



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
EMD/CWB

WQC0804.FNL.15

August 14, 2015

Lieutenant Colonel Christopher W. Crary
Commander and District Engineer
Department of the Army
U.S. Army Engineer District, Honolulu
Fort Shafter, Hawaii 96858-5440

Dear Lieutenant Colonel Crary:

**Subject: Section 401 Water Quality Certification (WQC) for
Certain 2012 Department of the Army (DA) Nationwide Permits (NWP)
File No. WQC0804**

This Section 401 WQC is required for any owner of a discharge that is seeking verification under the DA NWP, promulgated in the February 21, 2012, Federal Register Notices, Volume 77, Number 34, and authorized under Section 404 of the Clean Water Act (CWA) and/or Section 10 of the Rivers and Harbors Act of 1899. Pursuant to Hawaii Administrative Rules (HAR), §11-54-1, discharge means the discharge of a water pollutant as defined in Hawaii Revised Statutes (HRS), §342D-1. As defined in HRS, §342D-1, water pollutant includes dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste.

The Department of Health (DOH), Clean Water Branch (CWB), based this Section 401 WQC on the evaluation of information contained in the February 21, 2012, Federal Register Notices (Volume 77, Number 34); the draft Regional Conditions submitted by the U.S. Army Corps of Engineers (USACE); and the additional information, dated February 24, 2015, from the USACE. The Director of Health (Director) attests that, when all requirements and conditions contained in this Section 401 WQC are fully complied with, there is a reasonable assurance that the activities will be conducted in a manner which will not violate the Basic Water Quality Criteria applicable to all waters and the Specific Water Quality Criteria applicable to the class of State waters where the proposed discharges would take place.

1. Terms of this Section 401 WQC
 - a. This Section 401 WQC becomes effective on **August 31, 2015**. If you agree with the terms and conditions of this Section 401 WQC, please sign

and date below; make a copy for your file record; and submit this entire letter with your original signature to the DOH-CWB within 14 calendar days from your signature date.

- b. This Section 401 WQC expires at the earliest of the following:
- (1) Midnight, **March 18, 2017** (individual verifications may be granted administrative extensions as specified in Item No. 2.e(3) below); or
 - (2) Until applicable State Water Quality Standards (WQS) is revised or modified. If applicable State WQS is revised or modified and the discharge activities comply with the revisions or modifications, this Section 401 WQC shall remain valid until midnight, **March 18, 2017**.

2. Coverage of this Section 401 WQC

- a. The NWP's listed below are hereby granted coverage under this Section 401 WQC in the State of Hawaii provided that the owner of the discharge complies with the General Conditions (Item No. 3); Special Conditions (Item No. 4); Notification Requirements (Item No. 5); and Compliance Reporting Requirements (Item No. 6). Any person, including any public body, conducting activities authorized by these NWP's that cannot or will not comply with requirements in Item Nos. 3 through 6 must apply for and obtain an individual Section 401 WQC from the DOH-CWB.
- NWP 3 – Maintenance
 - NWP 5 – Scientific Measurement Devices
 - NWP 6 – Survey Activities
 - NWP 12 – Utility Line Activities
 - NWP 13 – Bank Stabilization
 - NWP 14 – Linear Transportation Projects
 - NWP 33 – Temporary Construction, Access, and Dewatering

b. Limitations on Coverage

This Section 401 WQC does not apply to:

- (1) NWP's listed below that have been denied coverage under this Section 401 WQC. Any person, including any public body, conducting activities authorized by these NWP's must apply for and obtain an individual Section 401 WQC from the DOH-CWB if their activities may result in a discharge as defined in HAR, §11-54-1.
 - NWP 1 – Aids to Navigation
 - NWP 2 – Structures in Artificial Canals
 - NWP 4 – Fish and Wildlife Harvesting, Enhancement and Attraction Devices and Activities

NWP 7 – Outfall Structures and Associated Intake Structures
NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
NWP 9 – Structures in fleeting and Anchorage Areas
NWP 10 – Mooring Buoys
NWP 11 – Temporary Recreational Structures
NWP 15 – U.S. Coast Guard Approved Bridges
NWP 16 – Return Water from Upland Contained Disposal Areas
NWP 17 – Hydropower Projects
NWP 18 – Minor Discharges
NWP 19 – Minor Dredging
NWP 20 – Response Operations for Oil and Hazardous Substances
NWP 22 – Removal of Vessels
NWP 23 – Approved Categorical Exclusions
NWP 25 – Structural Discharges
NWP 27– Aquatic Habitat Restoration, Establishment and
Enhancement Activities
NWP 28 – Modifications of Existing Marinas
NWP 30 – Moist Soil Management for Wildlife
NWP 31 – Maintenance of Existing Flood Control Facilities
NWP 32 – Completed Enforcement Actions
NWP 35 – Maintenance Dredging of Existing Basins
NWP 36 – Boat Ramps
NWP 37 – Emergency Watershed Protection and Rehabilitation
NWP 38 – Cleanup of Hazardous and Toxic Waste
NWP 40 – Agricultural Activities
NWP 41 – Reshaping Existing Drainage Ditches
NWP 43 – Stormwater Management Facilities
NWP 45 – Repair of Uplands Damaged by Discrete Events
NWP 46 – Discharge in Ditches
NWP 48 – Existing Aquaculture Activities
NWP 51 – Land-Based Renewable Energy Generation Facilities

- (2) After-The-Fact applications, in whole or in part, submitted under DA 2012 – 2017 NWPs.
- (3) Discharge(s) regulated under Section 402 of the CWA.
- (4) The same NWP that is verified more than once for a single and complete project as defined in 33 CFR §330.2(i).
- (5) When the Director finds that it is more appropriate to evaluate the project impacts under an individual application for a Section 401 WQC.
- (6) Any project that will result in downstream/down drift post construction impacts to the physical, chemical, and/or biological environment.

