

## CHAPTER 11-55 APPENDIX C

### NPDES GENERAL PERMIT AUTHORIZING DISCHARGES OF STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY

This General Permit is effective on

JAN 29 2024

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

#### 1. Coverage under this General Permit

##### 1.1.

This general permit covers storm water discharges, including storm water runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activities, including, but not limited to, clearing, grading, excavation, and construction support activities that result in the disturbance of one acre or more of total land area. This general permit also covers activities that disturb less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more of total land area.

Construction support activities include, but are not limited to, concrete or asphalt batch plants, rock crushing plants, equipment staging yards/areas, material storage areas, excavated material disposal areas, borrow areas, etc. Coverage under this general permit for construction support activities is allowed provided that the support activity is directly related to the construction project required to have permit coverage for storm water discharges; is not a commercial operation, nor does it serve multiple unrelated construction projects; does not continue to operate beyond the completion of the construction

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activity at the project site it supports; and storm water controls are implemented in accordance with section 5 and if applicable, section 6, for storm water discharges from the support activity areas.

### 1.2.

This general permit covers all areas of the State except natural freshwater lakes, saline lakes, and anchialine pools.

### 1.3.

This general permit shall automatically cover discharges of storm water from construction activities in response to a public emergency proclaimed by the President of the United States or State Governor if all of the following conditions are met:

#### 1.3.1.

The earth-disturbing activities are in response to a public emergency (e.g., natural disaster, widespread disruption in essential public services); and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services; and

#### 1.3.2.

Provide documentation to substantiate the issuance of the public emergency proclamation by the President of the United States or State Governor.

### 1.4.

"Disturbance of land" refers to the penetration, turning, or moving of soil or resurfacing of pavement

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with exposure of the base course or the exposure of bare soil or ground surface, including the land surface exposed by construction roads, baseyards, staging areas, demolition, headquarters, and parking areas. It does not include grass or weed cutting, bush or tree trimming or felling that leaves soil or ground intact. It includes "grubbing" in its normal meaning of the use of equipment to knock down and push vegetation out of the way, typically uprooting vegetation and disturbing the ground surface.

1.5.

A "larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. "Common plan" is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

Note: Projects within a common plan of development must submit separate Notice of Intents (NOIs). For the purpose of this permit, a "project" means separate and distinct construction activities.

1.6.

A "SWPPP" (Storm Water Pollution Prevention Plan) is a site-specific, written document that, among other things: (1) identifies potential sources of storm water pollution at the construction site; (2) describes storm water controls to reduce or eliminate pollutants in storm water discharges from the

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construction site; and (3) identifies procedures the permittee will implement to comply with the terms and conditions of this general permit.

1.7.

"Infeasible" means not technologically possible, or cost prohibitive and not achievable in light of best industry practices.

2. Limitations on Coverage under this General Permit

2.1.

This general permit does not cover the following:

2.1.1.

Storm water discharges associated with construction activity which flow into a sanitary sewer system;

2.1.2.

Storm water discharges from construction activities using polymers, flocculants, or other treatment chemicals;

2.1.3.

Storm water discharges associated with construction activities that are regulated by existing individual permits;

2.1.4.

Storm water discharges from a construction activity which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the

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drainage system(s) allowing the subject discharge to enter their drainage system(s); except if the permittee is the owner of the drainage system;

### 2.1.5.

Storm water discharges from construction approved under a CWA Section 404 permit or;

### 2.1.6.

Storm water discharges from the clearing of lands specifically for agricultural purposes in accordance with 40 CFR 122.3(e);

### 2.1.7.

Storm water discharges for which the director has issued a notice of general permit coverage under another general permit specific to that type of construction or industrial activity; and

### 2.1.8.

Storm water discharges that the director finds more appropriately regulated under an individual permit.

### 2.2.

Discharges of storm water from new sources that do not meet applicable water quality standard are not eligible for coverage under this permit, except if the permittee has included appropriate controls and implementation procedures designed to bring the discharge into compliance with water quality standards. In the absence of information demonstrating otherwise, the department expects that compliance with the storm water control requirements in this permit, including the requirements applicable

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to such discharges in section 6.2., will result in discharges that meet applicable water quality standards.

For this permit "new sources" means projects which occur after this general permit becomes effective when section 11-55-34.02 (b) (2) becomes effective, ten days after filing with the office of the lieutenant governor.

### 2.3.

The director may require any permittee authorized by this general permit to apply for and obtain an individual permit, in accordance with sections 11-55-34.05 and 11-55-34.11.

### 3. Term of this General Permit and the Notice of General Permit Coverage

#### 3.1. Term of this General Permit

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

#### 3.2. Term of the Notice of General Permit Coverage

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 3.3 of this general permit.

#### 3.3. Administrative Extension of the Notice of General Permit Coverage

If the department is unable to reissue this general permit prior to its expiration, a notice of general

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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:

### 3.3.1.

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;

### 3.3.2.

An application for a NPDES individual 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 NPDES individual permit authorizing the existing discharge; or

### 3.3.3.

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

## 4. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55. In case of conflict between the conditions stated here and those specified in the standard general

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permit conditions, the more stringent conditions shall apply.

### 5. Effluent Limitations Applicable To All Discharges From Construction Sites

The permittee is required to comply with the following effluent limitations in this section for authorized discharges from the site and/or from construction support activities.

#### 5.1. Erosion and sediment control requirements

The permittee shall design, install, and maintain erosion and sediment controls that discharge of pollutants from earth-disturbing activities. For purposes of this general permit, "Minimize" means to reduce and/or eliminate to the extent achievable using storm water controls that are technologically available and economically practicable and achievable in light of best industry practices. To meet this requirement, the permittee shall comply with the following provisions.

##### 5.1.1. General requirements applicable to all construction sites.

###### 5.1.1.1. Area of disturbance.

The permittee is required to minimize the amount of soil exposed during construction activities. The permittee is also subject to the deadlines for temporarily and/or permanently stabilizing exposed portions of the site pursuant to section 5.2.

###### 5.1.1.2. Design requirements.



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### 5.1.1.2.1.

The permittee shall account for the following factors in designing storm water controls.

Note: Storm water controls must be designed using the most recent data available to account for recent precipitation patterns and trends.

Note: If the site is exposed to or has previously experienced major storms, such as hurricanes, storm surge, extreme/heavy precipitation, and flood events, the permittee should also include consideration of and contingencies for whether implementing structural improvements, enhanced/resilient storm water controls, and other mitigation measures may help minimize impacts from storm water discharges from such major storm events.

#### 5.1.1.2.1.1.

The expected amount, frequency, intensity, and duration of precipitation;

#### 5.1.1.2.1.2.

The nature of storm water runoff (i.e., flow) and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. If any storm water flow will be channelized at the site, the permittee shall design storm water controls to control both peak flowrates and total storm water volume to minimize channel and streambank erosion in the immediate vicinity of discharge points; and

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### 5.1.1.2.1.3.

The range of soil particle sizes expected to be present on the site.

### 5.1.1.2.2.

The permittee shall direct discharges from storm water controls to vegetated areas of the site, including any natural buffers established under section 5.1.2.1., and maximize storm water infiltration to reduce pollutant discharges, unless infiltration would be inadvisable due to the underlying geology and ground water contamination concerns, or infeasible due to site conditions. The permittee shall use velocity dissipation devices if necessary to minimize soil erosion in order to minimize pollutant discharges when directing storm water to vegetated areas.

### 5.1.1.3. Installation requirements.

#### 5.1.1.3.1.

Complete installation of storm water controls prior to earth-disturbance. Prior to earth-disturbing activities in any given portion of the site have begun the permittee shall install and make operational any downgradient sediment controls (e.g., buffers or equivalent sediment controls, perimeter controls, exit point controls, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities.

Note: The requirement to install storm water controls prior to earth-disturbance of the project does not apply to the earth disturbance associated with the actual installation of these controls.

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### 5.1.1.3.2.

Use good engineering practices and follow manufacturer's specifications. The permittee shall install all storm water controls in accordance with good engineering practices, including applicable design specifications.

Note: Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or ordinances. Any departures from such specifications must reflect good engineering practice and must be explained in the SWPPP.

### 5.1.1.4. Maintenance Requirements

#### 5.1.1.4.1.

The permittee shall ensure that all erosion and sediment controls required in this section remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.

#### 5.1.1.4.2.

The permittee shall inspect all erosion and sediment controls in accordance with the applicable requirements in section 9.1., and document the findings in accordance with section 9.1.7. If a problem is found (e.g., erosion and sediment controls need to be replaced, repaired, or maintained), the permittee shall make the necessary repairs or modifications in accordance with the following schedule:

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### 5.1.1.4.2.1.

Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next work day, if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance. If it is infeasible to complete the routine maintenance by the close of the next work day, the permittee shall document in its records why this is the case and why the repair or other upkeep to be performed should still be considered routine maintenance in an inspection report under section 9.1.7.1.c. and complete such work no later than seven (7) calendar days from the time of discovery of the condition requiring maintenance.

Note: Routine maintenance means minor repairs or other upkeep performed to ensure the site's storm water controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control.

### 5.1.1.4.2.2.

When installation of a new erosion or sediment control or a significant repair is needed, the permittee shall install the new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery where feasible. If it is infeasible to complete the installation or repair within 7 calendar days, the permittee shall document in its records why it is infeasible to complete the installation or repair within the 7-day timeframe and document the schedule for installing the storm water control(s) and making it operational as soon as practicable after the 7-day timeframe. Where these actions result in changes to any of the storm water controls or procedures

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documented in the SWPPP, the permittee shall modify the SWPPP accordingly within 7 calendar days of completing this work.

### 5.1.2.

Erosion and sediment control requirements applicable to all sites.

#### 5.1.2.1. Provide natural buffer and sediment controls

Note: These requirements only apply when there are receiving state waters located within 50 feet of the project's earth disturbances.

Note: The department does not consider all storm water controls (e.g., constructed or natural site drainage features, storm drain inlets, sediment basins) to be state waters.

Note: Written documentation allowing use is required from the owner of areas that are not owned by the permittee or that are otherwise outside the operational control to be considered areas of undisturbed natural buffer for purposes of compliance with this section.

