

CHAPTER 11-55 APPENDIX G

NPDES GENERAL PERMIT AUTHORIZING DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY DEWATERING

This General Permit is effective on

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

1. Coverage under this General Permit

- (a) This general permit covers discharges from the dewatering process of construction activities of any size, including treated storm water discharges, upon compliance with the applicable general permit requirements.
- (b) This general permit covers [~~all areas of the State~~] discharges to all State waters except for [~~discharges~~]:
 - (1) Discharges into natural freshwater lakes, saline lakes, [~~and~~] or anchialine pools[~~-~~]; or
 - (2) Discharges that occur within lands of exclusive federal jurisdiction.

2. Limitations on Coverage under this General Permit

- (a) This general permit does not cover the following:
 - (1) Discharges of construction dewatering effluent into a sanitary sewer system;

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- (2) Storm water discharges associated with construction activities for which the director has issued a notice of general permit coverage under another general permit;
- (3) Return flow or overflow from dredged material dewatering process that are regulated by the U.S. Army Corps of Engineers under Section 404 of the Act;
- (4) Discharges of construction dewatering effluent which initially enter separate storm water drainage systems, unless a permit, license, or equivalent written approval is granted by the owner(s) of the drainage system(s) allowing the subject discharge to enter their drainage system(s); except if the permittee is the owner of the drainage system;
- (5) Discharges of construction dewatering effluent that is subject to the general permit specified in appendix D of chapter 11-55;
- (6) Discharges of construction dewatering effluent with toxic parameter concentrations above ~~[the applicable water quality criteria in chapter 11-54; and]~~ those specified in appendix E of chapter 11-54; and
- (7) Discharges of construction dewatering effluent that the director finds more appropriately regulated under an individual permit.

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- (b) 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 11-55-34.10.
- (c) Permittees authorized by this general permit are required to comply with the following requirements[-]:
 - (1) Treat construction dewatering discharges with controls to minimize discharges of pollutants. Appropriate controls include sediment basins or sediment traps, sediment socks, dewatering tanks, tube settlers, weir tanks, filtration systems (e.g., bag or sand filters), and passive treatment systems that are designed to remove sediment. Appropriate controls to use downstream of dewatering controls to minimize erosion include vegetated buffers, check dams, riprap, and grouted riprap at outlets[-];
 - (2) Prohibit [~~visible plumes from the discharge and prohibit the discharge of visible floating solids or foam.~~]discharges with observable deposits of floating solids, scum, sheen or other substances, an observable film, sheen or discoloration from oil and grease; or foam or substances that produce an observable change in color, odor, or cloudiness in the discharges;
 - (3) Use an oil-water separator or suitable filtration device (such as a cartridge filter) that is designed to remove oil,

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grease, or other products if dewatering water is found to contain these materials[-];

- (4) To the extent feasible, use vegetated, upland areas to infiltrate dewatering water before discharge. State waters are prohibited from being used as part of the treatment area[-];
- (5) At all points where dewatering water is discharged, dissipate velocity to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. Control measures that can be used to comply with this requirement include the use of erosion controls and/or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of the conveyance and at the outfall to slow down the discharge. These devices shall not be placed within receiving waters[-];
- (6) Dispose backwash water offsite in accordance with all governmental regulations or return it to the beginning of the treatment process[-];and
- (7) Replace or clean the filter media used in dewatering devices when the pressure differential equals or exceeds the manufacturer's specifications.

3. Term of General Permit

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- (a) This general permit becomes effective ten days after filing with the office of the lieutenant governor and shall expire five years after the effective date, unless amended earlier.
- (b) Unless otherwise specified on the notice of general permit coverage, a notice of general permit coverage granted under this general permit prior to the expiration of this general permit shall expire five years after the effective date of this general permit, unless it is administratively extended in accordance with section 3(c) of this general permit.
- (c) If the department is unable to reissue this general permit prior to its expiration, a notice of general permit coverage granted under this general permit shall be automatically administratively extended, unless otherwise specified on the notice of general permit coverage. This administrative extension shall expire sixty days after the effective date of the new general permit unless:
 - (1) A notice of intent for coverage under the new general permit is submitted within sixty days after the effective date of the new general permit. The administrative extension shall thus expire on the effective date of the notice of general permit coverage authorizing the existing discharge under the new general permit;
 - (2) An application for an individual NPDES permit coverage is submitted within

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sixty days after the effective date of the new general permit. The administrative extension shall thus expire on the effective date of the individual NPDES permit authorizing the existing discharge; or

