

Department of Health, Clean Water Branch Updates to HAR and NPDES Permits



Summary

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- ❑ DOH-CWB Updates
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 - Appendix K
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 3. HAR 11-54 Toxics Update and Triennial Review
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- ❑ Questions

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- ❑ State of Hawaii, Department of Health (DOH), Environmental Health Administration (EHA), Environmental Management Division (EMD), Clean Water Branch (CWB)
- ❑ Administers and enforces Statewide water pollution laws and rules. Achieved through permitting of point sources, compliance monitoring, inspections, investigations of complaints, and State surface water quality monitoring.



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❑ Water Quality Standards (WQS).

- DOH administers Hawaii's WQS for State surface waters.
- HAR 11-54.
- Provisions of the State of Hawaii, approved by EPA, that describes the desired condition of a waterbody and the required level of protection.
- Legal basis for controlling pollution entering State waters from a variety of sources.
- Consists of the following:
 - ❑ Designated Uses – Goals of waterbodies.
 - ❑ Criteria – Narrative and numeric water quality criteria to protect designated uses.
 - ❑ Antidegradation Policy – Framework to achieve existing uses and maintain the existing water quality (chemical, physical, biological, thermal characteristics).

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❑ National Pollutant Discharge Elimination System (NPDES).

- DOH received approval to administer NPDES program in Hawaii.
- A NPDES permit:
 - ❑ A license, issued by the DOH to a person, granting permission to discharge specified amounts of water pollutants to State surface waters under certain conditions.
 - ❑ Water Quality Standards implementation tool.
 - ❑ Contains limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health.
 - ❑ Required for only point source water pollutant discharges to State surface waters. Point source includes:
 - Any confined, discrete, discernible conveyance from which water pollutants may be discharged.
 - Storm water discharges associated with construction activities disturbing 1 acre or more; storm water associated with industrial activity defined in 40 CFR 122.26(b)(14); and storm water from MS4s.

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- ❑ Two (2) types of NPDES permits.
 - Individual permit
 - Written to reflect site-specific conditions of a single discharger based on information submitted by that discharger in a permit application.
 - Permit is unique to that discharger
 - Permit issued directly to an individual discharger.
 - General permit
 - Written to cover multiple dischargers with similar operations and types of discharges.
 - Issued in the rules (HAR Appendices) to no one in particular with multiple dischargers obtaining coverage under that general permit after it is issued, consistent with the permit eligibility and authorization provision.
 - Must meet all applicable requirements of a NPDES permit.

- ❑ Any discharger that cannot meet all conditions of a General Permit must apply for an individual permit or prevent a discharge to State surface waters.

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- ❑ Section 401 Water Quality Certification (
 - A WQS implementation tool.
 - A certification stating that a proposed discharge/activity will not violate applicable State WQS in HAR, Chapter 11-54 and Clean Water Act (CWA) Sections 301, 302, 303, 306, and 307.
 - Required if your project/activity:
 - 1) Requires a federal permit, license, certificate, approval, registration, or statutory exemption, and
 - 2) May result in a water pollutant discharge into State waters.
 - Provides States with a tool to protect their water quality from potential impacts from federally issued permits and licenses.

1. DOH-CWB updates: Status of NPDES general permits

- ❑ 12 NPDES General Permits.
 - 3 effective (expires December 5, 2018).
 - 9 expired.
- ❑ Currently working on re-adopting these General Permits in 4 different rule packages



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1. DOH-CWB updates: Status of NPDES general permits

□ Rule Package 1

- HAR 11-55, Appendices D, E, F, G, H, I, and M.
- Summary of proposed revisions
 - Updated effective dates of General Permits.
 - Deleted Class 1 and AA prohibition (except for Appendix M).
 - Added language to clarify that State receiving water inspections must be conducted as effluent exits the site and prior to commingling.
 - Corrected, updated references to federal and State laws or rules.
- Held public hearing, obtained and responded to public comments.
- Final rule package at Governor's office waiting for signature.
- All dischargers that submitted complete renewal Notice of Intents prior to the expiration of these General Permits were granted administrative extensions.

1. DOH-CWB updates: Status of NPDES general permits

- Rule Package 2
 - HAR 11-55, Appendix B
 - Held several stakeholder meetings.
 - Currently drafting revised rules.
 - Considering EPA's Multi-Sector General Permit approach and the use of Best Management Practices and potentially benchmark monitoring to address Water Quality Based Effluent Limits.
 - All dischargers that submitted complete renewal Notice of Intents prior to the expiration of this General Permit were granted administrative extensions.