The permittee shall provide and maintain an area of undisturbed natural buffer and sediments controls between the disturbed portions of the site and any receiving state waters that are located within 50 feet of the project's earth disturbances.

Note: If the boundary of the disturbance area is within 50 feet of any receiving state water, triggering this requirement, then the installation of the project's perimeter control may be considered equivalent to the installation of sediment control.

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### 5.1.2.1.1. Compliance Alternatives.

The permittee can comply with this requirement in one of the following ways:

#### 5.1.2.1.1.1.

Provide and maintain a 50-foot undisturbed natural buffer and sediment control; or

Note: If the earth disturbances are located 50 feet or further from a receiving state water and have installed sediment control, then the permittee has complied with this alternative.

#### 5.1.2.1.1.2.

Provide and maintain an undisturbed natural buffer that is less than 50 feet and double sediment control (e.g., double perimeter control) spaced a minimum of 5 feet apart; or

#### 5.1.2.1.1.3.

If it is infeasible to provide and maintain an undisturbed natural buffer of any size, the permittee shall provide and maintain double sediment control (e.g., perimeter control) spaced a minimum of 5 feet apart and complete stabilization within 7 calendar days of the temporary or permanent cessation of earth-disturbing activities.

Note: For the compliance alternatives in sections 5.1.2.1.1.1. and 5.1.2.1.1.2., the permittee is not required to enhance the quality of the vegetation that already exists in the buffer, or provide vegetation if none exists. The permittee only need to retain and protect from disturbance the natural buffer that existed prior to the commencement of construction.

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Any preexisting structures or impervious surfaces are allowed in the natural buffer provided the permittee retain and protect from disturbance the natural buffer area outside the preexisting disturbance.

The permittee shall document the selected compliance alternative in the SWPPP, and comply with the applicable additional requirements described in section 5.1.2.1.2. and 5.1.2.1.3. below.

The compliance alternative selected above must be maintained throughout the duration of permit coverage, or until construction in that portion of the project is complete, and the area is restored and stabilized (as applicable), except that the permittee may select a different compliance alternative during the period of permit coverage, in which case the permittee shall modify the SWPPP to reflect this change.

### 5.1.2.1.2.

Additional Requirements for the Compliance Alternatives in section 5.1.2.1.1.1. and 5.1.2.1.1.2. If either of the compliance alternatives in section 5.1.2.1.1.1. or 5.1.2.1.1.2. is chosen above, throughout the period of coverage under this permit, the permittee shall comply with the following additional requirements:

#### 5.1.2.1.2.1.

Ensure that all discharges from the area of earth disturbance to the natural buffer are first treated by the site's erosion and sediment controls, and use velocity dissipation devices if necessary to minimize soil erosion in order to minimize pollutant discharges caused by storm water within the buffer;

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### 5.1.2.1.2.2.

Document in the SWPPP the natural buffer width retained on the property, and show the buffer boundary on the site plan; and

### 5.1.2.1.2.3.

Delineate, and clearly mark off, with flags, tape, or other similar marking device all natural buffer areas.

### 5.1.2.1.3.

Additional Requirement for the Compliance Alternative in section 5.1.2.1.1.3. If the compliance alternative in section 5.1.2.1.1.3. is chosen, the permittee shall also include in the SWPPP a description of why it is infeasible to provide and maintain an undisturbed natural buffer of any size.

### 5.1.2.1.4. Exceptions.

#### 5.1.2.1.4.1.

If there is no discharge of storm water to receiving state waters through the area between the site and any receiving state waters located within 50 feet of the site, the permittee is not required to comply with the requirements in this section. This includes situations where controls have been implemented, such as a berm or other barrier, that will prevent such discharges.

#### 5.1.2.1.4.2.

For "linear construction projects" where "linear construction projects" means the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors; switching, regulating and transforming equipment and



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associated ancillary facilities in a long, narrow area, the permittee is not required to comply with the requirements in this section if site constraints (e.g., limited right-of-way) prevent the permittee from meeting any of the compliance alternatives in section 5.1.2.1.1., provided that, to the extent practicable, the permittee limit disturbances within 50 feet of receiving state waters and/or the permittee provide erosion and sediment controls to treat storm water discharges from earth disturbances within 50 feet of the receiving state water. The permittee shall also document in the SWPPP the rationale as to why it is infeasible to comply with the requirements in section 5.1.2.1.1., and describe any buffer width retained and/or erosion and sediment controls installed.

### 5.1.2.1.4.3.

The following disturbances within 50 feet of a receiving state water are exempt from the requirements in this Part: construction approved under a CWA 404 permit; or construction of a water-dependent structure or water access area (e.g., pier, boat ramp, trail).

The permittee shall document in the SWPPP if any of the above disturbances will occur within the buffer area on the site.

### 5.1.2.2. Install perimeter controls.

#### 5.1.2.2.1.

Installation requirements: The permittee shall install sediment controls along those perimeter areas of the site that will receive storm water from earth-disturbing activities.

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For linear projects with rights-of-way that restrict or prevent the use of such perimeter controls, the permittee shall maximize the use of these controls where practicable and document in the SWPPP why it is impracticable in other areas of the project.

### 5.1.2.2.2.

**Maintenance Requirements:** The permittee shall remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control.

### 5.1.2.3. Minimize sediment track-out.

The permittee shall minimize the track-out of sediment onto off-site streets, other paved areas, and sidewalks from vehicles exiting the construction site. To comply with this requirement, the permittee shall:

#### 5.1.2.3.1.

Restrict vehicle use to properly designated exit points;

#### 5.1.2.3.2.

Use appropriate stabilization techniques at all points that exit onto paved roads so that sediment removal occurs prior to vehicle exit;

#### 5.1.2.3.3.

Where necessary, use additional controls to remove sediment from vehicle tires prior to exit; and

#### 5.1.2.3.4.

Where sediment has been tracked-out from the site onto the surface of off-site streets, other paved areas,

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and sidewalks, the permittee shall remove the deposited sediment by the end of the same work day in which the track-out occurs or by the end of the next work day if track-out occurs during non-working hours. The permittee shall remove the track-out by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly effective means of sediment removal. The permittee is prohibited from hosing or sweeping tracked-out sediment into any constructed or natural site drainage feature (unless it is connected to a sediment basin, sediment trap, or similarly effective control), storm drain inlet, or receiving state water.

Note: The department recognizes that some fine grains may remain visible on the surfaces of off-site streets, other paved areas, and sidewalks even after the implementation of sediment removal practices. Such "staining" is not a violation of this section.

### 5.1.2.4. Control discharges from stockpiled sediment or soil.

For any stockpiles or land clearing debris composed, in whole or in part, of sediment or soil, the permittee shall comply with the following requirements:

Note: For the purposes of this permit, sediment or soil stockpiles are defined as the storage for multiple days of soil or other sediment material to be used in the construction project or transported for disposal.

#### 5.1.2.4.1.

Locate the piles outside of any natural buffers established under section 5.1.2.1.1. and physically separated from other storm water controls implemented in accordance with section 5.1.;

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### 5.1.2.4.2.

Protect from contact with storm water (including run-on) using a temporary perimeter sediment barrier;

### 5.1.2.4.3.

Where practicable, provide cover or appropriate temporary stabilization to avoid direct contact with precipitation or to minimize sediment discharge;

### 5.1.2.4.4.

Do not hose down or sweep soil or sediment accumulated on pavement or other impervious surfaces into any constructed or natural site drainage feature (unless connected to a sediment basin, sediment trap, or similarly effective control), storm drain inlet, or receiving state water; and

### 5.1.2.4.5.

Unless infeasible, contain and securely protect from wind.

### 5.1.2.5. Minimize dust.

In order to avoid pollutants from being discharged into state waters, to the extent feasible, the permittee shall minimize the generation of dust through the appropriate application of water or other dust suppression techniques.

### 5.1.2.6. Minimize the disturbance of steep slopes.

The permittee shall minimize the disturbance of "steep slopes." For this permit, "steep slopes" means those that are 15 percent or greater in grade.

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Note: The permit does not prevent or prohibit disturbance on steep slopes. For some projects, disturbance on steep slopes may be necessary for construction (e.g., a road cut in mountainous terrain). If a disturbance to steep slopes is required for the project, the department would recognize that it is not economically achievable to avoid the disturbance to steep slopes. However, in cases where steep slope disturbances are required, minimizing the disturbances to steep slopes consistent with this requirement can be accomplished through the implementation of a number of standard erosion and sediment control practices, such as by phasing disturbances to these areas and using stabilization practices designed to be used on steep grades.

### 5.1.2.7. Preserve topsoil.

The permittee shall preserve native topsoil on the site, unless infeasible. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

Note: Some projects may be designed to be highly impervious after construction, and therefore little or no vegetation is intended to remain. In these cases, preserving topsoil at the site would not be feasible. Some sites may not have space to stockpile topsoil on site for later use, in which case, it may also not be feasible to preserve topsoil.

Note: Stockpiling of topsoil at off-site locations, or transfer of topsoil to other locations, is an example of a practice that is consistent with the requirements in this section.

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### 5.1.2.8. Minimize soil compaction.

In areas of the site where final vegetative stabilization will occur or where infiltration practices will be installed, the permittee shall either:

#### 5.1.2.8.1. Restrict vehicle/equipment use.

Restrict vehicle and equipment use in these locations to avoid soil compaction; or

#### 5.1.2.8.2. Use soil conditioning techniques.

Prior to seeding or planting areas of exposed soil that have been compacted, use techniques that condition the soils to support vegetative growth, if necessary and feasible.

### 5.1.2.9. Protect storm drain inlets.

If discharging to any storm drain inlet that carries storm water flow from the site directly to a state water (and it is not first directed to a sediment basin, sediment trap, or similarly effective control), and the permittee has authority to access the storm drain inlet, the permittee shall:

#### 5.1.2.9.1. Installation requirements.

Install inlet protection measures that remove sediment from the discharge prior to entry into the storm drain inlet.

Note: Inlet protection measures can be removed in the event of flood conditions where safety or loss of property is of concern or to prevent erosion, but must be reinstalled once safety, property loss, or erosion are no longer a risk.

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### 5.1.2.9.2. Maintenance requirements.

Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, the permittee shall remove the deposited sediment by the end of the same work day in which it is found or by the end of the following work day if removal by the same work day is not feasible.

### 5.1.2.10. Contaminated soil and contaminated soil stockpiles.

The permittee shall either:

#### 5.1.2.10.1.

Prevent storm water from contacting contaminated soil and contaminated soil stockpiles; or

#### 5.1.2.10.2.

Prevent the discharge of storm water runoff from contaminated soil and contaminated soil stockpiles.

### 5.1.3.

Requirements applicable only to sites using these specific storm water controls.

The permittee is required to comply with the following requirements if installing any of the following storm water controls at the site:

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### 5.1.3.1. Constructed site drainage features.

Design site drainage features to avoid unstabilized areas on the site and to reduce erosion, unless infeasible. Minimize erosion of channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters during discharge conditions through the use of erosion controls and velocity dissipation devices within and along the length of any constructed site drainage feature, and at any outlet to provide a non-erosive flow velocity.

### 5.1.3.2. Sediment Basins.

If installing a sediment basin, the permittee shall comply with the following:

#### 5.1.3.2.1. Design requirements.

##### 5.1.3.2.1.1.

Provide storage for either (1) the calculated volume of runoff from a minimum 2-year, 24-hour storm, or (2) 3,600 cubic feet per acre drained;

##### 5.1.3.2.1.2.

When discharging from the sediment basin, utilize outlet structures that withdraw water from the surface in order to minimize the discharge of pollutants, unless infeasible;

Note: The department believes that the circumstances in which it is infeasible to design outlet structures in this manner are rare. If determined by the permittee that it is infeasible to meet this requirement, the permittee shall provide documentation in the SWPPP to support the determination.



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### 5.1.3.2.1.3.

Prevent erosion of (1) the sediment basin using stabilization controls (e.g., erosion control blankets), and (2) the inlet and outlet using erosion controls and velocity dissipation devices; and

### 5.1.3.2.1.4.

Sediment basins must be situated outside of state waters and any natural buffers established under section 5.1.2.1.1., and must be designed to avoid collecting water from wetlands.

### 5.1.3.2.2. Maintenance requirements.

Keep in effective operating condition and remove accumulated sediment to maintain at least  $\frac{1}{2}$  of the design capacity of the sediment basin at all times.

### 5.1.3.3. Dewatering practices.

The permittee is prohibited from discharging ground water or accumulated storm water that is removed from excavations, trenches, foundations, vaults, or other similar points of accumulation.

## 5.2. Stabilization Requirements

The permittee is required to stabilize exposed portions of the site in accordance with the requirements of this section.

Note: For the purposes of this permit, "exposed portions of the site" means areas of exposed soil that are required to be stabilized. Note that the department does not expect that temporary or permanent stabilization measures to be applied to areas that are intended to be left unvegetated or unstabilized

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following construction (e.g., dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials). Otherwise, permanent stabilization is required for disturbed areas.

5.2.1. Deadlines for initiating and completing stabilization.

5.2.1.1. Deadline to initiate stabilization.

The permittee shall initiate soil stabilization measures immediately whenever earth-disturbing activities have permanently or temporarily ceased on any portion of the site. In limited circumstances, stabilization may not be required immediately (or, in even more limited circumstances, permanently) if the intended function of a specific area of the site necessitates that it remain disturbed.

Note: The Department can envision only limited cases where a disturbed area would not require stabilization because it should remain disturbed. Permittees must still minimize discharges from disturbed areas.

Note: Earth-disturbing activities have permanently ceased when clearing and excavation within any area of the construction site that will not include permanent structures has been completed.

Note: Earth-disturbing activities have temporarily ceased when clearing, grading, and excavation within any area of the site that will not include permanent structures will not resume (i.e., the land will be idle) for a period of 14 or more calendar days, but such activities will resume in the future.

The 14 calendar day timeframe above begins counting as soon as the permittee knows that construction work on

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a portion of the site will be temporarily ceased. In circumstances where the permittee experiences unplanned or unanticipated delays in construction due to circumstances beyond the permittee's control (e.g., sudden work stoppage due to unanticipated problems associated with construction labor, funding, or other issues related to the ability to work on the site; weather conditions rendering the site unsuitable for the continuation of construction work) and it is not known at first how long the work stoppage will continue, the permittee's requirement to immediately initiate stabilization is triggered as soon as it is known with reasonable certainty that work will be stopped for 14 or more additional calendar days. At that point, the permittee shall comply with sections 5.2.1.1. and 5.2.1.2.

Note: For the purposes of this permit, the department will consider any of the following types of activities to constitute the initiation of stabilization:

- a. prepping the soil for vegetative or non-vegetative stabilization;
- b. applying mulch or other non-vegetative product to the exposed area;
- c. seeding or planting the exposed area;
- d. starting any of the activities in a - con a portion of the area to be stabilized, but not on the entire area; and
- e. finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization in sections 5.2.1.2. and 5.2.1.3.

This list of examples is not exhaustive.

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Note: The term "immediately" is used to define the deadline for initiating stabilization measures. In the context of this provision, "immediately" means as soon as practicable, but no later than the end of the next work day, following the day when the earth-disturbing activities have temporarily or permanently ceased.

### 5.2.1.2. Deadline to complete stabilization activities.

As soon as practicable, but no later than 14 calendar days after the initiation of soil stabilization measures consistent with section 5.2.1.1., the permittee is required to have completed:

#### 5.2.1.2.1.

For vegetative stabilization, all activities necessary to initially seed or plant the area to be stabilized; and/or

#### 5.2.1.2.2.

For non-vegetative stabilization, the installation or application of all such non-vegetative stabilization measures.

### 5.2.1.3. Exceptions to the deadlines for initiating and completing stabilization.

#### 5.2.1.3.1.

Deadlines for projects that are affected by circumstances beyond the control of the permittee that delay the initiation and/or completion of vegetative stabilization as required in sections 5.2.1.1. and/or 5.2.1.2. If the permittee is unable to meet the deadlines in sections 5.2.1.1. and/or 5.2.1.2. due to

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circumstances beyond the permittee's control (e.g. problems with the supply of seed stock or with the availability of specialized equipment, unsuitability of soil conditions due to excessive precipitation and/or flooding), and the permittee is using vegetative cover for temporary or permanent stabilization, the permittee may comply with the following stabilization deadlines instead:

### 5.2.1.3.1.1.

Immediately initiate, and within 14 calendar days complete, the installation of temporary non-vegetative stabilization measures to prevent erosion;

### 5.2.1.3.1.2.

Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on the site; and

Note: The permittee is required to have stabilized the exposed portions of the site consistent with section 5.2.2. prior to terminating permit coverage.

### 5.2.1.3.1.3.

Document the circumstances that prevent the permittee from meeting the deadlines required in sections 5.2.1.1. and/or 5.2.1.2. and the schedule the permittee will follow for initiating and completing stabilization.

### 5.2.1.3.2.

Deadlines for sites discharging to impaired waters.  
For any portion of the site that discharges to a

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sediment or nutrient-impaired water (see section 6.2.), the permittee is required to complete the stabilization activities specified in sections 5.2.1.2.1. and/or 5.2.1.2.2. within 7 calendar days after the temporary or permanent cessation of earth-disturbing activities.

Note: If the permittee qualifies for the deadlines for initiating and completing stabilization in section 5.2.1.3.1. or 5.2.1.3.2., the permittee may comply with the stabilization deadlines in section 5.2.1.3.1. or 5.2.1.3.2. for any portion of the site that discharges to an impaired water.

### 5.2.2. Criteria for stabilization.

To be considered adequately stabilized, the permittee shall meet the criteria below depending on the type of cover the permittee is using, either vegetative or non-vegetative.

#### 5.2.2.1. Vegetative stabilization.

##### 5.2.2.1.1.

For all sites, except those located on agricultural lands.

##### 5.2.2.1.1.1.

If the permittee is vegetatively stabilizing any exposed portion of the site through the use of seed or planted vegetation, the permittee shall provide established uniform vegetation (e.g., evenly distributed without large bare areas), which provides 70 percent or more of the density of coverage that was provided by vegetation prior to commencing earth-disturbing activities. The permittee should avoid the use of invasive species;

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### 5.2.2.1.1.2.

For final stabilization, vegetative cover must be perennial; and

### 5.2.2.1.1.3.

Immediately after seeding or planting the area to be vegetatively stabilized, to the extent necessary to prevent erosion on the seeded or planted area, the permittee shall select, design, and install non-vegetative erosion controls that provide cover (e.g., mulch, rolled erosion control products) to the area while vegetation is becoming established.

### 5.2.2.1.2.

For sites located on land used for agriculture. Disturbed areas on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction) that are restored to their pre-construction agricultural use are not subject to these final stabilization criteria. Areas disturbed that were not previously used for agricultural activities, and areas that are not being returned to preconstruction agricultural use, must meet the conditions for stabilization in this section.

### 5.2.2.2. Non-Vegetative Stabilization.

If the permittee is using non-vegetative controls to stabilize exposed portions of the site, or if the permittee is using such controls to temporarily protect areas that are being vegetatively stabilized, the permittee shall provide effective non-vegetative cover to stabilize any such exposed portions of the site.

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### 5.3. Pollution prevention requirements

The permittee is required to design, install, and maintain effective pollution prevention controls in order to prevent the discharge of pollutants. Consistent with this requirement, the permittee shall:

- a. Eliminate certain pollutant discharges from the site (see section 5.3.1.);
- b. Properly maintain all pollution prevention controls (see section 5.3.2.); and
- c. Comply with pollution prevention standards for pollutant-generating activities that occur at the site (see section 5.3.3.).

These requirements apply to all areas of the construction site and any and all support activities covered by this permit consistent with section 5.

#### 5.3.1. Prohibited Discharges.

The permittee is prohibited from discharging the following from the construction site:

- 5.3.1.1. Wastewater from washout of concrete;
- 5.3.1.2. Wastewater from washout and/or cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- 5.3.1.3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- 5.3.1.4. Soaps, solvents, or detergents used in vehicle and equipment washing; and



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5.3.1.5. Toxic or hazardous substances from a spill or other release.