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

4. Notice of Intent Requirements

- (a) The owner or operator shall submit a complete notice of intent thirty days before the proposed starting date of the discharge, and at least thirty days before the expiration date of this general permit.
- (b) The owner or operator shall include the following information in the notice of intent:
 - (1) Information required in section 34 of appendix A of chapter 11-55;
 - (2) Legal name, street address, telephone number, and contact person(s) for the designer(s) of the dewatering or treatment facility(ies) or both;
 - (3) Site characterization report including the history of the land use at the proposed construction site and surrounding area, the potential pollution source(s) at the proposed construction site and surrounding area, the potential pollutant(s) present at

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the proposed construction site and surrounding area, any proposed corrective measures, and pollutants that may be in the discharge;

- (4) Brief description of the project including the total disturbance area of the project; the portion of the project involving construction dewatering; an estimated timetable for major activities (including the date when the contractor will begin site disturbance); the date when the contractor will begin the construction dewatering process; estimates of the quantity, rate, and frequency of the proposed discharges; and the time frame of the proposed discharges;
- (5) An analysis of the source water quality as specified by the director. The source water quality data may be collected from sites allowed by the director. The analysis shall:
 - (A) Include an explanation addressing the selection of the toxic pollutants provided and an evaluation of the source water quality data collected with respect to the applicable numeric criteria and numeric standards for the toxic pollutants specified under section 11-54-4,
 - (B) Be based on the history of the land use as reported in paragraph 4(b)(3) or as believed to be present in the discharge,

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- (C) Use test methods as specified in section 6(a)(4)(B), and
 - (D) Be submitted to the director with the notice of intent;
- (6) Site-specific dewatering plan [~~designed to comply with the basic water quality criteria specified under chapter 11-54.~~] to ensure the construction dewatering effluent will meet the conditions of this general permit. The plan shall include the pumping devices to be used, their pumping capacity, and the number of devices to be used; treatment design; design concerns; calculations used in the treatment design; and proposed mitigative measures. For discharges to Class AA or Class 1 waters, the site-specific dewatering plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific dewatering plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office;
- (7) Dewatering system maintenance plan to ensure that the construction dewatering effluent [~~discharge~~] will meet the conditions of this general [~~permit,~~ basic water quality criteria, and applicable specific water quality

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~~parameters.]~~ permit. The dewatering system maintenance plan shall include:

- (A) Schedule of activities,
- (B) Operation and maintenance procedures to prevent or reduce the pollution of state waters, including:
 - (i) Responsible field person of the system, by title or name;
 - (ii) Operations plan;
 - (iii) Maintenance scheduling or action criteria;
 - (iv) Maintenance program;
 - (v) Sediment handling and disposal plan;
 - (vi) Monitoring and visual inspection program;
 - (vii) Cessation of discharge plan; and
 - (viii) Effluent control plan, and
- (C) Treatment requirements.

For discharges to Class AA or Class 1 waters, the site-specific dewatering system maintenance plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific dewatering

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system maintenance plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office; and

- (8) Construction pollution prevention plan to prevent or reduce the pollution of state waters due to other discharges. The construction pollution prevention plan shall include:
 - (A) Prohibited practices,
 - (B) Other management practices to prevent or reduce the pollution of state waters, and
 - (C) Practices to control project site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage or stockpiling area(s).

For discharges to Class AA or Class 1 waters, the site-specific construction pollution prevention plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific construction pollution prevention plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all

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subsequent revisions, shall be retained on-site or at a nearby field office.

- (c) The director may require additional information to be submitted.
- (d) 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).
- (e) The owner or operator shall submit a complete notice of intent ~~[to the director at the following address or as otherwise specified:]~~ on forms specified by the director. Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit>.

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

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5. Standard Conditions

The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55[÷], excluding conditions in section 1 (basic water quality criteria). In case of conflict between the conditions stated here and those specified in the standard general permit conditions, excluding conditions in section 1, the more stringent conditions shall apply.

6. Effluent Limitations and Monitoring Requirements

- (a) The effluent shall be limited and monitored by the permittee as specified in this section and in Table 34.5.

(1) Sampling Point

The permittee shall collect representative discharge samples at the end of the effluent discharge point(s) prior to entering the receiving state water or separate storm water drainage systems.

(2) Collection of Samples

The permittee shall take samples and measurements for the purposes of monitoring which are representative of the volume and nature of the total discharge.

