the Application of Pesticides

After the adjustment period, any eligible discharge for which an NOI is required must submit an NOI consistent with the earliest due date identified below. If the Director receives an NOI at least 30 calendar days before the end of the adjustment period, uninterrupted coverage may continue {3}. NOI due dates for any discharges occurring on or after the adjustment period are as follows:		
Operator Type	NOI Submission Deadline	Discharge Authorization Date {3}
Any Decision-maker with a discharge in response to a Declared Pest Emergency for which that activity triggers the NOI requirement identified in Section 1(e).	At least 30 calendar days after beginning discharge.	Immediately upon beginning to discharge for activities conducted in response to a Declared Pest Emergency Situation {4}.
Any Decision-maker that exceeds any annual treatment area threshold.	At least 30 calendar days before exceeding an annual treatment area threshold.	Upon NGPC issuance {5} or if the operator claimed automatic coverage in writing under the automatic provision of section 11-55-34.09(e)(2) and assumes the risks in section 11-55-34.09(f).
Any Decision-maker otherwise required	At least 30 calendar days	Upon NGPC issuance {5} or if the

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to submit an NOI as identified in Table 1.	before any discharge for which an NOI is required.	Operator claimed automatic coverage in writing under the automatic provision of section 11-55-34.09(e)(2) and assumes the risks in section 11-55-34.09(f).
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Table 3. Change of Information, resulting in a Major Modification {6} of the NGPC, Submittal Deadlines and Discharge Authorization Dates

Operator Type	NOI Submission Deadline	Discharge Authorization Date
Any Decision-makers discharging to an class 1, inland water; class AA, marine water; or area restricted in accordance with the State's "no discharge" policy not specifically identified by name on a previously submitted NOI for this permit.	At least 30 calendar days before beginning to discharge in that newly identified class 1, inland water; class AA, marine water; or area restricted in accordance with the State's "no discharge" policy unless discharges are in response to a declared pest emergency in which case not later than 30 days after beginning discharge.	After reissuance of the NGPC to include the change {5}, unless discharges are in response to a declared pest emergency in which case coverage is available immediately upon beginning to discharge from activities conducted in response to declared pest emergency {4}.
Any Decision-maker with any discharge to state waters requiring permit coverage for a newly identified pest management area or new pesticide use	At least 30 calendar days before beginning to discharge in that newly identified pest management area or new pesticide use pattern not identified on a	After reissuance of the NGPC to include the change {5}, unless discharges are in response to a declared pest emergency in which case

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pattern not identified on a previously submitted NOI for this permit. This includes changes in any treatment area, pesticide product, method or rate of application, or approximate dates of applications.	previously submitted NOI for this permit unless discharges are in response to a declared pest emergency in which case not later than 30 days after beginning discharge.	coverage is available immediately upon beginning to discharge from activities conducted in response to declared pest emergency {4}.
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### Notes:

- {1} Treatment during a calendar year if more than 6,400 acres, as discussed for the categories "Mosquito and Other Flying Insect Pest Control" and "Forest Canopy Pest Control," refers to the total area to which pesticide applications (e.g. aerial spraying) are made, when any part of those areas is a state water and shall be treated as separate treatment areas to be additive in a calendar year. If the additive total areas in a calendar year to which pesticides application are made exceeds 6,400 acres, when any part of these areas is a state water, submittal of an NOI is required for those Decision-makers required to submit an NOI as identified in Table 1. For example, applying pesticides three times a year to the same three thousand acre site (i.e., total area to which pesticide applications are made, when any part of those areas is a state water) should be counted as nine thousand acres of treatment area.

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- {2} For the categories "Weed and Algae Pest Control" and "Animal Pest Control", "20 linear miles" means 20 linear miles of river, stream, riverbank, or other linear water feature subject to coverage under this permit, counting each bank of the water feature separately if pesticides are applied to both banks. This means that applications four times a year to both banks of a three-mile long reach of stream will count as a total of twenty four linear miles (three miles \* two banks \* for applications per year = twenty four miles to which pesticides are applied in a calendar year) and require submission of an NOI. For applications made to the water of a linear water feature, the length of the reach or surface area may be used to determine if the annual treatment area threshold is exceeded. Treatment during a calendar year if more than "80 acres of water (i.e., surface area)" means application of pesticides to a waterbody surface area of greater than 80 acres.
- {3} On the basis of a review of an NOI or other information, the Director may delay authorization to discharge beyond any timeframe identified in Table 1, determine that additional technology-based and/or water quality-based effluent limitations or other conditions are necessary, or deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Section 1(b)(5).
- {4} To remain authorized, an NOI must be submitted no later than 30 calendar days after beginning discharge and result in issuance of an NGPC. At no time, during the processing the NOI, shall the time between the department's request for more information, and its receipt from the Decision-maker be longer than 30 calendar days. If longer

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than 30 calendar days, coverage under this general permit may be terminated automatically.

- {5} All requirements in the NGPC must be complied with and in the timeframe as specified, including this general permit and any additional requirements as determined by the State to the satisfaction of the department.
- {6} The department may require submittal of a new NOI if it is determined that the modification of the information is significant or more than one (1) change to the information used in the issuance of its NGPC is required.

### (g) Standard Conditions

The Decision-maker shall comply with the standard conditions as specified in appendix A of chapter 11-55, excluding biocides as identified in section 1.a.(4) of appendix A. In case of conflict between the conditions stated here and those specified in the standard general permit conditions, excluding biocides as identified in section 1.a.(4) of appendix A, the more stringent conditions shall apply.

### (h) Other Federal and State Laws.

Operators must comply with all other applicable federal and state laws and regulations that pertain to pesticides. The pesticide must be registered by the EPA, licensed by the State Department of Agriculture or other lead state agency regulating pesticides, and used in a manner consistent with the labeling of the pesticide under the Federal, Insecticide,

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Fungicide, and Rodenticide Act (FIFRA). This permit does not negate the requirements under FIFRA and its implementing regulations to use registered pesticides consistent with the product's labeling. In fact, applications in violation of certain FIFRA requirements could also be a violation of the permit and therefore a violation of the CWA (e.g. exceeding label application rates). Additionally, other laws and regulations might apply to certain activities that are also covered under this permit (e.g., United States Coast Guard regulations).

### 2. Technology-Based Effluent Limitations

This Section includes technology-based effluent limitations applicable to all Operators, as defined in section 11-55-01, for any discharges authorized under this permit, with compliance required upon beginning such discharge. All Operators are classified as either "Applicators" or "Decision-makers," as defined in section 11-55-01, or both. Applicators must perform the tasks identified in section 2(a) - Applicators' Responsibilities. Decision-makers must perform the tasks identified in section 2(b) - Decision-makers' Responsibilities. There may be instances when a single entity acts as both an Applicator and a Decision-maker.

As stated in section 1(h), this general permit requires all Operators to comply with all other applicable federal or state laws and regulations that pertain to application of pesticides by the Operator.

#### (a) Applicators' Responsibilities

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To meet the effluent limitations of this permit, all Applicators must implement section 2(a) to minimize the discharge of pesticides to state waters from the application of pesticides, through the use of Pest Management Measures, as defined in section 11-55-01.

- (1) To the extent not determined by the Decision-maker, use only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task.
  - (2) Maintain pesticide application equipment in proper operating condition, including requirement to calibrate, clean, and repair such equipment and prevent leaks, spills, or other unintended discharges.
  - (3) Assess weather conditions (e.g. temperature, precipitation and wind speed) in the treatment area to ensure application is consistent with all applicable federal requirements.
- (b) Decision-makers' Responsibilities

### For All Decision-makers

To meet the effluent limitations in section 2(b), all Decision-makers must minimize the discharge of pesticides to state waters from the application of pesticides, through the

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use of Pest Management Measures, as defined in section 11-55-01.

To the extent the Decision-maker determines the amount of pesticide or frequency of pesticide application, the Decision-maker must use only the amount of pesticide and frequency of pesticide application necessary to control the target pest.

For Any Decision-maker Who is or Will be Required to Submit an NOI.

To meet the effluent limitations of this permit, prior to pesticide application, any Decision-maker who is or will be required to submit an NOI as required in section 1(e) must also implement sections 2(b)(1) - 2(b)(4) to minimize the discharge of pesticides to state waters from the application of pesticides, through the use of Pest Management Measures, as defined in section 11-55-01.

### (1) Mosquito and Other Flying Insect Pest Control

This section applies to discharges from the application of pesticides for mosquito and other flying insect pest control as defined in section 1(a)(1) of this general permit.

#### (A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at



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least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

- (i) Establish densities for larval and adult mosquito or flying insect pest populations or identify environmental condition(s), either current or based on historical data, to serve as action threshold(s) for implementing Pest Management Measures;
- (ii) Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral considerations for each pest;
- (iii) Identify known breeding sites for source reduction, larval control program, and habitat management;
- (iv) Analyze existing surveillance data to identify new or unidentified sources of mosquito or flying insect pest problems

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as well as sites that have recurring pest problems; and

- (v) In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(b)(1)(A) of this general permit.

### (B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control mosquitoes or other flying insect pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

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- (i) No action
  - (ii) Prevention
  - (iii) Mechanical or physical methods
  - (iv) Cultural methods
  - (v) Biological control agents
  - (vi) Pesticides
- (C) Pesticide Use.