5.3.2. General Maintenance Requirements.

The permittee shall ensure that all pollution prevention controls installed in accordance with this section remain in effective operating condition and are protected from activities that would reduce their effectiveness. The permittee shall inspect all pollutant-generating activities and pollution prevention controls in accordance with the inspection frequency requirements in sections 9.1.2 or 6.2.2.1. to avoid situations that may result in leaks, spills, and other releases of pollutants in storm water discharges to receiving waters, and must document the findings in accordance with section 9.1.7. If the permittee finds that controls need to be replaced, repaired, or maintained, the permittee shall make the necessary repairs or modifications in accordance with the following:

5.3.2.1.

Initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next work day, if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance.

5.3.2.2.

When installation of a new pollution prevention control or a significant repair is needed, the permittee shall install the new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery. If it is infeasible to complete the installation or repair within 7 calendar days, the permittee shall

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document in the records why it is infeasible to complete the installation or repair within the 7 calendar day timeframe and document the schedule for installing the storm water control(s) and making it operational as soon as practicable after the 7 calendar day timeframe. Where these actions result in changes to any of the pollution prevention controls or procedures documented in the SWPPP, the permittee shall modify the SWPPP accordingly within 7 calendar days of completing this work.

### 5.3.3. Pollution prevention standards.

The permittee is required to comply with the pollution prevention standards in this section if the permittee conducts any of the following activities at the site or at any construction support activity areas covered by this permit (see section 5):

- a. Fueling and maintenance of equipment or vehicles;
- b. Washing of equipment and vehicles;
- c. Storage, handling, and disposal of construction materials, products, and wastes; and
- d. Washing of applicators and containers used for paint, concrete, or other materials.

The pollution prevention standards are as follows:

#### 5.3.3.1. Fueling and maintenance of equipment or vehicles.

If the permittee conducts fueling and/or maintenance of equipment or vehicles at the site, the permittee shall provide an effective means of eliminating the discharge of spilled or leaked chemicals, including

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fuel, from the area where these activities will take place.

To comply with the prohibition in section 5.3.1.3., the permittee shall:

### 5.3.3.1.1.

If applicable, comply with the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR 112 and section 311 of the CWA;

### 5.3.3.1.2.

Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids;

### 5.3.3.1.3.

Use drip pans and absorbents under or around leaky vehicles and equipment;

### 5.3.3.1.4.

Dispose of or recycle oil and oily wastes in accordance with other federal, state, and local requirements;

### 5.3.3.1.5.

Clean up spills or contaminated surfaces immediately, using dry clean up measures where possible, and eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge; and

### 5.3.3.1.6.

Do not clean surfaces by hosing the area down.

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### 5.3.3.2. Washing of equipment and vehicles.

#### 5.3.3.2.1.

The permittee shall provide an effective means to prevent the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other types of washing; and

#### 5.3.3.2.2.

To comply with the prohibition in section 5.3.1.4., for storage of soaps, detergents, or solvents, the permittee shall provide either (1) cover (e.g., plastic sheeting or temporary roofs) to prevent these detergents from coming into contact with rainwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these storage areas.

### 5.3.3.3. Storage, Handling, and Disposal of Construction Products, Materials, and Wastes.

The permittee shall minimize the exposure to storm water of any of the products, materials, or wastes specified below that are present at the site by complying with the requirements in this section.

Note: These requirements do not apply to those products, materials, or wastes that are not a source of storm water contamination or that are designed to be exposed to storm water.

Note: Compliance with the requirements of this permit does not relieve compliance with respect to federal, state or local requirements for the storage, handling, and disposal of solid, hazardous, or toxic wastes and materials.

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To ensure meeting this requirement, the permittee shall:

### 5.3.3.3.1.

For building products: In storage areas, provide either:

- a. Cover (e.g., plastic sheeting or temporary roofs) to prevent these products from coming into contact with rainwater, or
- b. A similarly effective means designed to prevent the discharge of pollutants from these areas.

### 5.3.3.3.2.

For pesticides, herbicides, insecticides, fertilizers, and landscape materials:

- a. In storage areas, provide either (1) cover (e.g., plastic sheeting or temporary roofs) to prevent these chemicals and materials from coming into contact with rainwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas; and
- b. Comply with all application and disposal requirements included on the registered pesticide, herbicide, insecticide, and fertilizer label.

### 5.3.3.3.3.

For diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals:

The following requirements apply to the storage and handling of chemicals on the site. If the permittee

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is already implementing controls as part of an SPCC or other spill prevention plan that meet or exceed the requirements of this section, the permittee may continue to do so and be considered in compliance with these requirements provided the permittee reference the applicable sections of the SPCC or other plans in the SWPP as required in section 7.2.11.1.

### 5.3.3.3.3.1.

If any chemical container has a storage capacity of less than 55 gallons:

- a. The containers must be water-tight, and must be kept closed, sealed, and secured when not being actively used;
- b. If stored outside, use a spill containment pallet or similar device to capture small leaks or spills; and
- c. Have a spill kit available on site that is in good working condition (i.e., not damaged, expired, or used up) and ensure personnel are available to respond immediately in the event of a leak or spill.

### 5.3.3.3.3.2.

If any chemical container has a storage capacity of 55 gallons or more:

- a. The containers must be water-tight, and must be kept closed, sealed, and secured when not being actively used;
- b. Store containers a minimum of 50 feet from receiving state waters, constructed or natural site drainage features, and storm drain inlets.

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If infeasible due to site constraints, store containers as far away from these features as the site permits. If site constraints prevent storing containers 50 feet away from receiving state waters or the other features identified, the permittee must document in the SWPPP the specific reasons why the 50-foot setback is infeasible, and how the permittee will store containers as far away as the site permits;

- c. Provide either (1) cover (e.g., temporary roofs) to minimize the exposure of these containers to precipitation and to storm water, or (2) secondary containment (e.g., curbing, spill berms, dikes, spill containment pallets, double-wall, above-ground storage tank); and
- d. Have a spill kit available on site that is in good working condition (i.e., not damaged, expired, or used up) and ensure personnel are available to respond immediately in the event of a leak or spill.

### 5.3.3.3.3.3.

Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. Do not clean surfaces or spills by hosing the area down. Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.

### 5.3.3.3.4.

For hazardous or toxic wastes:

Separate hazardous or toxic waste from construction and domestic waste;

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- a. Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable federal, state, and local requirements;
- b. Store all containers that will be stored outside away from receiving state waters, storm drain inlets, and constructed or natural site drainage features, and within appropriately-sized secondary containment (e.g., spill berms, decks, spill containment pallets) to prevent spills from being discharged, or provide a similarly effective means designed to prevent the discharge of pollutants from these areas (e.g., storing chemicals in covered area or having a spill kit available on site);
- c. Dispose of hazardous or toxic waste in accordance with the manufacturer's recommended method of disposal and in compliance with federal, state, and local requirements; and
- d. Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly. Do not clean surfaces or spills by hosing the area down. Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.

### 5.3.3.3.5.

For construction and domestic wastes:

Provide waste containers (e.g., dumpster or trash receptacle) of sufficient size and number to contain



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construction and domestic wastes. In addition, the permittee shall:

- a. For waste containers with lids, keep waste container lids closed when not in use, and close lids at the end of the business day and during storm events;
- b. For waste containers without lids, provide either cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or a similarly effective means (e.g., secondary containment) designed to minimize the discharge of pollutants;
- c. On work days, clean up and dispose of waste in designated waste containers; and
- d. Clean up immediately if containers overflow, and if there is litter elsewhere on the site from escaped trash.

Note: Examples of construction and domestic wastes include packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, demolition debris; and other trash or discarded materials.

5.3.3.3.6.

For sanitary waste:

Position portable toilets so that they are secure and will not be tipped or knocked over, and are located away from receiving state waters, storm drain inlets, and constructed or natural site drainage features.

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### 5.3.3.4. Washing of applicators and containers used for paint, concrete, or other materials.

The permittee shall provide an effective means of eliminating the discharge of water from the washout and cleanout of stucco, paint, concrete, form release oils, curing compounds, and other construction materials. To comply with this requirement, the permittee shall:

#### 5.3.3.4.1.

Direct all washwater into a leak-proof container or leak-proof pit. The container or pit must be designed so that no overflows can occur due to inadequate sizing or precipitation;

#### 5.3.3.4.2.

Handle washout or cleanout wastes as follows:

##### 5.3.3.4.2.1. For liquid wastes

- a. Do not dump liquid wastes or allow them to enter into constructed or natural site drainage features, storm drain inlets, or receiving state waters;
- b. Do not allow liquid wastes to be disposed of through infiltration or to otherwise be disposed of on the ground;
- c. Comply with applicable state or local requirements for the disposal of liquid wastes; and

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### 5.3.3.4.2.2. For solid wastes

Remove and dispose of hardened concrete waste consistent with the handling of other construction wastes in section 5.3.3.3.; and

### 5.3.3.4.3.

Locate any washout or cleanout activities as far away as possible from receiving state waters, constructed or natural site drainage features, and storm drain inlets, and, to the extent practicable, designate areas to be used for these activities and conduct such activities only in these areas.

### 5.3.4. Emergency spill notification.

The permittee is prohibited from discharging toxic or hazardous substances from a spill or other release, consistent with section 5.3.1.5. Where a leak, spill, or other release containing a hazardous substance or oil in an amount 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 during a 24-hour period, the permittee shall notify the National Response Center (NRC) at (800) 424-8802, the Clean Water Branch during regular business hours at (808) 586-4309, and the Hawaii State Hospital Operator at 247-2191 and the Clean Water Branch via email at [cleanwaterbranch@doh.hawaii.gov](mailto:cleanwaterbranch@doh.hawaii.gov) during non-business hours as soon as the permittee has knowledge of the discharge. The permittee shall also, within 7 calendar days of knowledge of the release, provide a description of the release, the circumstances leading to the release, and the date of the release. State and local requirements may necessitate additional reporting of spills or discharges to local emergency response, public health, or drinking water supply agencies.

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### 5.3.5. Fertilizer discharge restrictions.

