

National Pollutant Discharge Elimination System
General Permit Fact Sheet for
Hawaii Administrative Rules (HAR) Chapter 11-55, Appendix A
Standard General Permit Conditions

The Standard General Permit Conditions is divided into the following sections:

1. *Basic water quality criteria [Revised]*
2. *Onshore or offshore construction [Revised]*
3. *Sampling requirements and definitions [Revised]*
4. *Duty to reapply [Revised]*
5. *Applications [Revised]*
6. *Duty to comply [Revised]*
7. *Need to halt or reduce activity not a defense [Revised]*
8. *Duty to mitigate [Revised]*
9. *Proper operation and maintenance [Revised]*
10. *Permit actions [Revised]*
11. *Property rights [Revised]*
12. *Duty to provide information [Revised]*
13. *Inspection and entry [Revised]*
14. *Monitoring and records [Revised]*
15. *Signatory requirement [Revised]*
16. *Reporting requirements [Revised]*
17. *Bypass [Revised]*
18. *Upset [Revised]*
19. *Existing manufacturing, commercial, mining, and silvicultural dischargers [Revised]*
20. *Publicly owned treatment works [Revised]*
21. *Reopener clause [Revised]*
22. *Privately owned treatment works [Revised]*
23. *Transfers by modification [Revised]*
24. *Automatic transfers [Revised]*
25. *Minor modification of permits [Revised]*
26. *Termination of permits [Revised]*
27. *Removed substances [Revised]*
28. *Availability of reports [Revised]*
29. *Civil and criminal liability [Revised]*
30. *Oil and hazardous substance liability [Revised]*
31. *Federal facility construction [Revised]*
32. *State law [Revised]*

- 33. Severability [Revised]
- 34. Notice of Intent Requirements [Revised]

Main

Original:

Note: All references to Title 40 of the Code of Federal Regulations (40 CFR) are to regulations that are in effect on July 1, 2012 unless otherwise specified.

Revised:

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.

Rationale:

Title 40 of the Code of Federal Regulations has been updated.

Section 1

Original: *Basic water quality criteria (section 11-54-4)*

Revised: *Basic water quality criteria (comply with Section 11-54-4)*

Rationale:

A more detailed reference to the State law was added to this section.

Section 1(b)

Original: *The discharge shall not cause or contribute to a violation of the basic requirements of section 11-54-4(b)*

Revised: *The Permittee shall not cause or contribute to a violation of the basic numeric water quality requirements of Hawaii Administrative Rules, Chapter 11-54, Section 11-54-4(c).*

Rationale:

Revised verbiage to match Standard NPDES Permit Conditions (Version 16) and update the reference to applicable section of 11-54.

Section 2

Original: *Onshore or offshore construction*

Revised: *Onshore or offshore construction (Hawaii Revised Statutes, Section 342D-4)*

Rationale:

Reference to the State law was added to this section.

Section 3

Original: *Sampling requirements and definitions*

Revised: *Sampling requirements and definitions (Hawaii Revised Statutes, Section 342D-4)*

Rationale:

Reference to the State law was added to this section.

Section 3(b)(2)

Original: *"Water Measurement Manual," U.S. Department of Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001, 485 pp. (Available from the U.S. Government Bookstore. Order by Stock No. 024-003-00186-4 and ISBN 0-16-061763-4.) (Also available from National Technical Information Service (NTIS). Order by NTIS No. PB2002-100323.)*

Revised: *"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>.)*

Rationale:

Revised to provide website to access various media versions of document.

Section 3(b)(4)

Original: *"NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, EPA No. 832B81102, September 1981, 149 pp. (Available from the National Technical Information Service (NTIS). Order by NTIS No. PB82-131178.)*

Revised: *"NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147 pp. (Available from the General Services Administration (8BRC), Centralized Mailing Lists Services, Building 41, Denver Federal Center, Denver, CO 80225.)*

Rationale:

Revised to update agency from which to order document.

Section 4

Original: *Duty to reapply*

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

Rationale:

References to the State and Federal laws were added to this section.

Section 5

Original: *Applications (comply with 40 CFR §122.22)*

Revised: *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:*
 - (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 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 manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position);*
- (2) *The authorization is made in writing by a person designated under subsection (a); and*
- (3) *The written authorization is submitted to the director.*
- (c) *If an authorization under subsection (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (b) must be submitted to the director prior to or together with any reports, information, or applications to be signed by an authorized representative.*
- (d) *Certification. Any person signing a document under subsection a. or b. shall make the following certification:*

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my

knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 6

Original: *Duty to comply (comply with 40 CFR §122.41(a))*

Revised: *Duty to comply (comply with 40 CFR §122.41(a) and Section 11-55-03)*

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and Hawaii water pollution law and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- a. *The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.*
- b. *The Permittee shall be subject to statutory penalty amounts for violations are set forth in Hawaii Revised Statutes, 342D.*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 7

Original: *Need to halt or reduce activity not a defense (comply with 40 CFR §122.41(c))*

Revised: *Need to halt or reduce activity not a defense (comply with 40 CFR §122.41(c) and based in part on Hawaii Revised Statutes, Section 342D-4)*

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.