(3) Types of Samples

- (A) "Grab sample" means an individual sample collected within the first fifteen minutes of a discharge.

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(B) "Composite sample" means a combination of at least eight sample aliquots, collected at periodic intervals during the operating hours of the facility over a 24-hour period. The composite shall be flow proportional; either the time interval between each aliquot or the volume of each aliquot shall be proportional to the total effluent flow since the collection of the previous aliquot. The permittee may collect aliquots manually or automatically, unless otherwise stated.

(4) Test Procedures

(A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.

(B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

(C) The permittee shall use test methods with detection limits that

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reflect the applicable numerical limitations as specified in chapter 11-54 and must be sufficiently sensitive as defined at 40 CFR §122.21(e) (3) and §122.44(i) (1) (iv).

(5) Recording of Results

The permittee shall comply with section 14(c) of appendix A of chapter 11-55 for each measurement or sample taken under the requirements of this general permit.

(b) [~~Basic Water Quality Criteria and~~ Inspections

- ~~[(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.~~
- ~~(2) The permittee shall inspect the receiving state waters, effluent, and control measures and best management practices at least once per discharge or once daily, if discharge is continuous and duration is longer than one day, to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent 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~~

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~~detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.}]~~

The permittee shall inspect the effluent, control measures, and best management practices at least once per discharge or once daily, if discharge is continuous and duration is longer than one day, to detect violations of and conditions which may cause violations of the prohibitions as specified in section 2(c)(2) of this general permit.

Note: When effluent commingles with offsite water or pollutant sources prior to discharging to the receiving water, ~~[in lieu of inspecting the receiving water,]~~ inspect the effluent after it exits the site and prior to commingling.

7. Corrective Action

The permittee shall immediately stop, reduce, or modify construction, or implement a new or revised dewatering system maintenance plan as needed to stop or prevent a violation of the ~~[basic water quality criteria as specified in section 11-54-4.]~~ prohibitions as specified in section 2(c)(2) of this general permit.

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8. Reporting Requirements

(a) Reporting of Monitoring Results

- (1) The permittee shall report monitoring results on a discharge monitoring report form (EPA No. 3320-1) or other form as specified by the director. The permittee shall submit results of all monitoring required by this general permit in a format that demonstrates compliance with the limitations in Table 34.5 and other requirements of this general permit.
- (2) The permittee shall submit monitoring results obtained during the previous calendar month, postmarked or received by the department no later than the twenty-eighth day of the month following the completed reporting period. The first reporting period begins on the effective date of the issued notice of general permit coverage (e.g., if the notice of general permit coverage effective date is January 16th, monitoring results shall be reported no later than February 28th).
- (3) 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 or less than the concentration of the minimum level (ML).

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- (A) The permittee shall report sample results and calculations at or above the laboratory's ML on DMRs as the measured concentration or calculation.
- (B) 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 the sample is not detected.
- (C) The permittee shall report sample results and calculations between the ML and MDL as NODI(Q) on the DMR. NODI(Q) means that the concentration of the pollutant in a sample is detected, but not quantified.
- (D) 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.
- (E) 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

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resulting geometric mean must be compared to the effluent limitation of the ML, whichever is greater, in assessing compliance.

- (F) When NODI(Q) or NODI(B) is reported for a parameter, the laboratory's numeric ML and MDL for that parameter shall also be noted on the DMR or on an attachment.
- (4) The permittee shall also submit the monitoring results with laboratory reports, including quality assurance/quality control data; effluent flow calculations; and any additional treatment strategies to be implemented based on monitoring results.
- (5) Should there be no discharges during the monitoring period, the discharge monitoring report form shall so state.
- (6) ~~[Discharge Monitoring Reports shall be submitted in compliance with Federal eReporting Rule requirements. Permittees shall switch from traditional paper Discharge Monitoring Reporting to electronic reporting upon written notification by the director.]~~
The permittee or its duly authorized representative shall submit discharge monitoring reports on forms specified by the director. Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at:

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<https://eha-cloud.doh.hawaii.gov/epermit>.

(b) Monitoring Report

The permittee shall include the monitoring results in the calculation and reporting of the values required in the discharge monitoring report form.

(c) Reporting of Noncompliance, Unanticipated Bypass, or Upset

- (1) The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

(A) Violation of an effluent limitation specified in Table 34.5 or a [~~basic water quality criteria specified in section 6(b)~~] prohibition specified in section 2(c)(2) of this general permit;

(B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; or

(C) Unanticipated bypass or upset.

