

CHAPTER 11-55 APPENDIX K

NPDES GENERAL PERMIT AUTHORIZING DISCHARGES OF STORM WATER AND CERTAIN NON-STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

This General Permit is effective on

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

In accordance with 40 CFR 122.28(d), the Director has selected the Two-Step General Permit approach to regulate ~~[Small MS4s]~~ Small Municipal Separate Storm Sewer Systems (Small MS4s) under the State's NPDES Permit Program. See 40 CFR §122.28(d)(2). "40 CFR" as used in this general permit means the Code of Federal Regulations, Title 40, Protection of Environment, revised as of July 1, ~~[2017]~~ 2024. The DOH intends to follow and have permittees comply with the Two-Step General Permit Approach in accordance with FR Vol. 81, No. 237 pg. 89330, Section V.B.

1. Coverage under this General Permit

- (a) This general permit ~~[covers]~~ authorizes the discharge of storm water and certain non-storm water discharges ~~[, provided they do not cause or contribute to any violation of water quality standards,]~~ to state waters from small ~~[municipal separate storm sewer systems]~~ MS4s consistent with Section 402(p)(6) of the federal Clean Water Act.

The following non-storm water discharges are authorized by this general permit ~~[, provided that they do not cause or contribute to any violation of water quality standards]:~~

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- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined in 40 CFR §35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources and foundation drains;
- (8) Air conditioning condensate;
- (9) Irrigation water;
- (10) Springs;
- (11) Water from crawl space pumps and footing drains;
- (12) Lawn watering runoff;
- (13) Water from individual residential car washing;
- (14) Flows from riparian habitats and wetlands;
- (15) Dechlorinated swimming pool discharges;
- (16) Residual street wash water; and

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- (17) Discharges or flows from firefighting activities.

The Permittee may also develop a list of other similar occasional incidental non-storm water discharges (e.g., charity car washes, etc.) that will not be addressed as illicit discharges. These non-storm water discharges must not be reasonably expected (based on the information available to the Permittee) to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions the Permittee has established for allowing these discharges to the MS4 (e.g., charity car washes with appropriate controls on frequency, proximity to sensitive water bodies, BMPs on the wash water, etc.). The Permittee shall document in the Storm Water Management Plan the terms and conditions placed on the discharges, and include a provision prohibiting any individual non-storm water discharge that is determined to be contributing pollutants to the Permittee's MS4.

- (b) This general permit covers all areas of the State except for discharges in or to natural freshwater lakes, saline lakes, or anchialine pools.

2. Limitations on Coverage under this General Permit

- (a) This general permit does not cover the following:
 - (1) Storm water discharges into a sanitary sewer system;

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- (2) Storm water [~~discharges from~~]runoff associated with construction activities [~~greater than one acre~~]that result in the disturbance of one acre or more of total land area, as defined in 40 CFR §122.26(b) (14) (x) or (b) (15), which discharges into the permittee's small [~~municipal separate storm sewer system~~]MS4;
- (3) Storm water discharges from industrial facilities as defined in 40 CFR §§122.26(b) (14) (i) through 122.26(b) (14) (ix) and 122.26(b) (14) (xi) which discharges into the permittee's small [~~municipal separate storm sewer system~~]MS4;
- (4) Storm water discharges from small [~~municipal separate storm sewer system~~]MS4 which initially enter a separate storm water drainage system(s), 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) Storm water discharges for which the director has issued a notice of general permit coverage under another general permit specific to that type of industrial activity; and

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- (6) Storm water discharges the director finds more appropriately regulated under an individual permit.
- (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 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.

3. Term of General Permit

- (a) This general permit becomes effective ten days after filing with the office of the lieutenant governor[~~. This general permit expires~~] and shall expire five years after the effective date, unless amended earlier.
- (b) ~~[A notice of general permit coverage under this general permit expires:~~
 - ~~(1) Five years after the effective date of this general permit;~~
 - ~~(2) When the notice of general permit coverage specifies; or~~
 - ~~(3) When amendments to section 11-55-34.02 (b) (10) are adopted,~~

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~~whichever is earliest, unless the notice of general permit coverage is administratively extended under section 11-55-34.09(d).]~~
Unless otherwise specified on the notice of general permit coverage, a notice of general permit coverage granted under this general permit shall expire five years after the effective date of this general permit, unless it is administratively extended in accordance with section 3(c) of this general permit.

- (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 one hundred eighty (180) days after the effective date of the new general permit unless:
- (1) A notice of intent (NOI) for coverage under the new general permit is submitted within one hundred eighty (180) days after the effective date of the new general permit. The administrative extension shall expire on the effective date of the notice of general permit coverage authorizing the existing discharge under the new general permit;
 - (2) An application for an individual NPDES permit is submitted within one hundred eighty (180) days after the effective date of the new general permit. The administrative extension shall thus

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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

The Permittee shall submit a notice of intent in accordance with 40 CFR 122.28(b)(2)(ii) and provide other information the DOH identifies as necessary to establish additional terms and conditions that satisfy the permit requirements of 40 CFR 122.34, such as the information required under 40 CFR 122.33(b)(2)(i).

- (a) New Permittees (those MS4s not covered under the previous ~~[2013]~~2022 general permit) shall submit a complete notice of intent no later than 180 calendar days before the proposed starting date of the discharge.

Existing Permittees (those granted administrative extension under the previous ~~[2013]~~2022 general permit) shall submit a complete notice of intent no later than ~~[120]~~180 calendar days from the effective date of this general permit. Failure to comply with this deadline will result in the termination of the administrative extension, unless otherwise ordered by DOH.

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

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- (1) Information required in section 34 of appendix A of chapter 11-55;
- (2) Non-storm water discharge information;
- (3) Facility site map;
- (4) An assessment of the effectiveness of each control measure the storm water management plan implemented during the previous permit term (i.e., only for MS4s covered under the previous general permit) and any revisions to the plan proposed to be implemented for compliance with this general permit;
and
- (5) Storm water management plan (SWMP), which meets the applicable requirements as specified in section 6 of this general permit, and which has been updated based on the assessment required by section 4(b)(4) of this general permit.
- (6) If specifically assigned a Waste Load Allocation (WLA) [WLA], submit an Implementation & Monitoring (I&M) Plan, which meets the applicable requirements as specified in section 8 of this general permit to comply with WLA(s) [~~Waste Load Allocations~~] assigned to the Permittee consistent with the assumption in the associated TMDL document. If compliance will exceed a year, the Permittee shall also include a proposed compliance schedule that meets the requirements of 40 CFR 122.47 to comply as soon as possible.