- c. The following NWP's have been revoked by USACE within the geographic areas subject to the regulatory jurisdiction of the Honolulu District:

NWP 21 – Surface Coal Mining Activities
NWP 24 – Indian Tribe or State Administered Section 404 Programs
NWP 29 – Residential Developments
NWP 34 – Cranberry Production Activities
NWP 39 – Commercial and Institutional Developments
NWP 42 – Recreational Activities
NWP 44 – Mining Activities
NWP 49 – Coal Remining Activities
NWP 50 – Underground Coal Mining Activities
NWP 52 – Water-Based Renewable Energy Generation Pilot Projects

- d. Geographical Area and Discharge Exclusions

Water bodies and discharges below are excluded from coverage under this Section 401 WQC. Any person, including any public body, proposing discharges to these water bodies may submit an individual Section 401 WQC application to the DOH-CWB for consideration.

- (1) Waste Discharges to natural lakes and anchialine pools as specified in HAR, §11-54-5.2(a).

“Waste” means sewage, industrial and agricultural matter, and all other liquid, gaseous, or solid substances, including radioactive substance, whether treated or not, which may pollute or tend to pollute the waters of the State. [HRS, §342D-1]

Note: Non-contaminated and suitable dredge and fill material authorized under a 2012 NWP is not considered waste.

- (2) Inland Waters: Class 1 (including 1.a. and 1.b.) as identified in HAR, §§ 11-54-3(b), and 11-54-5.1.

- (3) New sewage discharges and new industrial discharges to estuaries as specified in HAR, §§11-54-3(b), and 11-54-5.2(d).
Note: New industrial discharges do not include the repair and/or replacement within the footprint of an existing structure.

- (4) Marine Waters: Class AA as identified in HAR, §§11-54-3(c), 11-54-6(b), 11-54-6(c), and 11-54-6(d).

- (5) New sewage and industrial discharges to Embayments: Class AA and Class A as identified in HAR, §§11-54-3(c), and 11-54-6(a).

Note: New industrial discharges do not include the repair and/or replacement within the footprint of an existing structure.

- (6) Marine Bottoms: Class I as identified in HAR, §§-11-54-3(d)(1), 11-54-7(a)(2)(A), 11-54-7(b)(2)(A), 11-54-7(c)(2)(A), and 11-54-7(e)(2)(A).
- e. This Section 401 WQC coverage for each individual verification issued by the USACE under each applicable NWP:
- (1) Shall become valid only when the notification information required in Item No. 5 below has been submitted to the DOH-CWB; all concerns are properly addressed to the satisfaction of the DOH-CWB; and the DOH-CWB informs the USACE that the individual verification is covered under this Section 401 WQC. After 30 calendar days from the date that the notification information transmittal requirements in Item No. 5.c. below was submitted to the DOH-CWB, the corresponding individual verification shall be qualified for coverage under this Section 401 WQC if the DOH-CWB does not inform the USACE that the notification information is deficient or the individual verification is concurred.
 - (2) Shall expire:
 - (a) When this Section 401 WQC for the applicable 2012 NWP's expire as specified in Item No. 1.b above; or
 - (b) The date that a Total Maximum Daily Load (TMDL) Waste Load Allocation (WLA) is established by the DOH and approved by the U.S. Environmental Protection Agency (EPA) for the water body specific to the owner of the discharge for their activity.
 - (3) May be administratively extended for no more than 12 months beyond midnight, **March 18, 2017** only if:
 - (a) The project is under construction or under contract to commence construction;
 - (b) The ACOE has not modified, suspended, or revoked the applicable NWP or individual verification per 33 CFR §330.4(e) and 33 CFR §§330.5(c) and (d); and

- (c) The owner of the discharge notifies the DOH-CWB by February 18, 2017 through the e-Permitting CWB Compliance Submittal Form for Section 401 WQCs (Item No. 6 below) that an administrative extension is required to complete the project construction by March 18, 2018. The completed Transmittal Requirements and Certification Statement for e-Permitting CWB Compliance Submittal Form for Section 401 WQC Submissions must be mailed/delivered to the DOH-CWB by February 18, 2017. If the DOH-CWB changes the e-Permitting status to Accepted, this will indicate that the administrative extension has been granted.

No further correspondence will be provided by the DOH-CWB.

- (4) May be revoked when:
 - (a) The owner of the discharge does not comply with the General Conditions in Item No. 3 below, the applicable Special Conditions in Item No. 4 below, the Notification Requirements in Item No. 5 below, the Compliance and Reporting Requirements in Item No. 6 below; and/or existing State WQS.
 - (b) The owner of the discharge fails to disclose all relevant facts and/or falsifies information by submitting to the DOH-CWB information that does not represent what is actually occurring at the project site.
 - (c) The DOH-CWB discovers that the owner of the discharge provided the USACE and DOH-CWB with different information. An example of different information is submitting a copy of a Preconstruction Notification (PCN) to the DOH-CWB that contains a different scope of work from the PCN submitted to the USACE.
 - (d) State WQS are revised or modified before the activity is completed, and the DOH-CWB determines that the activity is violating the new State WQS pursuant to HAR, §11-54-9.1.05(b)(3) and the owner of the discharge fails to comply with HAR, §11-54-9.1.05(c).
 - (e) The Director has reason to believe that it is in the public interest.

