

STORM WATER MANAGEMENT PROGRAM PLAN
FOR
KEWALO BASIN HARBOR

NPDES SMALL MS4 PERMIT NO. HI 03KB487

FINAL

September 2012

Prepared for:
Hawaii Community Development Authority
Department of Business, Economic Development & Tourism
State of Hawaii

By:
AECOM
Honolulu, HI



This page is left intentionally blank.

TABLE OF CONTENTS

TABLE OF CONTENTS	i
LIST OF ATTACHMENTS.....	ii
LIST OF ACRONYMS	iii
1.0 INTRODUCTION.....	1
2.0 PUBLIC EDUCATION AND OUTREACH MINIMUM CONTROL MEASURE... 3	
3.0 PUBLIC INVOLVEMENT/PARTICIPATION MINIMUM CONTROL MEASURE..... 5	
4.0 ILLICIT DISCHARGE DETECTION AND ELIMINATION MINIMUM CONTROL MEASURE	7
4.1 PERMITTED NON-STORM WATER DISCHARGES	9
4.2 NEW CONNECTION/DISCHARGE NOTIFICATION	10
5.0 CONSTRUCTION SITE STORM WATER RUNOFF CONTROL MINIMUM CONTROL MEASURE	11
5.1 CONSTRUCTION PROJECTS SUBJECT TO THE PROGRAM.....	11
5.2 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REVIEW AND APPROVAL PROCESS	12
5.2.1 <i>Site-Specific Construction BMP Plan</i>	13
5.2.2 <i>Inventory of Construction Sites</i>	14
5.3 INSPECTIONS	14
5.3.1 <i>Developer/Contractor Self-Inspection Requirements</i>	16
5.3.2 <i>HCDA Inspection of Construction Projects</i>	16
5.3.3 <i>Definition of Deficiencies</i>	17
5.3.4 <i>Reporting Non-Compliance and Non-Filers to DOH</i>	19
5.4 TRAINING PROGRAM.....	20
6.0 POST-CONSTRUCTION STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT MINIMUM CONTROL MEASURE	21
7.0 POLLUTION PREVENTION/GOOD HOUSEKEEPING MINIMUM CONTROL MEASURE.....	23
8.0 REFERENCES.....	25

LIST OF ATTACHMENTS

ATTACHMENT A: Kewalo Basin Location Maps and Flow Chart

ATTACHMENT B: Storm Drain System Outfall Listing

ATTACHMENT C: HAR 15-212 Kewalo Basin Rules for Vessel and Harbor Controls

ATTACHMENT D: Tenant Self Inspection Form

ATTACHMENT E: Facility Inspection Checklist

ATTACHMENT F: Harbor Master Notice “Prohibiting Disposal of Regulated
Hazardous Waste

ATTACHMENT G: Used Oil Disposal Instructions

ATTACHMENT H: Example Revocable Lease

ATTACHMENT I: Kewalo Basin Mooring and Commercial Fishing Permits

ATTACHMENT J: Site Investigation Sheet

ATTACHMENT K: Kewalo Basin Private Drain Connection Application

ATTACHMENT L: Construction BMP Plan Checklist

ATTACHMENT M: CCH Construction Site BMPs Weekly Checklist

ATTACHMENT N: NPDES Construction Storm Water Inspection Worksheet

LIST OF ACRONYMS

BMP	best management practices
CCH	City and County of Honolulu
CFR	Code of Federal Regulations
CWB	State of Hawaii, Department of Health, Clean Water Branch
DBEDT	State of Hawaii, Department of Business, Economic Development & Tourism
DOH	State of Hawaii, Department of Health
DOT	State of Hawaii, Department of Transportation
DOT-HWY	State of Hawaii, Department of Transportation – Highways Division
ENV	City and County of Honolulu, Department of Environmental Services
EPA	United States Environmental Protection Agency
HAR	Hawaii Administrative Rules
HCDA	Hawaii Community Development Authority
HDOT-HWY	State of Hawaii, Department of Transportation – Highways Division
HRS	Hawaii Revised Statutes
Kewalo Basin	Kewalo Basin Harbor, Oahu, Hawaii
MS4	Municipal Separate Storm Sewer System
NGPC	Notice of General Permit Coverage
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
State	State of Hawaii
SWMP	Storm Water Management Program
SWMPP	Storm Water Management Program Plan
SWQ	City and County of Honolulu, Department of Environmental Services, Storm Water Quality Branch
TSI	Tenant Self Inspection Form

This page is left intentionally blank.

1.0 INTRODUCTION

The Hawaii Community Development Authority (HCDA), a public corporate entity part of the State of Hawaii (State) Department of Business, Economic Development & Tourism (DBEDT), has developed this Storm Water Management Program Plan (SWMPP) to accompany a Notice of Intent (NOI) for the Hawaii Administrative Rules (HAR), Chapter 11-55, Appendix K – National Pollutant Discharge Elimination System (NPDES) Notice General Permit Coverage (NGPC) Authorizing Discharges of Storm Water and Certain Non-Storm Water Discharges from Small Municipal Separate Storm Sewer System (MS4) for the storm drainage system operated at Kewalo Basin Harbor, Oahu, Hawaii (see Attachments A and B for “Kewalo Basin” maps and outfall listing).

On November 24, 2008, former Governor Linda Lingle approved administrative rules for the Kewalo Basin HAR Chapter 15-211 through 214 (HAR 15-212 Kewalo Basin Rules for Vessel and Harbor controls is included as Attachment C). The State Department of Transportation (DOT) transferred the management of Kewalo Basin Small MS4 to HCDA on March 1, 2009; therefore these rules are necessary for HCDA to manage the harbor. HCDA has retained a management company operator, ALMAR Management, Inc. (or ALMAR) to act as the Harbor Agent and Kewalo Basin Small MS4 authorized representative to manage operations of Kewalo Basin Small MS4. HCDA continues to be the underlying landowner throughout Kewalo Basin. The rules, regulations, charges, and fees for Kewalo Basin will govern the use and operation of Kewalo Basin under HCDA. These rules, which were drafted with extensive stakeholder input, are considered necessary and desirable to facilitate the public’s use and enjoyment of Kewalo Basin. The rules defined permissible activities regulate operations within the harbor and set forth procedures for obtaining leases and related fees.

Prior NGPC was reapplied for on September 26, 2007 and was granted an NGPC, File No. HI 03KB487, which expires October 21, 2012. As of March 1, 2009, HCDA retained operation of the Kewalo Basin as stated above. HCDA is currently submitting a NOI for NGPC (by September 20, 2012).

The SWMPP is intended to guide HCDA/ALMAR compliance with the Hawaii NPDES program as promulgated in the HAR Chapter 11-55, Appendix K which authorized storm water and certain non-storm water discharges from Small MS4s.

The SWMPP describes efforts to be made by ALMAR and HCDA in the six minimum control measures required by the HAR Chapter 11-55, Appendix K. The six areas are:

1. Public Education and Outreach
2. Public Involvement/Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post Construction Storm Water Management in New Development and Redevelopment
6. Pollution Prevention/Good Housekeeping

Goals by which program effectiveness and compliance with the conditions of the NGPC will be assessed are established herein for each minimum control measure. An Annual Report summarizing actions taken and progress toward the yearly (calendar year) goals of each minimum control measure shall be provided to the State Department of Health (DOH), not later than January 28 of each year.

Each minimum control measure and the associated goals are each discussed separately. Following the efforts made by ALMAR and HCDA during the previous NGPC term, it is believed that Kewalo Basin has essentially achieved a good state of water quality, and actions under the ongoing program will remain largely unchanged. Paragraphs in italics state the requirements of the HAR Chapter 11-55, Appendix K and are followed by discussion of the efforts to be made during the next five years (coverage by next NGPC) including criteria through which the efforts will be assessed in the Annual Reports.

2.0 PUBLIC EDUCATION AND OUTREACH MINIMUM CONTROL MEASURE

“Develop and implement a public education program to distribute educational materials to users of the small municipal separate storm sewer community or conduct equivalent outreach activities emphasizing each of the following:

- (A) Impacts of storm water discharges on water bodies,*
- (B) Hazards associated with illicit discharges, and*
- (C) Measures the users of the permittee’s small municipal separate storm sewer system can take to reduce pollutants in storm water runoff, including, but not limited to, minimizing fertilizer application and practicing proper storage and disposal of chemicals and wastes;”*

The main action of the public education and outreach minimum control measure during the previous and current NGPC term has been to annually mail the Tenant Self-Inspection (TSI) form or equivalent to all harbor tenants (sample provided in the Attachment D). The TSI is accompanied by materials describing the responsibility of harbor tenants and visitors for water quality issues, and includes suggestions and actions by which these groups can affect water quality. The TSI mailings seek to make recipients aware of storm water runoff quality issues and bring their attention to the potential for storm water pollution through self-examination of their operational practices and materials or products used, stored or handled. It also serves to inventory the tenant materials stored at the harbor and practices of tenants which may indicate locations where storm water pollution events may occur. The material included with the mailing also includes internet links to useful web pages including the United States Environmental Protection Agency (EPA) Storm Water Pollution Fact Sheets and contact points for water pollution reporting.

HCDA will review TSI responses for completeness (number of responses versus forms mailed) and information provided, and seeks to contact non-responding tenants. In addition to the TSI, HCDA and its authorized consultant will conduct compliance inspections using a checklist (Attachment E) of each tenant and facility within Kewalo Basin Small MS4 to further verify information provided by the TSI and identify areas or tenants requiring implementation of site-specific storm water best management practices, possibly warnings of non-compliance, and in some cases enforcement action(s).

Public education of the responsibility for storm water discharge quality has been enhanced by posting signage (in various languages) at visible public locations including harbor entrances, comfort stations, meeting areas and at rubbish, trash collection stations, advising against dumping or discarding inappropriate materials where they may flow or be carried into the harbor and State receiving waters.

Over the remainder of the term of NGPC, ALMAR will continue tenant contact by distributing additional educational materials, facility compliance inspections (as needed), and other communications. Annual mailings will include storm water quality awareness materials, including:

- DOT Harbors Division, January 15, 2003 notice to harbor tenants “Prohibiting Disposal of Regulated Hazardous Waste” and attachment, “General Description of Hazardous Waste and Recycled Used Oil” (Attachment F) or equivalent

- Used Oil Disposal Instructions - (Attachment G)

A record of responses and compliance inspection checklists will be kept for improvement of future SWMP activities.

3.0 PUBLIC INVOLVEMENT/PARTICIPATION MINIMUM CONTROL MEASURE

“Include users of the permittee’s small municipal separate storm sewer system in developing, implementing and reviewing the storm water management plan;”

Public participation is intended to raise public consciousness of water quality issues and create a sense of responsibility for water quality, to lessen the likelihood that informed members of the public will commit actions which may lead to water quality degradation. Public awareness of storm water quality issues will increase storm water awareness of the public and tenants.

Both HCDA and ALMAR have invited public involvement/participation by posting the SWMPP on the Kewalo Basin Website (<http://www.kewalobasinharbor.com/>) and the HCDA website (<http://www.hcdaweb.org/>). During routine contact with the harbor tenants, ALMAR will inform the tenants and the public the location of the SWMPP on the both websites and ask them to provide comments to the program and plan. Comments received will be replied to and posted on the website. Effectiveness of the program will be assessed by the responses provided by the tenant public, and comments received by ALMAR and HCDA. Public input into the storm water program will improve the program and make it more effective.

This page is left intentionally blank.

4.0 ILLICIT DISCHARGE DETECTION AND ELIMINATION MINIMUM CONTROL MEASURE

“Develop, implement and enforce a program to detect and eliminate illicit discharges that at a minimum includes the following:

- (A) Establishment of rules, ordinances or other regulatory mechanism, including enforcement procedures and actions, that prohibit non-storm water discharges, except those listed in section 1 that do not cause or contribute to any violations of water quality standards, into the permittee’s small municipal separate storm sewer system,*
- (B) Procedures to detect and eliminate illicit discharges (as defined in 40 CFR Section 122.26(b)(2)), and”*

Existing rules and ordinances prohibit non-storm water discharges are in place and include the following citation from the HAR Chapter 15-212, Section 112 which requires “No person shall place, throw, deposit, or discharge, or cause to be placed, thrown, deposited, or discharged into the waters of Kewalo Basin any litter, or other gaseous, liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health and welfare or, a navigational hazard. No person shall discharge oil sludge, oil refuse, fuel oil or molasses either directly or indirectly, or pump bilges or ballast tanks containing other than clean water into the waters of any harbor, river or into any shore waters in the State.”

The rules are made enforceable by the HAR Chapter 15-212 Section 13 which grants the HAR the full force and effect of law pursuant to Chapter 206E, Hawaii Revised Statutes (HRS). The violation of these rules shall be subject to penalties as set forth in Section 206E-22, HRS.

Further, the HAR Chapter 15-212 Section 13.2 requires compliance with federal, state, and county laws, ordinances and rules, and in particular rules of the DOH pertaining to air and water pollution set forth in HRS Section 342D.

Tenant Revocable Permits and lease agreements incorporate language which requires compliance with all storm water quality regulations. An example copy of the Tenant Revocable Lease is included as Attachment H and copies of the Kewalo Basin Commercial Mooring, Temporary Mooring, and Commercial Fishing Permits are included as Attachment I.

Enforcement of illicit discharge procedures and actions is provided by ALMAR/HCDA personnel and their authorized consultants. ALMAR personnel patrol and are available at the harbor daily during normal business hours (8:30 am to 4:30 pm). State Sheriff may also be summoned as needed for added enforcement. The Sheriff and contracted security personnel are authorized to warn or cite violators and other personnel (Harbor Master and other ALMAR personnel) may be authorized to report offenders. Any of these personnel may report discharges or spills which degrade runoff quality any time to the appropriate authorities listed in Table 4-1 or to the ALMAR Kewalo Basin office (808-594-0849), Kewalo Basin Master - Charles Barclay (805-594-0851). For emergency contact when Kewalo Basin Office is closed call (808) 888-9494. Serious offenses are referred to proper authorities, as shown in Table 4-1.

Table 4-1: Other Storm Water Emergency Contact Numbers

Contact Point/Agency	Business Hours (M-F 7:00 am to 4:00 pm)	After Hours/ Weekend/Holidays
Emergency (Medical, Fire, Police)	911	911
DOH, Hawaii State Emergency Response Commission	586-4249	247-2191
National Response Center	800-424-8802	800-424-8802
Oahu Local Emergency Planning Committee	523-4121	911
CCH, Department of Environmental Services, Storm Water Quality Branch	768-3242	247-2191

If polluted runoff enters Kewalo Basin drainage system from CCH sources, notifications may be made through a CCH maintained hotline (808-768-3300) or to the Department of Environmental Services (ENV), Storm Water Quality Branch (SWQ) Office (808-768-3242). CCH also maintains a smart phone application for reporting purposes, Honolulu 311, (for information go to <http://can-do.honolulu.gov/apps/14>) and a general information and complaint website at <http://www.cleanwaterhonolulu.com/storm/>.

If polluted runoff enters Kewalo Basin drainage system from DOT – Highways Division (HDOT-HWY) sources, HDOT-HWY maintains a complaint hotline (808-831-6714). Additionally the HDOT-HWY also maintains a storm water website at <http://stormwaterhawaii.com/>

ALMAR actions to detect and eliminate illicit discharge include:

- Reporting using Site Investigation Sheets (Attachment J) by ALMAR personnel, HCDA authorized consultants, or the Harbor Master. Completed Site Investigation Sheet with complaints or observances of actions which require intervention are routed for action to the ALMAR and HCDA
- Conducting initial and annual refresher NPDES training to key personnel at all levels of responsibility concerning the components and goals of the facility's SWMPP

The annual training addresses the following areas:

- Regulatory requirement
- Materials management practices including proper storage, handling, and use of materials
- Good housekeeping and criteria for a clean working environment
- Recognizing conditions that could lead to degraded runoff water quality
- Identifying and notifying responsible parties
- Taking action to correct conditions that could result in storm water pollution
- Procedures to detect and eliminate illicit discharges (as defined in 40 Code of Federal Regulations [CFR] Section 122.26
- Warning and enforcement procedures
- Recording SWMPP violation incidents

A record of attendees at each NPDES training session is kept for inclusion in the SWMP Annual Report.

Annually, construction inspectors and operations maintenance personnel are queried as to the effectiveness of illegal discharge detection and prevention efforts, and observations summarized in the Annual Report.

Twice-yearly, dry weather visual inspection of outfalls are made at low tide from Kewalo Basin. Wet weather observations of sheet flow over the pier edge are conducted at least annually. Visibly inappropriate runoff conditions will be reported and where a contributing party may be identified a warning or citation will be issued and a record made for inclusion to the annual MS4 report.

Phone numbers for the Harbor Agent (808-594-0849), ENV Concern Hotline (808-768-3300), HDOT-HWY storm water hotline (808-831-6714), DOH Clean Water Branch (CWB) (808-586-4309), Coast Guard (800-424-8802), and Marine Traffic Control (808-587-2076) are included on the Kewalo Basin Website as contact points for water quality complaints and/or communications.

Public education materials are provided with the initial and routine mailing. The materials address illicit discharge and illegal dumping hazards, detection efforts, and consequences.