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- (c) The director may require additional information to be submitted.
- (d) ~~[The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:]~~
The owner or operator shall submit a complete NOI on forms specified by the director electronically via DOH'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]~~

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. Storm Water Management Plan Requirements

The permittee shall develop, implement, and enforce a written storm water management plan document designed to meet the MS4 permit standard. The storm water management plan shall

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include a description of the best management practice (BMPs) that the Permittee will implement for each of the minimum control measures identified below with implementation dates; timing and frequencies, as appropriate; measurable goals [refer to section 6(b)]; and rationales for each BMP. The BMPs terms and conditions shall be expressed in clear, specific, and measurable terms to adhere to the requirements of 40 CFR 122.34. Refer to EPA's "Municipal Separate Storm Sewer System Permits, Compendium of Clear, Specific & Measurable Permitting Examples," November 2018, EPA-830-S-16-002. The rationales shall explain to the DOH's satisfaction how it meets the MS4 permit standard. Refer to the FR Vol. 81, No. 237 pg. 89333, Section VI.A. The contents of the SWMP document are enforceable under this permit.

- (a) Minimum Control Measures. In case of conflict between the minimum control measures stated herein and those in the 40 CFR 122.34(b)(1) through (6), the more stringent control measures shall apply.

- (1) Public Education and Outreach on Storm Water Impacts

Develop and implement a public education program to distribute educational materials to users of the permittee's small [~~municipal separate storm sewer system~~]MS4 or equivalent outreach activities emphasizing the following:

- (A) Impacts of storm water discharges on water bodies,

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- (B) Hazards associated with illicit discharges, and
- (C) Measures that users of the permittee's small ~~[municipal separate storm sewer system]~~MS4 can take to reduce pollutants in storm water runoff, including, but not limited to, minimizing fertilizer application and practicing proper storage and disposal of chemicals and wastes;

(2) Public Involvement/Participation

Include users of the permittee's small ~~[municipal separate storm sewer system]~~MS4 in developing, implementing, and reviewing the storm water management plan and comply with the public notice requirements in Part 13 of this permit, including during renewals;

(3) Illicit Discharge Detection and Elimination

Develop, implement, and enforce a program to detect and eliminate illicit discharges, as defined in 40 CFR Section 122.26(b)(2). The illicit discharge detection and elimination program shall include, at a minimum, the following components:~~[that at a minimum, includes the following:]~~

- (A) Develop, if not already completed, a storm sewer system map showing the location of all outfalls and

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the names and location of all surface waters of the State that receive discharges from those outfalls, in accordance with 40 CFR 122.34(b) (3) (i) (A) .

(B) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that prohibit non-storm water discharges, except those listed in section 1, into the permittee's small MS4. ~~[that do not cause or contribute to any violations of water quality standards, into the permittee's small municipal separate storm sewer system,]~~

~~[(B) Procedures to detect and eliminate illicit discharges (as defined in 40 CFR Section 122.26(b) (2)), and]~~

(C) Procedures to detect and address non-storm water discharges, including illicit discharges, illegal connections, illegal dumping, and improper disposal of waste to the MS4.

The Plan to detect and address illicit discharges must include, at a minimum, the following:

(i) Schedules and protocols for identification of priority areas for detailed screening of the system based on the likelihood of illicit

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discharges and illegal connections. Detailed screening may include, as appropriate, visual screening, water sampling of storm water conveyances and outfalls, investigation of information submitted by cross-trained staff that are able to detect illicit discharges in the field, or investigations of public complaints.

(ii) Investigation techniques for suspected or detected illicit discharges, including procedures for source tracing, to identify the source(s) of the suspected illicit discharges, illegal connections, illegal dumping, and improper disposal to the MS4.

(iii) Procedures, including enforcement, for removal and/or correction of the source of the illicit discharge, illegal connection, illegal dumping, and improper disposal to the MS4.

(iv) Documentation of actions taken under the plan.

~~[(C) Compilation of a list of non-storm water discharges or flows that are~~

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~~considered to be significant contributors of pollutants to the system and measures to be taken to prevent these discharges into the permittee's small municipal separate storm sewer system, or reduce the amount of pollutants in these discharges;]~~

(D) Inform public employees, businesses, and the general public of hazards associated with illicit discharges and improper disposal of waste.

(4) Construction Site Storm Water Runoff Control

Develop, implement, and enforce a program to reduce pollutants in storm water runoff entering the permittee's small ~~[municipal separate storm sewer system]~~ MS4 from construction activities disturbing one acre or more, including construction activities less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more, that, at a minimum, includes the following:

- (A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that require erosion and sediment controls,
- (B) Requirements for construction site operators to implement appropriate

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erosion and sediment control best management practices,

- (C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality,
 - (D) Procedures for site plan review which incorporate consideration of potential water quality impacts,
 - (E) Procedures for receipt and consideration of information submitted by the public, and
 - (F) Procedures for site inspection and enforcement of control measures;
- (5) Post-Construction Storm Water Management in New Development and Redevelopment

Develop, implement, and enforce a program to reduce pollutants in storm water runoff entering the permittee's small ~~[municipal separate storm sewer system]~~ MS4 from new development and redevelopment projects that disturb greater than or equal to one acre, including construction sites less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more, that, at a minimum, includes the following:

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- (A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that address post-construction runoff from new development and redevelopment projects,
 - (B) Structural and/or non-structural best management practices to minimize water quality impacts and attempt to maintain pre-development runoff conditions, and
 - (C) Procedures for long-term operation and maintenance of best management practices.
- (6) Pollution Prevention/Good Housekeeping for Municipal Operations

Develop, implement, and enforce an operation and maintenance program to prevent and reduce storm water pollution from activities, including, but not limited to, park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance that, at a minimum, includes the following:

- (A) Good housekeeping and other control measures, and
- (B) Employee and contractor training on good housekeeping practices to ensure that good housekeeping measures and best management

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practices are properly implemented.

(b) Measurable Goals

The permittee shall develop measurable goals to gauge permit compliance and program effectiveness for each BMP as described in the Permittee's SWMP. The term "measurable" means that the permit requirement has been articulated in such a way that compliance with it can be assessed in a straightforward manner. Refer to FR Vol. 81, No. 237 pg. 89336, 3rd column, 2nd paragraph.

(c) Modifications

Any modifications to the BMPs and measurable goals will require submittal of a new NOI and filing fee, unless clearly accounted for in its SWMP and that has been public noticed.