The permittee is required to minimize discharges of fertilizers containing nitrogen or phosphorus. To meet this requirement, the permittee shall comply with the following requirements:

- 5.3.5.1. Apply at a rate and in amounts consistent with manufacturer's specifications, or document departures from the manufacturer specifications where appropriate in section 7.2.7.b. of the SWPPP;
- 5.3.5.2. Apply at the appropriate time of year for the location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth;
- 5.3.5.3. Avoid applying before heavy rains that could cause excess nutrients to be discharged;
- 5.3.5.4. Never apply to frozen ground;
- 5.3.5.5. Never apply to constructed or natural site drainage features with flowing water; and
- 5.3.5.6. Follow all other federal, state, and local requirements regarding fertilizer application.

### 6. Water Quality-Based Effluent Limitations

#### 6.1. General Effluent limitation to meet applicable water quality standards

Discharges shall be controlled as necessary to meet applicable water quality standards as specified in section 11-54-4.

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In the absence of information demonstrating otherwise, the department expects that compliance with the conditions in this permit will result in storm water discharges being controlled as necessary to meet applicable water quality standards. If at any time the permittee becomes aware, or the department determines, that the discharge is not being controlled as necessary to meet applicable water quality standards, the permittee must take corrective action as required in section 10.2.1., and document the corrective actions as required in section 10.2.1. and section 10.4.

The department will also impose additional water quality-based limitations on a site-specific basis, or require the permittee to obtain coverage under an individual permit, if information in the NOI, or from other sources indicates that the discharges are not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in a state-established and EPA-approved Total Maximum Daily Load (TMDL).

### 6.2. Water quality-based conditions for sites discharging to impaired state waters

If discharge is to a state water that is impaired for (1) sediment or a sediment-related parameter, such as total suspended solids (TSS) or turbidity, and/or (2) nutrients, including impairments for nitrogen and/or phosphorus, the permittee is required to comply with the requirements in section 6.2.2.

Note: For the purposes of this section, "impaired waters" are waters identified as impaired on the State CWA section 303(d) list, and waters with a state-established and EPA-approved TMDL. The construction site will be considered to discharge to an impaired

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water if the first state water to which the discharge enters is to a water on the section 303(d) list or one with a state established and EPA-approved TMDL. For discharges that enter a storm water drainage system prior to discharge, the first state water to which discharge is the water body that receives the storm water discharge from the storm water drainage system.

If discharge is to a state water that is impaired for a parameter other than a sediment-related parameter or nutrients, the department will inform the permittee if any additional limits or controls are necessary for the discharge to be controlled as necessary to meet water quality standards. These controls might include those necessary for the discharge to be consistent with the assumptions of any available wasteload allocation in any applicable TMDL. In addition, the department may require the permittee to apply for or obtain coverage under a NPDES individual permit.

If during the coverage under a previous permit, the permittee was required to install and maintain storm water controls specifically to meet the assumptions and requirements of a state-established and EPA-approved TMDL (for any parameter) or to otherwise control the discharge to meet water quality standards, the permittee shall continue to implement such controls as part of this permit.

### 6.2.1. Identify discharge to an impaired water.

If discharge is to an impaired water, the permittee shall provide the following information in the NOI:

- a. A list of all impaired waters to which discharge enters;
- b. The pollutant(s) for which the state water is impaired; and

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### 6.2.2. Requirements for discharges to sediment or nutrient-impaired waters.

If discharge is to a state water that is impaired for (1) sediment or a sediment-related parameter (e.g., total suspended solids (TSS) or turbidity) and/or (2) nutrients (e.g., nitrogen and/or phosphorus), including impaired waters for which a TMDL has been approved or established for the impairment, the permittee is required to comply with the following storm water control requirements in sections 6.2.2.1. and 6.2.2.2., which supplement the requirements applicable to the site in other corresponding sections of the permit.

The department will also impose additional water quality-based limitations on a site-specific basis, or require the permittee to obtain coverage under an individual permit, if it is determined that the controls will not be sufficient to control discharges consistent with the assumptions and requirements of an applicable wasteload allocation of an approved or established TMDL or to prevent the site from contributing to the impairment.

#### 6.2.2.1. Frequency of site inspection.

The permittee shall conduct inspections at the frequency specified in section 9.1.3.

#### 6.2.2.2. Deadline to complete stabilization.

The permittee shall comply with the deadlines for completing site stabilization as specified in section 5.2.1.3.2.

### 7. Storm Water Pollution Prevention Plan (SWPPP)

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### 7.1. Requirement to develop a SWPPP prior to submitting an NOI

All permittees and their contractors associated with a construction project to be covered under this permit must develop a SWPPP.

The Permittee is required to develop the site's SWPPP prior to submitting the NOI. The SWPPP must include at a minimum the information required in section 7.2. and as specified in other sections of this general permit and any other information as requested by the director. The permittee shall also update the SWPPP as required in section 7.4.

If a Site Specific Construction Best Management Practices (SSCBMP) Plan was previously developed for coverage under a previous version of this general permit, the permittee shall review and update the SSCBMP Plan to ensure that the SWPPP requirements of this permit are addressed prior to submitting the NOI.

### 7.2. SWPPP Contents

The SWPPP must include the following information, at a minimum.

#### 7.2.1. Storm water team.

The permittee shall assemble and oversee a "storm water team," which is responsible for the development of the SWPPP, any later modifications to it, and for compliance with the requirements in this permit.

The SWPPP must identify the personnel (by name and position) that the permittee made part of the storm water team, as well as their individual responsibilities. Each member of the storm water team must have ready access to an electronic or paper copy



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of applicable portions of this permit, the most updated copy of the SWPPP, and other relevant documents or information that must be kept with the SWPPP.

### 7.2.2. Nature of construction activities.

The SWPPP must describe the nature of the construction activities, including the size of the project site (in acres) and the total area expected to be disturbed by the construction activities (in acres), construction support activity areas covered by this permit (see section 5), and the maximum area expected to be disturbed at any one time.

### 7.2.3. Emergency-related projects.

If conducting earth-disturbing activities in response to a public emergency (see section 1.3.), the permittee shall document the cause of the public emergency (e.g., natural disaster, extreme flooding conditions, etc.), information substantiating its occurrence (e.g., state emergency proclamation or similar state proclamation), and a description of the construction necessary to reestablish effected public services. The proclamation of a civil defense emergency or similar proclamation is required to be from the President of the United States or State Governor.

### 7.2.4. Identification of other site contractors.

The SWPPP must include a list of all other contractors (e.g., sub-contractors) who will be engaged in construction activities at the site, and the areas of the site over which each contractor has control.

Note: The department acknowledges that a list of all other contractors might not be available at the time

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the SWPPP and NOI are submitted. If that is the case, then the SWPPP must be amended to include the information required in Section 7.2.4 prior to the start of construction activities.

### 7.2.5. Sequence and estimated dates of construction activities.

The SWPPP must include a description of the intended sequence of construction activities, including a schedule of the estimated start dates and the duration of the activity, for the following activities:

#### 7.2.5.1.

Installation of storm water controls, and when they will be made operational, including an explanation of how the sequence and schedule for installation of storm water controls complies with section 5.1.1.3.1. and of any departures from manufacturer specifications pursuant to section 5.1.1.3.2., including removal procedures of the storm water controls after construction has ceased;

#### 7.2.5.2.

Commencement and duration of earth-disturbing activities, including clearing and grubbing, mass grading, site preparation (i.e., excavating, cutting and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;

#### 7.2.5.3.

Cessation, temporarily or permanently, of construction activities on the site, or in designated portions of the site;

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### 7.2.5.4.

Final or temporary stabilization of areas of exposed soil. The dates for stabilization must reflect the applicable deadlines to which the permittee is subject to in section 5.2.1.; and

### 7.2.5.5.

Removal of temporary site drainage features and other storm water controls, removal of construction equipment and vehicles, and cessation of any pollutant-generating activities.

Note: If plans change due to unforeseen circumstances or for other reasons, the requirement to describe the sequence and estimated dates of construction activities is not meant to "lock in" the permittee or contractor to meeting these projections. When departures from initial projections are necessary, this should be documented in the SWPPP itself or in associated records, as appropriate.

### 7.2.6. Site map.

The SWPPP must include a legible site map, or series of maps, showing the following features of the project:

Note: Included in the project site are any construction support activities covered by this permit (see section 5) .

### 7.2.6.1.

Boundaries of the property and of the locations where construction activities will occur, including:

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- a. Locations where earth-disturbing activities will occur, noting any sequencing of construction activities;
- b. Approximate slopes before and after major grading activities and drainage patterns with flow arrows. Note areas of steep slopes, as defined in section 5.1.2.6.;
- c. Locations where sediment, soil, or other construction materials will be stockpiled;
- d. Locations of any contaminated soil or contaminated soil stockpiles;
- e. Locations of any crossings of receiving state waters;
- f. Designated points on the site where vehicles will exit onto paved roads;
- g. Locations of structures and other impervious surfaces upon completion of construction; and
- h. Locations of construction support activity areas covered by this permit (see section 5).

### 7.2.6.2.

Locations of any receiving state waters, including wetlands, that exist within or in the immediate vicinity of the site and indicate which of these receiving state waters are listed as impaired;

### 7.2.6.3.

The boundary lines of any natural buffers provided consistent with section 5.1.2.1.1.;

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### 7.2.6.4.

Topography of the site, existing vegetative cover and features (e.g., forest, pasture, pavement, structures), and drainage pattern(s) of storm water onto, over, and from the site property before and after major grading activities;

### 7.2.6.5.

Storm water discharge locations, including:

- a. Locations of any storm drain inlets on the site and in the immediate vicinity of the site to receive storm water runoff from the project site;
- b. Locations where storm water will be discharged to receiving state waters (including wetlands); and
- c. Locations where storm water will exit the site.

### 7.2.6.6.

Locations of all potential pollutant-generating activities identified in section 7.2.7.;

### 7.2.6.7.

Locations of storm water controls; and

### 7.2.6.8.

Locations where chemicals will be used and stored.

### 7.2.7. Construction site pollutants.

The SWPPP must include the following:

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- a. A list and description of all the pollutant-generating activities on the site.
- b. For each pollutant-generating activity, an inventory of pollutants or pollutant constituents (e.g., sediment, fertilizers and/or pesticides, paints, solvents, fuels) associated with that activity, which could be exposed to rainfall and could be discharged from the construction site. The permittee shall take into account where potential spills and leaks could occur that contribute pollutants to storm water discharges. The permittee shall also document any departures from the manufacturer's specifications for applying fertilizers containing nitrogen and phosphorus, as required in section 5.3.5.1.