A map of Kewalo Basin storm water outfalls have been made and will be refined during dry weather inspections. The current outfall mapping and an outfall description listing are presented in Attachments A and B.

4.1 PERMITTED NON-STORM WATER DISCHARGES

(C) "Compilation of a list of non-storm water discharges or flows that are considered to be significant contributors of pollutants and the measures to be taken to prevent these discharges into the permittee's small municipal separate storm sewer system, or reduce the amount of pollutants in these discharges."

According to the Kewalo Basin Small MS4 NPDES Permit No. HI 03KB487, issued November 2, 2007, the following non-storm water discharges are permitted to be discharged to the Kewalo Basin Small MS4:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground waters
- Uncontaminated ground water infiltration (as defined in 40 CFR Section 35.2005(20))
- Uncontaminated pumped ground water, not including construction related dewatering activities
- Discharges from potable water sources and foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps and footing drains

- Lawn water runoff
- Water from individual residential car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool discharges
- Residential street wash water
- Discharges or flows from firefighting activities

ALMAR and/or HCDA may also develop a list of other similar occasional incidental non-storm water discharges that will not be addressed as illicit discharges. These non-storm water discharges must not be reasonably expected (based on information available) to be significant sources of pollutants to the Kewalo Basin Small MS4, because of either the nature of the discharges or conditions ALMAR and/or HCDA has established for allowing these discharges to the Kewalo Basin Small MS4. Public outdoor shower water through outfall KB-17 has been added to the list of permitted discharges. The showers at Kewalo Basin Park have been stenciled with “No Dumping-Drains to Ocean” to provide education to public users of the showers.

ALMAR collects and records reports of apparent storm water quality violations from call-in complaints, inspection activities, Marine Traffic Control Center, and other sources. To date all such discharges appear to be isolated events and no chronic inappropriate discharges are known to occur from the regulated system.

Over the remainder of the current and future term of NGPC, HCDA will continue to conduct semi-annual dry weather and annual wet weather outfall inspections, and collect and analyze reports of apparent inappropriate discharges. If repeat inappropriate dischargers are identified, the circumstances of the discharges will be investigated to assess appropriate measures.

Neighboring private lands may contribute surface runoff which is discharged through the regulated system into the harbor. In the cases where offsite sources generate inappropriate discharges to the Kewalo Basin Small MS4, HCDA will seek to establish a Memorandum of Understanding agreements or other similar agreement with adjacent property owners and municipalities to address responsibility for inappropriate discharges which may originate from lands not under HCDA control.

4.2 NEW CONNECTION/DISCHARGE NOTIFICATION

HCDA will require tenant facilities or other adjacent parties to notify HCDA of any new permanent storm water connections or new facilities which discharge directly to the Kewalo Basin Small MS4. October 22, 2012, the date of issue of NPDES Permit No. HI 03KB487, will mark the date of the ‘new’ versus existing connections and facilities. The party that is constructing the new storm water connection or facility shall submit the “Kewalo Basin Private Drain Connection Permit Application” (Attachment K). Once the form is received HCDA can choose to approve or prohibit new connections or runoff from new facilities.

5.0 CONSTRUCTION SITE STORM WATER RUNOFF CONTROL MINIMUM CONTROL MEASURE

“Develop, implement and enforce a program to reduce storm runoff pollutants entering the Small MS4 from construction activities disturbing one acre or more, including construction activities less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more, that, at a minimum, includes the following:

- (A) Establishment of rules, ordinances and other regulatory mechanism, including enforcement procedures and actions, that require erosion and sediment controls,*
- (B) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices,*
- (C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts on water quality,*
- (D) Procedures for site plan review of construction plans which incorporate consideration of potential water quality impacts,*
- (E) Procedures for receipt and consideration of information submitted by the public,*
- (F) Procedures for site inspection and enforcement of control measures;”*

The overall Construction Site Runoff Control Program consists of the following components which work together to reduce pollutants from being discharged to the Kewalo Basin Small MS4 and state waters:

- Construction Site Runoff Control (NPDES) Plan Review and Approval Process
- CCH Construction Site Runoff Control Best Management Practices (BMPs) Manual – “City and County of Honolulu Storm Water Best Management Practice Manual,” November 2011
- Construction Site Runoff Control Inspection and Enforcement Program
- Construction Site Runoff Control Training Program

5.1 CONSTRUCTION PROJECTS SUBJECT TO THE PROGRAM

A Construction Project is defined as any site where an activity results in the disturbance of soil such as soil movement, grading, excavation, clearing, road construction, structure construction, or structure demolition; as well as any stockpiling site where uncovered storage of materials and wastes such as dirt, sand, or other pollutants occur. Small construction projects are considered those projects that disturb less than one acre of land and require a general storm water construction BMPs plan. Construction projects that disturb one acre of land area or more will be classified as large and require both a site-specific construction BMPs plan and NPDES permit(s).

All land side construction improvements at Kewalo Basin are planned, designed and/or implemented by HCDA. Existing rules and ordinances prohibit construction of any building or structures of any nature within Kewalo Basin without prior permission of HCDA and any other governmental agency as required by law, see the HAR Chapter 15-212, Section 151.

5.2 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REVIEW AND APPROVAL PROCESS

The discharge of storm water runoff associated with construction activities is regulated by Section 402(p) of the Clean Water Act and its implementing regulations (40 Part 122.26) through State NPDES Small MS4 general permit program. The regulations require HCDA to reduce pollutants in storm water runoff to the maximum extent practicable or MEP. The HRS 11-55-04 further details that any individual, agency, business or organization, including HCDA are required to obtain NPDES coverage for construction activities that disturb one acre or more of land area or result in the discharge of dewatering and/or hydrotesting fluids into State waters. DOH administers the NPDES Program for the State, and requires that a NOI, which is used to obtain a NGPC, or an individual permit application include a site-specific BMPs plan that complies with state and federal standards.

Construction projects that disturb less than one acre of land will comply with the minimum requirements defined in Table 5.1, including the submittal of a CCH approved Erosion Control Plan, if required to do so under CCH rules and regulations. Construction projects that disturb more than one acre of land are subject to coverage under the State’s NPDES General Construction Activities Permit. In addition to the minimum requirements defined in Table 5.1, the construction sites are required to prepare a NOI and submit it to the DOH no later than 30 days before the proposed starting date of the construction activity. Prior to receiving a grading or building permit, applicants will be required to demonstrate the following:

- Proof of filing a NOI with DOH
- Site-specific Construction BMPs Plan has been prepared and certified by the owner/developer in compliance with the General Construction Activities Permit
- A CCH-approved Erosion and Sediment Control Plan has been prepared and certified by the owner/developer

Table 5-1: Minimum Construction Project Requirements

	HCDA	Contractor/Developer
Projects less than one acre	<ul style="list-style-type: none"> • Review CCH approved grading and/or building permit 	<ul style="list-style-type: none"> • Apply for CCH grading or building permit • Acknowledge requirement to implement and comply with CCH minimum BMPs • Prepare and submit Erosion Control Plan to CCH for approval
Projects that disturb one acre or greater	<ul style="list-style-type: none"> • Require proof of NOI for coverage under the State NPDES General Construction Activities Permit has been submitted and accepted by DOH • Review and approve Erosion Control Plan • Require proof of NOI for coverage prior to issuing a grading and /or building permit 	<ul style="list-style-type: none"> • Prepare and submit Erosion Control Plan to CCH for approval • Prepare a Site-Specific BMPs Plan, including an Erosion Control Plan • Prepare and submit NOI for coverage under the State NPDES General Construction Activities Permit to DOH • Apply for CCH grading or building permit (show proof of NOI)

Under the Construction Program's NPDES review and approval process, no applicable contract, in-house, or maintenance projects will be allowed to proceed to construction unless the project sponsor or representative provides proof that the project has received from DOH a NGPC, other required NPDES permits, and/or other required regulatory permit(s). The procedure to verify projects will be to instruct the ALMAR and HCDA to use a construction BMPs plan checklist (Attachment L) during plans, specifications, and estimates (PS&E) development (or the environmental review process) to verify whether or not their projects require NPDES coverage and which BMPs will be applicable to a specific construction activity.

5.2.1 Site-Specific Construction BMP Plan

The NPDES applications for large projects ensure that project designs include site-specific construction BMPs plans, or that the contractor provides appropriate site-specific BMPs plans included with the NPDES NOI(s). Common elements of a site-specific BMP plan include:

- Identifying potential pollutants that could affect the quality of storm water, dewatering effluent, or hydrotesting discharges from the construction site
- Identifying BMPs that will need to be implemented during construction, including their locations, to control the quality of storm water runoff from construction activities, or discharges from hydrotesting or dewatering activities
- Making a record of construction notes addressing erosion control and storm water pollution prevention requirements, which become part of the construction contract documents
- Keeping a copy of Water Pollution and Erosion Control Notes

Any project, regardless of its size, which could discharge into Class 1 or Class AA waters, either directly or indirectly, will require the consideration of further BMPs measures that would reduce or eliminate the impacts of any discharge. In addition, any project discharging to a watershed with an approved Total Maximum Daily Load (TMDL) will need to develop a project-specific waste load allocation implementation and monitoring plan within one year of the approval of the TMDL.

The review of site-specific BMPs plans involves determining whether the construction BMPs identified in the plan are appropriate and reasonable for the specific request. The review will verify that the site-specific BMPs plan fully meets the requirements of:

- The following publications:
 - Water Pollution and Erosion Control Notes in project Standard Specifications and Special Provisions
 - NPDES *Requirements for Permit Projects*
 - "City and County of Honolulu Storm Water Best Management Practice Manual", November 2011 or updates. Stipulations contained in the General Construction Activities Storm Water NPDES Permit, or any other applicable requirements of the Hawaii NPDES permit program where applicable
- Construction BMP Plan Checklist (Attachment L) used by plan reviewers apply to the project

HCDA and/or ALMAR may also require additional BMP measures after reviewing the site-specific construction BMP plan or site conditions.

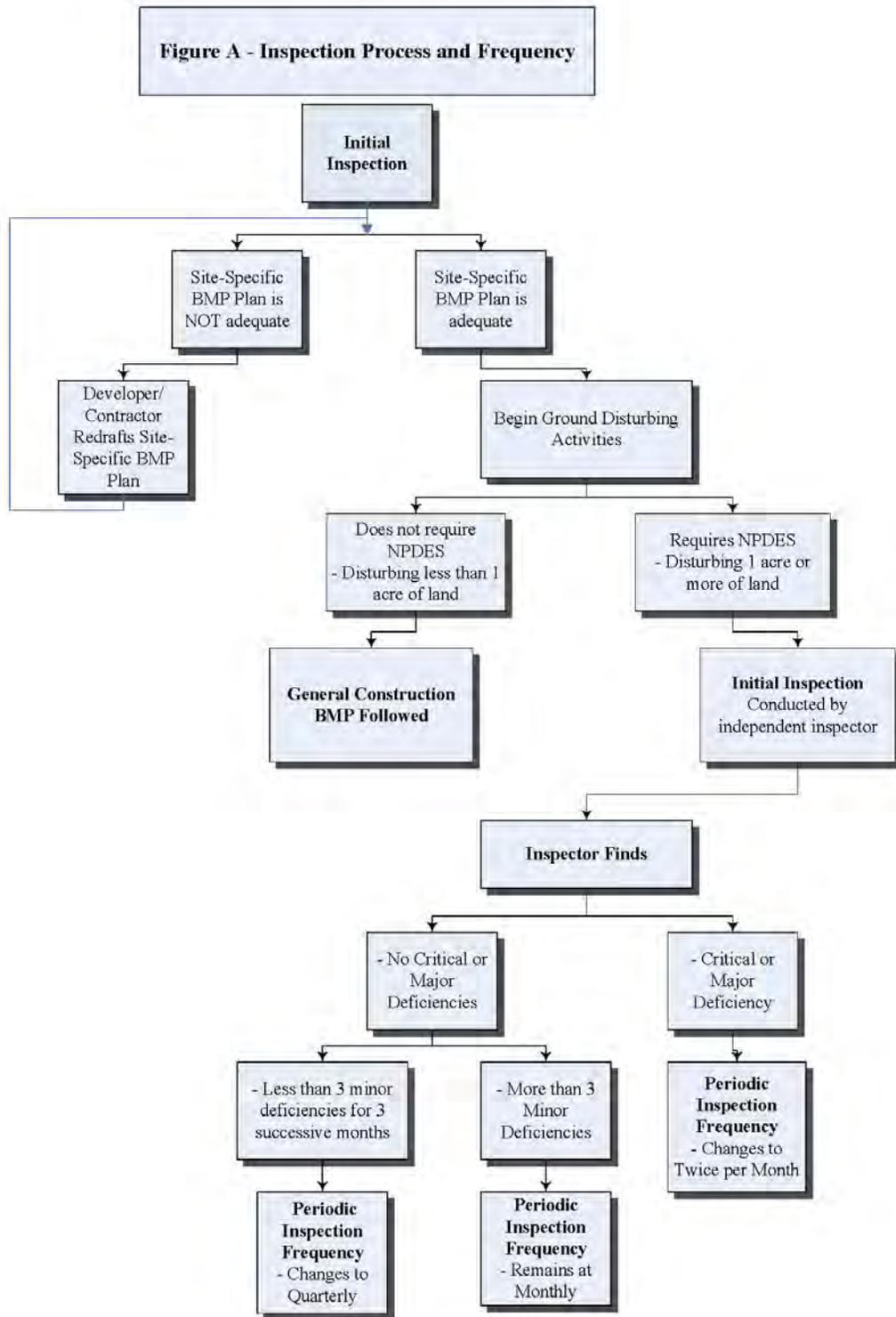
5.2.2 *Inventory of Construction Sites*

In order to implement an effective Construction Site Runoff Control Program, it is essential to have a complete inventory of construction sites in order to implement effective permitting, inspection, and enforcement programs. ALMAR uses a database to track the construction activity inventory. This database tracks permits and inspections associated with these construction sites and is included in the Kewalo Basin Annual Report.

5.3 INSPECTIONS

Construction projects are routinely inspected to verify that the construction work is being performed in accordance with the contract specifications and plans, building and grading permits, and/or applicable municipal codes. When a project is in violation of these permits or codes, inspectors have the authority to enforce respective permit conditions by issuing verbal warning, written notices, or stop work orders. Additional administrative actions may be taken, including revoking the building or grading permit or issuing fines.

This construction program involves two different types of inspections; initial and periodic. Initial inspections are conducted by ALMAR and/or HCDA personnel, and authorized to ensure that site-specific construction BMPs plans are prepared and BMPs are installed properly and in the correct locations before ground disturbing work begins. The inspector will give seven days advance notice before conducting the initial inspection. These inspections are conducted by an independent inspector who is tasked only to inspect the projects BMPs. Therefore, the inspections will be directed by personnel not involved in other aspects of construction for the subject project. The inspection process and frequency is detailed in Figure A. Developers and contractors will be expected to self-inspect the project sites to ensure BMPs deficiencies discovered by ALMAR and/or HCDA inspectors or their consultant inspectors are corrected.



5.3.1 Developer/Contractor Self-Inspection Requirements

Construction is a dynamic operation where changes are expected. Construction site BMPs are usually temporary measures that require frequent maintenance to maintain their effectiveness and may require relocation and re-installation, particularly as the construction project progresses. Therefore, the contractor/developer has the primary responsibility for inspections of BMPs. They are required to ensure that BMPs are properly implemented and functioning effectively and to identify maintenance (e.g., sediment removal) and repair needs.

The contractor/developer will document the recommended self-inspections on the CCH Construction Site BMPs Weekly Checklist (Attachment M) or an equivalent. The checklist must be kept on-site and made available to ALMAR, HCDA, and/or their consultant inspectors for their review when requested. At a minimum, the contractor/developer self-inspections must be performed weekly for projects that do not require daily inspection by CCH or a NPDES permit.