If a pesticide is selected to manage mosquitoes or flying insect pests, and application of the pesticide will result in a discharge to a state water, any Decision-maker who is or will be required to submit an NOI must:

- (i) Conduct larval and/or adult surveillance in an area that is representative of the pest problem or evaluate existing larval surveillance data, environmental conditions, or data from adjacent area(s) prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) is met;
- (ii) Reduce the impact on the environment and on non-

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target organisms by applying the pesticide only when the action threshold(s) has been met;

- (iii) In situations or locations where practicable and feasible for efficacious control, use larvicides as a preferred pesticide for mosquito or flying insect pest control when the larval action threshold(s) has been met; and
- (iv) In situations or locations where larvicide use is not practicable or feasible for efficacious control, use adulticides for mosquito or flying insect pest control when the adult action threshold(s) has been met.

### (2) Weed and Algae Pest Control

This section applies to discharges from the application of pesticides for control of weeds, algae, and pathogens as defined in section 1(a)(2) of this general permit.

#### (A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year

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thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

- (i) Identify areas with pest problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
- (ii) Identify target pest(s);
- (iii) Identify possible factors causing or contributing to the pest problem (e.g., nutrients, invasive species, etc.);
- (iv) Establish any pest- and site-specific action threshold, as defined in HAR, Chapter 11-55-01, for implementing section 2(b)(2)(B); and
- (v) In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in

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section 2(b)(2)(A) of this general permit.

### (B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

- (i) No action
- (ii) Prevention
- (iii) Mechanical or physical methods
- (iv) Cultural methods

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(v) Biological control agents

(vi) Pesticides

### (C) Pesticide Use.

If a pesticide is selected to manage pests, and application of the pesticide will result in a discharge to state waters, any Decision-maker who is or will be required to submit an NOI must:

(i) Conduct surveillance in an area that is representative of the pest problem prior to each pesticide application to assess the pest management area and to determine when the action threshold(s) is met; and

(ii) Reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold has been met.

### (3) Animal Pest Control

This section applies to discharges from the application of pesticides for control of animal pests as defined in section 1(a)(3) of this general permit.

#### (A) Identify the Problem.

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Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

- (i) Identify areas with pest problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
- (ii) Identify target pest(s);
- (iii) Identify possible factors causing or contributing to the problem (e.g., nutrients, invasive species);
- (iv) Establish any pest- and site-specific action threshold, as defined in section 11-55-01, for implementing section 2(b) (3) (B); and



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- (v) In the event there are no data for the pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(b)(3)(A).

### (B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each year thereafter prior to the first pesticide application during that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control pests. In developing the Pest Management Measures for each pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

- (i) No action
- (ii) Prevention

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- (iii) Mechanical or physical methods
- (iv) Biological control agents
- (v) Pesticides
- (vi) Cultural Methods

### (C) Pesticide Use.

If a pesticide is selected to manage pests, and application of the pesticide will result in a discharge to state waters, any Decision-maker who is or will be required to submit an NOI must:

- (i) Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the action threshold(s) is met; and
- (ii) Reduce the impact on the environment and non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold(s) has been met.

### (4) Forest Canopy Pest Control

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This section applies to discharges from the application of pesticides for forest canopy pest control as defined in section 1(a)(4) of this general permit.

### (A) Identify the Problem.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application in that calendar year, any Decision-maker who is or will be required to submit an NOI must do the following for each pest management area, as defined in section 11-55-01:

- (i) Establish any pest- and site-specific action threshold, as defined in section 11-55-01, for implementing section 2(b)(4)(B);
- (ii) Identify target pest(s) to develop Pest Management Measures based on developmental and behavioral considerations for each pest;
- (iii) Identify current distribution of the target pest and assess potential

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distribution in the absence  
of Pest Management Measures;  
and

- (iv) In the event there are no data for pest management area in the past calendar year, use other available data as appropriate to meet the permit conditions in section 2(b)(4)(A).

### (B) Pest Management Options.

Prior to the first pesticide application covered under this permit that will result in a discharge to state waters, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, any Decision-maker who is or will be required to submit an NOI must select and implement efficient and effective means of Pest Management Measures that minimize discharges resulting from the application of pesticides to control pests. In developing the Pest Management Measures for pest management area, the Decision-maker must evaluate the following management options, including a combination of these management options, considering impact to water quality, impact to non-target organisms, feasibility, and cost effectiveness:

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- (i) No action
  - (ii) Prevention
  - (iii) Mechanical or physical methods
  - (iv) Cultural methods
  - (v) Biological control agents
  - (vi) Pesticides
- (C) Pesticide Use.

If a pesticide is selected to manage forestry pests, and application of the pesticide will result in a discharge to state waters, any Decision-maker who is or will be required to submit an NOI must:

- (i) Conduct surveillance in an area that is representative of the pest problem prior to each application to assess the pest management area and to determine when the pest action threshold is met;
- (ii) Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only

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when the action threshold(s)  
has been met; and

- (iii) Evaluate using pesticides  
against the most susceptible  
developmental stage.

### 3. Water Quality-Based Effluent Limitations

All Operators must control discharges as necessary to meet applicable numeric and narrative state water quality standards, as required in chapter 11-54, for discharges authorized under this permit, with compliance required upon beginning such discharge.

If at any time an Operator becomes aware (e.g., through self-monitoring or by notification from the state or EPA), or the Director determines, that the Operator's discharge causes or contributes to an excursion of any applicable water quality standard, the Operator must take corrective action as required in section 6 and section 7 of appendix A, chapter 11-55, up to and including the ceasing of the discharge, if necessary.

### 4. Monitoring

- (a) Visual Monitoring Requirements for Pesticide Applicators.

During any pesticide application with discharges authorized under this permit, all Applicators must, when considerations for safety and feasibility allow, visually assess the area to and around where pesticides are applied for possible and observable adverse incidents, as defined in

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section 11-55-01, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

- (b) Visual Monitoring Requirements for all Operators.

During any Operator post-application surveillance of any pesticide application with discharges authorized under this permit, all Operators must visually assess the area to and around where pesticides were applied for possible and observable adverse incidents, as defined in section 11-55-01, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

### 5. Pesticide Discharge Management Plan

Any Decision-maker who is or will be required to submit an NOI, as required in section 1(e), and is a large entity, as defined in section 11-55-01, must prepare a Pesticide Discharge Management Plan (PDMP) by the time the NOI is submitted to the department, except (for which a PDMP is not required to be developed) any applications made in response to a Declared Pest Emergency Situation, as defined in section 11-55-01.

The PDMP does not contain effluent limitations; the effluent limitations are specified in sections 2 and 3 of this general permit. The PDMP documents how Decision-makers will implement the effluent limitations in sections 2 and 3 of

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this general permit, including the evaluation and selection of Pest Management Measures to meet those effluent limitations in order to minimize discharges. In the PDMP, Decision-makers may incorporate by reference any procedures or plans in other documents that meet the requirements of this general permit. If Decision-makers rely upon other documents to comply with the effluent limitations in this general permit, such as a pre-existing pest management plan, the Decision-makers must attach to the PDMP a copy of any portions of any documents that are used to document the implementation of the effluent limitations.

- (a) Contents of the Pesticide Discharge Management Plan.

The PDMP must include the following elements:

- (1) Pesticide Discharge Management Team

Decision-makers must identify all the persons (by name and contact information) that compose the team as well as each person's individual responsibilities, including:

- (A) Person(s) responsible for managing pests in relation to the pest management area;
- (B) Person(s) responsible for developing and revising the PDMP; and
- (C) Person(s) responsible for developing, revising, and



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implementing corrective actions  
and other effluent limitation  
requirements.

### (2) Problem Identification

#### (A) Pest problem description.

Document a description of the pest problem at the pest management area, including identification of the target pest(s), source(s) of the pest problem, and source of data used to identify the problem in sections 2(b)(1), 2(b)(2), 2(b)(3), and 2(b)(4).

#### (B) Action Threshold(s).

Describe the action threshold(s) for the pest management area, including data used in developing the action threshold(s) and method(s) to determine when the action threshold(s) has been met.

#### (C) General location map.

In the plan, include a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) that identifies the geographic boundaries of the area to which the plan applies and location of the state water and

#### (D) Water quality standards.

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Document any water(s) identified as impaired by a substance which either is an active ingredient or a degradate of such an active ingredient.

### (3) Pest Management Options Evaluation

Decision-makers must document the evaluation of the pest management options, including combination of the pest management options, to control the target pest(s). Pest management options include the following: No action, prevention, mechanical/physical methods, cultural methods, biological control agents, and pesticides. In the evaluation, Decision-makers must consider the impact to water quality, impact to non-target organisms, feasibility, cost effectiveness, and any relevant previous Pest Management Measures.

### (4) Response Procedures.

Decision-makers must document the following procedures in the PDMP:

#### (A) Spill Response Procedures.

At a minimum, Decision-makers must have:

- (i) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases to state waters.

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Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the PDMP team.

