

National Pollutant Discharge Elimination System
General Permit Fact Sheet for
Hawaii Administrative Rules (HAR) Chapter 11-55, Appendix J
Authorizing Unintentional Discharges
from Recycled Water Systems

- (1) A brief description of the type of facility or activity which is the subject of the draft permit;

This general permit covers occasional or unintentional discharges composed entirely of R-1 water or R-1 water with any combination of stormwater or potable water or water used primarily for irrigation.

Currently, no general permit coverages are issued for occasional or unintentional discharges from recycled water systems covered under HAR 11-55, Appendix J.

- (2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

Recycled R-1 water or R-1 water with any combination of stormwater or potable water or water used primarily for irrigation. R-1 water is defined as recycled water that has been oxidized, filtered, and disinfected to meet the corresponding standards set in HAR Chapter 11-62.

- (3) For a PSD permit, the degree of increment consumption expected to result from operation of the facility or activity.

Not applicable.

- (4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by 40 CFR §124.9 (for EPA-issued permits);

The General Permit is divided into the following sections:

1. Coverage under this General Permit [Revised]
2. Limitations on Coverage under this General Permit [Revised]
3. Term of General Permit [Revised]
4. Notice of Intent Requirements [Revised]
5. Standard Conditions
6. Implementations of Best Management Practices

7. *Effluent Limitations and Monitoring Requirements*
8. *Corrective Action*
9. *Reporting Requirements*
10. *Submittal Requirements [Revised]*
11. *Additional Conditions*
12. *Record Retention*
13. *Falsifying Report*
14. *Administrative Extension [Revised]*
15. *Forms*

Sections 1 through 5 and 8 through 15 are basic requirements necessary to the General Permit. Sections 6 and 7 detail the implementation of Best Management Practices and effluent limitations and monitoring requirements for discharges of R-1 water or R-1 water with any combination of stormwater or potable water or water used primarily for irrigation.

Basis for Discharge Limitations and Monitoring Requirements

The basis for the proposed effluent limitations and monitoring requirements are the HAR Chapter 11-54, Water Quality Standards and Chapter 11-62, Wastewater Systems.

Discharges to Class 1 or Class AA Waters

Discharges to Class 1 and Class AA waters are allowed coverage under the general permit. The conditions and provisions of the general permit are protective of the uses for these classes of waters.

Chapter 11-55, Appendix J Revisions

Title

Original: NPDES GENERAL PERMIT AUTHORIZING OCCASIONAL OR UNINTENTIONAL DISCHARGES FROM RECYCLED WATER SYSTEMS

Revised: NPDES GENERAL PERMIT AUTHORIZING UNINTENTIONAL DISCHARGES FROM RECYCLED WATER SYSTEMS

Rationale: This general permit was intended to cover unintentional discharges from recycled water systems. CWB believes a facility that knowingly has “occasional” discharges should be covered under an NPDES permit for wastewater discharges. The proposed revision to remove “occasional” discharges from this general permit is more protective of water quality standards.

Section 1(a)

Original: This general permit covers occasional or unintentional discharges composed entirely of: (1) R-1 water, or (2) R-1 water with any combination of stormwater or potable water or water used primarily for irrigation, where the R-1 water is supplied from a treatment works and is conveyed or used by a recycled water system.

Revised: This general permit covers unintentional discharges composed entirely of: (1) R-1 water, or (2) R-1 water with any combination of stormwater or potable water or water used primarily for irrigation, where the R-1 water, defined as recycled water that has been oxidized, filtered, and disinfected to meet the corresponding standards set in chapter 11-62, is supplied from a treatment works and is conveyed or used by a recycled water system. Occasional or unintentional discharges are waters that are discharged rarely and was never planned to be discharged to State waters.

Rationale: This revision provides definition to R-1 waters and occasional or unintentional discharges. This general permit covers only R-1 water that meets the standards set in HAR 11-62.