5.3.2 HCDA Inspection of Construction Projects

When conducting inspections, the inspector will use the NPDES Construction Storm Water Inspection Worksheet (Attachment N) or equivalent to evaluate the conformance of the construction site to applicable requirements. At a minimum, the inspections will be conducted at the frequencies shown in Figure A and will address the following:

- Inspect construction site for conformance with building/grading permits and ordinances
- Review contractor's self-inspection checklist to determine whether minimum self-inspections have been performed
- Inspect minimum BMPs requirements to determine if they are properly implemented and maintained on the construction site
- Review the BMPs Plan, including the Erosion Control Plan (if applicable) and determine whether the requirements of the Plans are being implemented and maintained properly on the construction site
- Determine whether the contractor is making appropriate adjustments when ineffective BMPs are found

Inspectors will immediately inform the HCDA project contact person if any illicit discharge, deficiency, or violations of the NGPC or other NPDES permit is found so that the problem can be corrected or addressed in accordance with the following time frames:

- Any illicit discharge or critical deficiency must be corrected or addressed before the close of business on the day of the inspection at which the deficiency was identified
- Any major deficiency must be corrected or addressed no later than five business days after the inspection at which the deficiency was identified or before the next forecasted precipitation, whichever is sooner
- Any minor deficiency must also be corrected or addressed before the next forecasted precipitation

5.3.3 Definition of Deficiencies

Critical deficiencies are defined as those that pose an immediate threat for the discharge of pollutants to the storm drain system, surface waters, or State waters. Critical deficiencies include, but are not limited to, the following examples:

- Any observed discharge, or evidence of discharge, of untreated storm water or non-storm water to the storm drain system, surface waters, or State waters generated by the construction activity
- Absence of linear barriers and/or perimeter controls required by the BMPs Plan
- There are identified storm drain inlets, surface waters, or State waters within or adjacent to the project site in close proximity to disturbed soil areas without control measures in place that pose an immediate threat of untreated storm water discharges
- Work in an active stream channel or other surface water body without proper implementation of required BMPs
- Presence of any spilled oil or hazardous materials near to unprotected storm drain inlets, surface waters, or State waters

Major deficiencies are defined as those that are significant problems which could result in the discharge of pollutants to the storm drain system, surface waters, or State waters. Major deficiencies include, but are not limited to, the following examples:

- No Site-Specific BMPs Plan or NPDES permit (if required)
- Linear barriers and/or perimeter controls in areas tributary to a water body or drain inlet that are installed as required by the BMP plan, but are not functional, such as silt fences that are not anchored properly, have collapsed, or been driven over or overwhelmed by accumulated sediment
- Hazardous materials or waste is stored within a project without containment or implementation of BMPs
- Oil, fuel, or brake or transmission fluid spills, covering more than one square yard and/or are adjacent to protected storm drain inlets, surface waters, or State waters
- Any discharge of sediment or other deleterious material resulting from dewatering operations conducted without implementation of required BMPs for dewatering
- Sediment tracking more than 50 feet from project ingress/egress location(s)
- Expansion of the active disturbed soil area limit without written approval
- Soil stabilization and sediment controls are not installed in accordance with applicable site-specific BMP Plan
- Sediment controls are installed in accordance with the BMP Plan, but there is a large unstabilized disturbed soil area with insufficient controls down gradient to prevent the discharge of untreated storm water to the storm drain system, surface waters, or State waters if a rain event generates runoff
- Dust from project site visibly blowing off the site and into storm drain conveyances or adjacent surface water bodies

Minor deficiencies are defined as those that do not pose a threat of discharge of untreated storm water or pollutants to the storm drain system, surface waters, or State waters, but are not in strict conformance with the Site-Specific BMPs Plan. Minor deficiencies include, but are not limited

to, the following examples:

- Site-Specific BMPs Plan does not reflect current operations and an amendment is recommended
- BMPs are not deficient, but are not consistent with BMPs Plan
- Linear barriers and/or perimeter controls are installed as required by the BMPs plan, but require minor maintenance, such as a silt fence which is not anchored properly throughout the entire length or an inlet protection device with some accumulated silt
- Expansion of the active disturbed soil area limit without written authorization or sediment controls are installed as required by the BMPs plan, but not properly maintained
- Site inspections by project staff are not being conducted at the required frequencies
- Non-storm water or waste management BMPs that are improperly maintained
- Oil, fuel, or brake or transmission fluid spills covering less than one square yard and not adjacent to storm drain inlets, surface waters, or State waters
- Evidence of active wind erosion on unstabilized slopes/stock piles
- Minor tracking less than 50 feet from project ingress/egress locations
- Major deficiencies which are corrected prior to the inspector leaving the site

Table 5-2: Enforcement Actions for Construction Projects

Steps	Enforcement Action
1	Verbal Warning
2	Written Warning: <ul style="list-style-type: none"> • Notice of Non-Compliance • Administrative Compliance Order • Administrative Citations or Fines • Cease and Desist Order
3	Stop Work Order
4	HCDA to request that CCH revoke permit(s) and/or denial of future permits for project
5	HCDA to refer non-compliance to DOH for further action

Verbal Warnings:

The initial method of requesting corrective action and enforcing compliance will be a verbal warning from the ALMAR and/or HCDA inspector to the contractor/developer. Verbal warnings are often sufficient to achieve correction of the violation, often while the inspector is present at the construction site. The inspector will notify the developer/contractor's project supervisor of the violation, and document the violation and the notification on the NPDES Construction Storm Water Inspection Worksheet. A specific time frame for correcting the problem and follow-up inspection date will be documented by the inspector.

Written Warnings:

If a deficiency that was noted in a prior verbal warning is not corrected by the next inspection, or the severity of the violation is such that a verbal warning is not strong enough, a written warning will be issued. The written warning will describe the deficiency that is to be corrected, suggested corrective action(s), and the specific time frame for correction and a date for follow-up inspection.

A copy of the written warning will be provided to the contractor's project supervisor and another copy will be provided to the owner/developer. A copy will be placed in the active inspection file and documented on the NPDES Construction Storm Water Inspection Worksheet. Once the violation has been corrected to the satisfaction of the inspector, the inspector will document compliance in the inspection file.

Stop Work Orders:

If a written warning has not been addressed by the next inspection, the developer/contractor has not complied with their permit requirements, or a significant threat to water quality is observed (such as a failure of BMPs resulting in a significant release of sediment or other pollutants off site into Kewalo Basin Small MS4 or State receiving water), a stop work order will be issued by the appropriate official. Stop work orders prohibit further construction activity until the problem is resolved and provide a time frame for correcting the problem.

The stop work order will describe the infraction and specify what corrective action must be taken. A copy of the stop work order will be given to the contractor's project supervisor and owner/developer, and placed in the active inspection file. To restart work once a stop work order has been issued, the contractor's project supervisor must request the inspector to re-inspect the project and verify that the deficiencies have been satisfactorily corrected. If the inspector is satisfied with the corrections, the inspector will sign off on the phase of the project, and work may proceed.

Revocation of Permit(s) and/or Denial of Future Permits:

In severe cases of non-compliance or significant discharges, it may be necessary to ask CCH or CWB to revoke the grading/building permit and/or NPDES NGPC that the construction project is working under, withhold final approval, or ask CCH or CWB to deny future projects permits for contractor and/or developer in Kewalo Basin. The developer/contractor would then have to re-apply for permits and meet any requirements that HCDA, CCH and/or CWB may place on the project. Criteria and procedures will be developed in the permit-issuing program to implement this enforcement tool. Legal counsel will be sought before proceeding with stop work order, revocation or denial of permits.

5.3.4 Reporting Non-Compliance and Non-Filers to DOH

In the event that HCDA has exhausted all the above enforcement procedure and cannot bring the contractor's or developer's construction site or construction operations into compliance or otherwise deems the construction site to pose an immediate and significant threat to water quality, human or environmental health, then DOH will be notified by HCDA. HCDA or their consultant will provide verbal notification to the DOH within one week if the aforementioned enforcement procedures cannot bring the contractor's or developer's construction site or construction operations into compliance. Such verbal notification shall be followed up by a

written report and submitted to DOH within two weeks of the above determination. Written notification(s) will identify the type(s) of non-compliance, describe the actions necessary to achieve compliance, and include all inspection checklists (including notes and related correspondence).

If HCDA identifies a construction site that is subject to coverage under the State's NPDES General Construction Activities Permit and has not filed an NOI to DOH to apply for coverage or any other applicable requirements of the NPDES permit program, HCDA shall provide written notification to DOH within two weeks of the discovery.

5.4 TRAINING PROGRAM

Training is one of the keys to a successful storm water program. ALMAR and/or HCDA will provide annual training on the Construction BMPs Program Plan to all ALMAR personnel, HCDA staff, and consultants with construction storm water responsibilities, including inspectors, engineers, maintenance staff, and plan reviewers. This training will be specific to Kewalo Basin activities, policies, and procedures.

Training will be separated and tailored to target personnel performing two different functions, that of inspections and that of performing construction duties.

- General Program Management Training. This training will consist of overall program administration and implementation. The content of the training will include:
 - Goals and objectives of the Construction Site Runoff Control Program
 - Regulatory Background
 - Inventory of Construction Sites
 - Plan Review and Approval
 - Proper installation and maintenance of BMPs for Construction Sites
 - Overview of the Inspection Program and Enforcement Requirements
- Construction Site BMP Inspection Training. In addition to the above training, construction BMP inspectors and/or other staff involved in inspections of construction sites will receive training that consists of procedures for inspecting construction sites and formalized on-the-job instruction.

6.0 POST-CONSTRUCTION STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT MINIMUM CONTROL MEASURE

“Develop, implement and enforce a program to reduce pollutants in storm runoff entering the permittee’s small municipal separate storm water sewer system from new development and redevelopment projects which disturb greater than or equal to one acre, including construction sites less than one acre that are part of a large common plan or development or site that would disturb one acre or more, that, at a minimum, includes the following:

- (A) Establishment of rules, ordinances, and other regulatory mechanism, including enforcement procedures and actions, that address post-construction runoff from new development and redevelopment projects,*
- (B) Structural or non-structural best management practices to minimize water quality impacts and attempt to maintain pre-development runoff conditions, and*
- (C) Procedures for long-term operation and maintenance of best management practices.”*

Kewalo Basin tenants (charters, commercial, and tour boat operators) are prohibited from storing hazardous materials on the piers and land side areas. In-place structural BMPs which improve the quality of storm runoff at Kewalo Basin include:

- Operational areas are paved with reinforced concrete or asphalt concrete to prevent erosion. These surfaces also allow spills of materials to be cleaned up
- Maintaining minimal to low slopes throughout improved areas (access roadways, piers, and aprons) where surfaced with asphalt or reinforced concrete which reduces runoff peak flow quantities and velocity
- Provision of several drainage detention areas in landscaping, through which runoff may percolate directly into the ground

Post-construction storm water management is also addressed in part by the preceding minimum control measures: public education and outreach, public involvement and participation, and illicit discharge detection and elimination programs. Tenants are reminded annually through direct contact or mailings that their Revocable Permits, and revise tenant leases to require maintenance of post-construction runoff control measures in the leased areas.

Annual storm water awareness training is provided to ALMAR and/or HCDA personnel at Kewalo Basin, to establish awareness of storm water control issues. If a condition or tenant action is observed that negatively impacts storm runoff water quality, personnel may take a variety of actions ranging from verbal comment, contact with the ALMAR and/or HCDA Asset Managers to modify conditions in common areas, to instituting proceedings against a tenant.

During preparation of the annual report, personnel including the Harbor Master and assistants including maintenance personnel are queried as to the effectiveness of structural and non-structural BMPs.

During the five years of the NGPC, HCDA will continue to implement the above described post-construction storm water control practices.

This page is left intentionally blank.

7.0 POLLUTION PREVENTION/GOOD HOUSEKEEPING MINIMUM CONTROL MEASURE

“Develop, implement and enforce an operation and maintenance program to prevent and reduce storm water pollution from activities, including but not limited to, park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance that, at a minimum, includes the following:

- (A) Good housekeeping and other control measures, and*
- (B) Employee and contractor training on good housekeeping practices, to ensure that good housekeeping measures and best management practices are properly implemented.”*

The following pollution prevention/good housekeeping practices are implemented by ALMAR or its contractors:

- Empty dumpsters and remove and dispose of discarded objects, machinery or equipment.
- General maintenance and repair of public facilities is conducted in-house by ALMAR, while contractors are usually selected for large projects
- Grounds maintenance personnel which use fertilizer, herbicides, and/or insecticides do so in accordance with the State Department of Agriculture guidelines and manufacturer’s instructions.
- Pier and apron cleanliness is assessed for debris and staining, and responsible parties notified to conduct cleaning as needed. Tenants and visitors to harbor with leaking vehicles are required to provide drip pans, repair leaks and/or move vehicles and equipment offsite.
- Advisory prohibiting disposal of regulated hazardous waste (see Attachment F) is sent to all tenants at time of lease.
- Housekeeping activities (refuse collection and disposal, comfort station maintenance, spill records, mailings sent to facility tenants and results of site inspections) are summarized in the annual report.

Revocable permits and tenant leases specifically require tenants to maintain an up-to-date inventory of materials that could contribute to storm water pollution. General instructions for identification, storage, use, collection and treatment of drainage from usage areas prior to discharge to storm or sanitary sewers and disposal of potential storm runoff pollutants are provided. Good housekeeping education materials based on those developed by the EPA or CCH are mailed to tenants. Tenants which violate guidelines are given a verbal warning; if still not in compliance a written warning is issued; if continue to be non-compliant a final warning is followed by permits being revoked or not renewed when permit term expires.

This page is left intentionally blank.

8.0 REFERENCES

Hawaii Administrative Rules (HAR) Chapter 11-55, Appendix K - Water Pollution Control.

Hawaii Revised Statutes (HRS) Chapter 342D, “Water Pollution”.

Hawaii Revised Statutes (HRS) Chapter 342E, “Non Point Source Pollution Management and Control”.

U.S. Environmental Protection Agency, “NPDES Compliance Inspection Manual”, EPA 305-X04-001, July 2004.

U.S. Environmental Protection Agency, 40 CFR 110, Discharge of Oil, 40 CFR 116, Designation of Hazardous Substances, 40 CFR 122 EPA Administered Permit Programs: The National Pollutant Discharge Elimination System.

U.S. Environmental Protection Agency, “Storm Water Management for Industrial Activities – Developing Pollution Prevention Plans and Best Management Practices,” (EPA 832-R-92-006), September 1992.

California Stormwater Quality Association (CASQA), “Stormwater Best Management Practice Handbook – Municipal,” January 2003.

California Stormwater Quality Association (CASQA), “Stormwater Best Management Practice Handbook – Municipal,” January 2003.

State of Hawai‘i Department of Transportation, Highways Division “Storm Water Management Program Plan, O‘ahu District, Pre-Final Compilation” January 2003.

City and County of Honolulu, Department of Environmental Services, “Storm Water Management Plan” April 2007.

This page is left intentionally blank.

ATTACHMENT A

Kewalo Basin Harbor Maps

- Figure 1 – Kewalo Basin Harbor Location Map
- Figure 2 – Kewalo Basin Harbor Facility Site Map
- Figure 3 – Kewalo Outfall Map
- Figure 4 – Kewalo Basin Harbor MS4 Flow Chart