- (f) The owner of the discharge becomes aware of non-compliance with any condition of this Section 401 WQC and/or State WQS and fails to immediately stop the portion of the work that is causing the non-compliance; notify USACE; and/or notify DOH-CWB within one (1) business day.
- (g) The DOH-CWB informs the owner of the discharge and the USACE via e-mail or letter of any non-compliance with any condition of this Section 401 WQC and/or State WQS and the owner of the discharge fails to take immediate corrective actions or stop the portion of the activity that is causing the non-compliance within one (1) business day.

These actions shall not preclude the DOH-CWB from taking other enforcement action authorized by law.

The DOH-CWB will provide written and/or email notification to the owner of the discharge and USACE when the Section 401 WQC coverage for an individual NWP verification is revoked.

- (5) Cannot be modified. After the DOH-CWB verifies coverage under this Section 401 WQC, any changes to information submitted in compliance with the Notification Requirements in Item No. 5 below (with the exception of contact person information and owner name changes for non-transfer of ownerships and changes to authorized representative information) would void any previous coverage. The DOH-CWB may require the owner of the discharge to apply for an individual Section 401 WQC if there are changes to the Notification Requirements.

3. General Conditions

The owner of the discharge shall:

- a. Apply best degree of treatment or control measures to the potential water pollutant discharges associated with the proposed construction activity(ies) that assures the discharges will meet requirements compatible with the basic water quality criteria applicable to all waters, uses and specific water quality criteria and recreational criteria established for the class of the receiving State waters. Best Management Practices (BMPs) required in Special Conditions in Item No. 4 below, and submitted in Notification Requirements in Item No. 5 below shall be properly implemented and maintained during the entire construction period. The owner of the discharge shall completely isolate and confine all in-water

work areas throughout the entire water column (surface to bottom) such that all potential water pollutants will not leave or enter the work area. The entire volume of water in the in-water work area needs to be isolated and confined. Note: The in-water work area is 10 feet from the toe of the active Activity Decision Unit boundary defined in Item No. 6.b(4)(b) below. A vessel/barge may be operated outside of the isolated and confined in-water work area only if it is surrounded by a boom.

- b. Only utilize BMPs that are inert and not sources of pollution itself. (Examples of inappropriate in-water BMPs include, but are not limited to: compost biosocks since it is a source of nutrients; silt fence since the material is porous; and a soil berm since the soil particles will erode away).
- c. Isolate and confine all upland activity to contain/retain water pollutants upland and not allow it to enter State waters, including the designated in-water work area.
- d. Collect water pollutants (including, but not be limited to, airborne particulate; dust, concrete slurry, concrete chips, concrete surface preparation washing effluent, construction debris, etc.) from localized work areas and not allow these water pollutants to enter or re-enter State waters, including the in-water work area.
- e. Ensure that all construction debris is contained and prevented from entering or re-entering State waters.
- f. Ensure that all BMPs are deployed prior to the commencement of any construction work; are properly maintained throughout the entire period of in-water work; and are not removed until the in-water work is completed and the water quality in the in-water work area has returned to its pre-construction condition as demonstrated by the monitoring results.
- g. For a stream, ditch, or gulch: Allow unimpeded flow around the isolated and confined in-water work area to allow for aquatic animal migration and/or to prevent downstream flooding situations. The unimpeded flow shall be equivalent to a two (2) year, 24 hour duration storm event and/or the existing flow capacity of the stream, ditch, or gulch.
- h. Comply and require all of their contractors and subcontractors to comply with all requirements of this Section 401 WQC; WQS in Hawaii Administrative Rules, Chapter 11-54; and all information submitted to the DOH-CWB for compliance with the Notification and Reporting Requirements in Item Nos. 5 and 6.

- i. Properly conduct or contract with a qualified laboratory/environmental consultant to conduct the pre-construction, during construction, and post construction monitoring requirements in the Applicable Monitoring and Assessment Plan in Item No. 5 below. Test methods promulgated in 40 CFR Part 136 effective on July 1, 2011, and when applicable, the chemical methodology for sea water analyses (HAR, §11-54-10) shall be used. The detection limits of the test methods used shall be equal to or lower than the applicable WQS as specified in HAR, Chapter 11-54. For situations where the applicable WQS is below the detection limits of the available test methods, the test method which has the detection limit closest to the applicable WQS shall be used. If a test method has not been promulgated for a particular parameter, the applicant may submit an application through the Director for approval of an alternate test procedure by following 40 CFR §136.4.
- j. Comply with any modification to the sampling locations, frequencies, and/or parameters as instructed by the DOH-CWB for corrective/remedial action.
- k. Ensure that all discharges associated with the proposed construction activities are conducted in a manner that will comply with "Basic Water Quality Criteria Applicable to All Waters" as specified in HAR, §11-54-4.
- l. Ensure that all material(s) placed or to be placed in State waters are free of waste material, heavy metals, organic materials, debris and any water pollutants at toxic or potentially hazardous concentrations to aquatic life as specified in HAR, §11-54-4(b).
- m. Assess the existing physical, chemical, and biological environment and design the project to ensure there will be no downstream/down drift post construction impacts to the physical, chemical, and biological environment.
- n. Ensure that the activity will not result in non-compliance or violations to the applicable State WQS. During construction Impact Station water quality parameter levels that are greater than during construction upstream/updrift water quality parameter levels constitute a non-compliance of HAR, §11-54-4(a) requirements that prohibits substances attributable to domestic, industrial, or other controllable sources of pollutants, which includes but is not limited to materials that will settle to form objectionable sludge or bottom deposits; visible floating debris, oil, grease, scum, other floating materials; and objectionable color or turbidity plumes.