Section 2(a)(5)

Original: (NEW)

Revised: Recycled water system discharges with toxic parameter concentrations above the applicable water quality criteria in Chapter 11-54;

Rationale: This limitation was added to prevent R-1 water discharges that contain toxic constituents in exceedance of the water quality standards listed in HAR Chapter 11-54, Appendix E.

Section 2(a)(7)

Original: Treatment works discharges that are not from an approved recycled water system.

Revised: Treatment works discharges that are not from a recycled water system approved by the department pursuant to chapter 11-62.

Rationale: Section revised to clarify who approves the recycled water system.

Section 2(c)(1) – (4) [New]

Original: (NEW)

Revised: (c) Permittees authorized by this general permit are required to comply with the following requirements:

- (1) Treat recycled water system discharges with controls to minimize discharges of pollutants, including appropriate controls to minimize erosion;
- (2) Prohibit visible plumes from the discharge and prohibit the discharge of visible floating solids or foam;
- (3) To the extent feasible, use vegetated, upland areas to infiltrate recycled water before discharge. State waters are prohibited from being used as part of the treatment area;
- (4) At all points where recycled water is discharged, dissipate velocity to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. Control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of the conveyance and at the outfall to

slow down the discharge. These devices shall not be placed within the receiving waters.

Rationale: Discharges authorized by this permit are often episodic. As this permit only authorizes the discharge of R-1 waters, facilities discharging under this permit are occasional or unintentional.

Discharges associated with this permit, if not treated, have the potential to cause receiving waters to exceed water quality standards. To better protect water quality and improve the permit effectiveness, the following changes are proposed:

- Require treatment which targets the reduction of settleable and suspended solids to reduce the potential for discharges causing exceedances of the turbidity water quality standards.
- Adding an explicit prohibition for visible plumes increases the protection of receiving waters from visual impacts, creates an intuitive compliance requirement, and is far more enforceable than a simple numeric turbidity limit. A prohibition of the visible plumes also accounts for potential variability in discharge quality throughout the discharge period as well as potential short-term variability in background receiving water quality.

Section 3(a)

Original: This general permit becomes effective ten days after filing with the office of the lieutenant governor.

Revised: 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.

Rationale: The revision is to make this subsection consistent with the general permit term specified at the beginning of the general permit. The previous language only specified when the general permit term began, and not when it expired. This is a minor change for completeness and consistency and has no functional impact on any permit requirements.

Section 3(b)

Original: A notice of general permit coverage under this general permit expires:

- (1) Five years after the effective date of this general permit;

- (2) When the notice of general permit coverage specifies; or
- (3) When amendments to section 11-55-34.02(b)(9) are adopted,

whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).

Revised: Unless otherwise specified on the notice of general permit coverage, a notice of general permit coverage granted under this general permit shall expire five years after the effective date of this general permit, unless it is administratively extended in accordance with section 3(c) of this general permit.

Rationale: Previously, to maintain coverage under this general permit in instances where the general permit is going to expire prior to its reissuance, permittees would need to submit a renewal NOI prior to the general permit's expiration date. The previous section 3(b) specified that the Notice of General Permit Coverage (NGPC) expires in the identified 3 scenarios in accordance with this renewal procedure. The Clean Water Branch is now revising the renewal procedures for general permits to no longer require a renewal NOI and administrative extension prior to the expiration of the general permit. Under the new procedure, unless otherwise specified on the NGPC, the NGPC expires five years after the effective date of the general permit, unless it is administratively extended under the new section 3(c). This revision is necessary to be consistent with the new renewal process. More information explaining this change in the renewal process is provided in the rationale for the new section 3(c).

Section 3(c)(1) – (3)

Original: (New)

Revised: (c) 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:

- (1) 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 expire on the effective date of the notice of general permit coverage authorizing the existing discharge under the new general permit;

- (2) An application for an individual NPDES 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 individual NPDES permit authorizing the existing discharge; or
(3) A notice of cessation is submitted where the administrative extension shall expire on the date that the discharge ceased.