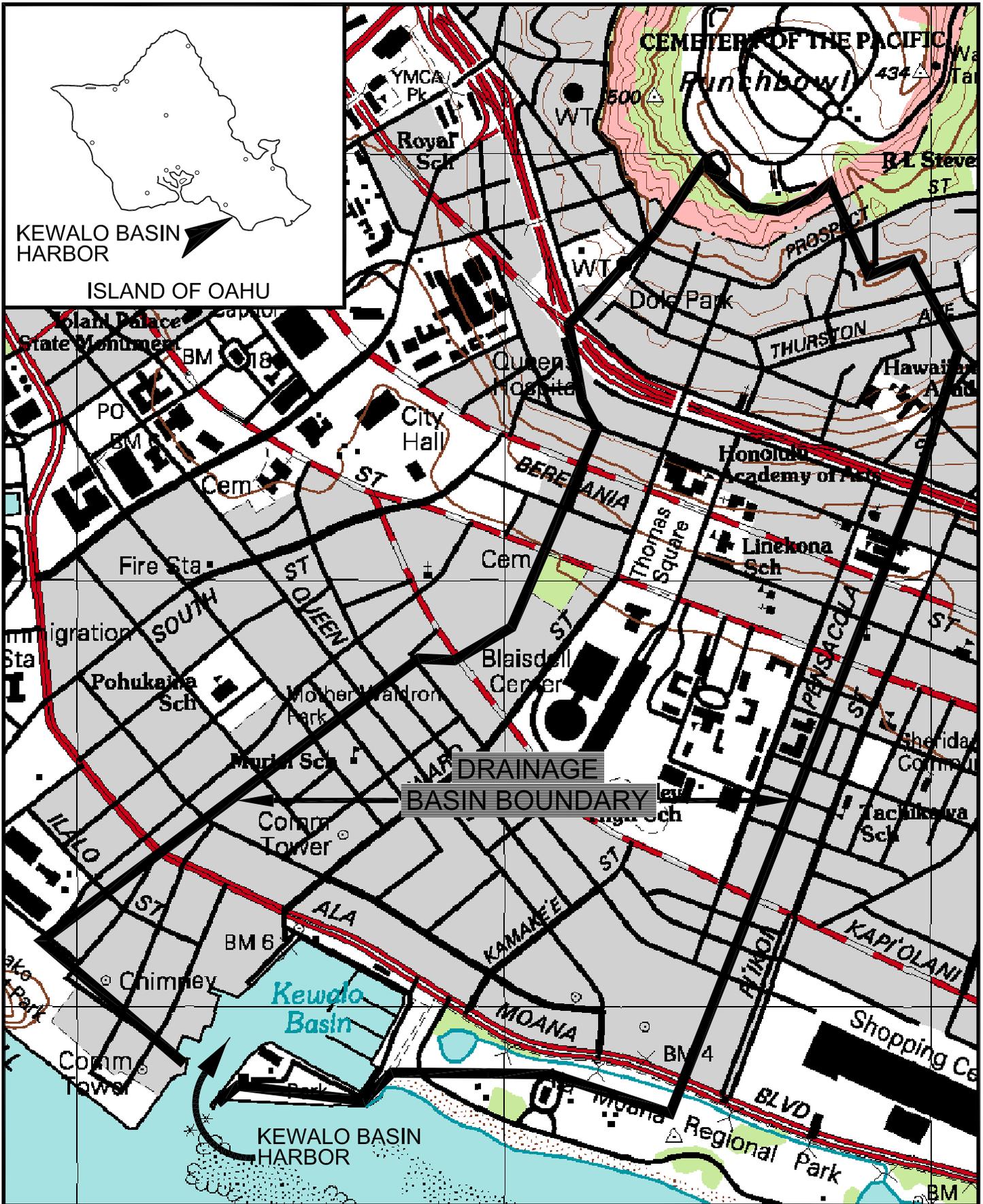
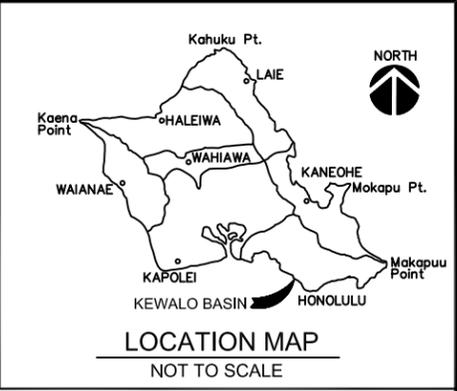
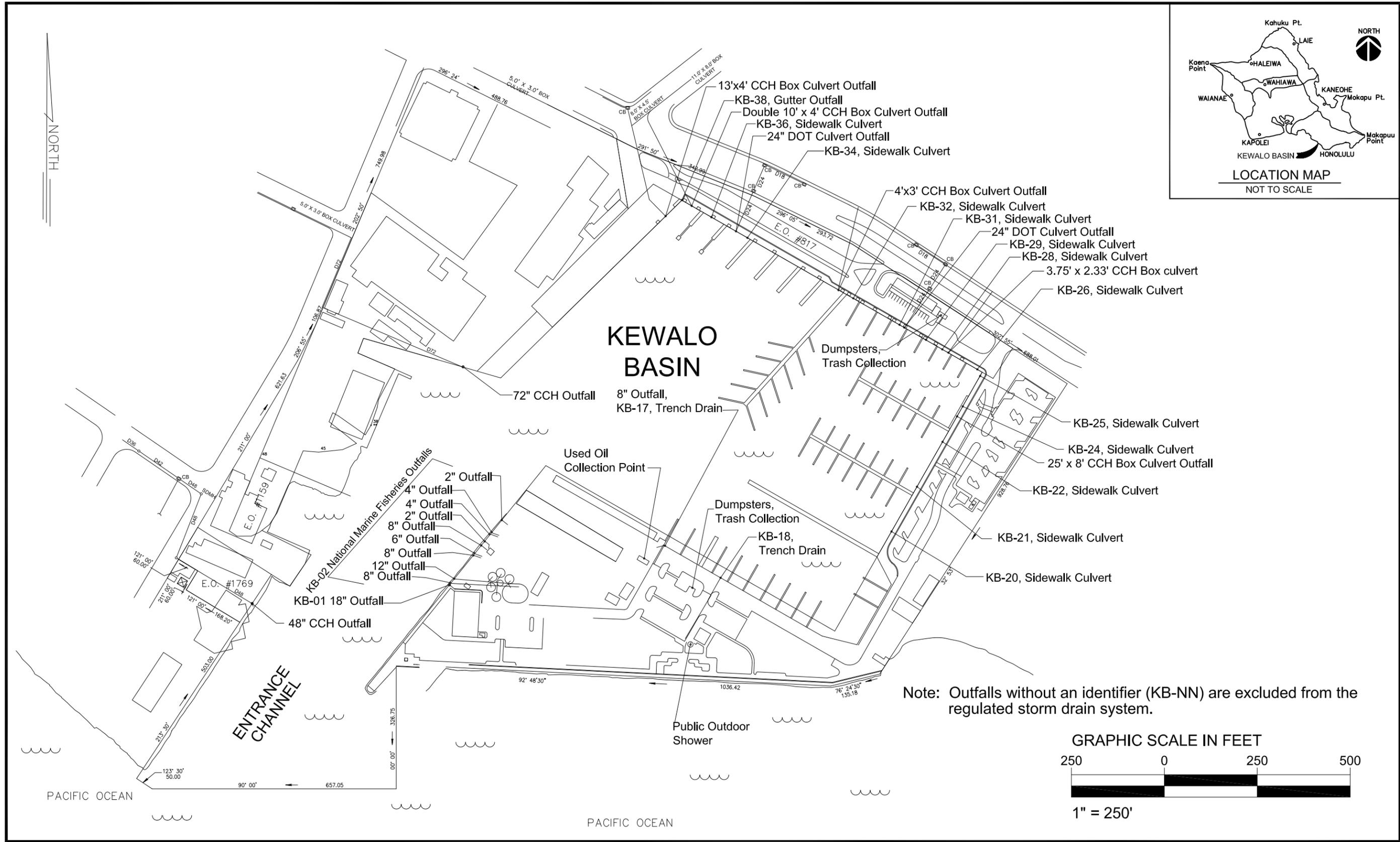
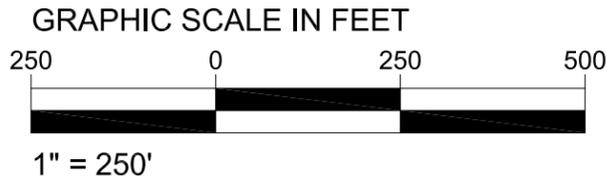


Figure 1 KEWALO BASIN HARBOR STORM WATER MANAGEMENT PLAN
 HARBOR LOCATION AND DRAINAGE BASIN MAP



Note: Outfalls without an identifier (KB-NN) are excluded from the regulated storm drain system.

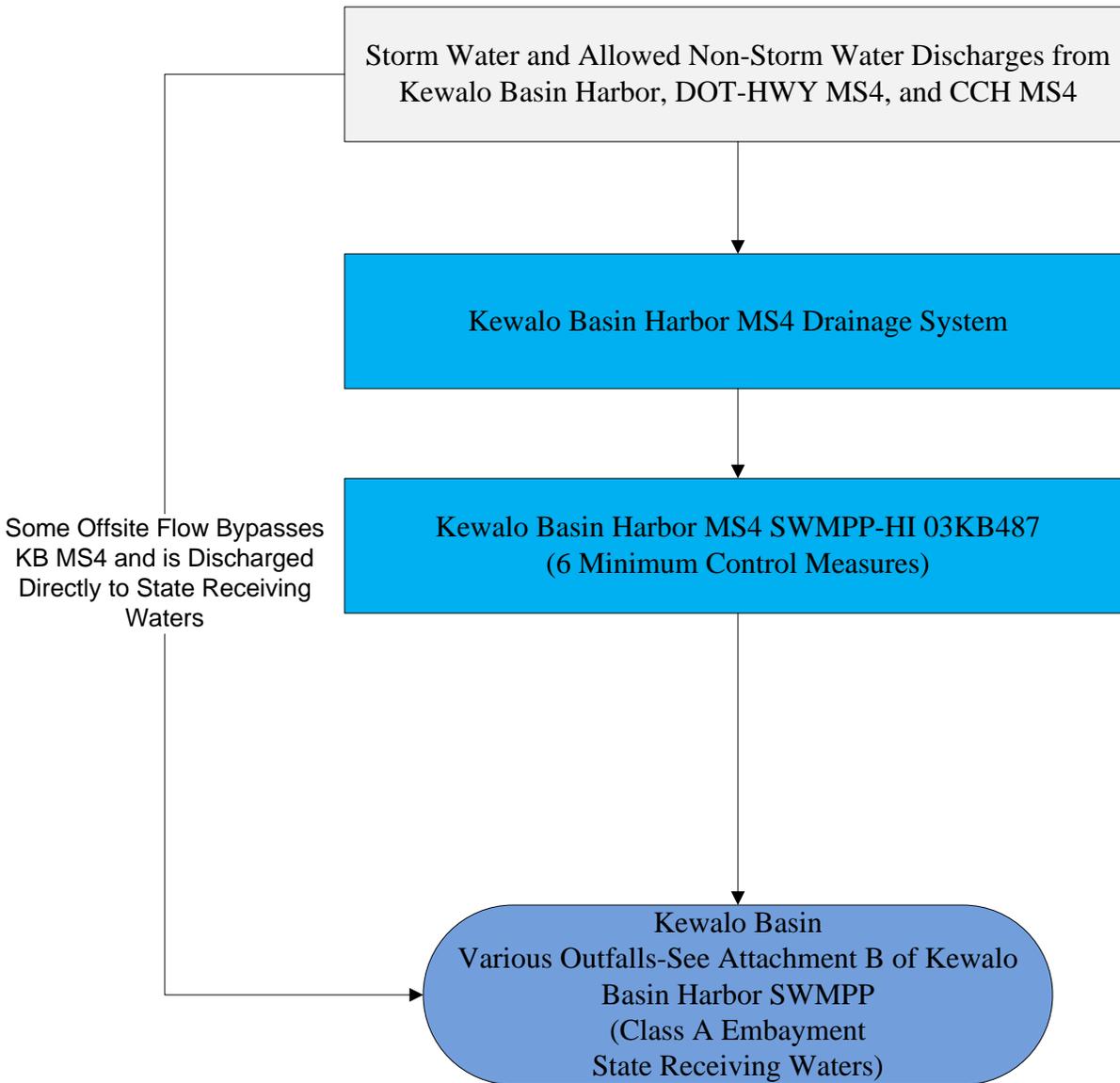


KEWALO BASIN HARBOR STORM WATER MANAGEMENT PLAN and NOI (HI KB487)

Figure 3 - Kewalo Basin Harbor Outfall Map

Figure 4 - Kewalo Basin Harbor MS4 Flow Chart

NPDES NOI (HI 03KB487)



ATTACHMENT B

Storm Drain System Outfall Listing



Storm Drainage System Outfall Listing

Note: Drainage outfalls without an outfall number in the first column (ex. KB-#) are shown for location only and not included in the regulated storm drain system.

Note: Drainage outfalls without an outfall number in the first column (ex. KB-#) are shown for location only and not included in the regulated storm drain system.

Outfall No.	Owner and Description	Latitude (N)	Longitude (W)	Fluid Discharged
KB-01	Hawaii Community Development Authority, 18" concrete pipe outfall	21° 17.494'	157° 51.530'	Storm runoff from parking areas of Kewalo Basin Park
KB-02*	NOAA Kewalo Research Facility, 8-inch iron outfall	21° 17.494'	157° 51.530'	salt water from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 12-inch plastic outfall	21° 17.498'	157° 51.527'	Salt water overflow from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 8-inch plastic outfall	21° 17.506'	157° 51.519'	Salt water overflow from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 6-inch plastic outfall	21° 17.506'	157° 51.519'	Salt water overflow from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 8-inch plastic outfall	21° 17.512'	157° 51.514'	Salt water overflow from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 2-inch plastic outfall	21° 17.515'	157° 51.512'	Salt water overflow from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 4-inch plastic outfall	21° 17.517'	157° 51.518'	Salt water overflow from marine animal habitat tanks

KB-02*	NOAA Kewalo Research Facility, 4-inch plastic outfall	21° 17.517'	157° 51.518'	Salt water overflow from marine animal habitat tanks
KB-02*	NOAA Kewalo Research Facility, 2-inch plastic outfall	21° 17.524'	157° 51.502'	Salt water overflow from marine animal habitat tanks
KB-03	NOAA Kewalo Research Facility, 8-inch iron outfall	21° 17.516'	157° 51.453'	Salt water from marine mammal habitat tanks
KB-17	Hawaii Community Development Authority, trench drain	21° 17.516'	157° 51.453'	Storm runoff from Kewalo Basin Park
KB-18	Hawaii Community Development Authority, trench drain	21° 17.499'	157° 51.424'	Storm runoff from Kewalo Basin Park Parking Lot and Public Outdoor Shower
KB-20	Hawaii Community Development Authority, sidewalk culvert	21° 17.520'	157° 51.341'	Storm runoff from park
KB-21	Hawaii Community Development Authority, sidewalk culvert	21° 17.540'	157° 51.330'	Storm runoff from park
KB-22	Hawaii Community Development Authority, sidewalk culvert	21° 17.559'	157° 51.318'	Storm runoff from park
	City and County of Honolulu, Ala Moana Park storm drain canal, box culvert, 25' x 8'	21° 17.571'	157° 51.311'	On- and offsite storm runoff, Ala Moana Park and extending through Kakaako up to Punchbowl
KB-24	Hawaii Community Development Authority, sidewalk culvert	21° 17.571'	157° 51.311'	Storm runoff from park

KB-25	Hawaii Community Development Authority, sidewalk culvert	21° 17'589'	157° 51.300'	Storm runoff from park
KB-26	Hawaii Community Development Authority, sidewalk culvert	21° 17.589'	157° 51.300'	Storm runoff from park
	City and County of Honolulu storm drain, box culvert, 3.75' x 2.33'	21° 17.600'	157° 51.317'	Storm runoff from Ala Moana Blvd.
KB-28	Hawaii Community Development Authority, sidewalk culvert	21° 17.600'	157° 51.320'	Storm runoff from roadway, trash collection area, Charter Building area
KB-29	Hawaii Community Development Authority, sidewalk culvert	21° 17.605'	157° 51.328'	Storm runoff from roadways
	HDOT Highways Division storm drain culvert, 24" diameter	21° 17.609'	157° 51.338'	Offsite storm runoff from Ala Moana Blvd.
KB-31	Hawaii Community Development Authority, sidewalk culvert	21° 17.611'	157° 51.337'	Storm runoff from roadways
KB-32	Hawaii Community Development Authority, sidewalk culvert	21° 17.621'	157° 51.359'	Storm runoff from roadways
	City and County of Honolulu storm drain, box culvert 4' x 3'	21° 17.624'	157° 51.366'	Storm runoff from Ala Moana Blvd. and offsite public and private lands
KB-34	Hawaii Community Development Authority, sidewalk culvert	21° 17.647'	157° 51.408'	Storm runoff from access road and promenade
	HDOT Highways Division storm drain, box culvert, 24" diameter	21° 17.648'	157° 51.411'	Offsite storm runoff, Ala Moana Blvd.

KB-36	Hawaii Community Development Authority, sidewalk culvert	21° 17.659'	157° 51.428'	Storm runoff from access road and promenade
	City and County of Honolulu storm drain, double box culvert 10' x 4' each	21° 17.663'	157° 51.441'	Offsite storm runoff from Ward Ave, private and public lands
KB-38	gutter outfall	21° 17.656'	157° 51.454'	Storm runoff from Kewalo Basin pavement
	City and County of Honolulu storm drain, box culvert 13' x 4'	21° 17.656'	157° 51.454'	Offsite storm runoff from Ward Ave, Ala Moana Blvd., private and public lands
	City and County of Honolulu, 72" storm drain	21° 17.591'	157° 51.526'	Offsite storm drainage from makai of Ala Moana Blvd.
	City and County of Honolulu, 48" storm drain	21° 17.487'	157° 51.622'	Offsite storm drainage from makai of Ala Moana Blvd.