- (2) The permittee or its duly authorized representative shall make oral reports by telephone to the Clean Water Branch at (808) 586-4309 during regular office hours which are Monday through Friday (excluding holidays) from 7:45 a.m.

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until 4:15 p.m. or the Hawaii State Hospital Operator at (808) 247-2191 outside of regular office hours.

- (3) The permittee or its duly authorized representative shall provide a written report within five days of the time the permittee or its duly authorized representative becomes aware of the circumstances. The written report shall include the following:
 - (A) Description of the noncompliance, unanticipated bypass, or upset and its cause;
 - (B) Period of noncompliance, unanticipated bypass, or upset including exact dates and times;
 - (C) Estimated time the noncompliance, unanticipated bypass, or upset is expected to continue if it has not been corrected; and
 - (D) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance, unanticipated bypass, or upset.
- (4) The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

9. Submittal Requirements

- (a) The permittee or its duly authorized representative shall submit signed copies of

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monitoring and all other reports required by this general permit ~~[to the director at the following address or as otherwise specified:]~~ on forms specified by the director. Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit>.

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

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who 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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- (c) 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).

10. Additional Conditions

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

11. Record Retention

The permittee shall retain all records and information resulting from the monitoring activities required by this general permit including all records of analyses performed and calibration and maintenance of instrumentation for a minimum of five 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.

12. 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.

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13. Forms

~~[Electronic notice of intent forms may be found at the Department's e-Permitting portal. The e-Permitting portal may be accessed via the Clean Water Branch's website at:
<http://health.hawaii.gov/cwb/>]~~

Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at:
<https://eha-cloud.doh.hawaii.gov/epermit>.

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TABLE 34.5

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
FOR CONSTRUCTION DEWATERING DISCHARGES

Effluent Parameter (Units)	Effluent Limitations {1}	Minimum Monitoring Frequency {2}	Type of Sample
Quantity of Discharge (GPD or gpm)	Report	Once/Month	Calculated or Estimated
Total Suspended Solids (mg/l)	55	Once/Month	Grab
Oil and Grease (mg/l)	15	Once/Month	Grab {3}
pH (standard units)	6.0 - 8.0	Once/Month	Grab {4}

GPD = gallons per day

gpm = gallons per minute

mg/l = milligrams per liter

NOTES:

{1} Pollutant concentration levels shall not exceed the single sample maximum effluent limits or be outside the ranges indicated in the table. Actual or measured levels which exceed those effluent limits or are outside those ranges shall be reported to the director as required in section 8(c) of this general permit.

{2} The permittee shall take a minimum of one sample for each month that is representative of the

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discharge. If the permittee collects more than one sample during the month, the maximum value for each pollutant parameter for the month shall be reported. For pH, only report the minimum and maximum for the month. Laboratory results of all sampling shall be included with the discharge monitoring report.

- {3} Oil and Grease shall be measured by EPA Method 1664, Revision A.
- {4} The pH shall be measured within fifteen minutes of obtaining the grab sample.

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

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

This general permit covers facilities or activities in the State of Hawaii that discharge waters from the construction dewatering process to state waters.

As of 7/3/2025, thirteen (13) facilities are covered by the 2022 discharges associated with construction activity dewatering general permit. Permittees that have applied for NPDES coverage include:

1. State agencies;
2. Municipal agencies on all islands; and
3. Private entities.

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

The allowed discharge is of waters from construction dewatering activities which is not commingled with other process water or stormwater.

This general permit is not intended for return flow or overflow from dredged material dewatering or discharges of construction dewatering effluent from leaking underground storage tank remediation activities.

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

Not applicable.

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

Basis for Discharge Limitations and Monitoring Requirements

There are no effluent guidelines promulgated for discharges resulting from construction dewatering activities. The general permit discharge limitations and monitoring requirements are based on HAR Chapter 11-54, Water Quality Standards.

DOH has determined that:

1. The conditions and discharge limitations established in the proposed general permit ensure that the existing beneficial uses and quality of state waters will be maintained and protected;
2. Discharges regulated in the general permit should not lower receiving water quality if the terms and conditions of the general permit are met; and
3. Discharge to restricted “no discharge” areas is prohibited.

The effluent parameters in Table 34.5 are based on the pollutants of concern for the discharges from construction dewatering activities.