Rationale: Previously, to maintain coverage under this general permit in instances where the general permit is going to expire prior to its reissuance, permittees would need to submit a renewal NOI prior to the general permit's expiration date. This procedure created a situation where a permittee is required to submit an NOI to request coverage under the reissued general permit prior to the reissued permit being finalized and adopted. In essence, permittees would be required to submit an NOI to apply for coverage under a general permit that has not been finalized, or at worst, has not had a draft public noticed yet, and therefore, permittees would not even be aware of what the new general permit's requirements would potentially be. To avoid this situation, the renewal process for general permit coverage has been revised. This new section now specifies that when the department is unable to reissue the general permit prior to its expiration, NGPCs granted under the general permit prior to its expiration are administratively extended until 60 days after effective date of the reissued general permit, unless one of 3 actions are taken by the permittee. In the new process, permittees would have 60 days to submit an NOI to request coverage under the reissued general permit, before their administrative extension expires. This will allow permittees to determine if they are able to comply with the new general permit and provide any newly required information in the NOI to request coverage under the reissued general permit.

Section 4(a) and (b)

Original: The owner or its duly authorized representative shall;

Revised: The owner or operator shall;

Rationale: The previous text specified that the owner or its authorized representative shall submit the notice of intent. As an NPDES permittee may be either the owner or operator of a facility or activity, the term "operator" was added to this section. Further, while the owner or operator's certifying person or duly authorized representative must sign the notice of intent as applicable, the requirement to submit the notice of intent is still the owner or operator's responsibility and is separate from notice of intent signatory requirements. To

provide clarity, the duly authorized representative language is removed from this section.

Section 4(b)(2)

Original: *Activity for which the recycled water is to be used and the amount in gallons per day of recycled water to be used or conveyed*

Revised: *A brief description of the recycled water system and the amount in gallons per day of R-1 water;*

Rationale: *This revision is to provide the Clean Water Branch more detailed information about the recycled water treatment system.*

Section 4(b)(4)

Original: *Copy of the agreement(s) relating to R-1 water use between the permittee and the owner or operator of treatment works producing the R-1 water, if the owner or operator is different from the permittee; and*

Revised: *Documentation showing that the recycled water system has been approved pursuant to Chapter 11-62 by the department.*

Rationale: *Applicants seeking coverage under this general permit previously submitted their notice of intent to Wastewater Branch for review and approval. The proposed revisions to this general permit designates Clean Water Branch to review and approve general permit coverage for this permit. As part of the notice of intent, Clean Water Branch requires the permittee to show the R-1 water system has been approved pursuant to HAR Chapter 11-62.*

Section 4(d)

Original: (New)

Revised: *The initial notice of intent shall be signed by the certifying person as described in section 11-55-07(a). A revised notice of intent (a notice of intent that the department has required to be revised and resubmitted) shall be signed by either the certifying person or duly authorized representative as described in section 11-55-07(b).*

Rationale: *The revised section 4(d) was revised to clarify the signatory requirements of the notice of intent. Previously, the DOH would receive questions*

on who must sign the notice of intent and revised notice of intent (as applicable). The intent of this revision is to clarify the signatory abilities of the certifying person. These signatory requirements are already in practice in current notice of intent processing procedures.

Section 4(e)

Original: [From previous section 4(d)] The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:

Director of Health
Wastewater Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

Revised: *The owner or operator shall submit a complete notice of intent to the director at the following address or as otherwise specified:*

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

Rationale: The address was revised to submit the complete NOI, discharge monitoring reports, and all other reports required by the general permit to Clean Water Branch.

Section 4(d) and 10(a)

Original: *Director of Health
Wastewater Branch
Environmental Management Division
Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378*

Revised: *Director of Health*

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

Rationale: The address was revised to submit the complete NOI, discharge monitoring reports, and all other reports required by the general permit to Clean Water Branch.