*Note: National Marine Fisheries Service Drains (KB-02) are exempt from NPDES permitting

ATTACHMENT C

HAR 15-212 Kewalo Basin Rules for Vessel and Harbor Controls



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

Adoption of Chapter 15-212
Hawaii Administrative Rules

November 5, 2008

Chapter 15-212, Hawaii Administrative Rules,
entitled "Kewalo Basin Rules for Vessel and Harbor
Controls", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 212

KEWALO BASIN RULES FOR VESSEL AND HARBOR CONTROLS

Subchapter 1 General Provisions

- \$15-212-1 Harbormaster; general authority
- \$15-212-2 Trying engine of vessels
- \$15-212-3 Mooring lines from vessels
- \$15-212-4 Display light after sunset and gangway requirements for certain vessels
- \$15-212-5 Vessel arrival and departure schedules
- \$15-212-6 Removal of vessel, raft, log, or floating object causing damage to wharf
- \$15-212-7 Deposit required to guarantee payment for charges incurred by vessels
- \$15-212-8 Performance bond required of idle vessel
- \$15-212-9 Agents for vessel; liability for fees
- \$15-212-10 Damage to state property
- \$15-212-11 Responsibility for repair of damage to state property
- \$15-212-12 Inspection of vessels
- \$15-212-13 Compliance with federal, state, and county laws, ordinances, and rules
- \$15-212-14 Citation for violation
- \$15-212-15 Suspension of loading or unloading operation

§15-212-16 Requirement for a local, 24-hour point
of contact
§§15-212-17 to 15-212-24 Reserved

Subchapter 2 Vessels

§15-212-25 Priorities for berths and moorings
§15-212-26 Vessel moored without authorization,
unlawful; removal
§15-212-27 Conditions for use of harbor property
and facilities
§15-212-28 Assignment and reassignment of moorings
§15-212-29 Revocable permits; types
§15-212-30 Original application for revocable
permit
§15-212-31 Renewal of application
§15-212-32 Applicant required to furnish address
and report changes; effect of failure
to report change
§15-212-33 Review and acceptance or rejection of
application for revocable permit
§15-212-34 Withdrawal of application; effect if
application has become void, expires,
or been withdrawn
§15-212-35 Waiting lists
§15-212-36 Allocation of berths; policy
§15-212-37 Notice to owner of available revocable
permit
§15-212-38 Offer of regular mooring permit valid
only ten calendar days; written
notice of intention; acceptance; void
offer, declining offer
§15-212-39 Offer of temporary mooring permit valid
only seven days; notification of
intention; acceptance
§15-212-40 Offer of commercial and miscellaneous
permits
§15-212-41 Issuance of revocable permit
§15-212-42 Period of validity of revocable permit
§15-212-43 Renewal of revocable permit
§15-212-44 Priority and procedures in allocation
of berths

§15-212-45 Temporary mooring permit; reasons for
 issuance
 §15-212-46 Temporary permittee's use of berth and
 liability
 §15-212-47 Temporary mooring permits; priority of
 allocation
 §15-212-48 Revocation of revocable permit
 §15-212-49 Cancellation of revocable permit by
 owner
 §15-212-50 Use of mooring space
 §15-212-51 Exchange of berths
 §15-212-52 Revocable permit and assigned berth
 transferability
 §15-212-53 Inspection
 §15-212-54 Audit
 §15-212-55 Small craft repairs, reconstruction or
 major modification
 §15-212-56 Living aboard
 §15-212-57 Safety watch
 §15-212-58 Illegal mooring of any small craft
 §15-212-59 Removal and impoundment procedures
 §15-212-60 Administrative hearing
 §15-212-61 Rules of evidence
 §15-212-62 Sale of vessel to collect outstanding
 delinquent indebtedness; sale of
 abandoned vessel; mooring of
 unauthorized vessel; impoundment and
 disposal proceedings
 §15-212-63 Salvage, sinking boats
 §15-212-64 Vessel loading zone
 §15-212-65 Anchoring of small craft
 §15-212-66 Nesting
 §15-212-67 Permittee's responsibility for wharf
 area
 §15-212-68 Structures on and modifications to the
 wharf
 §15-212-69 Sailing vessels in Kewalo Basin channel
 §15-212-70 Safety regulations for small craft
 §15-212-71 Emergency conditions
 §15-212-72 Application to be placed on the list of
 approved marine surveyors
 §§15-212-73 to 15-212-80 Reserved

Subchapter 3 Waterways

- §15-212-81 Applicability of laws and rules
- §15-212-82 Vessel not to obstruct approach to wharf
- §15-212-83 Maximum speed of vessels
- §§15-212-84 to 15-212-91 Reserved

Subchapter 4 Safety, Cleanliness, and Use of Facilities

- §15-212-92 Conflict of provisions
- §15-212-93 Fire alarm
- §15-212-94 Containers for flammable liquids
- §15-212-95 Flammable substances; leaky containers
- §15-212-96 Heating combustibles on vessels
- §15-212-97 Fumigation of vessel
- §15-212-98 Use of fuel burning steam generating appliances
- §15-212-99 Repair, manufacturing, construction, or maintenance work on wharf
- §15-212-100 Smoking prohibited
- §15-212-101 Keeping wharf in sanitary condition and clear of fire hazard
- §15-212-102 Standards of cleanliness
- §15-212-103 Charges for cleaning wharves
- §15-212-104 Identification of mobile equipment
- §15-212-105 Load limits on wharves
- §15-212-106 Fowl, animal, or livestock
- §15-212-107 Private use of Kewalo Basin property or facilities; business activities; signs
- §15-212-108 Placement of goods and equipment
- §15-212-109 Closing of wharves for safety reasons
- §15-212-110 Liability for damage to or loss of merchandise and cargo
- §15-212-111 Littering or polluting land areas prohibited
- §15-212-112 Littering or polluting of water prohibited
- §15-212-113 Disposal or salvage of derelict craft

- \$15-212-114 Duty of persons who lose, drop, or abandon any floating or sinking object
- \$15-212-115 Approved backflow prevention device required for water supply system
- \$15-212-116 Waste outlets; permit required
- \$15-212-117 Loading or unloading of flammable liquids
- \$15-212-118 Appliances and electrical wiring
- \$15-212-119 Fire extinguishing equipment for small craft
- \$15-212-120 Fueling
- \$15-212-121 Fishing prohibited
- \$15-212-122 Lifesaving equipment required
- \$15-212-123 Liquor prohibited on Kewalo Basin and waterfront properties without HCDA approval
- \$15-212-124 Responsibility for vessel gangplanks
- \$\$15-212-125 to 15-212-132 Reserved

Subchapter 5 Welding and Burning Operations on Piers and Wharves and Aboard Vessels

- \$15-212-133 Welding and burning operations; permits
- \$15-212-134 Proximity to ammunition and dangerous cargo
- \$15-212-135 Inspections; chemist's certificate
- \$15-212-136 Welding and burning; procedures
- \$15-212-137 Welding and burning operations; fire prevention
- \$15-212-138 Petroleum and other flammable products
- \$15-212-139 Penalties
- \$15-212-140 Notification of other agencies
- \$\$15-212-141 to 15-212-147 Reserved

Subchapter 6 Private Installation or Construction

- \$15-212-148 Dredging, filling, and construction
- \$15-212-149 Jurisdiction of other agencies
- \$15-212-150 Installation of buoys

§15-212-1

§15-212-151 Construction of structures
§§15-212-152 to 15-212-158 Reserved

KEWALO BASIN RULES FOR VESSEL AND HARBOR CONTROLS

SUBCHAPTER 1

GENERAL PROVISIONS

§15-212-1 Harbormaster; general authority. (a) A master or person in charge of any vessel shall obey and carry into effect any orders given by the harbormaster relative to the method and manner of bringing vessels to anchorage, entering or leaving Kewalo Basin, or coming alongside of or leaving any wharf within Kewalo Basin, or anchorage without permission of the harbormaster.

(b) The berthing of vessels at Kewalo Basin shall be in conformity with this part and where not covered by this part at the discretion of the harbormaster in a reasonable manner such as to protect the public interest.

(c) The master of every vessel and crew thereof, when requested by the harbormaster shall give and afford the harbormaster all possible aid in the performance of any of the harbormaster's duties in relation to such vessel.

(d) If there is no person aboard a vessel with proper authority or if there is an insufficient number of persons aboard such vessel or if the master and crew of a vessel refuse to aid the harbormaster in moving, pumping, mooring, or unmooring of such vessel when so directed by the harbormaster, the harbormaster may pump, moor or unmoor, place, or remove such vessel and may, if necessary, hire such assistance, equipment, and tackle and purchase and put aboard such quantity of ballast as seems requisite, all at the expense of the master, operators, charterers, owners, or agents of such vessel. All such costs shall be

paid to the HCDA before permission for departure is given. The HCDA shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings except where the HCDA has been proven to be legally negligent.

(e) No person without the consent of the harbormaster shall cut or cast off any mooring lines, rope, or tackle made fast or attached to any vessel, wharf, mooring, buoy, or other place when the same has been fastened or attached by the harbormaster or by the harbormaster's order. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-2 Trying engine of vessels. The engines of any vessel lying at any wharf in Kewalo Basin shall not be tried except by permission of the harbormaster. The speed of engines being tried shall not exceed the speed of such engines when operated under a dead slow bell. Any vessel trying its engines shall be held responsible for any damage to wharves or vessels as the result of the trying of its engines. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-3 Mooring lines from vessels. No person shall make fast any rope or mooring lines from any vessel, other than a small craft, to any wharf or part thereof except to the mooring piles, bitts or cleats provided for that purpose. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-4 Display light after sunset and gangway requirements for certain vessels. All vessels over three hundred gross registered tons lying alongside a wharf shall display a light visible from the harbor or fairway during the period between sunset and sunrise. All vessels over three hundred gross registered tons, other than barges, shall have a safe and proper gangway to the wharf when lying alongside a wharf.

[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-5 Vessel arrival and departure schedules. Except for regular mooring and commercial permits, the master agent or owners of a vessel, other than small craft, arriving at or departing from Kewalo Basin shall provide to the harbormaster as soon as practicable all information necessary to effectively plan for vessel arrival and departure scheduling purposes. The information shall include, but not be limited to the hour of expected arrival and also that of expected departure, as well as the type and tonnage of cargo to be loaded and off-loaded. In case of a change in arrival or departure time, the harbormaster shall be notified immediately. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-6 Removal of vessel, raft, log or floating object causing damage to wharf. No person shall cause or permit any vessel, raft, log, or other floating object to come alongside of or to be moored to or near any wharf in any manner that may cause damage to such wharf or to interfere with the use of such wharf by others rightfully entitled to its use. Where circumstances permit, the harbormaster, if able to ascertain the owner of the vessel, raft, log, or other floating object, shall demand the removal of same by the owner. Where circumstances require immediate removal of the vessel, raft, log, or other floating object, the harbormaster may remove such offending items to some suitable place. Inquiries concerning the removal of any such offending items above mentioned shall be directed to the harbormaster. Where the removal involves a vessel falling under the provisions of chapter 200, Hawaii Revised Statutes, disposition of such vessel shall be made pursuant to chapter 200, Hawaii Revised Statutes. In all other cases and when in the opinion of the harbormaster, the offending items have no value, they may be destroyed

or disposed of in any manner. The HCDA shall not be responsible for loss or damage to the items removed under this section. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-7 Deposit required to guarantee payment for charges incurred by vessels. Any agent, charterer, master, operator, or owner who proposes to enter a vessel, other than a small craft, within Kewalo Basin and utilize any of the facilities of the HCDA shall deposit in cash or other legal tender, funds in an amount as determined by the HCDA as being sufficient to guarantee the payment of any and all bills for normal charges incurred by, for, or on behalf of such vessel or its cargo for a period of ninety days. This deposit will not be required for those agents, charterers, masters, operators, or owners who are placed on the HCDA approved credit list following submission of a written application in which they agree to:

- (1) Ensure payment of any and all bills for normal charges incurred by, for, or on behalf of such vessel or its cargo (for agents, only during the period while so engaged as the vessel's agent);
- (2) Provide a bond or irrevocable letter of credit from a bank doing business in Hawaii equivalent to the amount of expected charges to be incurred within a ninety-day period. This requirement is waived for those who have maintained a satisfactory payment record with the State for the immediate preceding two-year period; and
- (3) Pay interest at the rate of one per cent per month and a delinquent account service charge on payments which are delinquent in accordance with section 15-214-5 and pursuant to section 206E-22, Hawaii Revised Statutes. In this regard the following is applicable:

- (A) Any invoice unpaid for a period of ten calendar days from the date of invoice is delinquent; or
- (B) Reports which are submitted on a monthly basis to HCDA or its assigns, not later than thirty days after due date. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-8 Performance bond required of idle vessel. Before being allowed entry into Kewalo Basin an owner of an idle vessel, not actively engaged in commerce, shall post a performance bond issued by a firm doing business in Hawaii guaranteeing the vessel's removal from the harbor by a specified date. This bond shall be for an amount equal to ten per cent of either the value of the vessel and its cargo as appraised by a competent marine surveyor or the estimated costs to be incurred to remove and dispose of the vessel, whichever is greater. The appraisals shall be obtained at the expense of the owner of the vessel. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-9 Agents for vessel; liability for fees. Any owner, master, operator, agent, charterer, partnership, trust, corporation, or individual who is duly accredited with the HCDA and purports to act for a vessel by telephoning or otherwise communicating with the HCDA on behalf of a vessel assumes responsibility for all sums due the State in accordance with the fee schedules as set forth in these rules and for timely submission of required HCDA reports on forms provided by the HCDA for that vessel and its cargo as well as for any barge and its cargo which the vessel may have in tow. For agents, this applies only for the period they are engaged as agents for the vessel. If an agent is dismissed from representing a vessel, the agent shall notify the harbormaster's office within two working days. Agent

shall remain responsible for the provisions of this section until such notice is given and acknowledged. Whenever any vessel under the terms of these rules shall become obligated to pay any sum of money for any purpose whatsoever, the owner, charterer, agent, master, operator, possessor, and person in whose service the vessel is operated or maintained shall be jointly and severally liable for the payment of such sums. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-10 Damage to state property. The person, or persons, responsible for, and the person or persons to whom a wharf, facility, or other state property may be assigned, or by whom it is being used, and the master, owner, operator, or agent of any vessel, vehicle, or other instrumentality involved in any damage to such state properties or facilities, in excess of fair wear and tear shall promptly give a full report thereof to the appropriate harbormaster, giving the date and hour the damage occurred, the names and addresses, or, if unknown, a description of witnesses and other persons, vessels or instrumentalities involved in the damage, as well as all other pertinent facts and information that may be available. Refusal, neglect, or failure to make or give any damage report shall subject a person to applicable penalties under these rules, including section 15-214-6. The State may also refuse the use of any wharf or facility until the report has been received. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-11 Responsibility for repair of damage to state property. Any person responsible for damage to state property shall make repairs in accordance with state specifications. Failure to do so shall result in the State effecting the repairs at the expense of the responsible party or parties.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-12 Inspection of vessels. The executive director and such other persons as the executive director may designate may enter upon and inspect any vessel using state facilities or upon any premises rented or permitted from the HCDA for the purposes of either ascertaining the kind and quantity of cargo thereupon or to ensure the safety, welfare, and health of the general public. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-13 Compliance with federal, state, and county laws, ordinances, and rules. Use of Kewalo Basin and harbor facilities is subject to compliance with all applicable federal, state, or county laws, ordinances, rules, and regulations. Particular attention is directed to:

- (1) Rules of the United States Public Health Service and of the state department of health, relating to the use of rat guards, and other measures required to prevent rodents from leaving the vessel;
- (2) Rules of the state department of health pertaining to air and water pollution; and
- (3) Rules of the fire department.
[Eff **DEC 03 2008**] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-212-14 Citation for violation. Citations issued pursuant to section 206E-22, Hawaii Revised Statutes, to a commercial firm for violation of this part may be issued to any agent, officer, or manager of the firm. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-15 Suspension of loading or unloading operation. Suspension of any loading or unloading operation may be ordered when in the opinion of the harbor master, harbor manager, or harbor agent, such suspension is necessary to ensure the safety, health and welfare of the public. [Eff ^{DEC 03 2008}] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-16 Requirement for a local, 24-hour point of contact. Vessel booking agents must ensure the availability of an individual designated as the 24-hour point of contact representative in writing, should the need arise to make and implement operational decisions on short notice. This local representative must be present on Oahu and must have the authority to speak for and act on behalf of the owner, charterer, or operator of the vessel. [Eff ^{DEC 03 2008}] (Auth: HRS §206E-4) (Imp: HRS §205E-4)

§§15-212-17 to 15-212-24 (Reserved)

SUBCHAPTER 2

VESSELS

§15-212-25 Priorities for berths and moorings. The HCDA shall allocate small craft berths and moorings in Kewalo Basin in order to promote the maximum safe, convenient, and efficient utilization of the facilities, in the following priorities:

- (1) Charter or cruise boats have priority in the assignment of berths along the front paralleling Ala Moana Boulevard and all berths at Pier A; and
- (2) Priority in the assignment of all other berths shall be as follows:

- (A) Highest priority: commercial fishing boats;
- (B) Second priority: charter or cruise boats; or
- (C) Third priority: pleasure craft.

If any of these berths are empty, and if there are no higher priority boats on the waiting list, the next priority vessels may be given a mooring in these berths; vessels with mooring permits for these berths will not be displaced by higher priority boats applying for regular mooring permits. Exceptions to the above priorities may be made when determined by the executive director to be in the interest of public safety, health, and welfare. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-26 Vessel moored without authorization, unlawful; removal. It shall be unlawful to make fast to, moor, dock or anchor at, or lay alongside any pier, wharf, quay, bulkhead, landing, dolphin, mooring, or other moored vessel in Kewalo Basin without the specific authorization of the harbormaster, harbor manager, or harbor agent who has jurisdiction over the facility. Removal of any offending vessel shall be accomplished in accordance with these rules. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-27 Conditions for use of harbor property and facilities. Before any property or facility in Kewalo Basin is utilized by any vessel, its owner shall execute a revocable permit appropriately conforming to the description provided below, obtain the approval of the HCDA which shall be evidenced by an endorsement on the revocable permit to that effect, and follow such other procedures and requirements as may be established by the HCDA to facilitate effective management of the permits; provided, that the HCDA may waive the requirements of this section in the case of

trivial and infrequent uses of state property or facilities, or as the circumstances may warrant. A revocable permit may contain the following terms, covenants, and conditions:

- (1) The owner's certification of all information contained in the application and submitted as being true;
- (2) The owner's covenant to abide by the current charges, tolls and fees and the incorporation by reference of the rules into the agreement;
- (3) The owner's authorization for the State to assign and reassign berths and spaces for the owner's vessel;
- (4) A provision stating that all persons signing the agreement shall be jointly and severally liable for the full performance of all terms, covenants, and conditions thereof;
- (5) The owner's authorization to the HCDA and the State to board the owner's vessel to effect reasonable inspection and audit the owner's records;
- (6) The owner's covenant to pay all applicable fees, tolls and charges, and the owner's authorization of the HCDA and the State to assess collection and service charges for the delinquent payment thereof;
- (7) The owner's authorization to have HCDA and State remove owner's vessel, at owner's expense, with or without notice, should it lose power or otherwise become disabled in Kewalo Basin, entry channel or shoreline should owner not remove vessel within three hours of it becoming disabled;
- (8) The owner's covenant to indemnify the HCDA and the State and its officers and employees for damages and injuries arising out of the owner's exercise of privileges granted by the revocable permit;
- (9) A provision that the term of the revocable permit shall terminate upon expiration of the stated period, thereby requiring a

- renewal of the permit to continue to use Kewalo Basin and its facilities;
- (10) A provision that the revocable permit with its attendant privileges is revocable and the owner's covenant to pay, upon the owner's failure to promptly remove the owner's vessel from Kewalo Basin upon revocation, cancellation, or termination of the mooring permit, a reasonable sum to be established between the parties and to be made a part of the agreement, as liquidated damages;
 - (11) The owner's authorization to the HCDA and the State to reasonably effect the removal of the owner's vessel;
 - (12) The owner's covenant to pay all costs and attorney's fees, including cost of collection of delinquent fees and charges in the event the HCDA or the State is forced to institute a suit against the owner and is successful in such a suit;
 - (13) A provision stating that, except as provided, neither the agreement nor the privileges attendant thereto are assignable or in any way transferable, in whole or in part;
 - (14) An open provision to enable the HCDA and the owner to negotiate additional terms, covenants and conditions as may be proper under the particular circumstances, including but not limited to provisions requiring sufficient comprehensive liability insurance coverage, security deposit and performance and compliance bonds in such amounts as may be warranted under the circumstances;
 - (15) A provision allowing multiple vessels owned by a permittee or trade association to share berth(s) provided that at no time will more than one vessel be moored at any one berth;
 - (16) A provision that a permittee may be allowed to use or install a ticket booth upon such

conditions as contained in the revocable permit; and

- (17) A provision that in the event charges that accrue in favor of the HCDA are not paid, the HCDA may, after reasonable notice, take possession of the vessel, its tackle, apparel, fixtures, equipment, and furnishings, and may retain possession until all charges then owing and any charges which shall thereafter accrue are fully paid and the remedy thus provided is in addition to and not in lieu of any other remedies provided by law or otherwise.