7. ~~[Basic Water Quality Criteria and]~~ Inspections

~~[(a) The permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in section 11-54-4.]~~

~~[(b) The permittee shall, as indicated in its SWMP, inspect the receiving state waters, effluent, and control measures and best management practices 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~~

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~~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 shall, as indicated in its SWMP, inspect the discharge, control measures, and BMPs to detect violations of and conditions which may cause violations of the prohibitions as specified in Section 2(c) of this general permit.

8. TMDL Implementation and Monitoring

The requirements of this section apply to Small MS4 discharges to receiving waters with established TMDLs approved by EPA where urban storm water is identified as a source of TMDL pollutant loading and the Permittee has assigned WLA(s).

(a) The Permittee shall comply with the following:

- (1) For the University of Hawaii,
Windward Community College (WCC)

WCC must comply with the WLA reductions (refer to Tables 5.10 and 5.11) consistent with the assumption of the TMDL document titled, "Total Maximum Daily Load (TMDLs) for Total Suspended Solids, Nitrogen and Phosphorus in Kaneohe Stream, Kaneohe, Hawaii," dated September 2009, within the timeframes as specified in its I&M Plan.

- (2) For the United States (U.S.) Army Garrison Hawaii

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The U.S. Army Garrison Hawaii service area, which includes Wheeler Army Air Field and the portion of Schofield Barracks that lies in the Waikele watershed (approximately 3700 acres), must comply with the WLA and reductions (refer to Tables 18, 19, 20, and 21) consistent with the assumption of the TMDL document titled, "Turbidity, Sediment, and Nutrient Total Maximum Daily Loads for the Waikele Watershed, Oahu, Hawaii," dated February 2019, within the timeframes as specified in its I&M Plan.

- (3) For the U.S. Department of the Navy, Joint Base Pearl Harbor-Hickam (JBPHH)

The U.S. Department of the Navy service area, which includes Navy-owned MS4 drainage areas and the Naval Telecommunication and Computer Master Station Pacific discharging to the North Fork of Kaukonahua Stream, must comply with the WLA(s) and reductions (refer to Table 4-4, TMDL document) consistent with the assumptions of the TMDL document titled, "Total Maximum Daily Loads for the North and South Forks of Kaukonahua Stream, Oahu, Hawaii," dated September 2009.

- (A) At a minimum, the U.S. Department of the Navy, JBPHH shall continue to implement the TMDL I&M Plan and activities

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stated in the "Final Waste Load Allocation Completion Report for the North Fork of Kaukonahua Stream Monitoring for January through December 2024", dated June 2025:

- (i) Further revegetation of the partially unvegetated areas surrounding the antennae field in the eastern portion of the facility, and
- (ii) Installation of geotextile fabric material in order to reduce erosion in areas along the southern boundary of the installation where outlet pipes concentrate storm water runoff onto steep sections of the hillside.

In lieu of revegetating the areas surrounding the antennae field and for the installation of geotextile fabric in areas along the southern boundary, the permittee may implement alternative equivalent or better BMPs as long as the reason for the change is documented in the WLA Completion Report.

The installation of the additional BMPs shall be completed by 2028 and be properly maintained.

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Compliance shall be evaluated on an annual basis with monitoring beginning in 2028. The Permittee shall at a minimum monitor for at least one year for turbidity at monitoring points NSW-1, NSW-2, and NSW-3 in the Wet and Dry Season to sufficiently capture pre-BMP and post-BMP installation conditions to determine the effectiveness of each BMP measure taken. If turbidity reductions are demonstrated to DOH's satisfaction, the Permittee may discontinue turbidity monitoring.

An updated WLA Completion Report shall be prepared to demonstrate compliance with the applicable WLAs and shall include, but not be limited to, monitoring data, calculations, a comparison of applicable WLAs and measured loadings, and summary of the evaluation methodology and findings. Refer to Part 8(a)(3)(B) of this permit for the requirements of the WLA Completion Report. A comparison of applicable WLAs and measured loading, consistent with the evaluation methodology established in its WLA Completion Report, shall be provided annually with the Annual Report.

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North Fork of Kaukonahua Stream WLAs

Table K-1. Numeric WLAs based on Flow Curve Intervals

Parameter	Units	Receiving Water Flow Curve Intervals{1}{2}					
		Wet Season			Dry Season		
		High	Elevated	Stable	High	Elevated	Stable
Turbidity	NTU- tons/day	0.219	0.039	0.0011	0.043	0.014	0.0003
Total Nitrogen	lbs/day	195	24.6	1.00	No TMDLs Required		

{1} Wet Season is from November through April; Dry Season is May through October.

{2} Curve Intervals are 0-4% flow duration (High), 4-20% flow duration (Elevated), and 20-100% flow duration (Stable).

(B) The Permittee shall submit to DOH an updated WLA Completion Report for the North Fork of Kaukonahua Stream when the Permittee submits its next permit renewal NOI form. The Permittee shall include past findings to address compliance with the WLAs for Turbidity and Total Nitrogen. The WLA Completion Report shall be made available on the Permittee's website for public review and comment. The report shall include at a minimum the following:

(i) A map of the Small MS4 and drainage area to the North Fork of Kaukonahua Stream, which identifies collection areas, all outfalls, monitoring locations, and receiving waters.

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- (ii) An inventory of industrial activities that impact storm water runoff quality.
- (iii) Detailed information on the activities to be implemented to maintain compliance with the applicable WLAs.
- (iv) Monitoring data, calculations, a comparison of applicable WLAs (i.e., elevated wet and dry season WLAs for Turbidity and elevated wet season WLA for Total Nitrogen) and measured loadings, and summary of the evaluation methodology and findings.

(4) For ALL other Permittees

As applicable, comply with any assigned WLA reductions, as additional TMDLs are adopted by DOH and approved by the EPA, consistent with the TMDL document within the timeframes as specified in its I&M Plan, unless an I&M Plan has already been developed by the DOH. If an I&M Plan has been developed by the DOH, then the Permittee shall comply with those timeframes and requirements.

As additional TMDLs are adopted by the DOH and approved by the EPA, the Permittee for any assigned WLA reductions will, within two (2) years of the TMDL approval, prepare an I&M plan that will describe the Permittee's approach to proposed activities for compliance with the

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WLA reductions. If compliance is expected to take longer than 1-year after preparation of the Permittee's I&M Plan, a compliance schedule shall be submitted along with its I&M Plan that meet the requirements of 40 CFR 122.47.