- o. Immediately cease the portion of the construction work if water quality monitoring or daily inspection or observation result(s) indicates that noncompliance to HAR, §11-54-4(a) or §11-54-4(b), will occur or is occurring. The construction activity shall not resume until adequate measures are implemented and appropriate corrective actions are taken and water quality monitoring demonstrates that the non-compliance has ceased. Note: These actions shall not preclude the DOH-CWB from taking enforcement action authorized by law.
- p. Not hold the DOH responsible for any damages or costs incurred due to the temporary cessation of the construction operations.
- q. Ensure that:
 - (1) Erosion and Sediment Control Measures are in place and functional before earth moving operations begin;
 - (2) Temporary soil stabilization shall be applied on areas that will remain unfinished for more than 30 calendar days; and
 - (3) Permanent soil stabilization shall be applied as soon as practicable after final grading.
- r. Ensure that all temporarily constructed structures, such as the silt containment device(s), floating oil and grease as well as construction debris containment device(s), berm, cofferdam, sheet pile, stream flow diversion structure(s), and/or sediment and soil erosion control structure(s), etc., are properly removed immediately after the completion of the construction work and when the affected water body has returned to its pre-construction condition or better, as demonstrated by the monitoring results, including color photographs.
- s. Ensure that the proposed construction activities related discharges not covered under the NWP's will also comply with State water pollution control permitting requirements under National Pollutant Discharge Elimination System (NPDES) as established in HAR, Chapter 11-55:
 - (1) Obtain NPDES permit for storm water discharges associated with construction activities when the proposed construction activities will disturb one (1) or more acres of land area before initiating any construction activities;
 - (2) Not discharge any effluent associated with the proposed construction activities, such as construction site dewatering

effluent, hydrotesting effluent or rock and concrete truck washing effluent, etc. without first obtaining the required NPDES permit from DOH-CWB; and

- (3) Pesticides application in State waters shall comply with HAR, §§11-54-4(a), 11-54-4(b), 11-54-4(c), 11-54-4(f) and/or Chapter 11-55, Appendix M - NPDES General Permit Authorizing Point Source Discharges from the Application of Pesticides.
- t. Not allow any concrete truck wash water to be disposed by percolation into the ground.
 - u. Maintain and require all of their contractor(s) and the subcontractor(s), that are performing work covered under this Section 401 WQC, to maintain at the construction site or in the nearby field office, a copy of this letter, all Notification and Compliance Reporting Requirements in Item Nos. 5 and 6 below, and all records demonstrating that every requirement of this Section 401 WQC has been complied with.
 - v. Ensure that all areas temporarily impacted, either directly or indirectly, by the project construction activities are fully restored to its pre-construction conditions. For example: Incidental construction debris is cleaned up prior to removal of BMPs.
 - w. Discontinue work during storm events or during flood condition.
 - x. Hold clearing and grubbing to a minimum.
 - y. Modify environmental protection measures, including BMPs and monitoring requirements, when instructed by the DOH-CWB for corrective action/remedial actions.
 - z. Allow the DOH-CWB to conduct routine inspections of the construction site in accordance with HRS, §342D-8.
 - aa. Complete and submit a Solid Waste Disclosure Form for Construction Sites to the DOH, Solid and Hazardous Waste Branch, Solid Waste Section. The form can be downloaded at:
<http://health.hawaii.gov/shwb/files/2013/06/swdiscformnov2008.pdf>.
 - bb. Not stockpile, store, or place construction material or construction activity-related materials in State waters or in ways that will disturb or adversely impact the aquatic environment.

- cc. Dispose of construction debris, waste products, vegetation and/or dredged material removed from the construction site at upland State and County approved sites.
- dd. Contain on land and not allow to enter or re-enter State waters any runoff, return flow, or airborne particulate pollutants, if any, from the excavated/dredged material dewatering process or from the stockpiling site.
- ee. Comply with all new State WQS adopted by the DOH after the effective date of this letter.
- ff. Ensure that their discharge activity shall not interfere with or become injurious to any designated uses (HAR, §11-54-1 and HAR, §11-54-3), or existing uses (HAR, §11-54-1 and HAR, §11-54-1.1). The owner of the discharge shall maintain and protect all designated and existing uses.

4. Special Conditions

The following are additional conditions for the applicable NWP:

a. NWP 3 – Maintenance

- (1) Apply best degree of treatment or control measures appropriate to the proposed repair, rehabilitation, or replacement activity(ies) that will fully isolate and confine the localized work area(s) to prevent potential repair, rehabilitation, or replacement activities associated water pollutant(s) from directly entering or exit from the isolated and confined area(s). Water tight forms shall be used when repair or rehabilitation work involving cast-in-place concrete application activity.
- (2) Effluent resulting from hydroblasting, saw cutting, concrete surface preparation, rock washing, or any other similar regulated activity(ies) shall be properly contained, collected and prevented from entering, either directly or indirectly, State waters, except for those discharges that have received authorization issued by the DOH-CWB under the NPDES Permit as applicable.
- (3) Appropriate and effective measure(s) shall be implemented to properly contain/collect the potential water pollutant discharges resulting from the application of concrete corrosion inhibitor; or from the scrubbing, chipping, cutting, rebar reinforcing, grouting, filling activities needed for the permitted construction activity(ies).