- (ii) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

### (B) Adverse Incident Response Procedures.

At a minimum, Decision-makers must have:

- (i) Procedures for responding to any adverse incident resulting from pesticide applications;
- (ii) Procedures for notification of the adverse incident, both internal to the Decision-maker's agency/organization and external.

Contact information for state/federal permitting agency, nearest emergency

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medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.

### (5) Signature Requirements.

Decision-makers must sign, date and certify the PDMP in accordance with section 15 of appendix A, chapter 11-55.

### (b) Pesticide Discharge Management Plan Modifications.

Decision-makers must modify the PDMP whenever necessary to address any of the triggering conditions for corrective action in section 6(a) or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to the PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, no later than 90 calendar days after any change in pesticide application activities. The revised PDMP must be signed and dated in accordance with section 15 of appendix A, chapter 11-55.

### (c) Pesticide Discharge Management Plan Availability.

Decision-makers must retain a copy of the current PDMP, along with all supporting maps and documents, at each address provided in the NOI. The PDMP and all supporting documents must be readily available, upon

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request, and copies of any of these documents provided, upon request, to the state, EPA, or local agency governing discharges or pesticide applications within their respective jurisdictions; and representatives of the United States Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS). The Director may provide copies of the PDMP or other information related to this permit that is in its possession to members of the public. Any Confidential Business Information (CBI), as defined in 40 CFR Part 2, may be withheld from the public provided that a claim of confidentiality is properly asserted and documented in accordance with 40 CFR Part 2; however, CBI must be submitted to the Director, if requested, and may not be withheld from those staff within EPA, FWS, and NMFS cleared for CBI review.

### 6. Corrective Action

All Operators must comply with the provisions of section 6 for any discharges authorized under this general permit, with compliance required upon beginning such discharge.

#### (a) Situations Requiring Revision of Pest Management Measures.

Operators must review and, as necessary, revise the evaluation and selection of Pest Management Measures consistent with section 2(a) and 2(b) for the following situations:

- (1) An unauthorized release or discharge associated with the application of pesticides (e.g., spill, leak, or

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discharge not authorized by this or another NPDES permit) occurs.

- (2) Operators become aware, or the Director concludes, that Pest Management Measures are not adequate/sufficient for the discharge to meet applicable water quality standards.
- (3) Any monitoring activities indicate failure to meet applicable technology-based effluent limitations in section 2.
- (4) An inspection or evaluation of activities by the Director, an EPA official, local, or state entity, reveals that modifications to the Pest Management Measures are necessary to meet the effluent limitations in this general permit.
- (5) Any Operator observes or is otherwise made aware of an adverse incident as defined in section 11-55-01.

### (b) Corrective Action Deadlines.

If an Operator determines that changes to Pest Management Measures are necessary to eliminate any situation identified in section 6(a), such changes must be made before or, if not practicable, as soon as possible after the next pesticide application that results in a discharge.

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### (c) Effect of Corrective Action.

The occurrence of a situation identified in section 6(a) of this general permit may constitute a violation of the permit. Correcting the situation according to section 6(a) of this general permit does not absolve the Operator of liability for any original violation. However, failure to comply with Section 6(a) of this general permit constitutes an additional permit violation. The Director will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

The Director, EPA or a court may impose additional requirements and schedules of compliance, including requirements to submit additional information concerning the condition(s) triggering corrective action or schedules and requirements more stringent than specified in this permit. Those requirements and schedules will supersede those of Section 6(a) of this general permit if such requirements conflict.

### (d) Adverse Incident Documentation and Reporting

#### (1) Twenty-Four (24) Hour Adverse Incident Notification

##### (A) Adverse Incident Notification Required

Except as provided for in section 6(d)(4), if an Operator observes or is otherwise made aware of an adverse incident, as defined in

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section 11-55-01, which may have resulted from a discharge from a pesticide application, the Operator must immediately notify the Director. This notification must be made by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours, which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State hospital Operator at (808) 247-2191 outside of regular office hours, within 24 hours of the Operator becoming aware of the adverse incident; and State Department of Agriculture or other state lead agency for pesticide regulation and must include at least the following information:

- (i) The caller's name and telephone number;
- (ii) Operator name and mailing address;
- (iii) If covered under an NOI, the NPDES file number, if applicable;
- (iv) The name and telephone number of a contact person, if different than the person providing the 24-hour notice;



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- (v) How and when the Operator became aware of the adverse incident;
- (vi) Description of the location of the adverse incident;
- (vii) Description of the adverse incident identified and the pesticide product, including EPA pesticide registration number, for each product applied in the area of the adverse incident;
- (viii) Description of any steps the Operator has taken or will take to correct, repair, remedy, clean up, or otherwise address any adverse effects; and
- (ix) If known, the identity of any other Operators authorized for coverage under this permit for discharges from the pesticide application activities that resulted in the adverse incident.

If an Operator is unable to notify the Clean Water Branch within 24 hours, the Operator must do so as soon as possible and also provide an appropriate rationale for why the Operator was unable to provide such notification within 24 hours.

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The adverse incident notification and reporting requirements are in addition to what the registrant is required to submit under FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159.

### (B) Adverse Incident Notification Not Required

Reporting of adverse incidents is not required under this permit in the following situations:

- (i) An Operator is aware of facts that indicate that the adverse incident was not related to toxic effects or exposure from the pesticide application;
- (ii) An Operator has been notified by the Director, and retains such notification, that the reporting requirement has been waived for this incident or category of incidents;
- (iii) An Operator receives information of an adverse incident, but that information is clearly erroneous; or
- (iv) An adverse incident occurs to pests that are similar in

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kind to potential target  
pests identified on the  
FIFRA label.

- (2) Thirty (30) Calendar Day Adverse  
Incident Written Report.

Except as provided for in section  
6(d)(4), within 30 calendar days of a  
reportable adverse incident pursuant to  
section 6(d)(1), Operators must provide  
a written report of the adverse  
incident to the Clean Water Branch and  
to the State Department of Agriculture  
or other state lead agency for  
pesticide regulation. The adverse  
incident report must include at least  
the following information:

- (A) Information required to be  
provided in Section 6(d)(1);
- (B) Date and time the Operator  
notified the Clean Water Branch  
and the State Department of  
Agriculture of the adverse  
incident and who the Operator  
spoke with and any instructions  
you received;
- (C) Location of incident, including  
the names of any waters affected  
and appearance of those waters  
(sheen, color, clarity, etc.);
- (D) A description of the circumstances  
of the adverse incident including  
species affected, estimated number

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of individual and approximate size of dead or distressed organisms;

- (E) Magnitude and scope of the affected area (e.g. aquatic square area or total stream distance affected);
- (F) Pesticide application rate; intended use site (e.g., on the bank, above waters, or directly to water); method of application; and the name of pesticide product and EPA registration number;
- (G) Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- (H) If laboratory tests were performed, an indications or which test(s) were performed, and when; additionally, a summary of the test results must be provided within five (5) calendar days after they become available if not available at the time of submission of the 30-day report;
- (I) Description of actions to be taken to prevent recurrence of adverse incidents; and
- (J) Signature, date, and certification in accordance with section 15 of appendix A, chapter 11-55.

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### (3) Adverse Incident to Threatened or Endangered Species or Critical Habitat

Notwithstanding any of the other adverse incident notification requirements of this section, if an Operator becomes aware of an adverse incident affecting a federally-listed threatened or endangered species or its federally-designated critical habitat, which may have resulted from a discharge from the Operator's pesticide application, the Operator must immediately notify the NMFS in the case of an anadromous or marine species, or the FWS in the case of a terrestrial or freshwater species. This notification must be made by telephone immediately upon the Operator becoming aware of the adverse incident and must include at least the following information:

- (A) The caller's name and telephone number;
- (B) Operator name and mailing address;
- (C) The name of the affected species;
- (D) How and when the Operator became aware of the adverse incident;
- (E) Description of the location of the adverse incident;
- (F) Description of the adverse incident and the pesticide product, including the EPA pesticide registration number for

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each product applied in the area of the adverse incident; and

- (G) Description of any steps the Operator has taken or will take to alleviate the adverse impact to the species.

Additional information on federally-listed threatened or endangered species and federally-designated critical habitat is available from NMFS ([www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)) for anadromous or marine species or FWS ([www.fws.gov](http://www.fws.gov)) for terrestrial or freshwater species.

- (4) Notification and Reporting for Adverse Incidents Involving Multiple Operators

Where multiple Operators are authorized for a discharge that results in an adverse incident, notification and reporting by any one of the Operators constitutes compliance for all of the Operators, provided a copy of the written report required in section 6(d)(2) is also provided to all of the other authorized Operators within 30 calendar days of the reportable adverse incident.

- (e) Reportable Spills and Leaks

- (1) Spill, Leak, or Other Unpermitted Discharge Notification

Where a leak, spill, or other release into state waters containing a hazardous substance or oil in an amount

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equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs in any 24-hour period, an Operator must notify the Clean Water Branch at (808) 586-4309 during regular office hours, which are Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m. or the Hawaii State hospital Operator at (808) 247-2191 outside of regular office hours and the National Response Center immediately at (800) 424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as the Operator has knowledge of the release. Contact information must be in locations that are readily accessible and available in the area where the spill, leak, or other unpermitted discharge may occur.