1. DOH-CWB updates: Status of NPDES general permits

□ Rule Package 3

- HAR 11-55, Appendix K.
- Held several stakeholder meetings.
- Proposed rules drafted and currently being reviewed.
- Revisions based on December 2016 EPA Final Rule to address partial remand of Phase II stormwater regulations by the U.S. Court of Appeals for the Ninth Circuit. *Environmental Defense Center, et al. v. EPA*, 344 F.3d 832 (9th Cir. 2003)
 - Under Final Rule, permitting authority can choose between two alternatives in establishing permit requirements in general permits for small MS4s – Comprehensive General Permit or Two-Step General Permit.
 - DOH has chosen the Two-Step General Permit approach. Allows DOH to establish some requirements in the General Permit and other requirements to a specific MS4 through a second step that involves a public comment process.
 - Allows DOH the flexibility to address unique circumstances, such as different maturity levels of the MS4 and for non-traditional MS4s like DOT, UH, military bases, etc.
- All dischargers that submitted complete renewal Notice of Intent prior to the expiration of this General Permit were granted administrative extensions.

1. DOH-CWB updates: Status of NPDES general permits

□ Rule Package 4

- HAR 11-55, Appendices C, J, and L.
- Summary of proposed revisions.
 - Updating effective date.
 - Deleting Class 1 and AA prohibition.
 - Added language to clarify that State receiving water inspections must be conducted as effluent exits the site and prior to commingling.
 - Revising monthly compliance report submittals.
 - Corrected, updated references to federal and State laws or rules.
- Currently DOH is requesting Governor approval to hold a public hearing.
- By August or September 2018, DOH-CWB will develop the renewal process for dischargers covered under these General Permits.
- In the event that these General Permits cannot be readopted by the December 2018 expiration date, all dischargers that submit complete renewal Notice of Intent by the deadline will be granted administrative extensions.

2. DOH-CWB updates: Blanket Section 401 WQC

□ Issued Blanket Section 401 WQC.

- Issued March 2, 2018.
- Expires March 18, 2022.
- Covers 7 commonly used Nationwide Permits: 3 (maintenance), 5 (scientific measurement devices), 6 (survey activities), 10 (mooring buoys), 12 (utility line activities), 13 (bank stabilization), 14 (linear transportation).
- If you would like to request coverage:
 - Download, read, and understand the Blanket Section 401 WQC available on the DOH-CWB website: <http://health.hawaii.gov/cwb/permitting/section-401-wqc/blanket-section-401-wqc/>.
 - Understand your responsibilities and legal obligations.
 - Determine if you can comply.
 - Complete the e-Permitting NWP Blanket WQC Notification Form on the ePermitting website: <https://eha-cloud.doh.hawaii.gov/epermit/>.

3. DOH-CWB updates: HAR 11-54 Toxics Update and Triennial Review

- ❑ Revising HAR 11-54-4 with EPA's national recommended criteria.
 - Toxic criteria
 - ❑ Aquatic life criteria – Highest concentration of a toxic chemical in water that is not expected to pose a significant risk to the majority of aquatic species.
 - ❑ Fish consumption – AKA human health criteria. Highest concentration of a toxic chemical in water that is not expected to pose a significant risk to people.
 - ❑ Application of toxic criteria in NPDES permits based on State Toxic Control Program. Daily maximum effluent limits based on aquatic life criteria depends on type of discharge (e.g. submerged, non submerged, stream, high rate). 30 day average effluent limits based on fish consumption criteria.

- ❑ Working on triennial review.
 - 40 CFR 131.2 requires States to hold public hearings for the purpose of reviewing their WQS and federally promulgated WQS at least once every 3 years.

4. DOH-CWB updates: e-Permitting electronic signature

- ❑ DOH-CWB utilizes e-Permitting Portal for all NPDES and Section 401 WQC applications and compliance submittals.
- ❑ Currently, submittals require hard copy certification, original signature, and CD/DVD.
- ❑ DOH received Cross-Media Electronic Reporting Rule (CROMERR) approval for e-Permitting. Electronic signatures can now be accepted. No more hard copy certification and CD/DVDs.
- ❑ However.....
 - DOH-CWB is in the process of updating our internal database and potentially changing our external user interface.
 - Each Certifying Person and Authorized Representative will have to complete a one-time notarized subscriber agreement.
 - Dischargers will have to amend their own internal workflow to adjust to the electronic signature requirements.
- ❑ Therefore, we are not rolling this out to the public yet.

Questions?

Contact information for questions on NPDES permits and Section 401 WQCs:



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