

CON APPENDIX H
USAG-HI Construction Site Runoff Control Enforcement Program Policy
Memo - DRAFT



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND, PACIFIC REGION
HEADQUARTERS, UNITED STATES ARMY GARRISON, HAWAII
745 WRIGHT AVENUE, BUILDING 107, WHEELER ARMY AIRFIELD
SCHOFIELD BARRACKS, HAWAII 96857-5000

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MEMORANDUM FOR ALL Military Personnel and Department of Defense Civilian Employees within United States Army Garrison, Hawaii (USAG-HI) Installations

SUBJECT: Policy Memorandum USAG-HI- , Construction Site Runoff Control Enforcement Program

1. References.

a. Army Regulation (AR) 200-1, Environmental Protection and Enhancement, 13 Dec 07.

b. USAG-HI National Pollutant Discharge Elimination System Permit Number HI S000090, 7 Apr 14.

c. USAG-HI Storm Water Management Plan, Construction Site Runoff Control Enforcement Response Plan.

d. Hawaii Administrative Rules, Title 11 Department of Health, Chapter 54 Water Quality Standards (HAR 11-54) and Chapter 55 Water Pollution Control (HAR 11-55), 15 Nov 14.

2. Purpose. To provide a formal, written Construction Site Runoff Control Program enforcement policy statement to ensure that garrison facilities and activities are in compliance with the requirements of the USAG-HI National Pollutant Discharge Elimination System (NPDES) permit and the State's General Permit for construction activities.

3. Background. The Hawaii State Department of Health (SDOH), Clean Water Branch (CWB) issued USAG-HI an NPDES Municipal Separate Storm Sewer System (MS4) permit effective 7 Apr 14. This policy is prepared in compliance with Part D.1.d.(6) of the permit which requires USAG-HI to perform the following:

Establish policies for enforcement and penalties for entities found to be in non-compliance with requirements developed in accordance with Construction Site Runoff Control Best Management Practices (BMPs) and NPDES General Permit coverage if applicable.

4. Applicability. This policy applies to all Soldiers, Civilians, Family members, contractors, subcontractors and other personnel who work on, reside on, or visit any US Army installation, facility, or work site in the State of Hawaii.

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5. General. The USAG-HI holds an NPDES permit issued by the SDOH CWB. The permit requires the USAG-HI to develop and implement a Storm Water Management Plan (SWMP) and Construction Site Runoff Control procedures for all construction projects to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) from its MS4 to waters of the State. The Directorate of Public Works (DPW) is required by the permit to develop and implement enforcement procedures and policies. All construction projects must use BMPs to reduce the discharge of pollutants to the MEP. In addition, if the construction site disturbs one acre or more then NPDES General Permit coverage must be obtained prior to the start of construction activities in accordance with HAR 11-55, Appendix C. To obtain NPDES General Permit coverage, an application must be submitted to the SDOH. The SDOH requires the construction contractor to prepare a Storm Water Pollution Prevention Plan (SWPPP) prior to submitting the permit application. In accordance with the NPDES General Permit, erosion and sediment control BMPs must be in place and functional before earth moving operations begin and must be maintained through the duration of the project.

a. Inspections. DPW ENV must inspect construction sites to maintain compliance with the USAG-HI NPDES permit. Inspections may be scheduled or un-announced and will be conducted in accordance with part D.1.d.(5) of the permit and the USAG-HI Construction Site Runoff Control Enforcement Response Plan (ERP).

(1) A certified EnviroCert International, Inc. inspector or other qualified DPW-ENV inspector(s) familiar with the project SWPPP shall conduct construction site inspections on a regular basis (frequency depends on size and permit requirements) and upon complaints from citizens or concerned groups for all construction activities.

