

## CAR.Committee

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**From:** Lum, Darryl C <darryl.lum@doh.hawaii.gov>  
**Sent:** Tuesday, September 08, 2020 12:29 PM  
**To:** CAR.Committee  
**Subject:** CAR-1(7) presentation  
**Attachments:** CWB Slides for Maui County Sept 2020.pdf; CWB Slides for Maui County Sept 2020.pptx

Please see attached.

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# **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS**

**DEPARTMENT OF HEALTH, CLEAN WATER BRANCH**

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## **Maui County's Climate Action and Resilience Committee Presentation**

**September 2020**



# WHAT IS A NPDES PERMIT?

A license issued by the DOH to a person, authorizing the controlled discharge of water pollutants to State surface waters subject to water pollution control conditions and law.



# PURPOSE OF NPDES PERMIT

Purpose of NPDES permit is to protect water quality by:

- Ensuring that a state's Water Quality Standards is implemented and federal water pollution control regulations are applied as permit conditions.
- Limits what a person can discharge to State surface waters.
  - Generally specifies acceptable level of a pollutant or pollutant parameter in a discharge (e.g. 19 µg/L of copper).
  - Permittee may choose which technologies to use to achieve that level.
- Establishes monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health.





# WHEN DO YOU NEED TO OBTAIN A NPDES PERMIT?

It depends on where you send your pollutants.

- If you discharge pollutants from a point source into State surface waters, you need an NPDES permit.
- If you discharge pollutants into a municipal sanitary sewer system, you do not need an NPDES permit, but you should ask the municipality about their permit requirements.
- If you discharge pollutants into a municipal storm sewer system, you may need a permit depending on what you discharge. You should ask the NPDES permitting authority.



# WHEN DO YOU NEED TO OBTAIN A NPDES PERMIT?

If you discharge **pollutants** from a **point source** into **State** surface **waters**, you need an NPDES permit.

- **Pollutant** - Defined broadly in Clean Water Act and Hawaii Revised Statutes. Includes any type of industrial, municipal, and agricultural waste discharged into water. Some examples are dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste.
- **Point Source** – Defined in Clean Water Act and Hawaii Revised Statutes. Means any discernible, confined and discrete conveyance, such as a pipe, ditch, channel, tunnel, conduit, discrete fissure, or container. It also includes vessels or other floating craft from which pollutants are or may be discharged. By law, the term "point source" also includes concentrated animal feeding operations, which are places where animals are confined and fed. By law, agricultural stormwater discharges and return flows from irrigated agriculture are not "point sources"
- **State Waters** – Defined in Hawaii Revised Statutes. Means all waters, fresh, brackish, or salt around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded.



# WHY DO YOU NEED AN NPDES PERMIT IF DISCHARGING FROM A POINT SOURCE TO STATE WATERS?

- It is the law.
- Clean Water Act prohibits anybody from discharging "pollutants" through a "point source" into a "water of the United States" unless they have an NPDES permit.
- Hawaii Revised Statutes 342D-50(a) requires that “No person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters except in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director.”





## 2 TYPES OF NPDES PERMITS – INDIVIDUAL AND GENERAL

- NPDES Individual Permit
  - Written to reflect site-specific conditions of a single discharger [or in rare instances (not in Hawaii) to multiple co-permittees] based on information submitted by that discharger in a permit application.
  - Permit is unique to that discharger (e.g. Discharger's facility does not utilize chlorine, therefore, the permit may not have limits for chlorine. However, if discharger did not disclose discharge of chlorine in their application, they are not permitted to discharge chlorine.)
  - Permit must meet all applicable requirements of a NPDES permit.
  - Permit issued directly to the discharger.





# 2 TYPES OF NPDES PERMITS – INDIVIDUAL AND GENERAL

- NPDES General Permit
  - Written to cover multiple dischargers with similar operations and types of discharges.
  - Issued in the rules (Hawaii Administrative Rule 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 provisions.
  - Since the General Permit is already issued,
    - Dischargers know their permit requirements before obtaining coverage under that General Permit.
    - Obtaining coverage under a General Permit is typically quicker than an individual permit.
  - General Permits must meet all applicable requirements of a NPDES permit. The term “General” does not mean less stringent.
- Any discharger that cannot meet all conditions of a General Permit must apply for an individual NPDES permit or prevent a discharge to State surface water.



# NPDES GENERAL PERMITS

HAR 11-55, Appendix	Discharge Authorized	Expiration
B	Industrial Storm Water	Expired
C	Construction Storm Water	2/8/24
D	Treated Effluent from Leaking Underground Storage Tank Remedial Activities	7/12/23
E	Once Through Cooling Water Less Than One Million Gallons Per Day	7/12/22
F	Hydrotesting Waters	7/12/22
G	Construction Activity Dewatering	7/12/22
H	Treated Process Wastewater Associated with Petroleum Bulk Station and Terminals	7/12/23
I	Treated Process Wastewater Associated with Well Drilling Activities	7/12/23
K	Discharges of Storm Water and Certain Non-Storm Water Discharges from Small Municipal Separate Storm Sewer Systems	Expired
L	Circulation Water from Decorative Ponds or Tanks	2/8/24
M	Pesticide Applications to State Waters	7/12/23