The General Permit is divided into the following sections:

1. Coverage under this General Permit [*Revised*]
2. Limitations on Coverage under this General Permit [*Revised*]
3. Term of General Permit
4. Notice of Intent Requirements [*Revised*]
5. Standard Conditions [*Revised*]
6. Effluent Limitations and Monitoring Requirements [*Revised*]
7. Corrective Action [*Revised*]
8. Reporting Requirements [*Revised*]
9. Submittal Requirements [*Revised*]
10. Additional Conditions
11. Record Retention
12. Falsifying Report
13. Forms [*Revised*]

Table 34.5 Effluent Limitations and Monitoring Requirements for Construction Dewatering Discharges [*Revised*]

Sections 1 through 5 and 7 through 13 are basic requirements necessary to the General Permit. Section 6 and Table 34.5 detail the effluent limitations and monitoring requirements for construction dewatering discharges.

HAR Chapter 11-55, Appendix G Proposed Revisions

The General Permit currently in effect expires on January 14, 2027. The proposed General Permit will be effective for a term of 5 (five) years.

Revisions are proposed in the draft 2026 Appendix G.

The minor revisions are proposed to:

1. Section 2(c) - correct formatting errors;
2. Section 2(c)(1) – replace “dewatering discharges” with “construction dewatering discharges”; and
3. Table 34.5 – add “(Units)” as a column label.

The other revisions are proposed to:

1. Section 1(b) – clarify the coverage under the general permit;
2. Section 2(a)(6) - clarify the limitations on coverage under the general permit;
3. Section 2(c)(2) - implement narrative water quality standards as discharge prohibitions;
4. Sections 4(b)(6) and 4(b)(7) - clarify the requirements for site-specific dewatering plans and dewatering system maintenance plans submitted in the notice of intent;
5. Sections 4(e), 8(a)(6), 9(a) and 13 - comply with federal electronic reporting regulations;
6. Section 5, 6(b), 7, and 8(c)(1) - revise language that imposes or can be interpreted to impose compliance based on the conditions of receiving waters; and
7. Section 6(a)(4) – clarify the requirements for test procedures.

Section 1(b)

Original: This general permit covers ~~all areas of the State~~ except for discharges into natural freshwater lakes, saline lakes, and anchialine pools.

Revised: *This general permit covers discharges to all State waters except for:*

- (1) Discharges into natural freshwater lakes, saline lakes, or anchialine pools; or*
- (2) Discharges that occur within lands of exclusive federal jurisdiction.*

Rationale: DOH clarifies that this general permit regulates discharges instead of geographic areas by replacing “all areas of the State” with “discharges to all State waters”. This revision ensures consistency with the CWA and standard NPDES permit language.

DOH specifies that this general permit does not authorize discharges within lands of exclusive federal jurisdiction. Lands of exclusive federal jurisdiction are lands in the U.S. where the federal government retains exclusive jurisdiction in relevant respects. Not all federal lands are lands of exclusive federal jurisdiction. Rather, exclusive federal jurisdiction is established only under limited circumstances pursuant to the Enclave Clause of the U.S. Constitution. These circumstances include (1) where the federal government purchases land with State consent to jurisdiction, consistent with the Enclave Clause; (2) where a State chooses to cede jurisdiction to the federal government; and (3) where the federal government reserved jurisdiction upon granting statehood [see background section in Modification to 2022 NPDES CGP for Stormwater Discharges from Construction Activities, 90 Fed. Reg. 15653 (Apr. 15, 2025) (amending 40 C.F.R. Part 122) <https://www.federalregister.gov/documents/2025/04/15/2025-06320/modification-to-2022-national-pollutant-discharge-elimination-system-npdes-construction-general>].

Within lands of exclusive federal jurisdiction, the State does not have NPDES permitting authority and EPA retains responsibility for administering the NPDES program. Dischargers must obtain coverage under an applicable EPA-issued permit.

Section 2(a)(6)

- Original:** Discharges of construction dewatering effluent with toxic parameter concentrations above ~~the applicable water quality criteria in chapter 11-54; and~~
- Revised:** *Discharges of construction dewatering effluent with toxic parameter concentrations above those specified in appendix E of chapter 11-54; and*
- Rationale:** DOH requires water quality-based effluent limitations in this permit for all numeric water quality criteria specified in HAR Chapter 11-54 associated with any pollutant in the discharge that has a reasonable potential to cause or contribute to an excursion of that criteria. Discharges of construction dewatering waters with toxic parameter concentrations that exceed the applicable numeric limits, as specified in Appendix E of HAR Chapter 11-54, are not covered under this permit.