State or local requirements may necessitate also reporting spills or leaks to local emergency response, public health, or drinking water supply agencies.

### (2) Thirty-Day Spill, Leak, or Other Unpermitted Discharge Documentation

If an Operator becomes aware of a spill, leak, or other unpermitted discharge which triggers the notification in section 6(e)(1) and results in an adverse incident, then the Operator must report the incident per the guidelines in section 6(d)(1)

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and 6(d)(2). If the spill, leak, or other unpermitted discharge triggers the notification in section 6(e)(1), but does not result in an adverse incident, then the Operator must document and retain the following information within 30 calendar days of becoming aware of the situation:

- (A) Information required to be provided in section 6(e)(1);
  - (B) Summary of corrective action taken or to be taken, including date initiated and date completed or expected to be completed; and
  - (C) Any measures to prevent recurrence of such a spill or leak or other discharge, including notice of whether PDMP modifications are required as a result of the spill or leak.
- (f) Other Corrective Action Documentation.

For situations identified in section 6(a), other than for adverse incidents (addressed in section 6(d)), or reportable spills or leaks (addressed in section 6(e)), Operators must document the situation triggering corrective action and planned corrective action within 30 calendar days of becoming aware of that situation, and retain a copy of this documentation. This documentation must include the following information:

- (1) Identification of the condition triggering the need for corrective



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action review, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;

- (2) Brief description of the situation;
- (3) Date the problem was identified;
- (4) Brief description of how the problem was identified, how the Operator learned of the situation, and date the Operator learned of the situation;
- (5) Summary of corrective action taken or to be taken, including date initiated and date completed or expected to be completed; and
- (6) Any measures to prevent reoccurrence of such an incident, including notice of whether PDMP modifications are required as a result of the incident.

### 7. Recordkeeping and Annual Reporting

The recordkeeping and annual reporting requirements vary depending on the type of Operator and whether a Decision-maker is a small or large entity. Table 4 references applicable requirements for the range of Operators covered under this permit.

Table 4: Applicable Recordkeeping and Annual Reporting Requirements for Different Types of Operators.

PGP Section	Applicable Type of Operator
7(a)	Recordkeeping: All Operators

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7(b)	Recordkeeping: All Operators who are Applicators, as defined in section 11-55-01
7(c)	Recordkeeping: Any Decision-maker required to submit an NOI and who is a small entity{1}
7(d)	Recordkeeping: Any Decision-maker required to submit an NOI and who is a large entity{2}
7(e)	Retention of Records: All Operators
7(f)	Annual Reporting: Any Decision-maker required to submit an NOI and who is a large entity{2}

{1} Small Entity - As defined in section 11-55-01, is any (1) public entity that serves a population of 10,000 or less or (2) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201.

{2} Large Entity - As defined in section 11-55-01, is any (1) public entity that serves a population greater than 10,000 or (2) private enterprise that exceeds the Small Business Administration size standard as identified at 13 CFR 121.201.

Operators must keep written records as required in this permit for all discharges covered under this general permit. These records must be accurate and complete to demonstrate the Operator's compliance with the conditions of this general permit. Operator's may rely on records and documents developed for other obligations, such as requirements under FIFRA, and state or local pesticide programs, provided that all requirements of this general permit are satisfied.

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The Director recommends that all Decision-makers, who are or may be required to submit an NOI based on their annual treatment area, keep records of acres or linear miles treated for all applicable use patterns covered under this general permit. The records should be kept up-to-date to help Decision-makers determine if the annual treatment area threshold, is exceeded during any calendar year.

### (a) Recordkeeping For All Operators.

All Operators must keep the following records:

- (1) A copy of any Adverse Incident Reports (See section 6(d)(2));
- (2) Rationale for any determination that reporting of an identified adverse incident is not required consistent with allowances identified in Section 6(d)(1)(B);
- (3) A copy of any corrective action documentation (See section 6(f)); and
- (4) A copy of any spill and leak or other unpermitted discharge documentation (See section 6(e)(2)).

### (b) Recordkeeping for All Operators who are Applicators.

After the adjustment period, any Operator who is an Applicator, as defined in section 11-55-01, must retain the following records:

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- (1) Documentation of equipment calibration;  
and
- (2) Information on each treatment area to  
which pesticides are discharged,  
including:
  - (A) Description of each treatment  
area, including location and size  
(acres or linear feet) of  
treatment area and identification  
of any waters, either by name or  
by location, to which pesticide(s)  
are discharged;
  - (B) Pesticide use pattern(s) (i.e.,  
mosquito and other flying insects,  
weed and algae, animal pest, or  
forest canopy);
  - (C) Target pest(s);
  - (D) Documentation of any assessment of  
weather conditions in the  
treatment area prior to and during  
application to ensure application  
is consistent with all applicable  
federal requirements;
  - (E) Name of each pesticide product  
used including the EPA  
registration number;
  - (F) Quantity of each pesticide product  
applied to each treatment area;
  - (G) Pesticide application date(s); and

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- (H) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.
- (c) Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Small Entity.

After the adjustment period, any Decision-maker required to submit an NOI that is defined as a small entity, must retain the following records at the address provided on the NOI.

- (1) Copy of the NOI submitted to the Director, any correspondence exchanged between the Decision-maker and the Director specific to coverage under this permit, and a copy of the NGPC;
- (2) Documentation of equipment calibration (only if Decision-maker is also the Applicator);
- (3) Information on each treatment area to which pesticides are discharged, including:
  - (A) Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any state waters, either by name or by

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location, to which pesticides are discharged;

- (B) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
- (C) Target pest(s) and explanation of need for pest control;
- (D) Description of pest management measure(s) implemented prior to the first pesticide application;
- (E) Company name and contact information for pesticide applicator;
- (F) Name of each pesticide product used including the EPA registration number;
- (G) Quantity of each pesticide product applied to each treatment area;
- (H) Pesticide Application Start Date;
- (I) Pesticide Application End Date; and
- (J) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

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- (d) Recordkeeping for Any Decision-maker Required to Submit an NOI and Who is a Large Entity.

After the adjustment period, any Decision-maker required to submit an NOI that is defined as a large entity must retain the following records at the Operator's business address provided on the NOI:

- (1) Copy of the NOI submitted to the Director, any correspondence exchanged between the Decision-maker and the Director specific to coverage under this permit, and a copy of the NGPC;
- (2) A copy of your PDMP, including any modifications made to the PDMP during the term of this general permit.
- (3) Copy of annual reports submitted to the Director;
- (4) Documentation of equipment calibration (only if Decision-maker is also the Applicator);
- (5) Information on each treatment area to which pesticides are discharged, including:
  - (A) Description of each treatment area, including location and size (acres or linear feet) of treatment area and identification of any state waters, either by name or by location, to which pesticide(s) are discharged;

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- (B) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy);
- (C) Target pest(s) and explanation of need for pest control;
- (D) Action Thresholds;
- (E) Method and/or data used to determine that action threshold(s) has been met;
- (F) Description of pest management measure(s) implemented prior to the first pesticide application;
- (G) Company name and contact information for pesticide applicator;
- (H) Name of each pesticide product used including the EPA registration number;
- (I) Quantity of each pesticide product applied to each treatment area;
- (J) Pesticide application date(s); and
- (K) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.



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### (e) Retention of Records for All Operators.

All required records must be documented as soon as possible but no later than 14 calendar days following completion of each pesticide application. Operators must retain any records required under this permit for at least five (5) years after the Operator's coverage under this permit expires or is terminated. Operators must make available to the State, including EPA or an authorized representative of EPA, all records kept under this permit upon request and provide copies of such records, upon request.

### (f) Annual Reporting for Any Decision-maker Required to Submit an NOI and Who is a Large Entity.

Any Decision-makers required to submit an NOI and are defined as a large entity in section 11-55-01, must submit an annual report to the Director. Once a Decision-maker meets the obligation to submit an annual report, the Decision-maker must submit the annual report each calendar year thereafter for the duration of coverage under this general permit, whether or not the Decision-maker has discharges from the application of pesticides in any subsequent calendar year. The Decision-maker must submit the annual report to the Director no later than February 15, in pdf format (minimum of 300 dpi) on CD/DVD, of the following year for all pesticide activities covered under this permit occurring during the previous calendar year. Annual reporting requirements begin with those

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discharges occurring after the adjustment period.

Any Decision-maker required to submit an NOI based on an annual treatment area threshold must include information for the calendar year, with the first annual report required to include activities for the portion of the calendar year after the point at which the Decision-maker exceeded the annual treatment area threshold. If the Decision-maker first exceeds an annual treatment area threshold after December 1, an annual report is not required for that first partial year but an annual report is required thereafter, with the first annual report submitted also including information from the first partial year.

When Decision-makers terminate permit coverage, as specified in appendix A of chapter 11-55, an annual report must be submitted for the portion of the year up through the date of termination. The annual report is due no later than February 15 of the next year.