A new NOI shall be submitted to DOH upon submittal of the Permittee's I&M Plan to provide opportunity for public comment and request for a public hearing.

- (b) The requirements of an I&M Plan, includes at a minimum the following:
 - (1) Detailed information on the activities proposed to be implemented.
 - (2) Actual or literature documentation of the estimated effectiveness of the proposed activities targeted to reduce the pollutants of concern such as total nitrogen, total phosphorus, total suspended solids, and/or turbidity in the impaired waterbody addressed by the TMDL, as applicable, to demonstrate consistency with the WLA reductions consistent with the assumptions in the associated TMDL document.
 - (3) A detailed and quantitative analysis which demonstrates that the proposed activities would ensure consistency with the WLA reductions consistent with the assumptions of the

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associated TMDL document.

- (4) Information from pre and post monitoring activities to quantitatively demonstrate consistency with the WLA reductions consistent with the assumptions of the associated TMDL document.
- (5) A monitoring plan which shall identify activities to demonstrate consistency with the WLA reductions consistent with the assumptions of the associated TMDL document.

9. Corrective Action

The permittee shall immediately stop, reduce, or modify the discharge 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) of this general permit.

10. Reporting Requirements

(a) Annual Report

The annual report shall be submitted by the permittee and received by the department by the twenty-eighth day of January of the following year. The annual report shall cover each calendar year during the term of this permit and include the following:

- (1) Status of compliance with the terms and conditions of this permit;
- (2) Assessment of the effectiveness of each component in its SWMP, including the

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status of achieving the measurable goals for each BMP; and

- (3) Summary of the storm water activities planned to be undertaken during the next calendar year; and
- (4) Status of TMDL compliance, including progress for the proposed activities in the I&M Plan and any milestone commitments for MS4 discharges to receiving waters with TMDLs adopted by the DOH and approved by the EPA and where the Permittee has assigned WLA(s) within the regulated MS4.

(b) Planned Changes

The permittee shall report planned changes to the permitted facility in accordance with 40 CFR §122.41(l)(1)(i), (ii), and (iii) to the director on a quarterly basis.

11. Submittal Requirements

- (a) The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director [~~at the following address or as otherwise specified:~~]electronically via DOH's e-permitting portal. The e-Permitting portal may be accessed at:
[https://eha-cloud.doh.hawaii.gov/epermit/.](https://eha-cloud.doh.hawaii.gov/epermit/)

~~[Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health]~~

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~~P.O. Box 3378~~
~~Honolulu, HI 96801-3378]~~

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine ~~[or]~~ and imprisonment for knowing violations."

- (c) The owner or its duly authorized representative shall include the notice of general permit coverage file number on each submittal. Failure to provide the assigned notice of general permit coverage file number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).
- (d) All submittals shall be made on forms provided and specified by DOH.

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12. Additional Conditions

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

13. Public Notice of Permit Actions and Public Comment Period

The DOH shall follow 40 CFR 124.10 for this general permit and as otherwise specified below.

- (a) The Permittee shall publish, in accordance with HRS 1-28.5, the Director's proposal (i.e., Public Notice document) to authorize the MS4 to discharge under the general permit. The DOH will provide the Public Notice document to the Permittee at least two (2) weeks prior to the publication date as determined by DOH. The contents of Public Notice document shall include the information in accordance with 40 CFR 124.10(d).
- (b) All publication and mailing costs associated with the Public Notice document shall be paid by the Permittee to the appropriate publishing agency or agencies determined by the Director. The Permittee shall submit the original signed affidavit of publication to the department within four weeks of the publication date. Failure to provide and pay for public notification, as deemed appropriate by the Director, is a basis to deny coverage under this general permit.

14. Public Comments and Public Hearings

The DOH shall follow 40 CFR 124.11, 124.12 and 124.17, and HAR 11-55-13 and 11-55-14 for this

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general permit. Public comments shall comply with 40 CFR 124.13. Publication and payment for costs associated with the Public Hearing shall comply with Sections 13(a) and (b) of this general permit.

15. 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.

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. Renewal

Requests for coverage under a renewed (reissued) general permit must be received within the timeframe as specified in the reissued general permit. Requests must be made on forms provided by DOH.

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

Fact Sheet for Appendix K

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

The subject of the draft National Pollutant Discharge Elimination System (NPDES) general permit is Small Municipal Separate Storm Sewer Systems (MS4s).

"Small municipal separate storm sewer system" or "small MS4" means all separate storm sewers that are:

- (1) Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or under state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Act that discharges to state waters;
- (2) Designed or used for collecting or conveying storm water;
- (3) Which is not a combined sewer;
- (4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2;
- (5) Not defined as "large" or "medium" municipal separate storm sewer systems under 40 CFR §122.2(b)(4) and (b)(7), or designated under section 11-55-04(a)(4) or 11-55-34.08(k)(2) or 40 CFR §122.26(a)(1)(v); and
- (6) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings (the system must serve two (2) or more buildings).

The following is a list of Permittees that have applied for NPDES coverage:

1. University of Hawaii (UH), Honolulu Community College, Honolulu, Island of Oahu, HI 22KG627 (Issued February 13, 2026);
2. UH, Maui College, Kahului, Island of Maui, HI 22KG697 (Issued March 5, 2025);
3. UH, Kapiolani Community College, Honolulu, Island of Oahu, HI 22KG701 (Issued April 23, 2025);
4. Department of Transportation, Harbors Division, Kalaeloa Barbers Point Harbor, Kapolei, Island of Oahu, HI 22KG709 (Issued March 14, 2023);