Section 2(c)(2)

- Original:** Prohibit ~~visible plumes from the discharge and prohibit the discharge of visible floating solids or foam.~~
- Revised:** *Prohibit discharges with observable deposits of floating solids, scum, sheen or other substances, an observable film, sheen or discoloration from oil and grease; or foam or substances that produce an observable change in color, odor, or cloudiness in the discharges;*
- Rationale:** DOH requires water quality-based effluent limitations in an NPDES permit for all numeric and narrative water quality criteria in HAR Chapter 11-54 associated with any pollutant in the discharge that has a reasonable potential to cause or contribute to an excursion of that criteria. For DOH's narrative water quality standards regarding floating debris, oil, grease, scum, other floating material, as well as color and taste, DOH implements these standards as discharge prohibitions since no numerical limits exist in the standards. DOH expects that compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards as described in HAR Chapter 11-54.

Section 4(b)(6)

- Original:** Site-specific dewatering plan ~~designed to comply with the basic water quality criteria specified under chapter 11-54.~~ The plan shall include the pumping devices to be used, their pumping capacity, and the number of devices to be used; treatment design; design concerns; calculations used in the treatment design; and proposed mitigative measures. For discharges to Class AA or Class 1 waters, the site-specific dewatering plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific dewatering plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office;
- Revised:** *Site-specific dewatering plan to ensure the construction dewatering effluent will meet the conditions of this general permit. The plan shall include the pumping devices to be used, their pumping capacity, and the number of devices to be used; treatment design; design concerns; calculations used in the treatment design; and proposed mitigative measures. For discharges to Class AA or Class 1 waters, the site-specific dewatering plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific dewatering plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office;*
- Rationale:** DOH requires site-specific dewatering plans to ensure the proper management of dewatering waters during construction activities. DOH expects a site-specific dewatering plan that is in compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards as described in HAR Chapter 11-54.

Section 4(b)(7)

Original: Dewatering system maintenance plan to ensure that the dewatering effluent discharge will meet conditions of this general permit, ~~basic water quality criteria, and applicable specific water quality parameters.~~ The dewatering system maintenance plan shall include:

- (A) Schedule of activities,
- (B) Operation and maintenance procedures to prevent or reduce the pollution of state waters, including:
 - (i) Responsible field person of the system, by title or name;
 - (ii) Operations plan;
 - (iii) Maintenance scheduling or action criteria;
 - (iv) Maintenance program;
 - (v) Sediment handling and disposal plan;
 - (vi) Monitoring and visual inspection program;
 - (vii) Cessation of discharge plan; and
 - (viii) Effluent control plan, and
- (C) Treatment requirements.

For discharges to Class AA or Class 1 waters, the site-specific dewatering system maintenance plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific dewatering system maintenance plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office; and

Revised: *Dewatering system maintenance plan to ensure that the construction dewatering effluent will meet the conditions of this general permit. The dewatering system maintenance plan shall include:*

- (A) Schedule of activities,*
- (B) Operation and maintenance procedures to prevent or reduce the pollution of state waters, including:*
 - (i) Responsible field person of the system, by title or name;*
 - (ii) Operations plan;*
 - (iii) Maintenance scheduling or action criteria;*
 - (iv) Maintenance program;*
 - (v) Sediment handling and disposal plan;*
 - (vi) Monitoring and visual inspection program;*
 - (vii) Cessation of discharge plan; and*
 - (viii) Effluent control plan, and*
- (C) Treatment requirements.*

For discharges to Class AA or Class 1 waters, the site-specific dewatering system maintenance plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the site-specific dewatering system maintenance plan shall be submitted to the director with the notice of intent or thirty days before the start of construction dewatering activities. The plan, and all subsequent revisions, shall be retained on-site or at a nearby field office; and

Rationale: DOH requires site-specific dewatering system maintenance plans to prevent pollutants that may be present in discharges of construction dewatering waters from entering state waters. DOH expects a site-specific dewatering system maintenance plan that is in compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards as described in HAR Chapter 11-54.

Section 4(e)

Original: 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
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

Revised: *The owner or operator shall submit a complete notice of intent on forms specified by the director. Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit>.*

Rationale: The revision is required to comply with federal electronic reporting regulations, specifically the NPDES Electronic Reporting Rule (40 CFR Part 127) and CROMERR (40 CFR Part 3), which mandate that states collect NPDES program data electronically. This ensures legal compliance, improves administrative efficiency, and aligns DOH's program with national standards for environmental permitting.

Section 5

Original: 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 permit conditions, the more stringent conditions shall apply.