[Eff ~~DEC 03 2008~~] (Auth: HRS §206E-4)
 (Imp: HRS §206E-4)

§15-212-28 Assignment and reassignment of moorings. Reassignments may also be made within Kewalo Basin if a vessel's size in relationship to the size of the assigned berth does not permit maximum and efficient public utilization of harbor facilities or if a reassignment in any other manner permits maximum and efficient public utilization of harbor facilities.
 [Eff ~~DEC 03 2008~~] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-29 Revocable permits; types. Revocable permits may be issued for the following respective uses:

- (1) Mooring permit. A revocable permit authorizing the docking, mooring, or anchoring of a vessel:
- (A) Regular mooring permit. A revocable permit which on the date of issuance authorizes the permittee to moor a vessel for a period of one year. A regular mooring permit may be transferable, subject to the assignment provisions contained in the permit, including, but not limited to credit

- worthiness or experience of assignee and payment of any permit premium to HCDA; or
- (B) Temporary mooring permit. A nonrenewable revocable permit which on the date of issuance authorizes the permittee to moor a vessel for a period of ninety days or less as specified in the permit;
- (2) Commercial permit. A revocable permit which authorizes the owner of a commercial vessel to use the harbor and its facilities for commercial activities as specified in the permit. A commercial permit may be transferable, subject to the assignment provisions contained in the permit, including, but not limited to credit worthiness or experience of assignee and payment of any permit premium to HCDA. An original permittee holding a commercial permit who sells its vessel without assignment of the permit may, upon written application to and approval by the HCDA, retain the commercial permit, provided that within thirty days the permittee resumes operation with another vessel owned by the permittee pursuant to the provisions of these rules; or
- (3) Miscellaneous permit. A revocable permit authorizing use of the harbor for such other purpose as may be permitted by the HCDA, including mooring at the bulkhead to offload catch or take on provision, office, retail and storage usage, consistent with these rules and applicable laws; provided that such other use shall be stated in the revocable permit. Miscellaneous permit shall also include a bulk permit for a pier or portion thereof requiring permittee to incur out of pocket expenditures to repair or replace the pier. A miscellaneous permit may be transferable, subject to the

assignment provisions contained in the permit, including, but not limited to credit worthiness or experience of assignee and payment of any permit premium to HCDA. Revocable permits shall be issued only after a determination by the HCDA that all applicable laws have been complied with and that all fees and charges payable at the time of the issuance or reissuance of a permit have been paid. [Eff DEC 03 2008]
 (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-30 Original application for revocable permit. Any interested person or corporation may apply for a revocable permit by completing in full the application provided for that purpose. In the case of a corporation, partnership, association, or other group however organized, evidence of corporate organization must be submitted by producing a current general excise tax license, and articles of incorporation registered with, approved and issued by the department of commerce and consumer affairs. Applications for revocable permits shall be valid for one year. Applicants may apply for any one or more of the various types of revocable permits. Separate waiting lists may be maintained for each type of permit or berth. An applicant for a mooring permit must state the activity in which the applicant's vessel is intended to be employed. A separate application shall be made for each such use or activity and a separate waiting list will be maintained for each activity. A fee for each original application in each waiting list category shall be levied by the HCDA. Since berths are assigned on a best usage basis the length overall of the vessel for which a permit is being applied must be stated on the application. If the precise length is not known at the time of application the applicant will be allowed to deviate five feet from the stated length. Should the applicant desire to change the declared length of the applicant's vessel as shown on the application,

the applicant's seniority shall be determined by the date the change is made. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-31 Renewal of application. An application for a revocable permit may be renewed within a ninety-day period preceding its expiration date. An application renewed prior to its expiration date shall be valid for a period ending one year from the expiration date of the previous application. HCDA shall endeavor to mail an application renewal notice to an applicant, prior to the expiration of the applicant's application, at the address the applicant has furnished to the HCDA pursuant to these rules. However, the applicant is responsible for the timely renewal of an application without receipt of a renewal notice from the HCDA. A fee for each renewal of an application shall be levied by the HCDA. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-32 Applicant required to furnish address and report changes; effect of failure to report change. An applicant shall include the applicant's address in the application to the HCDA for a revocable permit. An applicant shall immediately inform the HCDA in writing of any changes in the applicant's address in order to maintain the validity of the applicant's application. An application shall be void if the HCDA is unable to notify the applicant of a vacancy at the address (1) appearing on the application or (2) furnished in writing to the HCDA by the applicant as a change of address subsequent to submitting the application. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-33 Review and acceptance or rejection of application for revocable permit. The HCDA shall examine and determine the genuineness and regularity

of each application and may conduct any investigation as may be deemed necessary for its examination and determination. It may require additional information from the applicant as may be necessary to determine the genuineness and regularity of the application. An application for a revocable permit for the purpose of conducting commercial operations may be rejected for any of, but not necessarily limited to, the following reasons:

- (1) The corporation, partnership, association or group, however organized, is not licensed by the department of commerce and consumer affairs to do business in the State;
- (2) The applicant cannot produce a current general excise tax license;
- (3) The investigation of credit discloses information detrimental to the best interests of the State (applicant is a poor credit risk);
- (4) The applicant is delinquent in the payment of any moneys due and payable to the State;
- (5) The vessel described in the application is not properly documented, certificated, or registered with the appropriate federal or state agencies concerned;
- (6) The application is for other than commercial maritime purposes; or
- (7) The applicant makes a deliberate misstatement or willfully fails to disclose any material fact in the application. The HCDA shall inform the applicant in writing, within a reasonable time, of the rejection of an application and the reasons therefore. The applicant's application fee shall be refunded. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-34 Withdrawal of application; effect if application has become void, expires, or been withdrawn. An application may be withdrawn by an applicant upon written notice to the HCDA. An

applicant who withdraws an application, or whose application has expired or becomes void, may submit a new application for acceptance by the HCDA. An applicant's seniority begins on the date the new application is accepted for consideration as provided in these rules. The application fee shall not be refunded if an applicant's application is withdrawn, expires, or becomes void. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-35 Waiting lists. When the HCDA cannot issue a revocable permit to an applicant, a waiting list of applicants shall be maintained by the HCDA or its designated representatives. Waiting lists shall be kept in the order of the date of acceptance of the initial, fully completed application. Timely and satisfactorily renewed applications will continue their priorities from the initial or adjusted date of application. Separate waiting lists shall be maintained for each type of revocable permit or berth or each use or activity in which the vessel is to be employed. A waiting list shall be maintained for holders of regular mooring permits who wish to apply for movement to another similar berth. A person desiring to moor that person's vessel where no berths are available for allocation may have that person's application placed on a waiting list based on the date of that person's initial fully completed application. An applicant shall be allocated a berth when (1) that person becomes the senior applicant on the list and (2) a berth suitable for that person's vessel becomes available. The senior applicant for a regular mooring permit may decline the HCDA's offer of a revocable permit one time and still retain seniority, although the applicant shall not be offered another regular mooring permit for six months. If the senior applicant declines the HCDA's offer a second time, the applicant's application shall be considered void and the applicant's name shall be removed from the waiting list. If the applicant is a corporation and there is a change in officers of the corporation or if the

applicant is not a corporation but decides to incorporate, the effective date of these changes shall determine the applicant's seniority on the waiting list. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-36 Allocation of berths; policy. It is the policy of the HCDA to promptly assign an available berth on a first-come, first-served basis to the first qualified applicant for the type of use requested; provided that the proposed use by the vessel affords maximum, safe, convenient, and efficient utilization of facilities and is in conformance with sections 15-212-25 and 15-212-44; and provided further that such assignment is not contrary to public interest, or is not otherwise unlawful or contrary to these rules. Since each berth and each vessel presents unique ship handling and other peculiar berthing problems in relation to the harbor, the HCDA reserves the right to utilize its fair and impartial judgment, flexibility, and discretionary authority to allocate berths based upon its knowledge of available facilities, prevailing harbor conditions, safe boating practices, effective harbor management procedures and other factors which shall be thoroughly considered prior to acceptance of an application and allocating a berth to a vessel. The many factors that the HCDA may take into consideration in accepting an application and in allocating a berth include, but are not limited to the applicant's vessel length, draft, beam, weight, method of propulsion; proposed vessel use; and any other special or unique vessel handling problems in relation to the size of the available berth; berth location; water depths; prevailing winds and currents and other pertinent factors relative to the available berth. If the senior applicant is refused a berth because of such considerations, the berth shall be offered to the next senior applicant with an acceptable vessel. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-37 Notice to owner of available revocable permit. (a) When an offer of any revocable permit, except a temporary permit, is provided, the HCDA shall deliver the offer or send it by certified mail, return receipt requested, addressed to the applicant at the post office address furnished to the HCDA in writing by the applicant.

(b) The HCDA shall offer a temporary mooring permit to the applicant by telephone, personal service, or first class mail, postage prepaid addressed to the applicant at the post office address furnished to the HCDA in writing by the applicant. If the senior applicant cannot be contacted after a reasonable effort, the next senior applicant will be offered the temporary mooring permit. Unless circumstances beyond the former senior applicant's control can be demonstrated, the former senior applicant shall lose seniority. [Eff (Auth: HRS §206E-4) (Imp: HRS §206E-4) DEC 03 2008]

§15-212-38 Offer of regular mooring permit valid only ten calendar days; written notice of intention; acceptance; void offer, declining offer. If the applicant decides to accept the offer, the applicant shall, within ten calendar days after the date of receipt of the offer, either deliver a written notice of intention to accept the offer to the HCDA or accept the offer by securing a revocable permit and moving the applicant's vessel into the assigned berth. An applicant who has delivered a written notice of intention to accept the offer shall accept the offer by securing a revocable permit and moving the applicant's vessel into the assigned berth within ten calendar days after the applicant mails or personally delivers the notice of intention to accept to the HCDA. The applicant's application for a revocable permit and the offer by the HCDA of a revocable permit shall be void if the applicant fails to either secure a revocable permit and move the applicant's vessel into the assigned berth or to give notice of intention to accept or decline the offer in writing, within ten

calendar days after the date of receipt of the offer, and the revocable permit shall then be offered to the next senior applicant. The failure of an applicant to secure a revocable permit and move the applicant's vessel into the assigned berth within ten calendar days after mailing or personally delivering the notice of intention to accept the offer shall also void the notice of intention, application for a revocable permit and offer by the HCDA of a revocable permit. An applicant for a regular mooring permit may decline an offer to the applicant of a regular mooring permit and retain seniority if the applicant declines the offer in writing addressed to and received by the HCDA, not later than ten calendar days after the date the offer is received. An applicant, who declines an offer in writing and retains seniority pursuant to this section, shall not be considered for a second offer on the basis of seniority until six months elapses after the date of the applicant's first refusal. An applicant's application for a regular mooring permit shall also be void if the applicant fails to accept the second offer of a regular mooring permit to use a berth. Since time is of the essence, an offer delivered or mailed pursuant to section 15-212-37 shall contain a statement that the offer will lapse unless accepted in accordance with this section. For the purpose of this section, an applicant who declines a berth shall not be classified as having declined a berth if conclusive evidence is presented to the HCDA that for reasons of safety or navigation the berth offered is unsuitable for the applicant's vessel. The HCDA may extend the deadline for acceptance if the applicant presents conclusive evidence to the HCDA that the granting of additional time is necessary for the construction and delivery of the vessel or reasonable and essential to prevent undue hardship. Any extension of time for compliance shall not exceed a period of one-hundred-twenty days from the date the HCDA received from the applicant a written notice of intention to accept the offer of a revocable permit. This exception is only applicable to an applicant who has been offered a regular mooring

permit. [Eff **DEC 03 2008**] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-212-39 Offer of temporary mooring permit valid only seven days; notification of intention; acceptance. (a) An applicant for a temporary mooring permit to moor in a temporarily vacant berth which has been offered the use of a berth shall, within seven days after the offer notify the HCDA of any intention to accept or decline the offer. If the offer is declined, an applicant's application for a temporary mooring permit shall be void and the berth shall be offered to the next senior applicant.

(b) An applicant who has notified the HCDA of an intention to accept the offer shall accept by (1) securing a temporary mooring permit for use of the offered berth within five calendar days after the date of offer; and (2) otherwise complying with the requirements of these rules and (3) moving the vessel into the assigned berth within seven days after the date of the offer. Failure to comply renders the application, the offer, and the notion of intention to accept void. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-40 Offer of commercial and miscellaneous permits. (a) An applicant for a commercial or miscellaneous permit who has been offered one of these permits shall within seven days after the offer is made notify the HCDA of an intention to accept or decline the offer. If the applicant declines the offer, the applicant's application shall be void and the permit offered to the next senior applicant.

(b) An applicant who has notified the HCDA of an intention to accept the offer shall comply with conditions and terms set forth in the offer of the revocable permit pursuant to section 15-212-38 above. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-41 Issuance of revocable permit. (a) A revocable permit shall be issued only if:

- (1) Proper application has been submitted;
- (2) An adequate berthing facility is available, and, in the case of a commercial or miscellaneous permit, the necessary HCDA property or facility becomes available;
- (3) The applicant is eligible for assignment under these rules;
- (4) The permittee executes the revocable permit;
- (5) The vessel is properly documented, registered or certificated with the appropriate federal or state agencies concerned;
- (6) The vessel is seaworthy and in the case of commercial fishing vessels the vessel shall have a United States Coast Guard Commercial Fishing Vessel Safety Decal issued by the United States Coast Guard in accordance with federal regulations, 46 CFR Part 28; and
- (7) The owner and its assigns shall purchase and provide to HCDA and its assigns a comprehensive general liability insurance policy during the entire period of the permit with the written approval and consent of HCDA and its assigns for any one of the following:
 - (A) There exists a comprehensive general liability insurance policy or policies, or a certificate of insurance in lieu thereof, evidencing that such policy has been issued and is in force, with a combined single limit of not less than \$100,000 for commercial vessels not authorized to carry passengers and for those authorized to carry not more than six passengers; not less than \$300,000 for vessels authorized to carry more than six passengers, but less than twenty-six passengers; and not less than \$500,000 for vessels authorized to carry more than twenty-five passengers

for bodily injury and damage to property per occurrence. The specification of limits contained herein shall not be construed in any way to be a limitation on the liability of the permittee for any injury or damage proximately caused by it; or

(B) In lieu of a comprehensive general liability insurance policy or policies, a vessel owner may have P & I (protection and indemnity) insurance as defined in section 431:1-207(2), Hawaii Revised Statutes, for the vessel naming state of Hawaii, HCDA and harbor agent as additional insureds.