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 8

Original: *Duty to mitigate (based in part on 40 CFR §122.41(d))*

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

Rationale:

Reference to the State law was added to this section.

Section 9

Original: *Proper operation and maintenance (comply with 40 CFR §122.41(e))*

Revised: *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.

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 10

Original: *Permit actions (comply with 40 CFR §122.41(f))*

Revised: *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 or anticipated noncompliance does not stay any permit condition.

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 11

Original: Property rights (comply with 40 CFR §122.41(g))

Revised: Property rights (comply with 40 CFR §122.41(g) and Sections 11-55-15(g))

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

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 12

Original: Duty to provide information (comply with 40 CFR §122.41(h))

Revised: 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.

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 13

Original: Inspection and entry (comply with 40 CFR §122.41(i))

Revised: 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;*
- 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.*

Rationale:

Reference to the State law was added to this section. Reference to the Federal law was made more specific. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 14

Original: *Monitoring and records (based in part on 40 CFR §122.41(j))*

Revised: *Monitoring and records (based in part on 40 CFR §122.41(j)) and Sections 11-55-29 and 11-55-31)*

Rationale:

Reference to the State law was added to this section.

Section 15

Original: *Signatory requirement (comply with 40 CFR §§122.22 and 122.41(k))*

Revised: *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)*
- 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.*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 16

Original: Reporting requirements (comply with 40 CFR §122.41(l))

Revised: Reporting requirements (comply with 40 CFR §122.41(l) 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 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.)*
- e. *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 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.*
 - (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. STANDARD NPDES PERMIT CONDITIONS (Version 16) Page 16 of 27 v.16*
 - (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*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 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).*
 - (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. STANDARD NPDES PERMIT CONDITIONS (Version 16)
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- 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.*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 17

Original: *Bypass (based in part on 40 CFR §122.41(m))*

Revised: *Bypass (based in part on 40 CFR §122.41(m) and Hawaii Revised Statutes, Section 342D-4)*

Rationale:

Reference to the State law was added to this section.

Section 18

Original: *Upset (based in part on 40 CFR §122.41(n))*

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

Rationale:

Reference to the State law was added to this section.

Section 19

Original: *Existing manufacturing, commercial, mining, and silvicultural dischargers (comply with 40 CFR §122.42(a))*

Revised: *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(l), 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*
 - (4) *The level established by the Director of Health in accordance with 40 CFR §122.44(f). STANDARD NPDES PERMIT CONDITIONS (Version 16) Page 20 of 27 v.16*

- 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).*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 20

Original: Publicly owned treatment works (comply with 40 CFR §122.42(b))

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

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 21

Original: Reopener Clause (comply with 40 CFR §122.44(c) and 40 CFR §125.123(d)(4);

Revised: 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 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. STANDARD NPDES PERMIT CONDITIONS (Version 16)
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- (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 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.*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 22

Original: *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))*

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

Rationale:

Reference to the State law was added to this section.

Section 23

Original: *Transfers by modification (comply with 40 CFR §122.61(a))*

Revised: *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.

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 24

Original: *Automatic transfers (comply with 40 CFR §122.61(b) and section 11-55-34.08(i)(2))*

Revised: *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*
- 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.*

Rationale:

Reference to the State law was added to this section. Verbiage included on the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 25

Original: *Minor modification of permits (comply with 40 CFR §122.63);*

Revised: *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 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.*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 26

Original: *Termination of permits (comply with 40 CFR §122.64)*

Revised: *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;*
 - (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. 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 STANDARD NPDES PERMIT CONDITIONS (Version 16) Page 26 of 27 v.16 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.*

Rationale:

Reference to the State law was added to this section. Verbiage included in the Appendix to match Standard NPDES Permit Conditions Version 16.

Section 27

Original: *Removed substances (under Sections 301 and 405 of the Act and 40 CFR §125.3(g));*

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

Rationale:

Reference to the State law was added to this section.

Section 28

Original: *Availability of reports (under Section 308 of the Act);*

Revised: *Availability of reports (under Section 308 of the Act and Section 11-55-12);*

Rationale:

Reference to the State law was added to this section.

Section 29

Original: *Civil and criminal liability (under Section 309 of the Act);*

Revised: *Civil and criminal liability (under Section 309 of the Act and Hawaii Revised Statutes, Chapter 342D);*

Rationale:

Reference to the State law was added to this section.

Section 30

Original: *Oil and hazardous substance liability (under Section 311 of the Act);*

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

Rationale:

Reference to the State law was added to this section.

Section 31

Original: Federal facility construction (under Section 313(b) of the Act);

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

Rationale:

Reference to the State law was added to this section.

Section 32

Original: State law (under Section 510 of the Act);

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

Rationale:

Reference to the State law was added to this section.

Section 33

Original: Severability (under Section 512 of the Act);

Revised: Severability (under Section 512 of the Act and Section 11-55-37);

Rationale:

Reference to the State law was added to this section.

Section 34(j)

Original: Certifying person's name and position title, company name, and telephone and fax numbers.

Revised: Certifying person's name and position title, company name, and telephone number.

Rationale:

The CWB no longer has a fax number.