The annual report must contain the following information:

- (1) Decision-maker's name and contact information;
- (2) NPDES file number
- (3) Contact person name, title, e-mail address (if any), and phone number; and

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- (4) For each treatment area, report the following information:
- (A) Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any state waters, either by name or by location, to which pesticide(s) are discharged;
  - (B) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weed and algae, animal pest, or forest canopy) and target pest(s);
  - (C) Company name(s) and contact information for pesticide applicator(s), if different from the Decision-maker;
  - (D) Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
  - (E) Whether this pest control activity was addressed in the PDMP prior to pesticide application;
  - (F) The approximate date(s) of any discharge;
  - (G) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for

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incidents, as described in Section 6(d)(1) of this general permit;  
and

- (H) If applicable, description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

### (g) Submittal Requirements

- (1) All submittals shall be addressed to the Director at the following address or as otherwise specified:

Director of Health  
Clean Water Branch  
Environmental Management Division  
State Department of Health  
P.O. Box 3378  
Honolulu, HI 96801-3378

- (2) The permittee or its duly authorized representative shall include the following certification statement and an original signature on each submittal in accordance with section 11-55-34.08(e) or (f):

"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

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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."

- (3) The permittee or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number on future correspondence or submittals may be a basis for delay of the processing of the document(s).

### 8. Notice of Intent Requirements

- (a) The owner or operator shall submit a complete NOI in accordance with the deadline in Section 1(f), Table 2 or thirty days before the expiration date of the applicable notice of general permit coverage.
- (b) The owner or operator shall include the following information in the notice of intent:
  - (1) Information required in section 34 of appendix A of chapter 11-55;
  - (2) Pesticide use activities that trigger the PGP requirements;

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- (3) If the operator is a Large entity that triggers developing a PDMP and submittal of an annual report;
  - (4) Pest Management Area name and map of the location of the area or description of the Pest Management Area in detail; and
  - (5) Name of the water quality impaired waters; class 1, inland or class AA, marine waters, or areas restricted in accordance with the State's "no discharge" policy; or to surface drinking waters and their tributaries up-stream for which permit coverage is being requested and demonstration of eligibility for such discharges.
- (c) The owner or operator shall submit Notice of Intent Forms on Forms specified by the CWB. Electronic notice of intent forms may be found at the Department's e-Permitting portal. The e-Permitting portal may be accessed via the Clean Water Branch's website at:  
<http://health.hawaii.gov/cwb/>  
(see CWB NOI Form M).

### 9. Administrative Extension

Any notice of general permit coverage issued under the general permit dated July 13, 2018, shall be automatically administratively extended. This administrative extension shall expire sixty days after the effective date of this general permit unless:

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- (a) A notice of intent for coverage under this general permit is submitted within sixty days after the effective date of this general permit. The administrative extension shall thus expire on the effective date of the notice of general permit coverage authorizing the existing discharge under this general permit; or
- (b) An application for an individual NPDES permit coverage is submitted within sixty days after the effective date of this general permit. The administrative extension shall thus expire on the effective date of the individual NPDES permit authorizing the existing discharge.





CHAPTER 11-55 APPENDIX A

DEPARTMENT OF HEALTH  
STANDARD GENERAL PERMIT CONDITIONS

JUN 26 2023

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Note: All references to Title 40 of the Code of Federal Regulations (40 CFR) are to regulations that are in effect on July 1, 2021 unless otherwise specified. The Clean Water Act (Act) is also known as the Federal Water Pollution Control Act, as amended by the Clean Water Act, and appears at 33 U.S.C. §§1251 to 1387.

The permittee shall comply with the following standard conditions.

1. Basic water quality criteria (comply with section 11-54-4)

- a. The permittee shall not cause or contribute to a violation of the basic water quality criteria specified in section 11-54-4(a) which states:

"(a) All waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants, including:

- (1) Materials that will settle to form objectionable sludge or bottom deposits;
- (2) Floating debris, oil, grease, scum, or other floating materials;
- (3) Substances in amounts sufficient to produce taste in the water or

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detectable off-flavor in the flesh of fish, or in amounts sufficient to produce objectionable color, turbidity or other conditions in the receiving waters;

- (4) High or low temperatures; biocides; pathogenic organisms; toxic, radioactive, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human, animal, plant, or aquatic life, or in amounts sufficient to interfere with any beneficial use of the water;
- (5) Substances or conditions or combinations thereof in concentrations which produce undesirable aquatic life; and
- (6) Soil particles resulting from erosion on land involved in earthwork, such as the construction of public works; highways; subdivisions; recreational, commercial, or industrial developments; or the cultivation and management of agricultural lands."

b. The Permittee shall not cause or contribute to a violation of the basic numeric water quality requirements of Section 11-54-4(c).

- 2. Onshore or offshore construction (Hawaii Revised Statutes, Section 342D-4)

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The applicable general permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any state waters.

### 3. Sampling requirements and definitions (Hawaii Revised Statutes, Section 342D-4)

#### (a) Sampling Points

All samples shall be taken at the monitoring points specified in the applicable general permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the director. No discharge is authorized which does not totally pass through the final monitoring point.

#### (b) Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than plus or minus ten per cent from the true discharge rates throughout the range of expected discharge volumes. Once-through condenser cooling water flow which is monitored by pump logs or pump hour meters as specified in the applicable

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general permit based on the manufacturer's pump curves shall not be subject to this requirement. Guidance in selection, installation, calibration, and operation of acceptable flow measurement devices can be obtained from the following references:

- (1) "A Guide of Methods and Standards for the Measurement of Water Flow," U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 421, May 1975, 97 pp. (Available from the U.S. Government Printing Office, Washington, D.C. 20402. Order by SD catalog No. C13.10:421.) (Also available from National Technical Information Service (NTIS). Order by NTIS No. COM-7510683.)
- (2) "Water Measurement Manual," U.S. Department of Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001 (Available at: <https://www.usbr.gov/tsc/techreferences/mands/wmm.html>.)
- (3) "Flow Measurement in Open Channels and Closed Conduits," U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 484, October 1977, 982 pp. (Available in paper copy or microfiche from National Technical Information Service (NTIS), Springfield, VA 22151. Order by NTIS No. PB-273 535/5ST.)
- (4) "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147

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pp. (Available from the General Services Administration (8BRC), Centralized Mailing Lists Services, Building 41, Denver Federal Center, Denver, CO 80225.)

### (c) Calibration

The permittee shall periodically calibrate and perform maintenance on all monitoring and analytical equipment used to monitor the pollutants discharged under the applicable general permit, at intervals which will ensure the accuracy of measurements, but no less than the manufacturer's recommended intervals or six-month intervals (whichever comes first). Records of calibration shall be kept under section 14.

### (d) pH Effluent Limitations Under Continuous Monitoring

If the permittee continuously measures the pH of the effluent under a requirement or option in the applicable general permit, excursions from the range provided in the general permit or as specified in chapter 11-54 are permitted, provided:

- (1) The pH limitation in the general permit is based upon a requirement imposed under 40 CFR Subchapter N, Effluent Guidelines and Standards;
- (2) The total time during which the pH values are outside the required range of pH values shall not exceed four hundred forty-six minutes in any calendar month;

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- (3) No individual excursions from the range of pH values shall exceed sixty minutes; and
- (4) For purposes of this section, an "excursion" is an unintentional and temporary incident in which the pH value of the effluent exceeds the range set forth in the applicable general permit. The number of individual excursions exceeding sixty minutes and the total accumulated excursion time in minutes occurring in any calendar month shall be reported in accordance with the applicable general permit.

### (e) Average

As used in the applicable general permit, unless otherwise stated, the term "average" means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For fecal coliform, enterococcus, or *clostridium perfringens*, the "average" shall be the geometric mean. For total coliform, the "average" shall be the median.

### (f) Mass/Day Measurements

- (1) The "daily discharge" is the total mass (weight) of a pollutant discharged during a calendar day. The daily discharge shall be determined by using the following equations:

$$\text{Daily Discharge(lbs/day)} = 8.34 \times Q \times C;$$

$$\text{Daily Discharge(kg/day)} = 3.785 \times Q \times C;$$

and

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where "C" (in mg/l) is the measured daily concentration of the pollutant and "Q" (in million gallons per day) is the measured effluent flow rate for the same calendar day.

If only one sample is taken during any calendar day, the mass (weight) of pollutant discharged that is calculated from it is the "daily discharge."

- (2) The "average monthly discharge" is defined as the total mass of all daily discharges sampled or measured or both during a calendar month on which daily discharges are sampled and measured, divided by the number of daily discharges sampled or measured or both during such month. It is, therefore, an arithmetic mean found by adding the weights of the pollutant found each day of the month and then dividing this sum by the number of days. This limitation is identified as "Monthly Average" in the applicable general permit and the average monthly discharge value is reported in the "Average" column under "Quantity" on the discharge monitoring report form.
- (3) The "average weekly discharge" is defined as the total mass of all daily discharges sampled or measured or both during the calendar week in which daily discharges are sampled or measured or both. It is, therefore, an arithmetic mean found by adding the weights of pollutants found each day of the week and then dividing this sum by the



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number of days. This limitation is identified as "Weekly Average" in the applicable general permit and the average weekly discharge value is reported in the "Maximum" column under "Quantity" on the discharge monitoring report form.

- (4) The "maximum daily discharge" is the highest daily discharge value recorded, sampled, or measured during the reporting period. This limitation is identified as "Daily Maximum" in the applicable general permit and the maximum daily discharge value is reported in the "Maximum" column under "Quantity" on the discharge monitoring report form.