- (4) Restore all affected area(s) to its preconstruction condition or better as demonstrated by monitoring and photographs or video, when available.
- (5) No dredging shall be allowed except for the purposes to repair or reconstruct the existing structure(s) within the original foot print.
- (6) Hardening the stream channel or stream bed outside its original structure foot print is not covered under this Section 401 WQC.
- (7) The owner of the discharge must have evidence that the structure(s) or fill(s) to be repaired or rehabilitated was previously authorized by the USACE and the structure(s) or fill(s) is currently serviceable, unless the activity occurred before the dates identified in 33 CFR §330.3.

b. NWP 5 – Scientific Measurement Devices

Remove all Scientific Measurement Devices (Devices) and any other structures or fills associated with installation and use of the Devices (e.g., foundations, anchors, buoys, lines, etc.) and restore the site to its pre-construction conditions when no longer in use.

c. NWP 6 – Survey Activities

- (1) The owner of the discharge shall obtain an applicable NPDES Permit issued by the DOH-CWB if the discharge of drilling mud and cuttings into State waters is anticipated.
- (2) For boring related drilling activity, steel casing shall be used with a larger diameter outer steel casing used outside the inner steel casing to contain excess water from entering directly into the State water. A mud pan shall be used on the raft/vessel and placed around the outer casing to capture any overflow and prevent any return flow of discharge into receiving State waters.

d. NWP 12 – Utility Line Activities

- (1) Side casting of excavated/dredged material in aquatic environment, including the wetlands, is prohibited.
- (2) Directional or horizontal drilling method is recommended over the conventional trenching method, if feasible.

- (3) Utility line substations, foundations for overhead utility line towers, poles, and anchors are excluded from the WQC coverage for this Nationwide Permit.
 - (4) Obtain the required NPDES discharge permit, if the proposed construction activity(ies) will disturb a total of one (1) or more acres of land area, or effluent discharges from the hydrotesting and/or construction site dewatering activity(ies) is anticipated.
- e. NWP 13 – Bank Stabilization
- (1) The bank stabilization project shall be designed and constructed to ensure that the constructed project will not cause erosion to the adjacent sand beach, shoreline, stream bank, stream bed, or other properties.
 - (2) The bank stabilization project shall not affect or interfere, in any way, with any existing recreational activity(ies) or any other existing uses.
 - (3) Benchmarks shall be established prior to the commencement of any bank stabilization construction work. Benchmarks shall be utilized to compare the site condition before and after the construction. Color photographs shall be taken before and after the completion of the bank stabilization project construction. Copies of the color photographs taken shall contain the date and time the photos were taken, an orientation map, and descriptive narratives. Color photographs taken before the project construction shall be submitted with e-Permitting NWP Blanket WQC Notification Form. Color photographs taken after the project construction shall be submitted to the DOH-CWB through the e-Permitting Section 401 WQC Compliance Form (Item No. 6 below) within 14 calendar days after the completion of the construction project.
 - (4) Concrete lining of stream bank or stream bed or hardening of shoreline is not covered under this WQC.
 - (5) Obtain the required NPDES discharge permit if the proposed construction activity(ies) will disturb a total of one (1) or more acres of land area or effluent discharges from the hydrotesting and/or construction site dewatering activity(ies) is anticipated.

- f. NWP 14 – Linear Transportation Projects
 - (1) Replacement structure required for any linear transportation project shall not exceed the existing structure foot print within State waters.
 - (2) Project that will result in additional aquatic environment or function loss is not covered under this WQC. DA NWP Applicant shall apply for an individual Section 401 WQC.
 - (3) Obtain the required NPDES discharge permit if the proposed construction activity(ies) will disturb a total of one (1) or more acres of land area or effluent discharges from the hydrotesting and/or construction site dewatering activity(ies) is anticipated.

5. Notification Requirements

- a. The form used to submit the notification requirements is the e-Permitting NWP Blanket WQC Notification Form. This form is available on the e-Permitting Portal located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.
 - (1) Enter the e-Permitting Portal website.
 - (2) Login to the e-Permitting Portal. A one-time registration is required to obtain a login and password.
 - (3) Press the Form Finder button.
 - (4) Type “NWP Blanket WQC Notification Form.”
 - (5) Read the instructions.
 - (6) Press the submit Online Form button and complete the form.
- b. The owner of the discharge seeking verification under the applicable NWP shall submit through the e-Permitting NWP Blanket WQC Notification Form:
 - (1) A copy of the PCN submitted to the USACE.
 - (2) A compliance certification indicating that they will comply with all conditions of this Section 401 WQC.
 - (3) The legal name(s), street address, contact person's name and position title, and telephone and email addresses of the Owner of the discharge, Owner Contact Person, Certifying Person, General