### 7.2.8. Sources of non-storm water.

The SWPPP must also identify all sources of non-storm water and information, including, but not limited to, the design, installation, and maintenance of the controls to prevent its discharge.

### 7.2.9. Buffer documentation.

If the permittee is required to comply with section 5.1.2.1. because a receiving state water is located within 50 feet of the project's earth disturbances, the permittee shall describe which compliance alternative the permittee has selected for the site, and comply with any additional requirements to provide documentation in section 5.1.2.1.

### 7.2.10. Description of storm water controls

- 7.2.10.1 Storm water controls to be used during construction activity.

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The SWPPP must describe all storm water controls that are or will be installed and maintained at the site to meet the requirements of section 5. For each storm water control, the permittee must document:

- a. Information on the type of storm water control to be installed and maintained, including design information;
- b. What specific sediment controls will be installed and made operational prior to conducting earth-disturbing activities in any given portion of the site to meet the requirement of section 5.1.2.2.1.;
- c. If contaminated soil exists on-site, the controls to either prevent the contact of storm water with the contaminated soil, including any contaminated soil stockpiles, or prevent the discharge of any storm water runoff which has contacted contaminated soil or any contaminated soil stockpiles;
- d. For exit points on the site, document stabilization techniques the permittee will use and any additional controls that are planned to remove sediment prior to vehicle exit consistent with section 5.1.2.3.; and
- e. For linear projects, where the permittee has determined that the use of perimeter controls in portions of the site is impracticable, document why the permittee believes this to be the case (see section 5.1.2.2.1.).

### 7.2.10.2. Stabilization practices.

The SWPPP must describe the specific vegetative and/or non-vegetative practices that will be used to comply

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with the requirements in section 5.2., including if the permittee will be complying with the stabilization deadlines specified in section 5.2.1.3.2. The permittee shall document the circumstances that prevent the permittee from meeting the deadlines specified in sections 5.2.1.1. and/or 5.2.1.2.

### 7.2.10.3. Post construction measures.

Descriptions of measures that will minimize the discharge of pollutants via storm water discharges after construction operations have been finished. All projects require post construction BMPs to minimize the discharge of pollutants via storm water discharges after construction operations have been finished. Examples include: open, vegetated swales and natural depressions; structures for storm water retention, detention, or recycle; velocity dissipation devices to be placed at the outfalls of detention structures or along with the length of outfall channels; and other appropriate measures.

### 7.2.11. Pollution prevention procedures.

#### 7.2.11.1. Spill prevention and response procedures.

The SWPPP must describe procedures that the permittee will follow to prevent and respond to spills and leaks consistent with section 5.3., including:

- a. Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and
- b. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or



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other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity consistent with section 5.3.4. and established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period. Contact information must be in locations that are readily accessible and available.

The permittee may also reference the existence of Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an NPDES permit for the construction activity, provided that the permittee keeps a copy of that other plan onsite.

Note: Even if the permittee already has an SPCC or other spill prevention plan in existence, the plans will only be considered adequate if they meet all of the requirements of this section, either as part of the existing plan or supplemented as part of the SWPPP.

### 7.2.11.2. Waste management procedures.

The SWPPP must describe procedures for how the permittee will handle and dispose of all wastes generated at the site, including, but not limited to, clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

### 7.2.12. Procedures for inspection, maintenance, and corrective action.

The SWPPP must describe the procedures the permittee will follow for maintaining the storm water controls, conducting site inspections, and, where necessary,

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taking corrective actions, in accordance with section 5.1.1.4., section 5.3.2., section 9, and section 10 of the permit, accordingly. The following information must also be included in the SWPPP:

- a. Personnel responsible for conducting inspections;
- b. The inspection schedule the permittee will be following, which is based on whether the site is subject to section 9.1.2. or section 9.1.3., and whether the site qualifies for any of the allowances for reduced inspection frequencies in 9.1.4. If the permittee will be conducting inspections in accordance with the inspection schedule in section 9.1.2.a. or section 9.1.2.b., the location of the rain gauge on the site or the address of the weather station the permittee will be using to obtain rainfall data. If the permittee will be reducing the inspection frequency in accordance with section 9.1.4.2., the beginning and ending dates of frozen conditions on the site; and
- c. Any inspection or maintenance checklists or other forms that will be used.

### 7.2.13. Staff training.

The SWPPP must include documentation that the required personnel were trained in accordance with the following:

#### 7.2.13.1.

Prior to the commencement of earth-disturbing activities or pollutant-generating activities, whichever occurs first, the permittee shall ensure that the following personnel understand the

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requirements of this permit and their specific responsibilities with respect to those requirements:

- a. Personnel who are responsible for the design, installation, maintenance, and/or repair of storm water controls (including pollution prevention controls);
- b. Personnel who are responsible for the application and storage of chemicals (if applicable);
- c. Personnel who are responsible for conducting inspections as required in section 9.1.1.; and
- d. Personnel who are responsible for taking corrective actions as required in section 10.

Notes: (1) If the person requiring training is a new employee, who starts after the permittee commences earth-disturbing or pollutant-generating activities, the permittee shall ensure that this person has the proper understanding as required above prior to assuming particular responsibilities related to compliance with this permit. (2) For emergency-related construction activities, the requirement to train personnel prior to commencement of earth-disturbing activities does not apply, however, such personnel must have the required training prior to NOI submission.

7.2.13.2.

The permittee is responsible for ensuring that all activities on the site comply with the requirements of this permit. The permittee is not required to provide or document formal training for subcontractors or other outside service providers, but must ensure that such personnel understand any requirements of the

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permit that may be affected by the work they are subcontracted to perform.

At a minimum, personnel must be trained to understand the following if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):

- a. The location of all storm water controls on the site required by this permit, and how they are to be maintained;
- b. The proper procedures to follow with respect to the permit's pollution prevention requirements; and
- c. When and how to conduct inspections, record applicable findings, and take corrective actions.

7.2.14. Documentation of compliance with Safe Drinking Water Act Underground Injection Control (UIC) requirements for certain subsurface storm water controls.

If using any of the following storm water controls at the site, as they are described below, the permittee must document any contact with the department's Safe Drinking Water Branch for implementing the requirements for underground injection wells in the Safe Drinking Water Act and EPA's implementing regulations at 40 CFR Parts 144 -147. Such controls would generally be considered Class V UIC wells:

- a. Infiltration trenches (if storm water is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system);

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- b. Commercially manufactured precast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate storm water flow; and
- c. Drywells, seepage pits, or improved sinkholes (if storm water is directed to any bored, drilled, driven shaft or dug hole that is deeper than its widest surface dimension, or has a subsurface fluid distribution system).

7.2.15. Information to be included in the SWPPP prior to the start of construction activities.

7.2.15.1. Contractor information.

The following contractor (general and subcontractors) information shall be included in the SWPPP: legal name, street address, contact person's name and position title, telephone number, and email address.

7.2.15.2. Other state, federal, or county permits.

The following are required to be included in the SWPPP prior to the start of construction activities, if applicable:

- a. Copy of the drainage system owner's approval allowing the discharge to enter their drainage system;
- b. Copy of the county-approved grading permit;
- c. Copy of the department of the army permit and section 401 water quality certification; and
- d. A list of other permits.

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7.2.16. Any other information as requested by the director.

7.2.17. SWPPP certification.

The certifying person or duly authorized representative must certify, sign, and date the SWPPP in accordance with section 15 of appendix A, chapter 11-55.

7.2.18. Post-authorization additions to the SWPPP.

After the issuance of the NGPC the permittee shall include the following documents as part of the SWPPP:

- a. A copy of the NOI submitted to the department along with any correspondence exchanged between the permittee and the department related to coverage under this permit;
- b. A copy of the NGPC and all attachments included with the NGPC (an electronic copy easily available to the storm water team is also acceptable) .

7.3. On-site availability of the SWPPP

The permittee is required to keep a current hard or electronic copy of the SWPPP at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by the department; EPA; or local agency approving storm water management plans; the operator of a storm water drainage system receiving discharges from the site; or representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS).

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The department may provide access to portions of the SWPPP to a member of the public upon request. Confidential Business Information (CBI) will be withheld from the public, but may not be withheld from EPA, USFWS, or NMFS.

Note: Information covered by a claim of confidentiality will be disclosed by the department only to the extent of, and by means of, the procedures set forth in 40 CFR Part 2, Subpart B. In general, submitted information protected by a business confidentiality claim may be disclosed to other employees, officers, or authorized representatives of the United States concerned with implementing the CWA. The authorized representatives, including employees of other executive branch agencies, may review CBI during the course of reviewing draft regulations.

If an onsite location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of the construction site.

### 7.4. Required SWPPP modifications

#### 7.4.1. List of conditions requiring SWPPP modification.

The permittee shall modify the SWPPP, including the site map(s), in response to any of the following conditions:

##### 7.4.1.1.

Whenever new contractors become active in construction activities on the site, or changes are made to the construction plans, storm water controls, pollution prevention controls, or other activities at the site that are no longer accurately reflected in the SWPPP.

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This includes changes made in response to corrective actions triggered under section 10;

### 7.4.1.2.

To reflect areas on the site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;

### 7.4.1.3.

If inspections or investigations by site staff, or by local, state, or federal officials determine that SWPPP modifications are necessary for compliance with this permit;

### 7.4.1.4.

Where the department determines it is necessary to impose additional requirements on the discharge, the following must be included in the SWPPP:

- a. A copy of any correspondence describing such requirements; and
- b. A description of the storm water controls that will be used to meet such requirements.

### 7.4.1.5.

To reflect any revisions to applicable federal, state, and local requirements that affect the storm water controls implemented at the site.

### 7.4.2. Deadlines for SWPPP modifications.

The permittee shall complete required revisions to the SWPPP within 7 calendar days following the occurrence of any of the conditions listed in section 7.4.1.

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### 7.4.3. SWPPP modification records.

The permittee shall maintain records showing the dates of all SWPPP modifications. The records must include a signature of the person authorizing each change (see section 7.2.17. above), date, and a brief summary of all changes.