(b) The insurance shall:

- (1) Be issued by an insurance company or surety company as deemed acceptable by HCDA;
- (2) Name the State of Hawaii, HCDA and harbor agent and its assignees and/or management agents as an additional insured;
- (3) Provide that the HCDA shall be notified at least thirty days prior to any termination, cancellation, or material change in its insurance coverage;
- (4) Cover all injuries, losses, or damages arising from, growing out of, or caused by any acts or omissions of the permittee, its officers, agents, employees, invitees, or licensees, in connection with the permittee's use or occupancy of the premises;
- (5) Permittee's insurance will be deemed primary and non contributory in the event of loss or damage. Permittee waives all rights of recovery against State of Hawaii, HCDA and Harbor Manager to the extent any losses, claims or damages are:
 - (A) Covered by any policy of insurance available to permittee, and/or
 - (B) Not covered by permittee's insurance because of deductibles, the inadequacy

- of policy limits, policy limitation or exclusions or failure to maintain or preserve coverage as required by this Agreement or by policy terms; and
- (6) Be maintained and kept in effect at the permittee's own expense throughout the life of the permit. The permittee shall submit a certificate of insurance as evidence to the HCDA of renewals or other actions to indicate that the insurance policy remains in effect as prescribed in this section.
 [Eff **DEC 03 2008**] (Auth: HRS §206E-4)
 (Imp: HRS §206E-4)

§15-212-42 Period of validity of revocable permit. Regular mooring permits shall be issued for a period not to exceed one year. Temporary mooring permits shall be issued for the period stated in the permit but not to exceed ninety days. Commercial and miscellaneous permits shall be valid for the period of time indicated by the HCDA at the date of issuance.
 [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-43 Renewal of revocable permit. The HCDA may issue or renew a revocable permit for any period up to, but not exceeding one year. Upon expiration of the period stated therein, the permit and all rights of the permittee thereunder shall automatically terminate. No revocable permit shall be renewed unless the conditions of the original issuance are met, nor shall a revocable permit be issued or renewed unless all fees and charges due and payable are paid. The HCDA shall not renew a revocable permit which has been terminated or revoked. A revocable permit may be renewed at any time preceding the expiration date of the mooring permit. The same revocable permit number shall be retained if the renewal application is received prior to the expiration date of the old permit and there is no

change in status of the boat. Requests to renew revocable permits which have been expired for less than thirty days, may be granted by the HCDA if there is no change in status of the boat and the permittee's account with the HCDA is current. Requests to renew revocable permits received thirty days or more after the expiration date of the permit shall be treated as an original application with seniority commencing on the date of filing the new, complete application. HCDA's policy is to mail a renewal notice to a permittee prior to the expiration of the permit, at the address furnished by the permittee to the HCDA pursuant to these rules. However, the permittee is responsible for the timely renewal of the permit without receipt of a renewal notice from the HCDA. Temporary mooring permits are not renewable. In view of the acute shortage of available berths, certain levels of the activity for which the regular mooring permit was issued (i.e., cruise, charter, commercial fishing) should be achieved in order to be eligible for renewal of the permit. These levels are established in terms of the minimum gross receipts which should be realized by a permittee in the preceding twelve-month period as follows:

For Cruise Boats	Minimum Gross Receipts
Vessels registered by the State or documented by the United States Coast Guard to carry six passengers or less	\$25,000
Vessels certificated by the United States Coast Guard to carry seven to twenty-five passengers	\$50,000
Vessels certificated by the United States Coast Guard to carry more than twenty-five passengers	\$100,000

For Charter Boats	Minimum Gross Receipts
Vessels registered by the State or documented by the United States Coast Guard to carry six passengers or less	\$25,000
Vessels certificated by the United States Coast Guard to carry seven to forty-nine passengers	\$50,000

For Commercial Fishing Boats	Minimum Gross Receipts
Vessels of less than five net volume tons	\$6,000
Vessels documented by the United States Coast Guard as commercial fishing vessels with a crew of six or less	\$20,000
Vessels documented by the United States Coast Guard as commercial fishing vessels with a crew of more than six	\$60,000

Failure of a permittee to demonstrate that the permittee's vessel's activities generated these minimum gross receipts during the twelve-month period of the permittee's permit may result in a refusal to renew the revocable permit by the HCDA.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-44 Priority and procedures in allocation of berths. (a) An unassigned berth (a berth that is not assigned to a permittee by a regular mooring permit) shall first be offered to the senior applicant holding a regular mooring permit authorizing the applicant to moor in the harbor who has applied for movement to another berth; provided that the vacant berth is of the same characteristics, category or type

as the berth currently allocated to the applicant or the move to the vacant berth would promote greater, safer, more convenient and more efficient utilization of the facilities.

(b) Except as provided in subsection (a), an unassigned berth shall be promptly offered to the senior applicant for a regular mooring permit subject to the limitations contained in these rules. If the senior applicant's vessel is not suitable for the available berth, the berth shall then be promptly offered to the next senior qualified applicant whose vessel is suitable for the berth.

(c) In addition to the other priorities expressed in these rules, the HCDA shall also employ a "Best Usage" priority which is a matching of the size of the vessel to the size of the available berth. Usually the length of the vessel shall be the prime consideration, however, the beam and other dimensions also may be considered. "Best Usage" usually shall be determined by the following table:

PRIORITY FOR ASSIGNMENT

Vessel		Pier Length in Feet							
Length in Feet		40'	45'	50'	60'	70'	85'	90'	100'
From	But Less Than
0	25	3	4	5	--	--	--	--	--
25	35	2	3	4	5	--	--	--	--
35	45	1	2	3	4	5	--	--	--
45	55	.	1	1	3	4	5	--	--
55	65	.	.	2	1	3	4	5	5
65	75	.	.	--	2	1	3	4	4
75	85	.	.	--	--	2	2	3	3
85	95	.	.	--	--	--	1	1	2
95	.	.	.	--	--	--	--	2	1

To ensure that the assignment of moorings is oriented to those who have been waiting the longest, assignment may be made to an adjacent category of berth, if the applicant is senior to the applicant at the top of the

adjacent list, and the vessel length is within five feet of the limits set for that category.

(d) Since commercial fishing vessels may have a priority on the assignment of berths, an inspection of the vessel in question shall be made to review the validity of the vessel's claim to being a commercial fishing vessel before a berth is awarded. This inspection shall be made by a team consisting of the harbor agent and a representative from the harbor master's office. The team shall assess a vessel's claim to being a commercial fishing vessel based on such items as: crew, design of vessel, fishing equipment on board, prior record of owner, vessel insurance, and excise license and vessel documentation. The burden shall be on the boat owner to demonstrate that the vessel is a commercial fishing boat. The team shall forward its assessment of a vessel to the HCDA for a decision after its review has been completed. Should the HCDA decide that the vessel is not a bona fide commercial fishing boat, the offer of a berth shall be withdrawn. The owner of the vessel can refute this decision by engaging at the owner's own expense an approved marine surveyor who will certify to the HCDA that the owner's vessel is outfitted for and capable of being used as a commercial fishing boat. In the case of such a contest, the HCDA and the boat owner's surveyor will consult and jointly select a second approved marine surveyor to inspect the vessel. The opinion of this second surveyor will be considered final. The costs of the second surveyor shall be borne by the vessel owner if it is determined that the vessel does not meet the minimum requirements to moor in a berth designated for a commercial fishing boat in accordance with these rules, provided that such costs shall be borne by the HCDA if it is determined that the vessel does meet minimum requirements. "Approved marine surveyor" as used in this section means an employee of the HCDA or other person who has been designated or approved by the executive director to inspect a vessel for an owner seeking a permit to moor the owner's vessel in a berth designated for a commercial fishing

boat. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-45 Temporary mooring permit; reasons for issuance. The HCDA may issue a temporary mooring permit for a berth because of the following reasons:

- (1) A berth assigned to a regular permittee will be temporarily vacant while the regular permittee's vessel is temporarily absent;
- (2) A berth will be temporarily vacant during the time an old permittee vacates the berth and the time the berth is assigned and the newly assigned regular permittee actually moves that person's vessel into the berth; and
- (3) Assigning a temporary mooring permit affords maximum, safe, convenient, and efficient utilization of harbor facilities.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-212-46 Temporary permittee's use of berth and liability. Temporary use of a berth by a temporary permittee does not grant the temporary permittee any right to retain the use of the berth or any other space in the harbor. The temporary permittee shall remove the temporary permittee's vessel from the berth and the harbor upon expiration of the temporary mooring permit or upon lapse of forty-eight hours notice to vacate the berth from the HCDA, whichever event occurs first. Failure of a temporary permittee to vacate the berth upon expiration of the temporary mooring permit or upon lapse of forty-eight hours notice shall subject the temporary permittee to liability for any damages incurred by the regular permittee assigned to the berth resulting from the temporary permittee's failure to vacate, pursuant to section 206E-22, Hawaii Revised Statutes, and to a fine not to exceed \$10,000, and entitles the HCDA to remove the temporary permittee's

vessel to an impounding area. The temporary permittee shall indemnify and hold harmless the HCDA and the State from any liability for damages arising from the temporary permittee's failure to vacate the berth and the harbor and from the removal of the vessel to an impounding area by the HCDA. [Eff **DEC 03 2008**]
 (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-47 Temporary mooring permits; priority of allocation. Priorities for allocation of temporarily vacant berths for interim use as they become available shall be as prescribed in this section:

- (1) First priority. The senior applicant to moor a transient vessel who applied in advance in writing for interim use of a temporarily vacant berth to begin at a specified time and whose application was received and accepted by the HCDA; provided that a transient vessel shall be allocated to a berth that has been set aside and designated by the HCDA for use by transient vessels only, unless the transient berths available for allocation at that time are not suitable for the vessel, or no transient berths have been set aside in that harbor;
- (2) Second priority. The senior applicant who applied in advance in writing to moor a vessel, other than a transient vessel, for an interim period whose application was received and accepted by the HCDA; and
- (3) Third priority. The berth shall be offered on a first-come, first-served basis.
 [Eff **DEC 03 2008**] (Auth: HRS §206E-4)
 (Imp: HRS §206E-4)

§15-212-48 Revocation of revocable permit. If the permittee fails to remedy any breach of any of the duties, covenants, or conditions of the permit or to desist from violating of these rules, the HCDA may

revoke the permittee's revocable permit, or, at its discretion, refuse to renew the permittee's revocable permit. A revocable permit may be terminated or revoked for the following reasons, although termination and revocation are not necessarily limited to these reasons:

- (1) Failing to report to the HCDA within seven days:
 - (A) A change in ownership of the vessel;
 - (B) A change in address of the permittee;
 - (C) A change in status of the vessel from one category to another, e.g., from commercial fishing to charter fishing;
 - (D) The permittee's vessel has been involved in the destruction of or damage to State property or to another vessel; or
 - (E) A material change in a corporation's stock ownership or change in corporate officers;
- (2) Abandoning a vessel at a berth or mooring;
- (3) Failing to renew a mooring permit within the provisions stipulated herein;
- (4) Failing to refloat or to remove a sunken vessel within seven days of notification;
- (5) Failing to satisfactorily meet delinquent outstanding indebtedness due the State;
- (6) Failing to maintain established State standards of sanitation on a permittee's vessel or in the area within the assigned berth;
- (7) When a vessel is not used for the purpose indicated in the application for a revocable permit;
- (8) Whenever in the opinion of the HCDA the safety, health, and welfare of the public shall so require;
- (9) Whenever in the opinion of the HCDA a vessel is incapacitated for a period in excess of thirty days or otherwise is unable to meet the test of seaworthiness;

- (10) Failure to obtain the HCDA's approval prior to the making of extended repairs as required in section 15-212-55;
- (11) Failing to submit a monthly report showing gross receipts to the HCDA within thirty days after the last day of the month being reported together with net charges due;
- (12) Failing to ensure that the vessel named in the mooring permit is properly documented, certificated, or registered with the appropriate federal or state agencies concerned; or
- (13) Failing to maintain insurance coverage as required in section 15-212-41.

Unless the time limit to remedy the breach is otherwise specified in these rules or in a notice given to the permittee, the permittee shall have thirty days to remedy the breach.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-49 Cancellation of revocable permit by owner. A revocable permit may be cancelled by a boat owner upon thirty days' written notice to the HCDA.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-50 Use of mooring space. The awarding of a regular mooring permit entitles the owner to the use of a specific mooring or berthing facility identified by berth number and location. The permittee may occupy the assigned berth. In some berths, however, the HCDA reserves the right to nest another vessel alongside provided no hazard is presented. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-51 Exchange of berths. A permittee holding a regular mooring permit to moor in the harbor

may, upon written approval by the HCDA, exchange the permittee's berth with another permittee holding a regular mooring permit to moor in the harbor if:

- (1) The vessels are suitable for the berths as determined by the HCDA;
- (2) There is mutual agreement between the permittees; and
- (3) The berths to be exchanged are of the same characteristics. [Eff DEC 03 2008]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-52 Revocable permit and assigned berth transferability. A permittee may transfer, temporarily or permanently, a revocable permit or berthing space in accordance with the terms of its permit which will require HCDA's consent and may be conditioned upon such factors as the credit worthiness or experience of the assignee and payment of any permit premium to HCDA. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-53 Inspection. All small craft moored or berthed in Kewalo Basin shall be subject to inspection by the HCDA or any peace officer of the State at any time where necessary and proper for the purpose of enforcing these rules. Except in event of emergency HCDA shall give twenty-four hour notice prior to inspection. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-54 Audit. The HCDA reserves the right to conduct audits to determine the validity of maintaining a vessel's classification, the fees owing to the HCDA, and any other information necessary and proper to enforce these rules. Information normally needed includes standard business records. For example, in the case of commercial fishing vessels, the following records are deemed pertinent:

- (1) Monthly fish catch reports;

- (2) Records showing the number of days fished in a given month;
- (3) Pertinent sales records both from the sale of fish whether fresh or frozen and from any other activity in which the vessel had been engaged;
- (4) Annual general excise tax returns; and
- (5) Any other records the boat owner/operator deems pertinent. [Eff **DEC 03 2008**]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-55 Small craft repairs, reconstruction or major modification. Minor repairs to small craft may be made at the assigned berth and shall be completed within thirty days. If repairs are estimated to, or actually do, require that the vessel be out of service for more than thirty days, prior approval shall be sought from the HCDA to initiate or complete the repairs in the harbor. Prior approval shall be sought from the HCDA for any repairs requiring the use of cranes, lifts, and any similar devices within the harbor. Repair, reconstruction or major modification that would interfere with the free flow of other vessels, pedestrian, or vehicle traffic shall only be accomplished in an area designated by the HCDA. Failure to seek approval as required by this section shall be grounds for the revocation of the revocable permit. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-56 Living aboard. No person shall moor any vessel or contrivance used solely or principally for the purpose of living aboard. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-57 Safety watch. For safety reasons, one person may remain aboard a vessel with a valid mooring agreement twenty-four hours a day as a safety

watch. A list of the name or names of persons who will rotate as the single safety watch shall be submitted to the HCDA in writing for approval. The HCDA retains the right to conduct reasonable inspections of vessels in Kewalo Basin to ensure that only a single authorized safety watch remains aboard a vessel. [Eff DEC 03 2008'] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-58 Illegal mooring of any small craft. The HCDA is vested with the sole authority to issue regular and temporary mooring permits. Any vessel occupying a berth without a valid mooring permit issued by the HCDA is in violation of these rules. The vessel owner shall be subject to appropriate legal action and the boat shall be subject to removal and impoundment by the HCDA. Furthermore, the boat owner shall be charged a mooring fee in an amount equal to twice the normal fee for the time period the vessel was illegally moored. The owner of an illegally moored small craft who has been ordered, by certified mail, or by posting a notice on or as near to the offending vessel as possible, by personal service or by any other reasonable means shall remove the illegally moored vessel within seventy-two hours from the time the notice was posted or notification given. Failure to remove the vessel shall result in the impounding and removal of the vessel by the HCDA at the sole cost and risk of the owner of the illegally moored vessel, if such vessel is not removed after the seventy-two hour period or if during said period the vessel is removed and re-moored in Kewalo Basin without a revocable permit. [Eff DEC 03 2008'] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-59 Removal and impoundment procedures. The HCDA may impound and remove or dispose, or engage others to impound and remove or dispose, from the harbor, or from a particular berth, any vessel whose presence is contrary to law, or these rules or when

the HCDA deems it necessary to protect persons using the harbor, facilities owned by the HCDA, or the property of other persons that may be lawfully within the confines of the harbor. Vessels in the harbor illegally, or under a permit which has expired or which has been revoked may be impounded and removed after the appropriate seventy-two hour notification period elapses as delineated in section 15-212-58; except that where there is an imminent peril to life, property, or to public health and safety, notice to the owner is not required. Any vessel whose presence creates a danger to persons or property may be impounded immediately. Where circumstances allow, the HCDA shall notify the vessel's owner by certified mail, by posting a notice on or as near to the vessel as possible, by personal service or in any other reasonable manner, to effect the removal of the vessel within seventy-two hours or a reasonable time set by the HCDA. If the vessel's owner cannot be identified, located, or notified, or the owner does not comply with the order to remove the vessel, the HCDA may proceed to remove the vessel. If no emergency exists, an independent marine surveyor shall be engaged to inspect the vessel and to certify its seaworthiness prior to its removal. An inventory of loose property shall be conducted and easily removed property shall be removed for safekeeping. The vessel's owner shall be responsible for all costs of removal and impoundment. Appropriate fees and charges stemming from impoundment and removal shall be charged to the boat owner. Custody of the offending vessel shall not be re-permitted until all fees including costs of removal and storage, and fines levied by a court are paid. Any action taken by the HCDA to impound and remove the vessel or contrivance and/or remove any property or personal articles located on board the offending vessel, including its tackle, apparel, fixtures, equipment, and furnishings, shall be at the sole cost and risk to the owner. In addition, the HCDA, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered owner or

operator and/or all lien holder(s) of record of any impounded vessel. The owner or operator of an impounded vessel shall have ten days after receipt of the notice of impoundment of the vessel to request in writing an administrative hearing. The administrative hearing is solely for the purpose of allowing the owner or operator of an impounded vessel to contest the basis given by the HCDA for the impoundment of the vessel. The administrative hearing must be held within five days, or such longer period as may be allowed by statute, of the HCDA's receipt of the written request excluding Saturdays, Sundays and holidays designated under section 8-1, Hawaii Revised Statutes. The procedures for the administrative hearing are contained in sections 15-212-60 and 15-212-61 of these rules. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-60 Administrative hearing. The procedures under this section shall be used for any administrative hearing conducted by the HCDA as required by law. An administrative hearing officer shall be appointed by the executive director. Upon setting the time for the hearing, the administrative hearing officer shall transmit a notice to the last known address of the owner or their representative, if any, containing the following:

- (1) The date, time, place and nature of hearing;
- (2) The legal authority under which the hearing is to be held; and
- (3) The fact that any party may retain counsel if the party so desires and the fact that an individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an authorized officer or authorized employee of a corporation or trust or association may represent the corporation, trust or association. All parties shall be afforded an opportunity to present evidence and argue on all relevant issues involved. Any

procedure in the administrative hearing may be modified or waived by stipulation of the parties and disposition may be made of any administrative hearing by stipulation, agreed settlement, consent order, or default. Appeals from the decision may be made in accordance with chapter 91, Hawaii Revised Statutes. [Eff DEC 03 2008]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-61 Rules of evidence. The administrative hearing officer may exercise discretion in the admission or rejection of evidence and the exclusion of immaterial, irrelevant, or unduly repetitious evidence as provided by law with a view of doing substantial justice. In administrative hearings:

- (1) Any oral or documentary evidence may be received, but the HCDA shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The HCDA shall give effect to the rules of privilege recognized by law;
- (2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request parties shall be given an opportunity to compare the copy with the original;
- (3) Every party shall have the right to conduct cross-examination as may be required for a full and true disclosure of the facts, and shall have the right to submit rebuttal evidence at the time of hearing; and

- (4) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof by a preponderance of the evidence which includes the burden of producing evidence as well as the burden of persuasion. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-62 Sale of vessel to collect outstanding delinquent indebtedness; sale of abandoned vessel; mooring of unauthorized vessel; impoundment and disposal proceedings. If a boat owner is delinquent in the payment of any fee or charge, including costs of impoundment and removal, or if a vessel is abandoned, the HCDA may institute proceedings pursuant to law to secure the attachment and sale of the vessel. In order to recover unpaid indebtedness, the HCDA may initiate legal process including impoundment and sale of a vessel following the mailing of three past due invoices, the last billing being approximately ninety days following the date money was due and payable. Abandoned vessels or contrivances shall be disposed of at the owner's expense, and any administrative hearing shall follow the procedure as set forth in sections 15-212-60 and 15-212-61.