Revised: *The permittee shall comply with the standard conditions as specified in appendix A of chapter 11-55, excluding conditions in section 1 (basic water quality criteria). In case of conflict between the conditions stated here and those specified in the standard general permit conditions, excluding conditions in section 1, the more stringent conditions shall apply.*

Rationale: On March 4, 2025, the U.S. Supreme Court ruled 5-4 in favor of the City and County of San Francisco in its dispute with the EPA ruling that “end-result” provisions, or provisions that tells permittees that a particular end result must be achieved, are not authorized by the Clean Water Act.

See https://www.supremecourt.gov/opinions/24pdf/23-753_f2bh.pdf for the Supreme Court Opinion. DOH has revised this language to comply with the Supreme Court opinion, notably revising any language that imposes or can be interpreted to impose compliance based on the conditions of receiving waters. be interpreted to impose compliance based on the conditions of receiving waters.

Section 6(a)(4)

Original: Test Procedures

- (A) The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.
- (B) Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.

Revised: *Test Procedures*

- (A) *The permittee shall use test procedures for the analysis of pollutants which conform with regulations published under Section 304(h) of the Act.*
- (B) *Unless otherwise noted in this general permit, the permittee shall measure all pollutant parameters in accordance with methods prescribed in 40 CFR Part 136, promulgated under Section 304(h) of the Act. The permittee may submit applications for the use of alternative test methods in accordance with 40 CFR §136.4.*
- (C) *The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54 and must be sufficiently sensitive as defined at 40 CFR §122.21(e)(3) and §122.44(i)(1)(iv).*

Rationale: DOH clarifies the requirements for test procedures in section 6(a)(4). For the analysis of pollutants, the permittee must use test procedures that are approved under 40 CFR Part 136 and sufficiently sensitive to detect the applicable numerical limits as specified in HAR Chapter 11-54.

Section 6(b)

Original: ~~Basic Water Quality Criteria and Inspections~~

- ~~(1) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.~~
- ~~(2) The permittee shall inspect the receiving state waters, effluent, and control measures and best management practices at least once per discharge or once daily, if discharge is continuous and duration is longer than one day, to detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4. (e.g., the permittee shall look at effluent 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.)~~

Note: When effluent commingles with offsite water or pollutant sources prior to discharging to the receiving water, ~~in lieu of inspecting the receiving water, inspect the effluent after it exits the site and prior to commingling.~~

Revised: *Inspections*

The permittee shall inspect the effluent, control measures, and best management practices at least once per discharge or once daily, if discharge is continuous and duration is longer than one day, to detect violations of and conditions which may cause violations of the prohibitions as specified in section 2(c)(2) of this general permit.

Note: When effluent commingles with offsite water or pollutant sources prior to discharging to the receiving water, inspect the effluent after it exits the site and prior to commingling.

Rationale: On March 4, 2025, the U.S. Supreme Court ruled 5-4 in favor of the City and County of San Francisco in its dispute with the EPA ruling that “end-result” provisions, or provisions that tells permittees that a particular end result must be achieved, are not authorized by the Clean Water Act.

See https://www.supremecourt.gov/opinions/24pdf/23-753_f2bh.pdf for the Supreme Court Opinion. DOH has revised this language to comply with the Supreme Court opinion, notably revising any language that imposes or can be interpreted to impose compliance based on the conditions of receiving waters.

Section 7

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

Revised: *The permittee shall immediately stop, reduce, or modify construction, hydrotesting, or implement new or revised best management practices as needed to stop or prevent a violation of the prohibitions as specified in section 2(c)(2) of this general permit.*

Rationale: On March 4, 2025, the U.S. Supreme Court ruled 5-4 in favor of the City and County of San Francisco in its dispute with the EPA ruling that “end-result” provisions, or provisions that tells permittees that a particular end result must be achieved, are not authorized by the Clean Water Act.

See https://www.supremecourt.gov/opinions/24pdf/23-753_f2bh.pdf for the Supreme Court Opinion. DOH has revised this language to comply with the Supreme Court opinion, notably revising any language that imposes or can be interpreted to impose compliance based on the conditions of receiving waters.

Section 8(a)(6)

Original: ~~Discharge Monitoring Reports shall be submitted in compliance with Federal eReporting Rule requirements. Permittees shall switch from traditional paper Discharge Monitoring Reporting to electronic reporting upon written notification by the director.~~

Revised: The permittee or its duly authorized representative shall submit discharge monitoring reports on forms specified by the director. Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit>.