- Contractor, Emergency Contacts, Project Contact, and authorized representative (if applicable).
- (4) The project name, a project location description, the Tax Map Key, and the approximate centroid location coordinate of the in-water work activity (latitude/longitude coordinates in decimal degrees).
 - (5) All associated applicable permits or licenses that will be required:
 - a. The CWA, Section 402 NPDES Permit number and/or Notice of General Permit Coverage (NGPC) file number which is associated with this project activity, as applicable.
 - b. State Department of Land and Natural Resources (DLNR) permit number and status for:
 - (i) Stream Channel Alteration Permit (SCAP);
 - (ii) Conservation District Use Permit (CDUP);
 - (iii) Statewide programmatic general permit for the restoration, repair, maintenance, and operation of loko i'a., as applicable. Please provide a copy of "authorization to proceed" issued by DLNR, Office of Conservation and Coastal Land (OCCL).
 - c. RCRA Permit number for any hazardous wastes stored or used at the project, as applicable.
 - d. For SARA, indicate the chemicals and their quantities at the project site, as applicable.
 - e. Others (i.e., Underground Injection Control (UIC) file number, Special Management Area (SMA) permit, Shoreline Setback Variance (SSV), etc.), as applicable.
 - (6) The name(s) of the State waters where the discharge will occur, the classification of the State waters, a determination if the State water(s) is on the CWA, §303(d) impaired water body list, the associated existing uses, temporary and potential long term adverse impacts to the associated existing uses, and a certification that the associated existing uses will be maintained and protected.
 - (7) Disclosure of each water pollutant of concern (POC) from the Activity; certification that the BMPs will completely isolate and confine the entire volume of water within the in-water work area and prevent each water pollutant from leaving the in-water work

area; the duration of the water pollutant discharge; and the quality and quantity of the POC discharge.

- (8) BMPs and construction drawings for activities/discharges covered under this Section 401 WQC.
- (9) Specification of the during construction monitoring frequency based on the duration of the in-water work and when BMPs will be changed/moved as the in-water work is performed. The minimum during construction monitoring frequency is as follows:
 - (a) \leq two (2) months in-water work; monitoring and reporting frequency = daily.
 - (b) $>$ two (2) months and $<$ one (1) year in-water work; monitoring and reporting frequency = three (3) times per week.
 - (c) \geq one (1) year and $<$ two (2) years in-water work; monitoring and reporting frequency = two (2) times per month.
 - (d) \geq two (2) years and $<$ three (3) years in-water work; monitoring and reporting frequency = monthly.
 - (e) \geq three (3) years in-water work; monitoring and reporting frequency = quarterly.
- (10) The Applicable Monitoring and Assessment Plan (AMAP) that complies with AMAP Guidelines (August 10, 2015/Version 1); HAR, Chapter 11-54; CWA, §401(d); and HRS, §342D-55.
- (11) Certification that the owner of the discharge will stop all in-water work if a visible plume is observed emanating from the work area; the plume will be sampled in accordance with the AMAP; and work will not resume until the cause of the plume is determined and corrective action is performed as required.
- (12) Certification that the owner of the discharge will stop all in-water work if during construction Impact Station water quality parameter levels are greater than the highest mean pre-construction Impact Station water quality parameter levels, and during construction Impact Station water quality parameter levels are greater than during construction upstream/up current control station water quality parameter levels. The owner of the discharge must also

certify that work will not resume until the cause of these exceedances are corrected as demonstrated by water quality sampling.

- c. During the process of completing the e-Permitting NWP Blanket WQC Notification Form, the owner of the discharge will be required to download the Transmittal Requirements and Certification Statement for e-Permitting NWP Blanket WQC Form Submissions. After submitting the NWP Blanket WQC Notification Form through the e-Permitting Portal, the owner of the discharge shall mail/deliver to the DOH-CWB the completed Transmittal Requirements and Certification Statement for e-Permitting NWP Blanket WQC Notification Form Submissions with the following information:
- (1) The e-Permitting Submission #. A unique e-Permitting Submission # (e.g. 15H-ZGVV-421H) is assigned to each NWP Blanket WQC Notification Form submittal. It is located in the History Link of the e-Permitting Portal. If the owner of the discharge submits a revised NWP Blanket WQC Form, the e-Permitting Submission # will contain the version (e.g. 15H-ZGVV-421H, v1).
 - (2) Indication if an initial NWP Blanket WQC Notification Form (new submittal) or a Revised NWP Blanket WQC Notification Form (revised submittal to address DOH-CWB comments) is being submitted.
 - (3) Section 401 WQC file number if revising the NWP Blanket WQC Notification Form to respond to DOH-CWB comments (e.g., WQC0962). The DOH-CWB comments will contain the file number. Initial NWP Blanket WQC Notification Form submittals will not have a file number.
 - (4) Printed First and Last Name of Certifying Person. For initial submittals, the Printed First and Last Name must be the Certifying Person identified in NWP Blanket WQC Notification Form. For revised submittals, the Printed First and Last Name may be either the Certifying Person identified in the NWP Blanket WQC Notification Form or the duly authorized representative identified in the initial NWP Blanket WQC Notification Form.
 - (5) The certification statement:

“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.”

- (6) Date of certification of the Transmittal Requirements and Certification Statement for e-Permitting NWP Blanket WQC Form Submissions.
- (7) Original Certification signature. Someone else may sign “for” the individual listed in the Printed First and Last Name. Any signatures shall be provided as described in 40 CFR §122.22.
- (8) A CD or DVD containing the downloaded e-Permitting submission in PDF or ZIP. To download the submission, click on the History Link in the e-Permitting Portal (after NWP Blanket WQC Notification Form is submitted). Locate the submission and press the view button under the Action column. Press the Download Submission button. A PDF file will be generated if you have no attachments. A ZIP file will be created if you have attachments. Save the PDF or ZIP file on the CD or DVD. Do not add additional files to the CD or DVD. Your CD or DVD shall match your e-Permitting submission #.

