

Rationale, Hawaii Administrative Rules (HAR) Chapter 11-55 Water Pollution Control

Section	Current	Proposed	Rationale
11-55-01	"40 CFR" means the Code of Federal Regulations, Title 40, Protection of Environment, revised as of July 1, 2012 unless otherwise specified.	"40 CFR" means the Code of Federal Regulations, Title 40, Protection of Environment, revised as of July 1, <u>2017</u> unless otherwise specified.	Updated to reference the most recent version of 40 CFR.
11-55-34.02(b) (1), (2), (9), (10), and (11)	(new)	<u>Updated expiration dates to HAR 11-55-34.02(b)(2), (9), and (11)</u>	These rules refer to HAR 11-55, Appendices C, J, and L. These general permits are being revised as part of this package.
11-55, Appendix C, Appendix J, Appendix L	See fact sheets of each Appendix (General Permit) for rationales.		

**RATIONALE
FOR
PROPOSED REVISIONS**

TO

**HAWAII ADMINISTRATIVE RULES
TITLE 11
DEPARTMENT OF HEALTH
CHAPTER 55
WATER POLLUTION CONTROL**

**DEPARTMENT OF HEALTH
ENVIRONMENTAL MANAGEMENT DIVISION
CLEAN WATER BRANCH
HONOLULU, HAWAII**

February 2018

Rational for Proposed Revision to HAR Chapter 11-55
February 2018

NPDES General Permits authorizing discharges of storm water associated with construction activities, circulation water from decorative ponds or tanks and occasional or unintentional discharges from recycled water systems HAR 11-55, appendix C, L and J, will expire at midnight, December 5, 2018. Currently, discharges of storm water associated industrial activities and storm water and certain non-storm water discharges from small municipal separate storm sewer systems, HAR 11-55 Appendices B and K, are expired.

This rationale serves to provide an explanation for the changes which are proposed for Chapter 11-55, Appendix C, L, and J. Additional information may be obtained by calling (808) 586-4309 or by writing to the Clean Water Branch (CWB) at the following address:

Clean Water Branch
Environmental Management Division
Hawaii Department of Health
2827 Waimano Home Road, Room 225
Pearl City, HI 96782
Fax: (808) 586-4352
email: cleanwaterbranch@doh.hawaii.gov

Chapter 11-55, Appendix C Fact Sheet

In accordance with NPDES regulations at 40 CFR 124.8(a) and 124.8(b) the following information is provided for HAR, Chapter 11-55, Appendix C.

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

National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from construction activities.

Construction sites disturbing one or more acres of land or smaller sites that are part of a common plan of development or sale are required to obtain NPDES permit coverage for their storm water discharges.

Currently there are 965 construction projects covered by HAR 11-55, Appendix C Notice of General Permit Coverage (NGPC).

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 associated with construction activity.

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);

The Clean Water Act (“CWA”) establishes a comprehensive program “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. 1251(a). The CWA also includes the objective of attaining “water quality which provides for the protection and propagation of fish, shellfish and wildlife and... recreation in and on the water.” 33 U.S.C. 1251(a)(2)). To achieve these goals, the CWA requires EPA to control discharges of pollutants from point sources through the issuance of National Pollutant Discharge Elimination System (“NPDES”) permits.

The Water Quality Act of 1987 (WQA) added section 402(p) to the Clean Water Act (CWA), which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. 33 U.S.C. 1342(p). EPA published a final regulation in the Federal Register, often called the “Phase I Rule”, on

November 16, 1990, establishing permit application requirements for, among other things, “storm water discharges associated with industrial activity.” See 55 FR 47990. EPA defines the term “storm water discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of facilities. Construction activities, including activities that are part of a larger common plan of development or sale, that ultimately disturb at least five acres of land and have point source discharges to waters of the U.S. were included in the definition of “industrial activity” pursuant to 40 CFR 122.26(b)(14)(x). The second rule implementing section 402(p), often called the Phase II Rule, was published in the Federal Register on December 8, 1999. It requires NPDES permits for discharges from construction sites disturbing at least one acre but less than five acres, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre but less than five acres, pursuant to 40 CFR 122.26(b)(15)(i). See 64 FR 68722. NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions to meet technology-based effluent limits established under Section 301 and, where applicable, Section 306. Effluent limitations guidelines (ELGs) and New Source Performance Standards (NSPS) are technology-based effluent limitations that are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Subchapter III of the CWA. Once a new national standard is established in accordance with these sections, NPDES permits must incorporate limits based on such technology-based standards. See CWA sections 301 and 306, 33 U.S.C. 1311 and 1316, and 40 CFR 122.44(a)(1). Prior to the issuance of such national standards, permitting authorities are required to incorporate technology based limits on a best professional judgment basis. CWA section 402(a)(1); 40 CFR 125.3(a)(2)(ii)(B). On December 1, 2009, EPA published final regulations establishing technology-based Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for the Construction & Development (C&D) point source category. See 40 CFR Part 450, and 74 FR 62996 (December 1, 2009). The Construction & Development Rule, or “C&D rule”, became effective on February 1, 2010; therefore, all NPDES construction permits issued by EPA or states after this date must incorporate the C&D rule requirements.