(2) DPW ENV will send the relevant Contracting Officer, Project Manager, and/or DPW Division and Branch Chiefs written notification using the Construction Oversight Field Inspection Checklist with attached photographs within 48 hours of the inspection (normal business days).

b. Violations/Findings. Violations can occur when the Contractor is not in full compliance with the applicable State permits and regulations or the site specific SWPPP, fails to address non-compliances as directed by DPW ENV, or discharges pollutants into the Army's MS4. Categories of non-compliances may include but are not limited to deficiencies in storm water and erosion control measures and failure to meet administrative requirements. Non-compliances may be identified through DPW ENV personnel conducting random wet weather construction inspections or unannounced construction storm water inspections, scheduled routine inspections of NPDES General Permit covered projects, public complaints, and inspections or audits by regulatory agencies such as the SDOH or Environmental Protection Agency (EPA).

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(1) The construction site superintendant or representative will be notified on the spot of any inconsistencies between the approved SWPPP and the actual site conditions and any other finding or violation. The construction site superintendant or representative shall immediately correct the deficiency when possible.

(2) If the deficiency cannot be corrected immediately, DPW ENV will send the relevant Project Manager and/or DPW Division and Branch Chiefs notification of the deficiency via email. A written response from the contractor documenting the corrective action taken to address the identified issues is expected within five (5) calendar days from receipt of the completed inspection form. The response should include what actions were taken to correct the deficiency, photo documentation, and the date(s) when actions were completed.

(3) DPW ENV qualified construction inspector(s) will conduct follow-up inspections as needed to ensure site deficiencies have been properly addressed and all storm water controls are in proper working order.

c. Enforcement. If the contractor does not correct deficiencies identified during the inspection then the following enforcement procedures will be initiated:

(1) For all projects, if the corrective measures are not completed, then the deficiency will be elevated to the DPW Director who is USAG-HI's authorized representative. A written correspondence will be sent to the relevant Contracting Officer, DPW Division Chief, or Owner/Representative of the project requesting a timeline and resolution in accordance with the USAG-HI Construction Site Runoff Control ERP.

(2) If a resolution is not provided then the project Contracting Officer has several options which may include withholding payment, stopping work, or termination for convenience or default.

(3) In the event that the non-compliance has not been resolved and DPW has exhausted its use of sanctions and cannot bring a construction site or construction operator into compliance with its policies, standards, or the USAG-HI NPDES permit, or if DPW believes the site poses an immediate and significant threat to water quality, DPW ENV shall, in accordance with permit Part D.1.d.(7): provide an email notification to the SDOH CWB Enforcement Section within one week of such determination. Email notification will be followed by written notification and include supporting inspection documentation (e.g. checklists, notes) and correspondence within two (2) weeks of determining a site is non-compliant. In instances where an inspector identifies a site

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that has not applied for permit coverage under the NPDES permit program, DPW ENV will provide written notification to SDOH CWB Enforcement Section within two (2) weeks of the discovery.

d. Penalties. For all projects, the contractor shall be solely responsible for remedying all Federal, State and local environmental and safety violations or non-compliance and any payment of fines, penalties and fees levied as a result of the violations or non-compliance. The government reserves the right to withhold payment in the amount of the fines, penalties, and fees levied if not paid by the contractor. Violation of the Clean Water Act can result in fines of up to \$25,000 per violation per day and/or criminal enforcement actions including imprisonment.

e. Record Keeping. Findings and inspection reports shall be kept on file with the DPW Environmental Division. Records shall be kept for five (5) years in accordance with the permit.

6. The Construction Site Runoff Control Enforcement Program policy shall be given widest dissemination. This policy memorandum will be available for download at: www.garrison.hawaii.army.mil/sites/policies/policies.asp and available to the public upon request.

7. This policy supersedes Policy Memorandum Subject: United States Army Garrison, Hawaii Enforcement Procedures and Actions for Construction Storm Water Management, dated 27 Aug 13 and remains in effect until superseded or cancelled in writing.

8. Proponent. The proponent for administration of the USAG-HI Construction Site Runoff Control Enforcement Program policy is the DPW Environmental Division, at 656-5790.

RICHARD A. FROMM
COL, AD
Commanding

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