5. Department of Transportation (DOT), Harbors Division, Honolulu Harbor, Honolulu, Island of Oahu, HI 22KG710 (Issued March 14, 2023);
6. UH, Leeward Community College, Pearl City, Island of Oahu, HI 22KG711 (Issued July 8, 2024);
7. UH at Manoa, Honolulu, Island of Oahu, HI 22KG716 (Issued October 27, 2023);
8. DOT, Highways Division (DOT-HWYs) – Maui District, Kahului, Island of Maui, HI 22KG717 (Issued August 14, 2023);
9. Department of the Navy, Pearl Harbor Naval Shipyard & Intermediate Maintenance Facility, Pearl Harbor, Island of Oahu, HI 22KG718 (Issued June 21, 2023);
10. UH, West Oahu Campus, Kapolei, Island of Oahu, HI 22KG719 (Issued February 21, 2025);
11. Hawaii Community Development Authority (HCDA), Kakaako Community Development District, Honolulu, Island of Oahu, HI 22KG720 (In Process);
12. HCDA, Kewalo Basin, Honolulu, Island of Oahu, HI 22KG721 (In Process);
13. County of Maui, Kahului, Island of Maui, HI 22KG722 (Issued May 2, 2023);
14. Department of Transportation, Airports Division (DOT-AIR) Daniel K. Inouye International Airport, Honolulu, Island of Oahu, HI 22KG724 (Issued January 3, 2023);
15. DOT-AIR, Kahului Airport, Kahului, Island of Maui, HI 22KG725 (Issued March 6, 2023);
16. UH, Windward Community College, Kaneohe, Island of Oahu, HI 23KH156 (In Process, Developing I&M Plan);
17. State of Hawaii, Department of Land and Natural Resources (DLNR), Division of Boating and Ocean Recreation (DOBOR), Small Boat Harbors, Honolulu, Waianae, Kaneohe, Haleiwa, Island of Oahu HI 23KH191 (In Process);
18. Hawaii DOD, Hawaii Army National Guard, HIARNG Small MS4, Honolulu, Island of Oahu, HI 24KH601 (In Process).

Currently, thirteen (13) of the above facilities are covered by the 2022 small MS4 general permit, with others in various stages of application or permit processing.

The Hawaii Community Development Authority (HCDA), has submitted NOIs for Kakaako Community Development District and Kewalo Basin, HI 22KG720 and HI 22KG721 respectively. However, HCDA has since indicated that it is preparing a new NOI to consolidate coverage for both areas under a single general permit coverage.

The UH, Windward Community College (WCC), HI 23KH156, discharges to receiving waters with an established Total Maximum Daily Load (TMDL). WCC is currently in the process of developing its Implementation and Monitoring Plan (I&M Plan) for TMDL compliance. Once the I&M plan is finalized and approved, CWB will continue the permitting process.

DLNR-DOBOR, HI 23KH191 – Submitted a revised Notice of Intent (NOI) on August 27, 2024. The revised NOI is under review.

HIARNG, HI 24KH601 - Submitted a NOI on July 23, 2024. The NOI is under review.

As previously discussed in the 2022 Appendix K fact sheet, the Hawaii Department of Education (DOE), Honolulu Board of Water Supply (BWS), the DOH-State Hospital, and UH John A. Burns School of Medicine were granted waivers from the NPDES MS4 Phase II permit requirements, pursuant to 40 CFR 122.32(d). Additionally, the Kaena Point Satellite Tracking Station was determined to be outside the Honolulu urban area with a population of 50,000 or more people as determined by the last Decennial Census by the Bureau of the Census, therefore permit coverage was terminated on May 7, 2021.

(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.

Storm water discharge and certain allowable non-storm water from Small MS4s.

(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);

A small MS4 is any MS4 not already covered by the Phase I program as a medium or large MS4. The Phase II Rule automatically covers on a nationwide basis all small MS4s located in urban areas with a population of at least 50,000 (unless waived by the NPDES permitting authority).

The DOH has selected the Two-Step General Permit approach under 40 CFR 122.28(d) to regulate small MS4s. Under this process, each permittee submits a NOI and a SWMP describing the BMPs and measurable goals proposed to meet the MS4 permit standard. The CWB reviews these submittals for completeness and compliance, then provides a public notice package of the NOI and SWMP to solicit public input before authorization. After considering comments, CWB issues an NGPC, at which point the contents of the SWMP document is enforceable under this permit.

The General Permit is divided into the following sections:

1. Coverage under this General Permit [Revised]
2. Limitations on Coverage under this General Permit [Revised]

3. Term of General Permit [*Revised*]
4. Notice of Intent Requirements [*Revised*]
5. Standard Conditions [*Revised*]
6. Storm Water Management Plan Requirements [*Revised*]
7. Basic Water Quality Criteria and Inspections [*Revised*]
8. TMDL Implementation and Monitoring [*Revised*]
9. Corrective Actions [*Revised*]
10. Reporting Requirements
11. Submittal Requirements [*Revised*]
12. Additional Conditions
13. Public Notice of Permit Actions and Public Comment Period
14. Public Comments and Public Hearing
15. Record Retention
16. Falsifying Report
17. Renewal
18. Forms [*Revised*]

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.

Proposed Changes:

The draft 2026 Appendix K includes the following proposed changes (the sections referenced below are those of the General Permit):

Throughout HAR 11-55, Appendix K

Original: ~~Municipal Separate Storm Sewer System~~

Revised: MS4

Rationale: *The term “Municipal Separate Storm Sewer System” was replaced with “MS4” throughout the permit for consistency and clarity. This change is administrative and does not alter the permit’s requirements.*

Section 1(a)

Original: This general permit ~~covers storm water and certain non-storm water discharges, provided they do not cause or contribute to any violation of water quality standards,~~ to state waters from small municipal ~~separate storm sewer systems.~~

The following non-storm water discharges are authorized by this general permit, ~~provided that they do not cause or contribute to any violation of water quality standards:~~

Revised: This general permit authorizes the discharge of storm water and certain non-storm water discharges, provided they do not cause or contribute to any violation of water quality standards, to state waters from small MS4s consistent with Section 402(p)(6) of the federal Clean Water Act.

The following non-storm water discharges are authorized by this general permit:

Rationale: *The proposed language clarifies that the permit “authorizes” the discharge and is the standard regulatory term for what a permit does.*

Citing Clean Water Act (CWA) Section 402(p)(6) clarifies the federal legal basis for the permit.

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 receiving water conditions.

Section 1(b)(1) and 1(b)(2)

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

Revised: This general permit covers all discharges to 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: *For clarity, the phrase “covers all areas of the State” is revised to “covers discharges to all State waters.” This revision makes clear that this general permit regulates discharges, not geographic areas, and ensures consistency with the CWA and standard NPDES permit language.*

This general permit does not authorize discharges within lands of exclusive federal jurisdiction, where the State does not have NPDES permitting authority. In such areas, EPA retains responsibility for administering the

NPDES program, and dischargers must obtain coverage under an applicable EPA-issued permit.

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 on lands of exclusive federal jurisdiction 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>].

Section 2(a)(2)

Original: Storm water discharges from construction activities greater than one acre which discharges into the permittee's small municipal separate storm sewer system.

Revised: Storm water runoff associated with construction activities that result in the disturbance of one acre or more of total land area, as defined in 40 CFR §122.26(b)(14)(x) or (b)(15), which discharges into the permittee's small MS4.