### (g) Concentration Measurements

- (1) The "daily concentration" is the concentration of a pollutant discharged during a calendar day. It is equal to the concentration of a composite sample or in the case of grab samples, it is the arithmetic mean (weighted by flow value) of all samples collected during that calendar day. If only one sample is taken during any calendar day, it represents the "daily concentration."
- (2) The "average monthly concentration," other than for fecal coliform, enterococcus, *clostridium perfringens*, or total coliform, is the sum of the daily concentrations sampled or measured or both divided by the number of daily discharges sampled or measured or both during such month (arithmetic

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mean of the daily concentration values). The average monthly count for fecal coliform, enterococcus, or *clostridium perfringens* is the geometric mean of the counts for samples collected during a calendar month. The average monthly count for total coliform is the median of the counts for samples collected (not less than five discrete samples) during a calendar month. This limitation is identified as "Monthly Average" or "Daily Average" under "Other Limits" in the applicable general permit and the average monthly concentration value is reported under the "Average" column under "Quality" on the discharge monitoring report form.

- (3) The "average weekly concentration," other than for fecal coliform, enterococcus, or *clostridium perfringens*, or total coliform, is the sum of the concentrations of all daily discharges sampled or measured or both during a calendar week on which daily discharges are sampled and measured divided by the number of daily discharges sampled or measured or both during such week (arithmetic mean of the daily concentration values). The average weekly count for fecal coliform, enterococcus, or *clostridium perfringens* is the geometric mean of the counts for samples collected during a calendar week. The average weekly count for total coliform is the median of the counts for samples collected during a calendar week. This limitation is identified as "Weekly

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Average" under "Other Limits" in the applicable general permit and the average weekly concentration value is reported under the "Maximum" column under "Quality" on the discharge monitoring report form.

- (4) The "maximum daily concentration" is the highest daily concentration value recorded, sampled, or measured during the reporting period. This limitation identified as "Daily Maximum" under "Other Limits" in the applicable general permit and the maximum daily concentration is reported under the "Maximum" column under "Quality" on the discharge monitoring report form.
- (h) The effluent flow expressed as cubic meters per day or million gallons per day (MGD), is the twenty-four-hour average flow averaged monthly. It is the arithmetic mean of the total daily flows recorded during the calendar month. Where monitoring requirements for flow are specified in the applicable general permit, the flow rate values are reported in the "Average" column under "Quantity" on the discharge monitoring report form.
- (1) An "instantaneous flow measurement" is a measure of flow taken at the time of sampling, when both the sample and flow will be representative of the total discharge.
- (2) Where monitoring requirements for pH, dissolved oxygen or fecal coliform, enterococcus, or *clostridium perfringens* are specified in the

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applicable general permit, the values are generally reported in the "Quality or Concentration" column on the discharge monitoring report form.

- (i) The "arithmetic mean" of any set of values is the summation of the individual values divided by the number of individual values.
- (j) The "geometric mean" of any set of values is the Nth root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero shall be considered to be one. For purposes of calculating the geometric mean, non-detect values shall be substituted with one-fourth the method detection limit.
- (k) "Weighted by flow value" means the summation of each concentration times its respective flow divided by the summation of the respective flows.
- (l) The "median" of any set of ordered values is the value below and above which there is an equal number of values or which is the arithmetic mean of the two middle values if there is no one middle number.
- (m) A calendar day is defined as the period from midnight of one day until midnight of the next day. However, for the purposes of the applicable general permit, any consecutive twenty-four-hour period that reasonably represents the calendar day may be used for sampling.

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- (n) "Removal efficiency" is the ratio of pollutants removed by the treatment unit to pollutants entering the treatment unit. Removal efficiencies of a treatment plant shall be determined using the average monthly concentrations (C, in mg/l) of influent and effluent samples collected about the same time and the following equation (or its equivalent):

$$\text{Removal Efficiency} = 100 \times \left(1 - \frac{C_{\text{effluent}}}{C_{\text{influent}}}\right) \\ \text{(per cent)}$$

4. Duty to reapply (comply with 40 CFR §122.41(b) and Sections 11-55-04, 11-55-34.08 and 11-55-34.09)

If the permittee wishes to continue an activity regulated by the applicable general permit after the expiration of the notice of general permit coverage or in the case of automatic coverage, the expiration of the general permit itself, the permittee shall follow the procedures as specified in sections 11-55-34.08 and 11-55-34.09.

5. Signatories to permit applications and reports (based in part on 40 CFR §122.22 and Section 11-55-07)
- a. Applications. All permit applications shall be signed as follows:
- (1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

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- (A) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (B) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
- (3) For a municipality, state, federal, or other public agency. By either a principal executive officer or ranking

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elected official. For purposes of this section, a principal executive officer of a federal agency includes:

- (A) The chief executive officer of the agency, or
  - (B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA);
- (4) For a trust. By a trustee; or
  - (5) For a limited liability company (LLC).  
By a manager or a member authorized to make management decisions for the LLC and who is in charge of a principal business function, or who performs similar policy- or decision-making functions for the LLC.
- (b) All other reports or information required to complete the application or information to comply with the conditions of the individual permit or notice of general permit coverage or responses to requests for information required by the director shall be signed by a person designated in subsection (a) or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- (1) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant

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It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

8. Duty to mitigate (based in part on 40 CFR §122.41(d) and Hawaii Revised Statutes, Section 342D-4)

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the applicable general permit or applicable law.

9. Proper operation and maintenance (comply with 40 CFR §122.41(e) and Section 11-55-23(9))

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

10. Permit actions (comply with 40 CFR §122.41(f) and Sections 11-55-16 and 11-55-17)

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes



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or anticipated noncompliance does not stay any permit condition.

11. Property rights (comply with 40 CFR §122.41(g) and Section 11-55-15(g))

This permit does not convey any property rights of any sort or any exclusive privilege.

12. Duty to provide information (comply with 40 CFR §122.41(h) and based in part on Hawaii Revised Statutes, Section 342D-4)

The Permittee shall furnish to the Director of Health, within a reasonable time, any information which the Director of Health may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also furnish to the Director of Health upon request, copies of records required to be kept by this permit.

13. Inspection and entry (comply with 40 CFR §122.41(i)(3) and Section 11-55-23(5))

The Permittee shall allow the Director of Health, or a duly authorized agent (including an authorized contractor acting as a duly authorized agent of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

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- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.
14. Monitoring and records (based in part on 40 CFR §122.41(j) and Sections 11-55-29 and 11-55-31)
- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

As used in this section, a representative sample means that the content of the sample shall:

- (1) Be identical to the content of the substance sampled at the time of the sampling;
- (2) Accurately represent the monitored item (for example, sampling to monitor final effluent quality shall accurately represent that quality, even though the sampling is done upstream of the discharge point); and
- (3) Accurately represent the monitored item for the monitored time period (for example, sampling to represent monthly average effluent flows shall be taken

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at times and on days that cover significant variations).

Representative sampling may include weekends and storm events and may mean taking more samples than the minimum number specified elsewhere in the applicable general permit. The burden of proving that sampling or monitoring is representative is on the permittee.

- (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the applicable general permit, and records of all data used to complete the application for the applicable general permit, for a period of at least five years from the date of the sample, measurement, report or application. Any records required by 40 CFR 503 shall be retained for at least five (5) years or longer. This period may be extended by request of the director at any time.
- (c) Records of monitoring information shall include:
  - (1) The date, exact place, and time of sampling or measurements;
  - (2) The individual(s) who performed the sampling or measurements;
  - (3) The date(s) the analyses were performed;

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- (4) The individual(s) who performed the analyses;
  - (5) The analytical techniques or methods used; and
  - (6) The results of the analyses.
- (d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the applicable general permit.
- (e) The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by the applicable general permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both for a first conviction. For a second conviction, the person is subject to a fine of not more than \$20,000 per day of violation, or by imprisonment for not more than four years, or both. (Updated under the Water Quality Act of 1987)
15. Signatory requirement (comply with 40 CFR §§122.22 and 122.41(k) and Section 11-55-07)
- a. All applications, reports, or information submitted to the Director of Health shall be signed and certified. (See section 5 or 40 CFR §122.22)

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- b. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six (6) months per violation, or by both.
16. Reporting requirements (comply with 40 CFR §122.41(1) and Hawaii Revised Statutes, Section 342D-4)
- a. Planned changes. The Permittee shall give notice to the Director of Health as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when: (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b); or (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR §122.42(a)(1) or section 19. (3) The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and the alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during

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the permit application process or not reported pursuant to an approved land application plan.

- b. Anticipated noncompliance. The Permittee shall give advance notice to the Director of Health of any planned changes in the permitted facility or activity which may result in noncompliance with this permit's requirements.
- c. Transfers. This permit is not transferable to any person except after notice to the Director of Health. The Director of Health may require modification or revocation and reissuance of the permit to change the name of the Permittee and incorporate other requirements as may be necessary under the Act or Chapter STANDARD NPDES PERMIT CONDITIONS (Version 16) Page 15 of 27 v.16 342D, HRS. (See 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory.)
- c. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (1) All monitoring results, including intake monitoring results, effluent, and receiving water, must be reported on a Discharge Monitoring Report Form or forms submitted electronically using NetDMR, or as otherwise specified by the Director for reporting results of monitoring of sludge use or disposal practices. NetDMR is accessed from: <http://www.epa.gov/netdmr>. DMRs shall be submitted electronically no later than the 28th day of the month

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following the completed reporting period, unless otherwise specified in the permit.

