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States' Nutrient Management Plans Statutes &
Regulations:

Hawaii



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A National Agricultural Law Center Research Publication
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HI Rev Stat § 342D-5
HI Rev Stat § 342D-6
HI Admin Rules 11-55-19(a)(4)(B)

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Hawaii Legislative Reference Bureau.

HI Rev Stat § 342D-5. Rules; specific.

The director may establish by rule, water quality standards, effluent standards, treatment and pretreatment standards, and standards of performance for specific areas and types of discharges in the control of water pollution, thereby allowing for varying local conditions.

HI Rev Stat § 342D-6. Permits; procedures for.

(a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for permits shall be accompanied by plans, specifications, and any other information that it deems necessary in order to determine whether the proposed installation, alteration, or use will be in accord with applicable rules and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if the director determines that it will be in the public interest; provided that the permit may be subject to any reasonable conditions that the director may prescribe. The director may include conditions in permits or may issue separate permits for management practices for domestic sewage, sewage sludge, and recycled water, whether or not the practices cause water pollution. The director, on application, shall renew a permit from time to time for a term not exceeding five years if the director determines that it will be in the public interest. The director shall not grant or deny an application for the issuance or renewal of a permit without affording the applicant and any person who commented on the proposed permit during the public comment period an opportunity for a hearing in accordance with chapter 91. A request for a hearing and any judicial review of the hearing shall not stay the effect of



the issuance or renewal of a permit unless specifically ordered by the director or [an] environmental court.

(d) The director, on the director's own motion or the application of any person, may modify, suspend, revoke, or revoke and reissue any water pollution permit if, after affording the permittee an opportunity for a hearing in accordance with chapter 91, the director determines that:

- (1) There is a violation of any condition of the permit;
- (2) The permit was obtained by misrepresentation, or there was failure to disclose fully all relevant facts;
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) It is in the public interest.

The public interest excludes any reason less stringent than the causes for permit modification, revocation, and termination, or revocation and reissuance identified in 40 Code of Federal Regulations section 122.62 or 122.64.

(e) The director, on the director's own motion or the application of any person, may modify, suspend, revoke, or revoke and reissue any sludge permit after affording the permittee an opportunity for a hearing in accordance with chapter 91, and consistent with 40 Code of Federal Regulations section 501.15(c)(2) and (3) and (d)(2).

(f) The director shall ensure that the public receives notice of each application for a permit to control water pollution. The director may hold a public hearing before ruling on an application for a permit to control water pollution if the director determines the public hearing to be in the public interest. In determining whether a public hearing would be in the public interest, the director shall be guided by 40 Code of Federal Regulations section 124.12(a).

(g) In determining the public interest regarding permit issuance or renewal, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director, by rule, may prescribe; provided that any determination of public interest shall



promote the optimum balance between economic development and environmental quality.

(h) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of the applicant's application so long as the applicant acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as part thereof.

HI Admin Rules 11-55-19. Application of effluent standards and limitations, water quality standards, and other requirements.

(a) NPDES permits shall apply and ensure compliance with the following whenever applicable:

- (1) Effluent limitations under Sections 301 and 302 of the Act, 33 U.S.C. §§ 1311 and 1312;
- (2) Standards of performance for new sources;
- (3) Effluent standards, effluent prohibitions, and pretreatment standards under Section 307 of the Act, 33 U.S.C. § 1317;
- (4) More stringent limitation, including those:
 - (A) Necessary to meet water quality standards, treatment standards, or schedules of compliance, established under any state law or rules (under authority preserved by Section 510 of the Act, 33 U.S.C. § 1370); or
 - (B) Necessary to meet any other federal law or regulations including, but not limited to:
 - (i) Toxic pollutant effluent standards in 40 CFR Part 129 ;
 - (ii) Secondary treatment regulation in 40 CFR Part 133 ;
 - (iii) Effluent guidelines and standards in 40 CFR Chapter I, subchapter N, Parts 400 to 471;
 - (iv) Criteria and standards in 40 CFR Part 125, Subparts A, B, C, D, H, I, J, K, and M;
 - (v) Standards for sludge handling in 40 CFR § 122.44(b)(2), 40 CFR Part 503 and state rules; and
 - (vi) Nutrient management requirements and technical standards for concentrated animal feeding



operations in 40 CFR § 123.36, 40 CFR §122.42, and 40 CFR Part 412 ; or

(C) Required to implement any applicable water quality standards; the limitations to include any legally applicable requirements necessary to implement total maximum daily loads established under Section 303(d) of the Act, 33 U.S.C. § 1313(d), or incorporated in the continuing planning process approved under Section 303(e) of the Act, 33 U.S.C. § 1313(e), and any regulations and guidelines issued pursuant thereto;

(5) More stringent legally applicable requirements necessary to comply with a plan approved under Section 208(b) of the Act, 33 U.S.C. § 1288(b);

(6) Prior to promulgation by the Administrator of applicable effluent standards and limitations under Sections 301, 302, 306, and 307 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, and 1317, the conditions, as the director determines are necessary to carry out the provisions of the Act; and

(7) If the NPDES permit is for the discharge of pollutants into the State waters from a vessel or other floating craft, any applicable regulations promulgated by the secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants;

(8) Other requirements developed under the continuing planning process under Section 303(e) of the Act and any regulations and guidelines issued under it;

(9) Intake credits in accordance with 40 CFR § 122.45(g) and section 11-54-12; and

(10) Recreational criteria for all State waters in section 11-54-8. To comply with HAR sections 11-54-S(b) and (c) requirements, at least one sample shall be collected on every fifth day of the thirty day sampling period. Each sample shall be collected and analyzed pursuant to 40 CFR Part 136 . The director may require samples to be collected more frequently within the thirty day period.

(b) In any case where an issued NPDES permit applies the effluent standards and limitations described in subsection (a)(1), (2), and (3), the director shall state that the discharge authorized by the permit shall not violate applicable water quality standards and shall have prepared some explicit verification of that statement. In any case where an issued NPDES permit applies any more stringent effluent limitation based upon applicable water quality



standards, a waste load allocation shall be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