### 7.4.4. Certification requirements.

All modifications made to the SWPPP consistent with section 7.4. must be certified, signed, and dated by the Certifying Person that meets the requirements in section 15 of appendix A, chapter 11-55 or the duly authorized representative that meets the requirements of 11-55-07 (b).

### 7.4.5. Required notice to other contractors.

Upon determining that a modification to the SWPPP is required, if there are multiple contractors covered under this permit, the permittee shall immediately notify any contractors who may be impacted by the change to the SWPPP.

## 8. Implementation of the Storm Water Pollution Prevention Plan (SWPPP)

### 8.1.

The permittee shall design, operate, implement, and maintain the SWPPP to ensure that storm water discharges associated with construction activities will meet applicable state water quality standards.

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### 8.2.

The permittee shall implement the SWPPP to improve the quality of storm water discharges or when instructed by the director.

### 9. Inspections

#### 9.1. Site Inspections

The permittee shall inspect the receiving state waters, storm water runoff and all controls and best management practices to detect violations of applicable water quality criteria as specified in section 11-54-4 (e.g., the permittee shall look at storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life). The permittee must inspect the receiving state waters only when there is a discharge from the project site or there is a potential for downstream erosion. If the discharge enters an MS4 or separate drainage system prior to the receiving state water, then the permittee may inspect their discharge where it enters the drainage system rather than at the receiving water. When effluent commingles with offsite water or pollutant sources prior to discharging to the receiving water or separate drainage system, in lieu of inspecting the receiving water or where it enters the drainage system, the permittee may inspect the effluent at a location representative of the discharge quality prior to commingling. The permittee is not required to inspect areas that, at the time of the inspection, are considered unsafe to inspection personnel, if the unsafe conditions have been documented.

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### 9.1.1. Person(s) responsible for conducting site inspection

The person(s) inspecting the site may be a person on staff or a third party hired to conduct such inspections. The permittee is responsible for ensuring that any person conducting site inspections is a "qualified person."

Note: A "qualified person" is a person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the skills to assess conditions at the construction site that could impact storm water quality, and the skills to assess the effectiveness of any storm water controls selected and installed to meet the requirements of this permit.

### 9.1.2. Frequency of Inspections.

At a minimum, the permittee shall conduct a site inspection in accordance with one of the two schedules listed below, unless subject to section 9.1.3. for discharges to impaired waters or qualify for a section 9.1.4. reduction in the inspection frequency. As specified in section 9.1., the permittee is not required to inspect areas that, at the time of inspection, are considered unsafe to inspection personnel, if the unsafe conditions have been documented.

- a. At least once every 7 calendar days; or
- b. Once every 14 calendar days and within 24 hours of the occurrence of a storm event as specified in section 9.1.2.1.1. or section 9.1.2.1.2.

Note: Inspections are only required during the project's normal working hours.

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Note: The permittee is required to specify in the SWPPP which schedule will be followed.

### 9.1.2.1. Types of storm event

#### 9.1.2.1.1. For rain

A storm event that produces 0.25 inches or more of rain within a 24-hour period.

- a. If a storm event produces 0.25 inches or more of rain within a 24-hour period (including when there are multiple, smaller storms that alone produce less than 0.25 inches but together produce 0.25 inches or more in 24 hours), the permittee is required to conduct one inspection within 24 hours of when 0.25 inches of rain or more has fallen.
- b. If a storm event produces 0.25 inches or more of rain within a 24-hour period on the first day of a storm and continues to produce 0.25 inches or more of rain on subsequent days, the permittee must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after the last day of the storm that produces 0.25 inches or more of rain (i.e., only two inspections would be required for such a storm event).

Note: For example, if 0.30 inches of rain falls on Day 1, 0.25 inches of rain falls on Day 2, and 0.10 inches of rain fall on Day 3, the permittee is required to conduct a first inspection within 24 hours of the Day 1 rainfall and a second inspection within 24 hours of the Day 2 rainfall, but a third inspection is not required within 24 hours of the Day 3 rainfall.

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### 9.1.2.1.2. For snow

A discharge of snowmelt from a storm event that produces 3.25 inches or more of snow accumulation within a 24-hour period.

Note: 3.25 inches of snow is equivalent to 0.25 inches of rain. This is based on information from the National Oceanic and Atmospheric Administration (NOAA) indicating that 13 inches of snow is, on average, equivalent to 1 inch of rain.

- a. The permittee is required to conduct one inspection once the discharge of snowmelt from a 3.25-inch or more snow accumulation occurs.
- b. The permittee is required to conduct additional inspections if following the discharge from the first snowmelt, there is a discharge of snowmelt from a separate storm event that produces 3.25 inches or more of snow accumulation.

### 9.1.2.2.

To determine whether a storm event meets either of the thresholds in section 9.1.2.1.1. or section 9.1.2.1.2.:

- a. For rain, the permittee must either keep a properly maintained rain gauge on the site, or obtain the storm event information from a weather station that is representative of the location. For any 24-hour period during which there is 0.25 inches or more of rainfall, the permittee must record the total rainfall measured for that day in accordance with section 9.1.7.1.d.
- b. For snow, the permittee must either take measurements of snowfall at the site, or rely on

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similar information from a local weather forecasting provider that is representative of the location.

Note: For snowfall measurements, the department suggests use of a piece of wood, about 16 inches by 16 inches in size, that is placed in an unobstructed part of the site on a hard surface.

### 9.1.3. Increase in inspection frequency

For any portion of the site that discharges to an impaired water (see section 6.2), the permittee shall conduct an inspection once every 7 calendar days and within 24 hours of the occurrence of a storm event that produces 0.25 inches or more of rain within a 24-hour period, or within 24 hours of the discharge of snowmelt from a storm event that produces 3.25 inches or more of snow accumulation within a 24-hour period. Refer to sections 9.1.2.2.a. and 9.1.2.2.b. for the requirements to determine if a storm event produces enough rain or snow to trigger the inspection requirement.

Note: The increased inspection frequencies established in this section take the place of the inspection frequencies specified in section 9.1.2 for the portion of the site affected.

Note: Inspections are only required during the project's normal working hours.

Note: If the permittee qualifies for any of the reduced inspection frequencies in section 9.1.4., the permittee may conduct inspections in accordance with section 9.1.4. for any portion of the site that discharges to an impaired water.

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### 9.1.4. Reductions in inspection frequency.

#### 9.1.4.1. For stabilized areas

The permittee may reduce the frequency of inspections to once per month until the permit coverage expires or is terminated in any area of the site where the stabilization steps in sections 5.2.1.2.1. and 5.2.1.2.2. have been completed. If construction activity resumes in this portion of the site at a later date, the inspection frequency immediately increases to that required in sections 9.1.2. or 9.1.3., if applicable. The permittee shall document the beginning and ending dates of this period in the records.

#### 9.1.4.2. For frozen conditions

##### 9.1.4.2.1.

If construction activities are suspended due to frozen conditions, the permittee may temporarily suspend inspections on the site until thawing conditions begin to occur under the following conditions.

- a. If discharges are unlikely due to continuous frozen conditions that are likely to continue at the site for least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the permittee must immediately resume regular inspection frequency described in sections 9.1.2. and 9.1.3., as applicable;

Note: The permittee must use data sets that include the most recent data available to account for recent precipitation patterns and trends.

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- b. If earth disturbances have been suspended; and
- c. If all disturbed areas of the site have been stabilized in accordance with section 5.2.1.

### 9.1.4.2.2.

If construction activities are still conducted during frozen conditions, the permittee may reduce the inspection frequency to once per month under the following conditions.

- a. If discharges are unlikely due to continuous frozen conditions that are likely continue at the site for at least three (3) months based on historic seasonal averages. If unexpected weather conditions (such as above freezing temperatures or rain events) make discharges likely, the permittee must immediately resume regular inspection frequency described in sections 9.1.2. and 9.1.3., as applicable; and
- b. If the areas in which the construction activities are actively conducted, the disturbed areas of the site have been stabilized in accordance with section 5.2.1.

### 9.1.4.2.3.

The permittee shall document the beginning and ending dates of this period in the records.

### 9.1.5. Areas that need to be inspected.

The permittee shall at a minimum inspect the following areas of the site:



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- a. All areas that have been cleared, graded, or excavated and that have not yet completed stabilization consistent with section 5.2.;
- b. All storm water controls (including pollution prevention controls) installed at the site to comply with this permit;

Note: This includes the requirement to inspect sediment that has been tracked out from the site onto paved roads, sidewalks, or other paved areas consistent with section 5.1.2.3.

- c. Material, waste, borrow, or equipment storage and maintenance areas that are covered by this permit;
- d. All areas where storm water typically flows within the site, including constructed or natural site drainage features designed to divert, convey, and/or treat storm water;
- e. All points of discharge from the site; and
- f. All locations where stabilization measures have been implemented.

As specified in section 9.1., the permittee is not required to inspect areas that, at the time of the inspection, are considered unsafe to inspection personnel, if the unsafe conditions have been documented.

### 9.1. 6. Requirements for inspections.

During each site inspection, the permittee shall at a minimum:

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### 9.1.6.1.

Check whether all erosion and sediment controls and pollution prevention controls are installed, appear to be operational, and are working as intended to minimize pollutant discharges. Determine if any controls need to be replaced, repaired, or maintained in accordance with sections 5.1.1.4. and 5.3.2.;

### 9.1.6.2.

Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site;

### 9.1.6.3.

Identify any locations where new or modified storm water controls are necessary to meet the requirements of sections 5 and/or 6;

### 9.1.6.4.

At points of discharge and, if applicable, on the banks of any receiving state waters flowing within the property boundaries or immediately adjacent to the property, check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to the discharge;

### 9.1.6.5.

Check for signs of sediment deposition that are visible from the site and attributable to the discharge (e.g., sand bars with no vegetation growing on top in receiving state waters or in other constructed or natural site drainage features, or the buildup of sediment deposits on nearby streets, curbs, or open conveyance channels); and

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### 9.1.6.6

Identify any and all incidents of noncompliance observed.