Section 1.2

Original: *This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 entitled "Water Quality Standards."*

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

Rationale: *Surface waters in the State of Hawaii are subject to Hawaii’s water quality standards as provided in HAR Chapter 11-54 “Water Quality Standards. HAR Chapter 11-54 classifies water body types (inland stream, inland estuary, marine embayment, marine open coastal, etc.). HAR Chapter 11-54 also classifies water bodies based on uses; inland water bodies are Class 1 or Class 2 and marine water bodies are Class AA or Class A. Protections for water quality are based on the basic criteria (HAR Section 11-54-4) and specific criteria (HAR Sections 11-54-5, 6, and 7). These criteria are exclusive of Classes of water bodies and is equally protective of Class AA and Class A or Class 1 and Class 2 waters.*

Freshwater lakes, saline lakes, and anchialine pools are in reference to HAR 11-54-5.2(a)

Section 3.1

Original: *This general permit becomes effective when section 11-55-34.02(b)(2) becomes effective, ten days after filing with the office of the lieutenant governor. This general permit expires the sooner of when section 11-55-34.02(b)(2) is amended and becomes effective or five years after section 11-55-34.02(b)(2) became effective.*

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

Rationale: *Reference to section 11-55-34.02(b)(2) could potentially result in two effective dates – one effective date specified in this general permit, and the other effective date when section 11-55-34.02(b)(2) becomes effective ten days after filing with the office of the lieutenant governor. The revision is necessary to prevent conflicting effective dates.*

Section 5.1.2.1.1.3

Original: *The compliance alternative selected above must be maintained throughout the duration of permit coverage, except that the permittee may select a different compliance alternative during the period of permit coverage, in which case the permittee shall modify the SWPPP to reflect this change.*

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

Rationale: *Considers the situation where construction of a portion of a project is complete and stabilized and the construction continues in other areas. Once a portion is restored or stabilized, DOH believes that the water pollution issue has been addressed.*

Section 9.1

Original: *The permittee shall timely inspect the receiving state waters, storm water runoff 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 storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.) Except, if the discharge enters an MS4 or separate drainage system, then the permittee may inspect their discharge when it enters a drainage system rather than at the receiving water (excluding an upset event, BMP failure, or rainfall events greater than 0.25 inches).*

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

Rationale: *The note considers both situations where the effluent may or may not enter a storm water drainage system. If it enters a storm water drainage system, the permittee may automatically assume that it commingles and therefore, inspection at the receiving water is not required.*

If the state receiving water is located far away, but does not commingle with other waters then, inspection of the receiving water is still required. In this situation, the DOH is concerned with erosion and potential pollutants that may be picked up and transported in the effluent, for which the Permittee is responsible.

Section 11.4

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 its duly authorized representative shall submit Notice of Intent Forms on Forms specified by the CWB.*

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

Rationale: *Clarify the location of electronic forms.*

Section 13.1

Original: *The owner or its duly authorized representative shall prepare a monthly compliance report, which shall include but is not limited to information as required in this general permit and NGPC, any incidences of non-compliance and corrective actions. The monthly compliance report shall be kept on-site and available by the end of the next business day when requested by the department. Upon the department receiving EPA's Cross-Media Electronic Reporting Regulation (CROMERR), the monthly compliance reports shall be submitted through the e-Permitting Portal. Any comments provided by the department shall be answered in the time specified and to the satisfaction of the department. If the activity is in compliance and none of the information on file with the department requires updating, or there were no incidences of non-compliance, preparation of the monthly compliance information is still required which states that there were "no changes, updates, or any incidences of non-compliance to report."*

Note: EPA's Cross-Media Electronic Reporting Regulation (CROMERR) sets performance-based, technology-neutral standards for systems that states, tribes, and local governments use to receive electronic reports from facilities they regulate under EPA-authorized programs and requires program modifications or revisions to incorporate electronic reporting. CROMERR also addresses electronic reporting directly to EPA.