- (2) If the Permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form or sludge reporting form specified by the Director.
- (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director of Health in this permit.
- (4) For the purposes of reporting, the Permittee shall use the reporting threshold equivalent to the laboratory's method detection limit (MDL) and must utilize a standard calibration where the lowest standard point is equal to or less than the concentration of the minimum level (ML).
  - (i) The Permittee shall report sample results and calculations at or above the laboratory's ML on DMRs as the measured concentration or calculation.

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- (ii) The Permittee shall report sample results and calculations below the laboratory's MDL as NODI(B) on the DMR. NODI(B) means that the concentration of the pollutant in a sample is below detection limit/no detection.
- (iii) The Permittee shall report sample results and calculations between the ML and MDL as NODI(Q). NODI(Q) means that the concentration of the pollutant in a sample is detected but not quantifiable.
- (iv) For purposes of calculating averages, zero shall be assigned for values less than the MDL and the numeric value of the MDL shall be assigned for values between the MDL and the ML. The resulting average value must be compared to the effluent limitation or the ML, whichever is greater, in assessing compliance.
- (v) For purposes of calculated geometric means,  $0.25 \times \text{MDL}$  shall be assigned for values less than the MDL and the numeric value of the MDL shall be assigned for values between the MDL and the ML. The resulting geometric mean must be compared to the effluent limitation or the ML, whichever is greater, in assessing compliance.
- (vi) When NODI(Q) or NODI(B) is reported for a parameter, the



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laboratory's numeric ML and MDL for that parameter shall also be noted on the DMR or on an attachment.

- (5) Should there be no discharges during the monitoring period, the DMR form shall so state.
- e. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- f. Immediate reports of non-compliance. The Permittee shall report any noncompliance which may endanger human health or the environment as soon as practical. Any information shall be provided orally within 24 hours from the time the Permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The following shall be included as information which must be reported within 24 hours:
  - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit. See 40 CFR §122.41(g).

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- (2) Any upset which exceeds any effluent limitation in the permit.
- (3) Violations of a maximum daily discharge limitation for any of the pollutants listed by the Director of Health in the permit to be reported within 24 hours. See 40 CFR §122.44(g)

The Director of Health may waive the written report on a case-by-case basis for reports under Section 16.f if the oral report has been received within 24 hours.

- g. Other noncompliance. The Permittee shall report all instances of noncompliance not reported under subsections d., e., and f. at the time monitoring reports are submitted. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - h. Other information. Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director of Health, the Permittee shall promptly submit the facts or information.
17. Bypass (based in part on 40 CFR §122.41(m) and Hawaii Revised Statutes, Section 342D-4)
- (a) Definitions

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- (1) "Bypass" means the intentional diversion of any waste streams from any portion of a treatment facility.
  - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Prohibition of bypass. Every bypass is prohibited, and the director may take enforcement action against a permittee for bypass, except as provided in section 17(c).
- (c) Exceptions to bypass prohibition
- (1) Bypass not exceeding limitations. A bypass is allowable under this paragraph only if it does not cause any effluent limitation to be exceeded, and only if the bypass is necessary for essential maintenance to assure efficient operation.
  - (2) Bypass unavoidable to prevent specified harm. A bypass is allowable under this paragraph if:
    - (A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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- (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - (C) The permittee submitted notices as required under section 17(d).
- (3) Approved anticipated bypass. An anticipated bypass is allowable if the director approves it. The director shall approve the anticipated bypass only if the director receives information sufficient to show compliance with section 17(c)(2), including information on the potential adverse effects with and without the bypass, and information on the search for and the availability of alternatives, whether the permittee ultimately considers the alternatives feasible or not.
- (d) Notice
- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall submit

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prior notice, if possible at least ten days before the date of the bypass.

- (2) Unanticipated bypass. The permittee shall report unanticipated bypasses.
  - (A) Reports required by the reporting requirements of the applicable general permit shall be made in accordance with that section. If the permittee questions whether the reporting requirements of the applicable general permit applies, it shall follow the reporting requirements of the applicable general permit;
  - (B) For all other bypasses, reports shall be made orally within twenty-four hours from the time the permittee becomes aware of the bypass. Written reports may be required on a case-by-case basis.
- (e) Burden of proof. In any enforcement proceeding the party seeking to establish that any exception to the bypass prohibition applies has the burden of proof. Proof that effluent limitations were met requires effluent monitoring during the bypass.

### 18. Upset (based in part on 40 CFR §122.41(n) and Hawaii Revised Statutes, Section 342D-4)

- (a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the

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permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with the technology-based permit effluent limitations if the requirements of section 18(c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (2) The permitted facility was at the time being properly operated;
  - (3) The permittee submitted within twenty-four hours a notice of any upset which exceeded any effluent limitation in the applicable general permit; and
  - (4) The permittee complied with any remedial measures required under 40 CFR §122.41(d).

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- d. Burden of proof. In any enforcement proceeding, any person seeking to establish the occurrence of an upset has the burden of proof.
19. Existing manufacturing, commercial, mining, and silvicultural dischargers (comply with 40 CFR §122.42(a) and Hawaii Revised Statutes, Section 342D-4)

In addition to the reporting requirements under 40 CFR §122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director of Health as soon as they know or have reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following "notification levels":
  - (1) One hundred micrograms per liter (100 µg/l);
  - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4- dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR §122.21(g) (7); or

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- (4) The level established by the Director of Health in accordance with 40 CFR §122.44(f).
  - b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following "notification levels":
    - (1) Five hundred micrograms per liter (500 µg/l);
    - (2) One milligram per liter (1 mg/l) for antimony;
    - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR §122.21(g)(7); or
    - (4) The level established by the Director of Health in accordance with 40 CFR §122.44(f).
20. Publicly owned treatment works (comply with 40 CFR §122.42(b) and Hawaii Revised Statutes, Section 342D-4)

This section applies only to publicly owned treatment works as defined in 40 CFR §122.2.

- a. All publicly owned treatment works must provide adequate notice to the Director of Health of the following:



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- (1) Any new introduction of pollutants into the publicly owned treatment works from an indirect discharger which would be subject to Section 301 or 306 of the Act if it were directly discharging those pollutants; and
- (2) Any substantial change in the volume or character of pollutants being introduced into that publicly owned treatment works by a source introducing pollutants into the publicly owned treatment works at the time of issuance of the permit; and
- (3) For purposes of this paragraph, adequate notice shall include information on paragraph (1), the quality and quantity of effluent introduced into the publicly owned treatment works, and paragraph (2), any anticipated impact of the change on the quantity or quality of effluent to be discharged from the publicly owned treatment works.

- b. (The following condition has been established by EPA Region 9 to enforce applicable requirements of the Resource Conservation and Recovery Act.) Publicly owned treatment works may not receive hazardous waste by truck, rail, or dedicated pipe except as provided under 40 CFR Part 270. Hazardous wastes are defined in 40 CFR Part 261 and include any mixture containing any waste listed under 40 CFR §§261.31-261.33. The Domestic Sewage Exclusion (40 CFR §261.4) applies only to wastes mixed with domestic sewage in a sewer leading to a publicly owned treatment works and not to

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mixtures of hazardous wastes and sewage or septage delivered to the treatment plant by truck.

21. Reopener clause (comply with 40 CFR §122.44(c), 40 CFR §122.46(d), and 40 CFR §125.123(d)(4) and Hawaii Revised Statutes, Section 342D-4)

a. For any discharger within a primary industry category (see 40 CFR Part 122, Appendix A), requirements under Section 307(a)(2) of the Act as follows:

(1) On or before June 30, 1981:

(A) If applicable standards or limitations have not yet been promulgated, this permit shall include a condition stating that, if an applicable standard or limitation is promulgated under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Act and that effluent standard or limitation is more stringent than any effluent limitation in this permit or controls a pollutant not limited in this permit, this permit shall be promptly modified or revoked and reissued to conform to that effluent standard or limitation.

(B) If applicable standards or limitations have been promulgated or approved, this permit shall include those standards or limitations. (If EPA approves existing effluent limitations or decides not to develop new

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effluent limitations, it will publish a notice in the Federal Register that the limitations are "approved" or the purpose of this regulation.)

- (2) On or after the statutory deadline set forth in Sections 301(b)(2)(A), (C), and (E) of the Act, any permit issued shall include effluent limitations to meet the requirements of Sections 301(b)(2)(A), (C), (D), (E), and (F) of the Act, whether or not applicable effluent limitations guidelines have been promulgated or approved. These permits need not incorporate the clause required by this section.
- (3) The Director of Health shall promptly modify or revoke and reissue any permit containing the clause required under this section to incorporate an applicable effluent standard or limitation under Sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Act which is promulgated or approved after this permit is issued if that effluent standard or limitation is more stringent than any effluent limitation in this permit, or controls a pollutant not limited in this permit.
- (4) For any permit issued to a treatment works treating domestic sewage, including "sludge-only facilities," the Director of Health shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the Act. The

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Director of Health may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in this permit, or controls a pollutant or practice not limited in this permit.