The completed Transmittal Requirements and Certification Statement for e-Permitting NWP Blanket WQC Form Submissions and all attachments shall be mailed or delivered to the DOH-CWB, 919 Ala Moana Boulevard, Room 301, Honolulu, Hawaii 96814.

- d. Check the status of the NWP Blanket WQC Notification Form submittal using the History Link in the e-Permitting Portal. The statuses are as follows:
 - (1) Submitted – Owner of discharge has submitted the NWP Blanket WQC Notification Form through the e-Permitting Portal.
 - (2) Hard Copy Received – DOH-CWB has received the hard copy of the Transmittal Requirements and Certification Statement for e-Permitting NWP Blanket WQC Form Submissions.

- (3) In Review – DOH-CWB is currently reviewing the NWP Blanket WQC Notification Form submittal. The DOH-CWB shall have 30 calendar days from the time DOH-CWB receives the hard copy of the Transmittal Requirements and Certification Statement for e-Permitting NWP Blanket WQC Form Submissions to review.
- (4) Applicant Action Required – DOH-CWB has comments on the NWP Blanket WQC Notification Form submittal. DOH-CWB will e-mail comments/concerns on the NWP Blanket WQC Notification Form submittal to the owner of the discharge and cc copy USACE. The owner of the discharge shall properly address DOH-CWB comments/concerns within 30 calendar days from the email. If the owner of the discharge fails to properly address DOH-CWB comments/concerns by the 30 calendar day deadline, the DOH-CWB will consider the owner of the discharge to no longer be interested in being covered under this Section 401 WQC. Therefore, the status of the NWP Blanket WQC Notification Form shall be changed to Rescinded and the processing will be terminated. The owner of the discharge will then have to apply for and obtain coverage under an individual Section 401 WQC.
- (5) Accepted – The DOH-CWB concurs that the individual verification is covered under this Section 401 WQC. The DOH-CWB shall notify the USACE via e-mail (cepoh-ro@usace.army.mil) that the individual verification is covered under this Section 401 WQC. Copies of the email will be sent to the Certifying Person, Owner Contact, General Contractor (if applicable), Project Contact, Emergency Contacts, and Authorized Representative (if applicable).
- (6) Rescinded – The individual verification cannot be covered under this Section 401 WQC and must apply for and obtain coverage under an individual Section 401 WQC. The DOH-CWB shall notify the USACE via e-mail (cepoh-ro@usace.army.mil) that the individual verification has been denied coverage under this Section 401 WQC. Copies of the e-mail will be sent to the Certifying Person, Owner Contact, General Contractor (if applicable), Project Contact, Emergency Contacts, and Authorized Representative (if applicable).

6. Compliance Reporting Submittals

- a. The form used to submit reporting and compliance requirements is the e-Permitting CWB Compliance Submittal Form for Section 401 WQCs. This form is available on the e-Permitting Portal located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.

- (1) Enter the e-Permitting Portal website.
 - (2) Login to the e-Permitting Portal.
 - (3) Press the Form Finder button.
 - (4) Type "CWB Compliance Submittal Form for Section 401 WQCs" for the form to submit reporting and compliance requirements.
 - (5) Read the instructions.
 - (6) Press the submit Online Form button and complete the form.
- b. The owner of the discharge shall submit through the e-Permitting Section CWB Compliance Submittal Form for Section 401 WQCs:
- (1) Notification of the commencement date within seven (7) calendar days before the start of any construction activities.
 - (2) Notification of the completion date within 14 calendar days after the completion of the proposed construction activities (including the disturbed areas restoration activities and post construction monitoring requirements).
 - (3) Notification of all noncompliance within one (1) business day and the corrective actions that were taken.
 - (4) The DOH-CWB may require additional post construction monitoring, including but not limited to, benthic monitoring, beach profile monitoring, and erosion monitoring. For projects in streams: There is a mandatory two (2) year quarterly post construction downstream erosion impact monitoring.
 - (5) All applicable Item No. 4 post-construction monitoring requirements.
 - (6) If required by the appropriate resource agencies, a Compensatory Mitigation Plan that was approved/accepted if the activity may adversely affect the biological environment, including special aquatic sites specified in 40 CFR 230.40 to 230.45. If the discharge/activity will affect special aquatic sites, the Mitigation/Compensation Mitigation Plan must compensate for the loss of area acreage and function of the special aquatic site; be located in the same watershed as the affected special aquatic site; and be approved/accepted by the USACE in accordance with

the "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" published in Federal Register (FR) on April 10, 2008 and became effective on June 9, 2008.

- c. During the process of completing the e-Permitting Section 401 WQC Compliance Form, the owner of the discharge will be required to download the Transmittal Requirements and Certification Statement for e-Permitting CWB Compliance Submittal Form for Section 401 WQCs Submissions. After submitting the CWB Compliance Submittal Form for Section 401 WQCs through the e-Permitting Portal, the owner of the discharge shall mail/deliver to the DOH-CWB the completed Transmittal Requirements and Certification Statement for e-Permitting CWB Compliance Submittal Form for Section 401 WQCs Submissions with the following information:

- (1) The e-Permitting Submission #. A unique e-Permitting Submission # (e.g. 15H-ZGVV-421H) is assigned to each CWB Compliance Submittal Form for Section 401 WQCs submittal. It is located in the History Link of the e-Permitting Portal. If the owner of the discharge submits a revised CWB Compliance Submittal Form for Section 401 WQCs, the e-Permitting Submission # will contain the version (e.g. 15H-ZGVV-421H, v1).
- (2) Indication if an initial CWB Compliance Submittal Form for Section 401 WQCs (new submittal) or a revised CWB Compliance Submittal Form for Section 401 WQCs (revised submittal to address DOH-CWB comments) is being submitted.
- (3) File number (e.g. WQC0962).
- (4) Printed First and Last Name of Certifying Person or Authorized Representative as identified in the NWP Blanket WQC Notification Form submitted for the verification.
- (5) The certification statement:

"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.”