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

Rationale: *Removing the requirement in Section 13.1 to submit monthly compliance reports when EPA's CROMERR approval is obtained.*

Section 15

Original: *The permittee shall retain all records and information resulting from the activities required by this general permit for a minimum of five years.*

Revised: *The permittee shall retain all records and information resulting from the activities required by this general permit for a minimum of three years.*

Rationale: *Consistent with 40 CFR 122.41(j)*

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.

Rational for Proposed Revision to HAR Chapter 11-55
February 2018

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

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

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

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

Refer to 40 CFR 450.

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

Not applicable.

Chapter 11-55, Appendix L revisions:

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

This general permit covers facilities in the State of Hawaii that discharge circulation water from decorative ponds or tanks containing or not containing fish or other aquatic species, not including mammals.

Currently there are eight (8) circulation water from decorative ponds or tanks covered under HAR 11-55, Appendix L NGPC.

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 process wastewater associated with circulation water from decorative ponds or tanks that have been treated such that, prior to discharge, any pollutant in the effluent is at or below Hawaii's waterbody-specific water quality standard for that pollutant.

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);

Section 1(b)

Original: *This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."*

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

Rationale: *Surface waters in the State of Hawaii are subject to Hawaii's water quality standards as provided in HAR Chapter 11-54 "Water Quality*

Standards. HAR Chapter 11-54 classifies water body types (inland stream, inland estuary, marine embayment, marine open coastal, etc.). HAR Chapter 11-54 also classifies water bodies based on uses; inland water bodies are Class 1 or Class 2 and marine water bodies are Class AA or Class A. Protections for water quality are based on the basic criteria (HAR Section 11-54-4) and specific criteria (HAR Sections 11-54-5, 6, and 7). These criteria are exclusive of Classes of water bodies and is equally protective of Class AA and Class A or Class 1 and Class 2 waters.

Freshwater lakes, saline lakes, and anchialine pools are in reference to HAR 11-54-5.2(a)

Section 3(a)

Original: *This general permit becomes effective when section 11-55-34.02(b)(6) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires when amendments to section 11-55-34.02(b)(6) are adopted, whichever is earlier.*

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

Rationale: *Reference to section 11-55-34.02(b)(6) could potentially result in two effective dates – one effective date specified in this general permit, and the other effective date when section 11-55-34.02(b)(6) becomes effective ten days after filing with the office of the lieutenant governor. The revision is necessary to prevent conflicting effective dates.*

Section 4(b)(8)

Original: *A brief description of any treatment system used or to be used. The treatment system plan, and all subsequent revisions, shall be retained on-site or at a nearby office.*

Revised: *A brief description of any treatment system used or to be used. For discharges to Class AA or Class 1 waters, the treatment system plan shall be submitted with the notice of intent. For discharges to Class A or Class 2 waters, the treatment system plan shall be submitted with the notice of intent or thirty days before the start of discharge activities. The permittee*

shall retain the treatment system plan, and all subsequent revisions, on-site or at a nearby office.

Rationale: In order to afford more protection to Class AA and Class 1 waters, the treatment system plan will be required to be submitted with the NOI and reviewed.

Section 6(a)(4)(C)

Original: The permittee shall use test methods with detection limits that reflect the applicable numerical limitations as specified in chapter 11-54. [End of section]

Revised: 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: incorporate federal requirements for sufficiently sensitive methods (SSM) for monitoring and analysis in NPDES permits.

Section 6(a)(5)(C)

Original: The permittee shall timely 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: 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.

Rationale: 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.

Section 8(a)(5)

Original: (NEW)

Revised: 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.

Rationale: Fulfills requirements of the NPDES eReporting rule in 40 CFR Part 127.

Section 8(b)

Original: Additional Monitoring by the Permittee

If the permittee monitors any pollutant at location(s) designated herein more frequently than required by this general permit, using approved analytical methods as specified in section 6(a)(4)(B), the permittee shall include the results of this monitoring in the calculation and reporting of the values required in the discharge monitoring report form. The permittee shall also indicate the increased frequency.