- b. All permits which authorize the discharge of pollutants pursuant to 40 CFR §125.123(c) shall contain the following clause: In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Director of Health determines that continued discharge may cause unreasonable degradation of the marine environment.

- 22. Privately owned treatment works (The following conditions were established by EPA Region 9 to enforce applicable requirements of the Resource Conservation and Recovery Act and 40 CFR §122.44(m), and Hawaii Revised Statutes, Section 342D-4)

This section applies only to privately owned treatment works as defined at 40 CFR §122.2.

- (a) Materials authorized to be disposed of into the privately owned treatment works and collection system are typical domestic sewage. Unauthorized materials are hazardous waste (as defined at 40 CFR Part 261), motor oil, gasoline, paints, varnishes, solvents, pesticides, fertilizers, industrial wastes, or other materials not generally associated with

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toilet flushing or personal hygiene, laundry, or food preparation, unless specifically listed under "Authorized Non-domestic Sewer Dischargers" elsewhere in the applicable general permit. The Domestic Sewage Exclusion (40 CFR §261.4) does not apply to hazardous wastes mixed with domestic sewage in a sewer leading to a privately owned treatment works.

- (b) It is the permittee's responsibility to inform users of the privately owned treatment works and collection system of the prohibition against unauthorized materials and to ensure compliance with the prohibition. The permittee must have the authority and capability to sample all discharges to the collection system, including any from septic haulers or other unsewered dischargers, and shall take and analyze such samples for conventional, toxic, or hazardous pollutants when instructed by the permitting authority or by an EPA or state inspector. The permittee must provide adequate security to prevent unauthorized discharges to the collection system.
- (c) Should a user of the privately owned treatment works desire authorization to discharge non-domestic wastes, the permittee shall submit a request for permit modification and an application, under 40 CFR §122.44(m), describing the proposed discharge. The application shall, to the extent possible, be submitted using forms provided by the Administrator, unless another format is requested by the permitting authority. If the privately owned treatment works or collection system

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user is different from the permittee, and the permittee agrees to allow the non-domestic discharge, the user shall submit the application and the permittee shall submit the applicable general permit modification request. The application and request for modification shall be submitted at least six months before authorization to discharge non-domestic wastes to the privately owned treatment works or collection system is desired.

23. Transfers by modification (comply with 40 CFR §122.61(a) and Section 11-55-34.08(i)(2))

Except as provided in section 24, a permit may be transferred by the Permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR §122.62(b)(2)), or a minor modification made (under 40 CFR §122.63(d)), to identify the new Permittee and incorporate other requirements as may be necessary under the Act.

24. Automatic transfers (comply with 40 CFR §122.61(b) and Section 11-55-34.08(i)(2))

As an alternative to transfers under section 23, any NPDES permit may be automatically transferred to a new Permittee if:

- a. The current Permittee notifies the Director of Health at least 30 days in advance of the proposed transfer date in subsection b;
- b. The notice includes a written agreement between the existing and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

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- c. The Director of Health does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify or revoke and reissue the permit. A modification under this paragraph may also be a minor modification under 40 CFR §122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection b.
25. Minor modification of permits (comply with 40 CFR §122.63 and Section 11-55-16)

Upon the consent of the Permittee, the Director of Health may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 40 CFR Part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR Part 124 draft permit and public notice as required in 40 CFR §122.62. Minor modifications may only:

- a. Correct typographical errors;
- b. Require more frequent monitoring or reporting by the Permittee;
- c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
- d. Allow for a change in ownership or operational control of a facility where the Director of Health determines that no other

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change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new Permittees has been submitted to the Director of Health:

- e.
    - (1) Change the construction schedule for a discharger which is a new source. No change shall affect a discharger's obligation prior to discharge under 40 CFR §122.29.
    - (2) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with the permit limits.
  - f. (Reserved.)
  - g. Incorporate conditions of a publicly owned treatment works pretreatment program that has been approved in accordance with the procedures in 40 CFR §403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR §403.18) as enforceable conditions of the publicly owned treatment works' permit.
26. Termination of permits (comply with 40 CFR §122.64, 40 CFR §124.5(d), and Section 11-55-18)
- a. The following are causes for terminating a permit during its term, or for denying a permit renewal application:
    - (1) Noncompliance by the Permittee with any condition of the permit;



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- (2) The Permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the Permittee's misrepresentation of any relevant facts at any time;
  - (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
  - (4) A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a publicly owned treatment works).
- b. An NPDES Permittee shall report within 30 days after the permanent discontinuance or dismantlement of that treatment works or waste outlet for which the NPDES permit had been issued. The NPDES permit shall then be surrendered to the Director of Health within 30 days from the date of the report.
- c. The Director of Health shall follow the applicable State procedures equivalent to 40 CFR Part 124 in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a publicly owned treatment works (but not by land application or disposal into a well), the Director of Health may terminate the permit by notice to the Permittee.

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Termination by notice shall be effective 30 days after notice is sent, unless the Permittee objects within that time. If the Permittee objects during that period, the Director of Health shall follow 40 CFR Part 124 of this chapter or applicable State procedures for termination. Expedited permit termination procedures are not available to Permittees that are subject to pending State or Federal of both enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a Permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use 40 CFR Part 22 procedures for NPDES permit terminations.

- d. If the Director of Health tentatively decides to terminate a permit under 40 CFR §122.64 where the Permittee objects, the Director of Health shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under 40 CFR §124.6.

- 27. Removed substances (under Sections 301 and 405 of the Act, 40 CFR §125.3(g), and Hawaii Revised Statutes, Section 342D-4)

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner which prevents any pollutant from the materials from entering state waters.

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28. Availability of reports (under Section 308 of the Act and Section 11-55-12)

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of the applicable general permit shall be available for public inspection at the offices of the director. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

29. Civil and criminal liability (under Section 309 of the Act and Hawaii Revised Statutes, Chapter 342D)

Except as provided in the applicable general permit conditions on "Bypass" (section 17) and "Upset" (section 18), nothing in the applicable general permit shall be construed to relieve the permittee from civil or criminal penalties or remedies for noncompliance.

30. Oil and hazardous substance liability (under Section 311 of the Act and Hawaii Revised Statutes, Section 342D-4)

Nothing in the applicable general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

31. Federal facility construction (under Section 313(b) of the Act and Hawaii Revised Statutes, Section 342D-4)

Construction shall not be initiated for facilities for treatment of wastewater at any

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Federal property or facility if alternative methods for wastewater treatment at the property or facility utilizing innovative treatment processes and techniques, including, but not limited to, methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most cost effective alternative by more than fifteen per cent.

32. State law (under Section 510 of the Act and Hawaii Revised Statutes, Chapter 342D)

Nothing in the applicable general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established under any applicable state law or regulation.

33. Severability (under Section 512 of the Act and Section 11-55-37)

The provisions of the applicable general permit are severable and if any provision of the applicable general permit, or the application of any provision of the applicable general permit to any circumstance, is held invalid, the application of the provision to other circumstances, and the remainder of the applicable general permit, shall not be affected thereby.

34. Notice of Intent Requirements (comply with section 11-55-34.08)

The owner or its duly authorized representative shall include the following information in the notice of intent (NOI):

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- (a) Legal name(s), street address, contact person's name and position title, and telephone and email address of the owner, operator, except for Appendix C and duly authorized representative, if applicable;

Note: For a construction activity, the operator is usually the general contractor.

- (b) Ownership status as federal, state, private, public or other entity;
- (c) Name, street address, island, tax map key number(s), contact person's name and position title, and telephone and email address of the facility or project for which the notice of intent is submitted;
- (d) Name(s) of the receiving state water(s) that the effluent enters or will enter, the latitude and longitude of each outfall or discharge point to the nearest receiving state water(s), and the classification of the receiving state water(s).

If the effluent initially enters a separate storm water drainage system, the owner or its duly authorized representative shall provide the following information:

- (1) Name of the owner of the drainage system; and
- (2) Copy of the permit, license, or equivalent written approval granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s).

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- (e) Type of general permit required for the proposed discharge;
- (f) Quantity of discharge; the source of the discharge; and the period of discharge, i.e., continuous, seasonal, occasional, or emergency;
- (g) Topographic map or maps of the area extending at least one mile beyond the property boundaries of the site which clearly show the following:
  - (1) Legal boundaries of the site;
  - (2) Location and an identification number for each of the site's existing and proposed intake and discharge structures; and
  - (3) Receiving state water(s) or receiving storm water drainage system(s) identified and labeled. If the receiving state water is a wetland, submit a map showing the delineated wetland.
- (h) Flow chart or line drawing showing the general route taken by the discharge from the intake or source to the discharge point, except for Appendices B, C, and K. The owner or its duly authorized representative shall show any treatment system(s) or erosion control(s) used or to be used for new discharges. The flow contributed by each source may be estimated if no data is available;

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- (i) List of existing or pending permits, licenses, or approvals and corresponding file numbers; and
- (j) Certifying person's name and position title, company name, and telephone number.