Rationale: DOH clarifies the federal electronic reporting regulations, specifically the NPDES Electronic Reporting Rule (40 CFR Part 127) and CROMERR (40 CFR Part 3), which mandate that states collect NPDES program data electronically. This ensures legal compliance, improves administrative efficiency, and aligns DOH's program with national standards for environmental permitting.

Section 8(c)(1)

Original: The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:

- (A) Violation of an effluent limitation specified in Table 34.5 or a ~~basic water quality criteria specified in section 6(b)~~ of this general permit;
- (B) Discharge or noncompliance with effluent limitations which may endanger health or the environment; and
- (C) Unanticipated bypass or upset.

Revised: *The permittee or its duly authorized representative shall orally report any of the following when the permittee or its duly authorized representative becomes aware of the circumstances:*

- (A) *Violation of an effluent limitation specified in Table 34.5 or a prohibition specified in section 2(c)(2) of this general permit;*
- (B) *Discharge or noncompliance with effluent limitations which may endanger health or the environment; and*
- (C) *Unanticipated bypass or upset.*

Rationale: On March 4, 2025, the U.S. Supreme Court ruled 5-4 in favor of the City and County of San Francisco in its dispute with the EPA ruling that “end-result” provisions, or provisions that tells permittees that a particular end result must be achieved, are not authorized by the Clean Water Act.

See https://www.supremecourt.gov/opinions/24pdf/23-753_f2bh.pdf for the Supreme Court Opinion. DOH has revised this language to comply with the Supreme Court opinion, notably revising any language that imposes or can be interpreted to impose compliance based on the conditions of receiving waters.

Section 9(a)

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

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

Revised: *The permittee or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit on forms specified by the director. Electronic forms are available online at the department’s e-Permitting portal. The e-Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit>.*

Rationale: The revision is required to comply with federal electronic reporting regulations, specifically the NPDES Electronic Reporting Rule (40 CFR Part 127) and CROMERR (40 CFR Part 3), which mandate that states collect NPDES program data electronically. This ensures legal compliance, improves administrative efficiency, and aligns DOH's program with national standards for environmental permitting.

Section 13

Original: Electronic notice of intent forms may be found at the Department's e-Permitting portal. The e-Permitting portal may be accessed via the Clean Water Branch's website at: <http://health.hawaii.gov/cwb/>.

Revised: Electronic forms are available online at the department's e-Permitting portal. The e-Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit>.

Rationale: DOH clarifies that all electronic forms may be accessed online at the e-Permitting Portal. This ensures legal compliance with federal electronic reporting regulations, improves administrative efficiency, and aligns DOH's program with national standards for environmental permitting.

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

Not applicable.

(6) A description of the procedures for reaching a final decision on the draft permit including:

- (i) The beginning and ending dates of the comment period under 40 CFR §124.10 and the address where comments will be received;
- (ii) Procedures for requesting a hearing and the nature of that hearing; and
- (iii) Any other procedures by which the public may participate in the final decision.

Refer to HAR §11-1-51 procedures for adopting rules. The comment period has yet to be determined. Comments will be received via email to the cleanwaterbranch@doh.hawaii.gov, at the various District Health Offices, and at 2827 Waimano Home Road, #225, Pearl City, Hawaii 96782. The procedures for requesting a hearing shall follow 40 CFR §124.11.

(7) Name and telephone number of a person to contact for additional information.

Mr. Reef Migita
Engineering Section Supervisor
Clean Water Branch
Department of Health
Ph. (808) 586-4309

(8) For NPDES permits, provisions satisfying the requirements of § 124.56.

The CWA requires that discharges from existing facilities, at a minimum, must meet technology-based effluent limitations (TBELs) reflecting, among other things, the technological capability of permittees to control pollutants in their discharges. Water quality-based effluent limitations (WQBELs) are required by CWA Section 301(b)(1)(C). Both TBELs and WQBELs are implemented through NPDES permits.

For this permit, the limits are WQBELs because effluent limitation guidelines and TBELs do not apply.

The proposed HAR Chapter 11-55, Appendix G, Section 2(c) implements the 40 CFR §450.21(c) requirement that prohibits “discharges from dewatering activities, including discharges from dewatering of trenches and excavations” unless managed by “appropriate controls.” The specific restrictions in HAR Chapter 11-55, Appendix G, Section 2(c) provide DOH’s interpretation of what is meant by “appropriate controls” in 40 CFR §450.21(c).

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

Not applicable.