# HOW DO YOU APPLY FOR A NPDES INDIVIDUAL PERMIT?

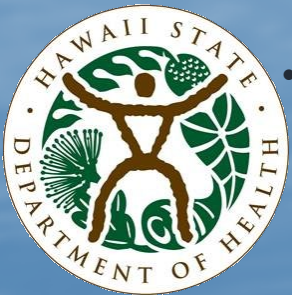
- Owner or Operator must submit the CWB Individual NPDES Form through the DOH e-Permitting website: <https://eha-cloud.doh.hawaii.gov/epermit/>.
  - Electronic signature and wet signature forms available.
  - Sections 1 – 8 are basic information.
  - Section 9 is discharge specific attachments.
- Must submit at least 180 days before the expected commencement of the discharge.
- \$1000 Filing fee.
- Required 1-day public notice in a major local newspaper and 30-day minimum public comment period. Discharger responsible for newspaper publication cost.
- Processing depends on type of discharge and can range from 45 days to 1 year. Processing includes drafting permit and fact sheet; addressing draft permit concerns from Discharger, EPA, and CWB Enforcement; public notice; addressing all public notice comments; holding a public hearing if needed; amending draft permit if needed; and issuing final permit.
- Clean Water Act and Hawaii Revised Statutes limits NPDES individual permit term to five years.
- Can be renewed (reissued) at any time after the permit holder applies. In addition, NPDES individual permits can be administratively extended if the facility reapplies more than 180 days before the permit expires, and DOH did not renew the permit before its expiration date through no fault of the permittee.





# HOW DO YOU REQUEST COVERAGE UNDER A NPDES GENERAL PERMIT?

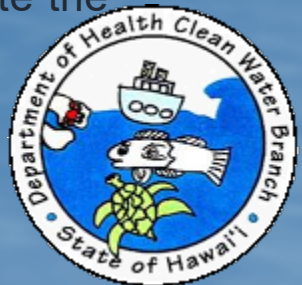
- NPDES General Permits do not require that Owners or Operators “apply” for coverage; rather, General Permits rely on the submission of a document called a Notice of Intent (NOI).
- An NOI differs from a NPDES individual permit application in that it is submitted by Owners or Operators after the General Permit is issued by the DOH.
- An NOI for a General Permit is a notice to DOH of an Operator’s intent to be covered under a General Permit, and typically contains basic information about the Owner or Operator and the planned discharge for which coverage is being requested.
- Owner or Operator must submit the CWB NOI Form through the DOH e-Permitting website: <https://eha-cloud.doh.hawaii.gov/epermit/>.
  - Electronic signature and wet signature forms available.
  - Sections 1 – 8 are basic information.
  - Section 9 is discharge specific attachments.
- Must submit at least 30 days before the expected commencement of the discharge.
- \$500 Filing fee.
- No public notice and public comment period since General Permit is already issued with public participation process.
- Processing ranges from 1 day to 3 weeks.



# PERMIT COMPONENTS

All NPDES permits consist, at a minimum, of 5 sections:

- Cover Page – Contains name and location of the permittee, a statement authorizing the discharge, and a listing of the specific locations for which a discharge is authorized.
- Effluent Limitations – The primary mechanism for controlling discharges of pollutants to receiving waters. A permit writer spends the majority of his or her time, when drafting a permit, deriving appropriate effluent limitations on the basis of applicable technology and water quality standards.
  - Technology-based effluent limitations (TBELs) requires a minimum level of treatment of pollutants for point source discharges based on available treatment technologies. Derived using national effluent limitation guidelines and standards established by EPA and/or using best professional judgement on a case-by-case basis in the absence of national guidelines and standards.
  - Water Quality Based Effluent Limits (WQBELs) derived from State's Water Quality Standards for every pollutant parameter that has a reasonable potential to cause or contribute to an excursion of the State's Water Quality Standards.
- Monitoring and Reporting Requirements – Used to characterize waste streams and receiving waters, evaluate wastewater treatment efficiency, and determine compliance with permit conditions.
- Special Conditions – Conditions developed to supplement numeric effluent limitations. Examples include additional monitoring activities, special studies, best management practices (BMPs), and compliance schedules.
- Standard Conditions - Pre-established conditions that apply to all NPDES permits and delineate the legal, administrative, and procedural requirements of the NPDES permit.





# ENFORCEMENT

- Various methods used to monitor NPDES permit conditions.
  - Permit requires facility to sample its discharges and notify DOH (and sometimes EPA) of these results.
  - Permit requires facility to notify DOH when facility determines it is not in compliance with permit requirements.
  - DOH and EPA send inspectors to companies in order to determine if they are in compliance with the conditions imposed under their permits.
- Federal laws provide DOH and EPA with various methods of taking enforcement actions against violators of permit requirements. For example:
  - DOH and EPA can issue administrative orders which require facilities to correct violations and may assess monetary penalties.
  - Law also allows DOH and EPA to pursue civil and criminal actions that may include mandatory injunctions or penalties, as well as jail sentences for persons found willfully violating requirements and endangering the health and welfare of the public or environment.
- General public can enforce permit conditions. Facility monitoring reports are public documents, and the general public can review them. If any member of the general public finds that a facility is violating its NPDES permit, that member can independently start a legal action, unless DOH or EPA has taken an enforcement action.





# HOW ARE NPDES PERMITS DIFFERENT FROM UNDERGROUND INJECTION CONTROL (UIC) PERMITS?

- NPDES permits are for pollutant discharges to State surface waters.
  - Regulation is under the Clean Water Act.
  - Permit effluent limits from Hawaii's Water Quality Standards in HAR 11-54, which does not apply to groundwater.
- UIC permits are for discharges to groundwater.
  - Regulation is under the Safe Drinking Water Act.



# QUESTIONS?

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