### 9.1.6.7.

If a discharge is occurring during the inspection, the permittee is required to:

- a. Identify all points of the property from which there is a discharge; and
- b. Observe and document the visual quality of the discharge, and take note of the characteristics of the storm water discharge, including color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of storm water pollutants. Check also for signs of these same pollutant characteristics that are visible from the site and attributable to the discharge in receiving state waters or in other constructed or natural site drainage features; and
- c. Document whether the storm water controls are operating effectively, and describe any such controls that are clearly not operating as intended or are in need of maintenance.

### 9.1.6.8.

Based on the results of the inspection:

- a. Initiate any necessary maintenance repairs or replacements under section 10; and
- b. Modify the SWPPP site map in accordance with section 7.4.1. to reflect changes to the storm

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water controls that are no longer accurately reflected on the current site map.

### 9.1.7. Inspection report.

#### 9.1.7.1.

Requirement to Complete Inspection Report. The permittee must complete an inspection report within 48 hours of completing any site inspection. Each inspection report must include the following:

- a. The inspection date;
- b. Names and titles of personnel making the inspection;
- c. A summary of the inspection findings, covering at a minimum the observations made in accordance with section 9.1.6., including any problems found during the inspection that make it necessary to perform routine maintenance pursuant to section 5.1.1.4.2.1. or corrective actions pursuant to section 10.
- d. If inspecting the site at the frequency specified in section 9.1.2.b., section 9.1.3., or section 9.1.4., and the permittee conducted an inspection because of a storm event that produced rainfall measuring 0.25 inches or more within a 24-hour period, the permittee shall include the applicable rain gauge or weather station readings that triggered the inspection. Similarly, if the permittee conducted an inspection because of a snowmelt discharge from a storm event that produced 3.25 inches or more of snow within a 24-hour period, the permittee must include any measurements taken of snowfall at the site, or

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weather station information that triggered the inspection; and

- e. If determined that it is unsafe to inspect a portion of the site, the permittee shall describe the reason to be unsafe and specify the locations that this condition applied to.

### 9.1.7.2. Signature Requirements.

Each inspection report must be certified and signed in accordance with section 15 of appendix A, chapter 11-55 or the duly authorized representative that meets the requirements of 11-55-07(b).

### 9.1.7.3. Recordkeeping Requirements.

The permittee is required to keep a current, copy of all inspection reports at the site or at an easily accessible location, so that it can be made immediately available at the time of an onsite inspection or upon request by the department or EPA.

Note: Inspection reports may be prepared, certified and signed, and kept electronically, rather than in paper form, if the records are:

- a. In a format that can be read in a similar manner as a paper record;
- b. Legally dependable with no less evidentiary value than their paper equivalent; and
- c. Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

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All inspection reports completed for this section must be retained for at least three years from the date that the permit coverage expires or is terminated.

### 9.2. Inspection by the department or EPA

The permittee shall allow the department, EPA, or an authorized representative of the EPA, to conduct the following activities at reasonable times:

- a. Enter onto areas of the site, including any construction support activity areas covered by this permit (see Section 5), and onto locations where records are kept under the conditions of this permit;
- b. Access and copy any records that must be kept under the conditions of this permit;
- c. Inspect the construction site, including any construction support activity areas covered by this permit (see section 5) and any storm water controls installed and maintained at the site; and
- d. Sample or monitor for the purpose of ensuring compliance.

### 10. Corrective Actions

The permittee shall immediately stop, reduce, or modify construction, or implement new or revised best management practices as needed to stop or prevent a violation of applicable water quality criteria as specified in section 11-54-4.

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### 10.1. "Corrective actions" defined

Corrective actions are actions taken in compliance with this section to:

- a. Repair, modify, or replace any storm water control used at the site;
- b. Clean up and properly dispose of spills, releases, or other deposits; or
- c. Remedy a permit violation.

### 10.2. Requirements for taking corrective actions

The permittee shall complete the following corrective actions in accordance with the deadlines specified in this section. In all circumstances, the permittee shall immediately take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational, including cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events.

Note: In this context, the term "immediately" requires construction contractors to, on the same day a condition requiring corrective action is found, take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational. However, if the problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day.

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### 10.2.1. Corrective action deadlines

For any of the following conditions on the site, the permittee shall install a new or modified control and make it operational, or complete the repair, by no later than 7 calendar days from the time of discovery. If it is infeasible to complete the installation or repair within 7 calendar days, the permittee shall document in the records why it is infeasible to complete the installation or repair within the 7 calendar day timeframe and document a schedule for installing the storm water control(s) and making it operational as soon as practicable after the 7-day timeframe.

- a. A required storm water control was never installed, was installed incorrectly, or not in accordance with the requirements in sections 5 and/or 6; or
- b. The permittee becomes aware that the storm water controls installed and being maintained are not effective enough for the discharge to meet applicable water quality standards or applicable requirements in section 6.1. In this case, the permittee shall notify the department by the end of the next work day; or
- c. One of the prohibited discharges in section 5.3.1. is occurring or has occurred.

### 10.2.2.

Where corrective actions result in changes to any of the storm water controls or procedures documented in the SWPPP, the permittee shall modify the SWPPP accordingly within 7 calendar days of completing corrective action work.



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### 10.3. Corrective actions required by the department

The permittee shall comply with any corrective actions required by the department as a result of permit violations found during an inspection carried out under section 9.2.

### 10.4. Corrective action log

For each corrective action taken in accordance with this section, the permittee shall record the following information in a corrective action log.

#### 10.4.1.

Within 24 hours of discovering the occurrence of one of the triggering conditions in section 10.2.1. at the site, the permittee shall document the following information:

- a. The condition identified at the site;
- b. The nature of the condition identified; and
- c. The date and time of the condition identified and how it was identified.

#### 10. 4. 2.

Within 7 calendar days of discovering the occurrence of one of the triggering conditions in section 10.2.1. at the site, the permittee shall document the following information:

- a. Any follow-up actions taken to review the design, installation, and maintenance of storm water controls, including the dates such actions occurred;

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- b. A summary of storm water control modifications taken or to be taken, including a schedule of activities necessary to implement changes, and the date the modifications are completed or expected to be completed; and
- c. Notice of whether SWPPP modifications are required as a result of the condition identified or corrective action.

### 10. 4. 3.

Each entry into the corrective action log, consisting of the information required by both sections 10.4.1. and 10.4.2., must be certified and signed in accordance with section 15 of appendix A, chapter 11-55 or the duly authorized representative that meets the requirements of 11-55-07(b).

Note: The corrective action log may be prepared, certified and signed, and kept electronically, rather than in paper form, if the records are:

- a. In a format that can be read in a similar manner as a paper record;
- b. Legally dependable with no less evidentiary value than their paper equivalent; and
- c. Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

### 10. 4. 4.

The permittee shall keep a current copy of the corrective action log at the site or at an easily accessible location, so that it can be made

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immediately available at the time of an onsite inspection or upon request by the department.

The permittee shall retain the corrective action log for at least three years from the date that the permit coverage expires or is terminated.

### 11. Notice of Intent (NOI) requirements

#### 11. 1.

The owner or operator shall submit a complete notice of intent no later than thirty days before the proposed starting date of the construction activity or thirty days before the expiration date of the applicable notice of general permit coverage.

#### 11. 2.

The owner or operator shall include the following information in the notice of intent:

##### 11.2.1.

Information required in section 34 of appendix A of chapter 11-55;

##### 11.2.2.

That coverage is being requested as a result of an emergency and meets the eligibility conditions under this permit and information required in section 7.2.3.

##### 11.2.3.

That coverage is being requested for discharge to an impaired water, if applicable;

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11.2.4.

Preparation of a SWPPP in accordance with section 7 prior to submitting the NOI;

11.2.5.

Information required in section 7.2.2 - Nature of construction activities.

11.2.6.

Information required in section 7.2.5. - Sequence and estimated dates of construction activities.

11.2.7.

Information required in section 7.2.6. - Site map, except for sections 7.2.6.6. through 7.2.6.8.

11.2.8.

If applicable, army corps of engineers' jurisdictional determination and section 401 water quality certification best management practices plan.

11.2.9.

Agreement to the terms, conditions, and requirements in this general permit and all other applicable State, County, and Federal regulations.

11. 3.

The director may require additional information to be submitted.

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### 11. 4.

The owner or operator shall submit a notice of intent form or 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 website at: <http://health.hawaii.gov/cwb/>

#### 11.4.1.

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) .

#### 11.4.2.

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

### 12. Reporting Requirements

#### 12. 1.

The permittee shall immediately notify the director of the incident and identify the pollutant sources and

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the proposed and implemented controls or mitigative measures as required in section 16 of appendix A of chapter 11-55.

### 12.2.

The permittee shall notify the director of the construction start date through the Permitting portal within seven (7) calendar days before the start of construction activities. All communication with the department shall include the file number and the certification statement. The notification will only be accepted from the person qualified in accordance with section 11-55-34.0B(f).

## 13. Submittal Requirements

### 13.1.

The permittee or its duly authorized representative shall prepare a monthly compliance report, which shall include but is not limited to information as required in this general permit and NGPC, any incidences of non-compliance and corrective actions. The monthly compliance report shall be kept on-site and available by the end of the next business day when requested by the department.

### 13.2.

When all construction activities have ceased, the permittee shall submit to the department a completed Notice of Cessation. The department shall receive this information within 7 calendar days after the end of the month.

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13.3.

The permittee or its duly authorized representative shall submit signed copies of all 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  
Department of Health  
P.O. Box 3378  
Honolulu, HI 96801-3378

13.4.

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."

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13.5.

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 or submittals may be a basis for delay of the processing of the document(s).

14. Additional Conditions

The director may impose additional conditions under section 11-55-34.09(b) .

15. Record Retention

The permittee shall retain all records and information resulting from the activities required by this general permit for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation or administrative enforcement action regarding the discharge of pollutants by the permittee or when requested by the director or Regional Administrator.

16. Falsifying Report

Knowingly making any false statement on any report required by this general permit may result in the imposition of criminal penalties as provided for in Section 309 of the Act and in section 342D-35, HRS.

17. Administrative Extension

Any notice of general permit coverage issued under the general permit dated February 9, 2019, shall be automatically administratively extended. This



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administrative extension shall expire sixty days after the effective date of this general permit unless:

17.1.

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

17.2.

An application for a NPDES individual 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 NPDES individual 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;



**CHAPTER 11-55 APPENDIX A**

- (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.