Rationale: *The proposed changes align with NPDES permit language, 40 CFR 122.26(b)(14)(x) or (b)(15), and language more precise and consistent with the CWA.*

Section 2(a)(2)

Original: Storm water discharges from construction activities greater than one acre which discharges into the permittee's small municipal separate storm sewer system.

Revised: Storm water runoff associated with construction activities that result in the disturbance of one acre or more of total land area which discharges into the permittee's small MS4.

Rationale: *The proposed changes align with NPDES permit language, 40 CFR §122.26(b)(14)(x), and language more precise and consistent with the CWA.*

Section 2(c)

Original: (New)

Revised: (C) Permittees authorized by this general permit are required to 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: *The 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 those 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 this standard as a discharge prohibition since no numerical limits exist in the standards. The 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, which includes substances or conditions in combinations or in concentrations which produce undesirable aquatic life.*

Section 3(a)

Original: This general permit becomes effective ten days after filing with the office of the lieutenant governor. ~~This general permit expires five years after the effective date.~~

Revised: This general permit becomes effective ten days after filing with the office of the lieutenant governor and shall expire five years after the effective date, unless amended earlier.

Rationale: *This revision is to make this subsection consistent with the general permit term specified at the beginning of the general permit. This is a minor change for completeness and consistency and has no functional impact on any permit requirement.*

Section 3(b)

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

- ~~(1) Five years after the effective date of this general permit;~~
- ~~(2) When the notice of general permit coverage specifies; or~~
- ~~(3) When amendments to section 11-55-34.02(b)(10) are adopted,~~

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

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

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

Section 3(c)(1) – (3)

Original: (New)

Revised: (c) If the department is unable to reissue this general permit prior to its expiration, a notice of general permit coverage granted under this general permit shall be automatically administratively extended, unless otherwise specified on the notice of general permit coverage. This administrative extension shall expire one hundred eighty (180) days after the effective date of the new general permit unless:

- (1) A notice of intent (NOI) for coverage under the new general permit is submitted within one hundred eighty (180) days after the effective date of the new general permit. The administrative extension shall expire on the effective date of the notice of general permit coverage authorizing the existing discharge under the new general permit;

(2) An application for an individual NPDES permit is submitted within one hundred eighty (180) days after the effective date of the new general permit. The administrative extension shall thus expire on the effective date of the individual NPDES permit authorizing the existing discharge; or

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

Rationale: *Previously, to maintain coverage under this general permit in instances where the general permit is going to expire prior to its reissuance, permittees would need to submit a renewal NOI prior to the general permit's expiration date. This procedure created a situation where a permittee is required to submit a NOI to request coverage under the reissued general permit prior to the reissued permit being finalized and adopted. In essence, permittees would be required to submit an NOI to apply for coverage under a general permit that has not been finalized, or at worst, has not had a draft public noticed yet, and therefore, permittees would not even be aware of what the new general permit's requirements would potentially be. To avoid this situation, the renewal process for general permit coverage has been revised. This new section now specifies that when the department is unable to reissue the general permit prior to its expiration, NGPCs granted under the general permit prior to its expiration are administratively extended until 180 days after effective date of the reissued general permit, unless one of 3 actions are taken by the permittee. In the new process, permittees would have 180 days to submit an NOI to request coverage under the reissued general permit, before their administrative extension expires. This will allow permittees to determine if they are able to comply with the new general permit and provide any newly required information in the NOI to request coverage under the reissued general permit.*

Section 4(a)

Original: (a) New Permittees (those MS4s not covered under the previous 2013 general permit) shall submit a complete notice of intent no later than 180 calendar days before the proposed starting date of the discharge.

Existing Permittees (those granted administrative extension under the previous 2013 general permit) shall submit a complete notice of intent no later than 420 calendar days from the effective date of this general permit. Failure to comply with this deadline will result in the termination of the administrative extension, unless otherwise ordered by DOH.

Revised: (a) New Permittees (those MS4s not covered under the previous 2022 general permit) shall submit a complete notice of intent no later than 180 calendar days before the proposed starting date of the discharge.

Existing Permittees (those granted administrative extension under the previous 2022 general permit) shall submit a complete notice of intent no later than 180 calendar days from the effective date of this general permit. Failure to comply with this deadline will result in the termination of the administrative extension, unless otherwise ordered by DOH.

Rationale: *The revision to Section 4(a) updates references to the previous general permit from the 2013 permit to the 2022 permit and updates the time frame for existing permittees to submit a NOI 180-days after readoption, consistent with the rest of the permit.*

Section 4(b)(6)

Original: (6) If specifically assigned a ~~WLA~~, submit an Implementation & Monitoring (I&M) Plan, which meets the applicable requirements as specified in section 8 of this general permit to comply with ~~Waste Load Allocations~~ assigned to the Permittee consistent with the assumption in the associated TMDL document. If compliance will exceed a year, the Permittee shall also include a proposed compliance schedule that meets the requirements of 40 CFR 122.47 to comply as soon as possible.

Revised: If specifically assigned a Waste Load Allocation (WLA), submit an Implementation & Monitoring (I&M) Plan, which meets the applicable requirements as specified in section 8 of this general permit to comply with WLA(s) assigned to the Permittee consistent with the assumption in the associated TMDL document. If compliance will exceed a year, the Permittee shall also include a proposed compliance schedule that meets the requirements of 40 CFR 122.47 to comply as soon as possible.

Rationale: *The term “WLA” was replaced with “Waste Load Allocation (WLA)” for grammatical correction. This change is administrative and does not alter the permit's requirements.*

Section 4(d)

Original: ~~The owner or its duly authorized representative shall submit a complete notice of intent to the director at the following address or as otherwise specified:~~

Director of Health
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 NOI on forms specified by the director electronically via DOH's e permitting portal. The e Permitting portal may be accessed at: <https://eha-cloud.doh.hawaii.gov/epermit/>.