Revised: Monitoring Report

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

Rationale: Due to requirements of ICIS reporting, the general permit may require the permittee to monitor more frequently than the minimum duration allowed on a Discharge Monitoring Report (DMR) form. Since the more frequent reporting is a requirement of the general permit and not discretionary

for the permittee, the language for more frequent monitoring is removed and language for the permittee to submit the analytical monitoring results used to determine the values for the DMR [and required in section 8(a)(3)] is included.

Section 13

Original: (NEW)

Revised: Renewal

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

Rationale: Provide for sufficient time for the agency to review and renew permit coverage before commencement of the new general permit.

Section 14

Original: (NEW)

Revised: 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/>

Rationale: Clarify the location of electronic forms.

Table 34.8

Original: (NEW FOOTNOTE)

Revised: {11} If there is more than one sample analysis per quarter in a single monitoring location, report for each parameter the quarterly maximum, quarterly minimum, and quarterly average values on the discharge monitoring report. For pH, only report quarterly minimum and quarterly maximum.

Rationale: Clarify reporting of monitoring results when sampling is performed more frequently than once per quarter.

Rational for Proposed Revision to HAR Chapter 11-55
February 2018

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

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

*Mr. Darryl Lum
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 technology-based and water quality-based effluent limitations are implemented through NPDES permits.
For this permit, the limits are based on Best Professional Judgement (BPJ) decision-making and Hawaii's water quality standards because no effluent limitation guidelines (ELG) applies.*

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

Not applicable.

Chapter 11-55, Appendix J Fact Sheet

In accordance with NPDES regulations at 40 CFR 124.8(a) and 124.8(b) the following information is provided for HAR, Chapter 11-55, Appendix J.

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

National Pollutant Discharge Elimination System (NPDES) general permit for occasional or unintentional discharges from recycled water system composed entirely of R-1 water or R-1 water with any combination of stormwater or potable water or water used primarily for irrigation.

Currently there are no facilities or activities covered by HAR 11-55, Appendix J Notice of General Permit Coverage (NGPC).

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

Recycled R-1 water or R-1 water with any combination of stormwater or potable water or water used primarily for irrigation.

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);

Section 1.1

Original: *This general permit covers all areas of the State except for discharges in or to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 titled "Water Quality Standards."*

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

Rationale: *Surface waters in the State of Hawaii are subject to Hawaii’s water quality standards as provided in HAR Chapter 11-54 “Water Quality Standards. HAR Chapter 11-54 classifies water body types (inland stream, inland estuary, marine embayment, marine open coastal, etc.). HAR Chapter 11-54 also classifies water bodies based on uses; inland water bodies are Class 1 or Class 2 and marine water bodies are Class AA or Class A. Protections for water quality are based on the basic criteria (HAR Section 11-54-4) and specific criteria (HAR Sections 11-54-5, 6, and 7). These criteria are exclusive of Classes of water bodies and is equally protective of Class AA and Class A or Class 1 and Class 2 waters.*

Freshwater lakes, saline lakes, and anchialine pools are in reference to HAR 11-54-5.2(a)

Section 3(a)

Original: *This general permit becomes effective when section 11-55-34.02(b)(9) becomes effective ten days after filing with the office of the lieutenant governor. This general permit expires five years after the effective date or when amendments to section 11-55-34.02(b)(9) are adopted, whichever is earlier.*

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

Rationale: *Reference to section 11-55-34.02(b)(6) could potentially result in two effective dates – one effective date specified in this general permit, and the other effective date when section 11-55-34.02(b)(6) becomes effective ten days after filing with the office of the lieutenant governor. The revision is necessary to prevent conflicting effective dates.*

Section 7(b)(2)

Original: *The permittee shall timely inspect the receiving state waters, the recycled water, and the implementation of control measures and best management practices to prevent and detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4.*

Revised: *The permittee shall inspect the receiving state waters, the recycled water, and the implementation of 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 prevent and detect violations of and conditions which may cause violations of the basic water quality criteria as specified in section 11-54-4.*

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.

Rationale: 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.

Section 14

Original: (NEW)

Revised: Renewal

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

Rationale: Provide for sufficient time for the agency to review and renew permit coverage before commencement of the new general permit.

Section 15

Original: (NEW)

Revised: 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/>

Rationale: Clarify the location of electronic forms.

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

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

Rational for Proposed Revision to HAR Chapter 11-55
February 2018

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

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

*Mr. Darryl Lum
Engineering Section Supervisor
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8. For NPDES permits, provisions satisfying the requirements of § 124.56.

Refer to 40 CFR 450.

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

Not applicable.