- (6) Date of certification of the Transmittal Requirements and Certification Statement for e-Permitting CWB Compliance Submittal Form for Section 401 WQCs.
- (7) Original Certification signature. Someone else may sign “for” the individual listed in the Printed First and Last Name. Any signatures shall be provided as described in 40 CFR 122.22(a).
- (8) A CD or DVD containing the downloaded e-Permitting submission in PDF or ZIP. To download the submission, click on the History Link in the e-Permitting Portal (after the CWB Compliance Submittal Form for Section 401 WQCs is submitted). Locate the submission and press the view button under the Action column. Press the Download Submission button. A PDF file will be generated if you have no attachments. A ZIP file will be created if you have attachments. Save the PDF or ZIP file on the CD or DVD. Do not add additional files to the CD or DVD. Your CD or DVD shall match your e-Permitting submission #.

The completed Transmittal Requirements and Certification Statement for e-Permitting CWB Compliance Submittal Form for Section 401 WQCs Submissions and all attachments shall be mailed or delivered to the DOH-CWB, 919 Ala Moana Boulevard, Room 301, Honolulu, Hawaii 96814.

- d. Check the status of the CWB Compliance Submittal Form for Section 401 WQCs submittal using the History Link in the e-Permitting Portal. The statuses are as follows:
 - (1) Submitted – Owner of discharge or authorized representative has submitted the CWB Compliance Submittal Form for Section 401 WQCs through the e-Permitting Portal.
 - (2) Hard Copy Received – DOH-CWB has received the hard copy of the Transmittal Requirements and Certification Statement for e-Permitting CWB Compliance Submittal Form for Section 401 WQCs Submissions.
 - (3) In Review – DOH-CWB is currently reviewing the CWB Compliance Submittal Form for Section 401 WQCs submittal.

- (4) Applicant Action Required – DOH-CWB has comments on the CWB Compliance Submittal Form for Section 401 WQCs submittal. DOH-CWB will email comments/concerns to the owner of the discharge and cc copy USACE. The owner of the discharge shall properly address DOH-CWB comments/concerns or DOH-CWB will revoke individual verification coverage under this Section 401 WQC.
 - (5) Accepted – The DOH-CWB has no comments on the submittal at this time.
7. USACE shall email to the DOH-CWB (cleanwaterbranch@doh.hawaii.gov) a pdf copy of all issued final verifications.

The USACE published a public notice of the proposed Section 401 WQC in ***The Garden Island, Honolulu Star-Advertiser, The Maui News, West Hawaii Today and Hawaii Tribune-Herald*** on **April 21, 2015**.

After consideration of the expressed views of all interested persons and agencies and pertinent State statutes and rules, the Department hereby issues this Section 401 WQC to all owners seeking coverage under the applicable NWP. This action does not constitute a significant change from the tentative determination set forth in the public notice.

If you have any questions, please contact Mr. Mathew Kurano of the Enforcement Section or Mr. Edward Chen of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,



for VIRGINIA PRESSLER, M.D.
Director of Health

- Enclosures: 1. Response to Public Notice Comments, dated August 14, 2015
 2. Applicable Monitoring Assessment Plan Guidelines
 (August 14, 2015 Version 1)
- c: Regulatory Office, POH, COE [via e-mail cepoh-ro@usace.army.mil only]
Ms. Michelle R. Lynch, POH, COE [via e-mail Michelle.R.Lynch@usace.army.mil only]
Pacific Islands Contact Office, U.S. EPA Region IX
 [via e-mail wiltse.wendy@epa.gov only]
Mr. John Nakagawa, CZM Program, Office of Planning, DBEDT
 [via e-mail JNakagaw@dbedt.hawaii.gov only]
Mr. Todd Nishioka, DOT-HWYS, [via e-mail Todd.Nishioka@hawaii.gov only]
U.S. Fish and Wildlife Service
U.S. National Marine Fisheries Service [via e-mail pirohonolulu@noaa.gov only]
Engineering Division, DLNR [via e-mail dickey.h.lee@hawaii.gov only]
Harbors Division, DOT [via e-mail carter.luke@hawaii.gov only]
CWRM, DLNR [via e-mail dlnr.cwrn@hawaii.gov only]
OCCL, DLNR [via e-mail dlnr.occl@hawaii.gov only]
DHO, Hawaii
DHO, Maui
DHO, Kauai
EHS, Molokai/Lanai
Ms. Snookie Mello, AECOS [via e-mail smello@aecos.com only]

Lieutenant Colonel Christopher W. Crary
August 14, 2015
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WQC0804.FNL.15

I AGREE WITH THE TERMS AND CONDITIONS OF THIS LETTER:



HONOLULU DISTRICT ENGINEER
U.S. ARMY CORPS OF ENGINEERS

20 Aug 2015
DATE