Section 7(b)(5)

Original: [NEW]

Revised: Color photographs shall be taken during the unintentional discharges of the Recycled Water effluent. Copies of the color photographs shall contain the date and time the photos were taken and a written narrative description of what is being depicted in the photograph. A photograph orientation map shall also be submitted.

All photographs shall be submitted to the DOH-CWB via the DOH e-Permitting Portal Compliance Submittal Form for Individual NPDES Permits and NGPCs. Photographs taken after the completion of the unintended discharges shall be submitted to the DOH-CWB within thirty (30) days after the completion of the discharges.

Rationale: Photo documentation added as a compliance requirement of the Basic Water Quality Criteria.

Section 10(a)

Original: The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director at the following address or as otherwise specified:

Director of Health
Wastewater Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

Revised: The permittee or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit 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, Hawaii 96801-3378

Rationale: Previously, the term “owner” was used interchangeably with “permittee”, which potentially caused confusion as the owner is not always the permittee (the permittee may also be the operator of the project/facility). This section was revised to provide clarity and avoid confusion.

The Clean Water Branch has taken over responsibility for the implementation of Appendix J from the Wastewater Branch.

Section 10(b)

Original: The owner 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 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 [or]and imprisonment for knowing violations.”

Revised: The permittee or its duly authorized representative shall include the following certification statement and an original signature, or as otherwise specified, 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 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: *Previously, the term “owner” was used interchangeably with “permittee”, which potentially caused confusion as the owner is not always the permittee (the permittee may also be the operator of the project/facility). This section was revised to provide clarity and avoid confusion.*

Since January 31, 2023, requests for permit coverage and compliance forms that are required by permit conditions must be submitted at the DOH’s e-Permitting Portal using electronic signature forms. This section was revised to clarify the signature requirements.

Section 10(c)

Original: *The owner 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 for this facility on future correspondence may be a basis for delay of the processing of the document(s).*

Revised: *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 for this facility on future correspondence may be a basis for delay of the processing of the document(s).*

Rationale: *Previously, the term “owner” was used interchangeably with “permittee”, which potentially caused confusion as the owner is not always the permittee (the permittee may also be the operator of the project/facility). This section was revised to provide clarity and avoid confusion.*

Section 14

Original: *Renewal*

Requests for renewal of general permit coverage must be received no later than 30 calendar days before the expiration of the general permit coverage.

Revised: Administrative Extension

Any notice of general permit coverage issued under the general permit dated February 9, 2019, shall be automatically administratively extended. This administrative extension shall expire sixty days after the effective date of this general permit unless:

(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.

Rationale: Request for renewals requires the permittee to certify in the NOI that they will comply with the new general permit. Request for renewals should not be submitted before the new general permit is issued. The permittee will not know of the new general permit requirements if the new general permit cannot be issued before the existing general permit expires. Section 3(c) has been revised to require the renewal NOI be submitted within 60 days after the effective date of the reissued general permit. See the rationale for Section 3(c) above.

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1. Reasons why any requested variances or alternatives to required standards do or do not appear justified;

Not applicable.
 2. A description of the procedures for reaching a final decision on the draft permit including:
 - (i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;
 - (ii) Procedures for requesting a hearing and the nature of that hearing; and
 - (iii) Any other procedures by which the public may participate in the final decision.

General Permit Fact Sheet for
HAR Chapter 11-55, Appendix J

Refer to HAR 11-1 Subchapter 3 for procedures for adopting rules. The proposed NPDES General Permit is issued as Appendix J within HAR Chapter 11-55, Water Pollution Control.

3. Name and telephone number of a person to contact for additional information.

*Mr. Darryl Lum
Chief
Clean Water Branch
Department of Health
Ph. (808) 586-4309*

4. For NPDES permits, provisions satisfying the requirements of § 124.56.

Refer to 40 CFR 450.

5. Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.

Not applicable.