Rationale: *The change 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 Hawaii'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 receiving water conditions.*

Section 6(a)(1)

Original: Public Education and Outreach

Revised: Public Education and Outreach on Storm Water Impacts

Rationale: *The revised language matches regulatory language in 40 CFR 122.34(b)(1) and ensures the permit is consistent with federal requirements.*

Section 6(a)(2)

Original: Include users of the permittee's small ~~municipal separate storm sewer system~~ in developing, implementing, and reviewing the storm water management plan;

Revised: Include users of the permittee's small MS4 in developing, implementing, and reviewing the storm water management plan and comply with the public notice requirements in Part 13 of this permit, including during renewals;

Rationale: *This change ensures the permit is consistent with federal law, specifically 40 CFR 122.34(b)(2)(i), by requiring both public involvement in the storm water management plan and compliance with public notice procedures. This enhances regulatory clarity and strengthens public participation in storm water management.*

Section 6(a)(3)

Original: Develop, implement, and enforce a program to detect and eliminate illicit discharges ~~that, at a minimum, includes the following:~~

Revised: Develop, implement, and enforce a program to detect and eliminate illicit discharges, as defined in 40 CFR Section 122.26(b)(2). The illicit discharge detection and elimination program shall include, at a minimum, the following components:

Rationale: *The revised language explicitly references the federal definition of "illicit discharge" at 40 CFR 122.26(b)(2), ensuring consistency with federal law and regulatory clarity. It also aligns the permit with 40 CFR 122.34(b)(3)(i), which requires the permittee to develop, implement, and enforce a program to detect and eliminate illicit discharges "as defined at §122.26(b)(2)" into the small MS4. This change improves legal precision, ensures the program meets federal minimum standards, and clarifies the scope of the requirement for permittees.*

Section 6(a)(3)(A)

Original: (NEW)

Revised: Develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all surface waters of the State that receive discharges from those outfalls, in accordance with 40 CFR 122.34(b)(3)(i)(A).

Rationale: *The new permit condition Implements the mapping requirement found in 40 CFR 122.34(b)(3)(ii).*

Section 6(a)(3)(B)

Original: (A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that prohibit non-storm water discharges, except those listed in section 1 ~~that do not cause or contribute to any violations of water quality standards, into the permittee's small municipal separate storm sewer system,~~

Revised: Establishment of rules, ordinances , or other regulatory mechanism, including enforcement procedures and actions, that prohibit non-storm water discharges, except those listed in section 1, into the permittee's small MS4.

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 receiving water conditions.*

Section 6(a)(3)(C)

Original: ~~(B) Procedures to detect and eliminate illicit discharges (as defined in 40 CFR Section 122.26(b)(2)), and~~

Revised: (C) Procedures to detect and address non-storm water discharges, including illicit discharges, illegal connections, illegal dumping, and improper disposal of waste to the MS4.

Rationale: *The proposed language expands the scope to all non-storm water discharges, as required by 40 CFR 122.34(b)(3)(i)(C). It clarifies that the program must address not only procedures to detect and eliminate illicit discharges, but also illegal connections, illegal dumping, and improper*

disposal of waste to the MS4. This ensures the permit is comprehensive and compliant with federal MS4 requirements.

Section 6(a)(3)(C) and 6(a)(3)(C)(i) – (iv)

Original: ~~(C) Compilation of a list of non-storm water discharges or flows that are considered to be significant contributors of pollutants to the system and measures to be taken to prevent these discharges into the permittee's small municipal separate storm sewer system, or reduce the amount of pollutants in these discharges;~~

Revised: The Plan to detect and address illicit discharges must include, at a minimum, the following:

(i) Schedules and protocols for identification of priority areas for detailed screening of the system based on the likelihood of illicit discharges and illegal connections. Detailed screening may include, as appropriate, visual screening, water sampling of storm water conveyances and outfalls, investigation of information submitted by cross-trained staff that are able to detect illicit discharges in the field, or investigations of public complaints.

(ii) Investigation techniques for suspected or detected illicit discharges, including procedures for source tracing, to identify the source(s) of the suspected illicit discharges, illegal connections, illegal dumping, and improper disposal to the MS4.

(iii) Procedures, including enforcement, for removal and/or correction of the source of the illicit discharge, illegal connection, illegal dumping, and improper disposal to the MS4.

(iv) Documentation of actions taken under the plan.

Rationale: *The proposed language strengthens the permit by requiring a structured, proactive approach to detecting and addressing illicit discharges in the MS4. This change aligns with EPA guidance (40 CFR 122.34(b)(3)(iii)), which recommends specific procedures for locating, tracing, removing, and documenting illicit discharges. The new language ensures that permittees will implement targeted screening, thorough investigation, and clear enforcement actions, improving the effectiveness of the illicit discharge detection and elimination program. Ultimately, these changes will better protect water quality and support regulatory compliance.*

Section 6(a)(3)(D)

Original: (NEW)

Revised: Inform public employees, businesses, and the general public of hazards associated with illicit discharges and improper disposal of waste.

Rationale: *The proposed permit condition implements the requirements found in 40 CFR 122.34(b)(3)(i)(D).*

Section 6(a)(4)

Original: Construction Site Runoff Control

Revised: Construction Site Storm Water Runoff Control

Rationale: *The revised language ensures the permit is consistent with federal regulations at 40 CFR 122.34(b)(4).*

Section 6(a)(6)

Original: Pollution Prevention/Good Housekeeping

Revised: Pollution Prevention/Good Housekeeping for Municipal Operations.

Rationale: *The revised language ensures the permit is consistent with federal regulations at 40 CFR 122.34(b)(6).*

Section 7

Original: 7. Basic Water Quality Criteria and Inspections

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

(b) ~~The permittee shall, as indicated in its SWMP, inspect the receiving state waters, effluent, and control measures and best management practices 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.)~~

Revised: 7. Inspections

The permittee shall, as indicated in its SWMP, inspect the discharge, control measures, and BMPs to detect violations of and conditions which may cause violations of the prohibitions as specified in Section 2(c) 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 receiving water conditions.*

Section 8(a)(2)

Original: (NEW)

Revised: For the United States (U.S.) Army Garrison Hawaii

The U.S. Army Garrison Hawaii service area, which includes Wheeler Army Air Field and the portion of Schofield Barracks that lies in the Waikele watershed (approximately 3700 acres), must comply with the WLA and reductions (refer to Tables 18, 19, 20, and 21) consistent with the assumption of the TMDL document titled, “Turbidity, Sediment, and Nutrient Total Maximum Daily Loads for the Waikele Watershed, Oahu, Hawaii,” dated February 2019, within the timeframes as specified in its I&M Plan.

Rationale: *The new permit condition is being added to specifically require U.S. Army Garrison Hawaii, which includes Wheeler Army Airfield and portions of Schofield Barracks within the Waikele watershed, to comply with the wasteload allocations (WLAs) and pollutant reductions established in the EPA-approved TMDL document, “Turbidity, Sediment, and Nutrient Total Maximum Daily Loads for the Waikele Watershed, Oahu, Hawaii” (February 2019). This requirement is mandated by 40 CFR 122.44(d)(1)(vii)(B), which obligates NPDES permits to include effluent limitations consistent with the assumptions and requirements of any applicable TMDL, and by 40 CFR 122.34(a), which requires MS4 permits to include clear, specific, and measurable terms to protect water quality and satisfy the CWA.*

Section 8(a)(3)

Original: (NEW)

Revised: (3) For the U.S. Department of the Navy, Joint Base Pearl Harbor-Hickam (JBPHH)

The U.S. Department of the Navy service area, which includes Navy owned MS4 drainage areas and the Naval Telecommunication and Computer Master Station Pacific discharging to the North Fork of Kaukonahua Stream, must comply with the WLA(s) and reductions (refer to Table 4-4, TMDL document) consistent with the assumptions of the TMDL document titled, "Total Maximum Daily Loads for the North and South Forks of Kaukonahua Stream, Oahu, Hawaii," dated September 2009.

(A) At a minimum, the Permittee shall continue to implement the TMDL I&M Plan and activities stated in the "Final Waste Load Allocation Completion Report for the North Fork of Kaukonahua Stream Monitoring for January through December 2024", dated June 2025:

(i) Further revegetation of the partially unvegetated areas surrounding the antennae field in the eastern portion of the facility, and

(ii) Installation of geotextile fabric material in order to reduce erosion in areas along the southern boundary of the installation where outlet pipes concentrate storm water runoff onto steep sections of the hillside.

In lieu of revegetating the areas surrounding the antennae field and for the installation of geotextile fabric in areas along the southern boundary, the permittee may implement alternative equivalent or better BMPs as long as the reason for the change is documented in the WLA Completion Report.

The installation of the additional BMPs shall be completed by 2028 and be properly maintained.

Compliance shall be evaluated on an annual basis with monitoring beginning in 2028. The Permittee shall at a minimum monitor for at least one year for turbidity at monitoring points NSW-1, NSW-2, and NSW-3 in the Wet and Dry Season to sufficiently capture pre-BMP and post-BMP installation conditions to determine the effectiveness of each BMP measure taken. If turbidity reductions are demonstrated to DOH's satisfaction, the Permittee may discontinue turbidity monitoring.

An updated WLA Completion Report shall be prepared to demonstrate compliance with the applicable WLAs and shall include, but not be limited to, monitoring data, calculations, a comparison of applicable WLAs and measured loadings, and summary of the evaluation methodology and findings. Refer to Part 8(a)(3)(B) of this permit for the requirements of the WLA Completion Report. A comparison of applicable WLAs and measured loading, consistent with the evaluation methodology established in its WLA Completion Report, shall be provided annually with the Annual Report.

North Fork of Kaukonahua Stream WLAs

Table K-1. Numeric WLAs based on Flow Curve Intervals

<u>Parameter</u>	<u>Units</u>	<u>Receiving Water Flow Curve Intervals{1}{2}</u>					
		<u>Wet Season</u>			<u>Dry Season</u>		
		<u>High</u>	<u>Elevated</u>	<u>Stable</u>	<u>High</u>	<u>Elevated</u>	<u>Stable</u>
<u>Turbidity</u>	<u>NTU-tons/day</u>	<u>0.219</u>	<u>0.039</u>	<u>0.0011</u>	<u>0.043</u>	<u>0.014</u>	<u>0.0003</u>
<u>Total Nitrogen</u>	<u>lbs/day</u>	<u>195</u>	<u>24.6</u>	<u>1.00</u>	<u>No TMDLs Required</u>		

{1} Wet Season is from November through April; Dry Season is May through October.

{2} Curve Intervals are 0-4% flow duration (High), 4-20% flow duration (Elevated), and 20-100% flow duration (Stable).

(B) The Permittee shall submit to DOH an updated WLA Completion Report for the North Fork of Kaukonahua Stream when the Permittee submits its next permit renewal NOI form. The Permittee shall include past findings to address compliance with the WLAs for Turbidity and Total Nitrogen. The WLA Completion Report shall be made available on the Permittee's website for public review and comment. The report shall include at a minimum the following:

- (i) A map of the Small MS4 and drainage area to the North Fork of Kaukonahua Stream, which identifies collection areas, all outfalls, monitoring locations, and receiving waters.
- (ii) An inventory of the types of industrial activities that discharge into the Permittee's small MS4.
- (iii) Detailed information on the activities to be implemented to maintain compliance with the applicable WLAs.
- (iv) Monitoring data, calculations, a comparison of applicable WLAs (i.e., elevated wet and dry season WLAs for Tubidity and elevated wet season WLA for Total Nitrogen) and measured loadings, and summary of the evaluation

methodology and findings.

Rationale: *The new permit condition is being added to specifically require U.S. Department of the Navy, JBPHH, which includes Navy-owned MS4 drainage areas and the Naval Telecommunication and Computer Master Station Pacific discharging to the North Fork of Kaukonahu Stream, to comply with the WLA(s) and pollutant reductions established in the EPA-approved TMDL document, ““Total Maximum Daily Loads for the North and South Forks of Kaukonahua Stream, Oahu, Hawaii,” dated September 2009.” This requirement is mandated by 40 CFR 122.44(d)(1)(vii)(B), which obligates NPDES permits to include effluent limitations consistent with the assumptions and requirements of any applicable TMDL, and by 40 CFR 122.34(a), which requires MS4 permits to include clear, specific, and measurable terms to protect water quality and satisfy the CWA.*

Section 9

Original: The permittee shall immediately stop, reduce, or modify the discharge 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 the discharge as needed to stop or prevent a violation of the prohibitions as specified in section 2(c) 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 receiving water conditions.*

Section 11(a)

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

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

Revised: The owner or its duly authorized representative shall submit signed copies of monitoring and all other reports required by this general permit to the director electronically via DOH's e permitting portal.
The e Permitting portal may be accessed at:
<https://eha-cloud.doh.hawaii.gov/epermit/>.

Rationale: *The change 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 Hawaii's program with national standards for environmental permitting.*

Section 11(b)

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Rationale: *This revision is to make the permit language consistent with 40 CFR 144.32(d).*

Section 18

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

Rationale: *The revised language clarifies the location and accessibility of the electronic forms for the permit, ensuring applicants are directed to the most current website. This change is administrative and does not alter the permit's requirements.*

(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 § 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.

Refer to 40 CFR 122.30 through 122.37.

40 CFR 122.34 requires Small MS4 to reduce pollutant discharge to the Maximum Extent Practicable, which requires the implementation of minimum control measures.

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

Not applicable.