- (1) No person shall moor a vessel in Kewalo Basin without obtaining a permit; nor shall a person continue to moor a vessel in Kewalo Basin if the permit authorizing the vessel to moor has expired or otherwise been terminated. A vessel moored without a permit or with a permit that has expired or been terminated is an unauthorized vessel and is subject to subsections (2) to (5);
- (2) HCDA or its assigns shall cause to be placed upon, or as near to the unauthorized vessel as possible, a notice to remove vessel, which shall indicate that the vessel is in violation of this section, the date and time the notice was posted, and that the vessel

- must be removed within seventy-two hours from the time the notice was posted;
- (3) An unauthorized vessel may be impounded by HCDA or its assigns at the sole cost and risk of the owner of the vessel, if such vessel is not removed after the seventy-two hour period or if during said period the vessel is removed and re-moored in Kewalo Basin without a permit;
 - (4) Custody of an impounded vessel shall be returned to the person entitled to possession upon payment to HCDA or its assigns of all fees and costs due, and fines levied by a court. In addition, HCDA and its assigns within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered owner or operator of any impounded vessel. The owner or operator of an impounded vessel shall have ten days after receipt of notice of impoundment of the vessel to request in writing an administrative hearing. This administrative hearing is solely for the purpose of allowing the owner or operator of an impounded vessel to contest the basis given by HCDA or its assigns for the impoundment of the vessel. The administrative hearing must be held within seventy-two hours of HCDA or its assigns receipt of the written request. HCDA or its assigns shall adopt rules pursuant to chapter 91 to implement the requirement for this post-seizure administrative hearing process; and
 - (5) Any unauthorized vessel impounded under this section, which remains unclaimed by the person entitled to possession, the registered owner or lien holder for more than thirty days, may be sold by HCDA or its assigns at public auction.

[Eff DEC 03 2008] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-212-63 Salvage, sinking boats. The owner of a vessel in danger of wreckage, damaging other property, sinking, or obstructing waterways shall be advised by the HCDA to take immediate remedial action. If upon due notice and after a reasonable time (not to exceed three hours) has elapsed and the owner has failed to institute appropriate measures, the HCDA may take such action as the circumstances require to save or rescue the vessel, prevent damage to other property or to prevent obstruction of waterways; provided that in an emergency where life or property is endangered or where the vessel may interfere with other vessels or with free and proper navigation of waterway, immediate remedial action may be instituted by the HCDA without prior notice. Any action taken under this section shall be done pursuant to these rules. Any action taken by the HCDA shall be at the sole cost and risk to the vessel owner. [Eff DEC 03 2008]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-64 Vessel loading zone. No person shall stop or moor a vessel for any purpose other than for the expeditious loading, unloading, or fueling in any place marked as a vessel loading zone during the hours when the regulations applicable to such loading zone are effective. No person shall leave a vessel unattended at a vessel loading zone.
[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-65 Anchoring of small craft. The anchoring of small craft in heavily traveled channels or main thoroughfares is prohibited.
[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-66 Nesting. The HCDA shall nest vessels when it deems it to be necessary. Nesting assignments shall be made with due regard to the relative lengths of the vessels involved, their construction and any other pertinent characteristics. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-67 Permittee's responsibility for wharf area. Each permittee shall be responsible for keeping the area near the permittee's assigned mooring free from litter, debris, and discard. Water hoses attached to available hose bibs must be fitted with automatic shut-off nozzles. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-68 Structures on and modifications to the wharf. No structure shall be built on or placed on and no modification shall be made to the wharf, pier, or terminal area without the prior written approval of the HCDA. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-69 Sailing vessels in Kewalo Basin channel. Sailing vessels shall only be permitted in the Kewalo Basin channel if they are equipped with and are using motor power. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-70 Safety regulations for small craft. Safety regulations in sections 15-212-118 to 15-212-120 and sections 15-212-122 to 15-212-123 shall be observed by small craft, if applicable. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-71 Emergency conditions. During emergency conditions and when necessary to protect

§15-212-71

life and property, the HCDA may deviate from these rules. [Eff **DEC 03 2008**] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-212-72 Application to be placed on the list of approved marine surveyors. A qualified marine surveyor can apply to be placed on the list of approved marine surveyors by writing a letter of application to the HCDA citing the applicant's qualifications including schooling, work experience or other germane background and requesting to be considered by the HCDA as an approved marine surveyor. If approved, the applicant's name will be retained on the list of approved marine surveyors for a period of three years unless removed for other reasons. At the end of this period, the applicant must re-apply for a renewal of status. If the application is not approved, the applicant may request reconsideration by providing additional evidence. In cases of dispute, the HCDA's decision will be final.
[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-212-73 to 15-212-80 (Reserved)

SUBCHAPTER 3

WATERWAYS

§15-212-81 Applicability of laws and rules. Navigation within state waterways shall be in accord with the state boating law, federal statutes and regulations governing vessel navigation and these rules. In case of conflict the more specific and severe provisions shall apply. [Eff **DEC 03 2008**]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-82 Vessel not to obstruct approach to wharf. No vessel shall anchor in any fairway or any channel or so as to obstruct the approach to any wharf. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-83 Maximum speed of vessels. All vessels over sixty-five feet shall proceed at a rate of speed (except in case of emergency) commensurate with safe navigation and slow enough so as not to cause damage to other vessels and property. Vessels under sixty-five feet may proceed at a rate of speed not to exceed ten nautical miles per hour. From inside the mouth of the channel shall be a no wake zone. Nothing in this section shall preclude the harbormaster from setting a different rate of speed to meet special conditions. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-212-84 to 15-212-91 (Reserved)

SUBCHAPTER 4

SAFETY, CLEANLINESS, AND USE OF FACILITIES

§15-212-92 Conflict of provisions. This subchapter shall not be construed to limit the power and authority of any other state or federal agency. If any of these provisions are in conflict with any rule adopted by any state or any federal agency, the rule more severe in discipline shall prevail. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-93 Fire alarm. In the event of fire occurring on board any vessel in the Kewalo Basin, except vessels under way such vessels shall sound five

prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. The signal may be repeated at intervals to attract attention, and is not a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" means a blast from four to six seconds duration. This signal shall not be used for other purposes. [Eff **DEC 03 2008** (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-94 Containers for flammable liquids. No empty containers which have been used to hold flammable liquids shall be delivered onto Kewalo Basin unless the same are securely closed with metal screw plugs. Any such containers shall be delivered onto the wharf or structure only at such times as a carrier is prepared to take immediate delivery. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-95 Flammable substances; leaky containers. No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils, or other flammable substances in leaky containers shall be delivered onto Kewalo Basin. All such substances unloaded from any vessel in leaky containers shall be removed immediately. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-96 Heating combustibles on vessels. No combustible material such as pitch, tar resin, or oil shall be flame heated on board any vessel within the Kewalo Basin without the permission of a harbormaster. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-97 Fumigation of vessel. No vessel shall be fumigated or smoked at the Kewalo Basin without the prior permission in writing from the executive director or the harbormaster. If fumigation is to be with cyanogen products or hydrocyanic acid gas in any form, however generated, the applicant or applicant's agent shall be in possession of a permit as required by the state department of health rules, and shall have a guard on duty so long as any danger exists, in order that no one, unless properly entitled to do so, be allowed to board such vessel.
 [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-98 Use of fuel burning steam generating appliances. All fuel burning steam generating appliances, when used on Kewalo Basin or on any scow, pile driver, or other vessel working alongside or near Kewalo Basin, shall be equipped with spark arresters satisfactory to the harbormaster. At the close of each day's work, all ashes, cinders, waste, or other deposits caused by such appliances upon any wharf shall be promptly removed and shall not be disposed of in or upon the waters of the harbor.
 [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-99 Repair, manufacturing, construction, or maintenance work on wharf. No person shall make any repair or do any kind of manufacturing, construction, or maintenance work on any wharf without the permission of the harbormaster.
 [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-100 Smoking prohibited. Smoking is positively prohibited at all times within any shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded, or stored on any unshedded

pier at the Kewalo Basin; no person shall enter into, stand in, or under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire, or any flame of whatever nature, excepting only within those areas designated by the harbor master and plainly marked "Smoking Area". No smoking or lighting of a match or any other fire-creating device shall be permitted within fifty feet of any fueling operation. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-101 Keeping wharf in sanitary condition and clear of fire hazard. Vessel owners, charterers, agents or private terminal operators utilizing wharves and sheds at the Kewalo Basin for the handling of merchandise shall keep such wharves and sheds in a clean and sanitary condition, clear of materials which create a fire hazard and shall ensure that passageways and established fire lanes are not obstructed. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-102 Standards of cleanliness. All vessels moored at the Kewalo Basin mooring or berthing facility shall be kept, at all times, in a condition of reasonable cleanliness and sanitation so as not to constitute a common nuisance or potential source of danger to public health. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-103 Charges for cleaning wharves. In cases where the HCDA takes over the cleaning of wharves, the charge therefore shall be assessed against the vessel which is responsible for the necessity of cleaning. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

\$15-212-104 Identification of mobile equipment.

All mobile equipment used at Kewalo Basin such as forklifts, tractors and straddle trucks, shall be clearly identified as to the owner thereof.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

\$15-212-105 Load limits on wharves. (a) Loads on wharves shall not exceed the following limits unless otherwise authorized:

- (1) All reinforced concrete wharves: five hundred pounds per square foot over the area supported by piles, cylinders or seawall. One thousand pounds per square foot over the area supported by land or fill. The five hundred pounds per square foot load limit applies to all reinforced concrete wharves in general. Wharves and special wharf sections with higher allowable load limits will be handled individually as covered in subsection (b) of this section;
- (2) All other wharves: two hundred fifty pounds per square foot over the area supported by piles and wooden structure. One thousand pounds per square foot over the area supported by land or fill; and
- (3) Operation and movement of motor vehicles and heavy equipment, including mobile cranes and drayage assemblies, over all reinforced concrete wharves: Vehicle or equipment gross weights, axle loads, wheel loads and applied loads from outriggers and supports shall not exceed the limits established in paragraph (1).

(b) Special arrangements may be made with the HCDA in the event that it is necessary to handle loads greater than specified in this section. Occasional loads exceeding the limits established in this section may be permitted, provided such loads do not exceed the load capacity of the specific wharf area where the loads are to be applied. Requests for such special

arrangements shall be considered by the HCDA provided sufficient load data is furnished by the applicant. On special wharves and wharf sections, continuous operation may be allowed with loads in excess of those established in paragraph (1) of subsection (a). Such operation shall be permitted where special allowable load limits are established by the HCDA.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-106 Fowl, animal, or livestock. No fowl, animal, or livestock of any kind shall be allowed to remain on Kewalo Basin for a period longer than six hours without being properly fed and watered. After any fowl, animal, or livestock shall have been unloaded on Kewalo Basin, it shall be removed from same within twenty-four hours. No shipment of such fowl, animal, or livestock subject to quarantine shall be unloaded on Kewalo Basin by any shipping company or its agents unless first passed by the state department of agriculture or unless arrangements have been made for acceptance for quarantine. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-107 Private use of Kewalo Basin property or facilities; business activities; signs. (a) No regular or extensive use of Kewalo Basin property or facility for private gain or purpose shall be permitted without corresponding and reasonable benefits and returns to the public.

(b) No person shall engage in any business or commercial activity without the prior written approval of the HCDA. Without limiting its generality, the term "engage in any business or commercial activity" as used in this section includes (1) solicitation, and (2) distribution of advertisement or circulars, intended for private gain or purpose.

(c) No person shall post or display any signs at Kewalo Basin without the prior written approval of the HCDA, except that approval will not be required for

the posting or displaying of any sign on a vessel which relates solely to the sale of such vessel if the maximum dimension of such sign does not exceed three feet. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-108 Placement of goods and equipment. Any person handling goods or using equipment on a wharf or within a shed under control of the HCDA or bringing goods thereon or therein for shipment, shall place, store, or stack such goods or equipment in such a way as not to be an impediment to the approaches to same nor an obstacle to the removal of other goods, not to cause damage to the shed or wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, or any other device used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, liquid connections or drains, telephone or electric connections. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-109 Closing of wharves for safety reasons. The harbormaster may close the wharves or any portion thereof and regulate and control the use of the same whenever, in the harbormaster's opinion, it is advisable to do so for reasons of safety, fire prevention, or probable interference with cargo handling or vessel operations. No person shall enter upon any wharf so closed without the permission of the harbormaster. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-110 Liability for damage to or loss of merchandise and cargo. (a) The HCDA shall not be liable for any damage to or loss of merchandise or other property on any wharf under its control.

(b) It shall be the responsibility of shipping concerns or their agents to exert every effort to protect cargo from the effect of weather conditions while same is stored on state wharves. This responsibility shall include the proper closing of all openings such as outside doors and windows, and the placing of cargo on pallets or dunnage so that it will not be damaged by moisture from the shed floors. Unless the above precautions are taken and unless carelessness on the part of HCDA employees can be shown, no claim for damage due to inclement weather shall be considered. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-111 Littering or polluting land areas prohibited. (a) No person shall throw, place, leave, deposit or abandon, or cause or permit to be thrown, placed, left, deposited or abandoned any litter, except in receptacles designated by the HCDA for the disposal of such materials. "Litter" as used in this section includes any and all types of debris and substances, whether liquid or solid, and materials such as garbage, refuse, rubbish, glass, cans, bottles, paper, wrappings, fish or animal carcasses or any other substances which render harbor lands or facilities unsightly, noxious or otherwise unwholesome to the detriment of the public health and welfare and effective and safe operation of the harbor.

(b) No person shall deposit oil, oily refuse, sludge, chemicals or other hydrocarbons on state property except in specially designated collection points. These items may not be left in or near standard refuse containers or anywhere else on harbors property. Penalties, including but not limited to the revocation of mooring permits and the right to use the facilities, may be invoked. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-112 Littering or polluting of water prohibited. No person shall place, throw, deposit, or

discharge, or cause to be placed, thrown, deposited, or discharged into the waters of Kewalo Basin any litter, or other gaseous, liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health and welfare, or a navigational hazard. No person shall discharge oil sludge, oil refuse, fuel oil or molasses either directly or indirectly, or pump bilges or ballast tanks containing other than clean water into the waters of Kewalo Basin.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-113 Disposal or salvage of derelict craft. When any owner, agent or individual contemplates or plans the disposal or salvage of a derelict craft, vessel or other object of any size, type or description, by transporting across, within or on navigable waters, whether a part or whole craft or whether a floating or suspended object of any sort which might, if sunk, lost or abandoned in the harbors, channels or shore waters, become a hazard to navigation, to dredging or to other operation of state or federal government, or the public in those waters, that person shall obtain the written permission of the harbor master before taking such action.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-114 Duty of persons who lose, drop or abandon any floating or sinking object. Should any owner, operator, charterer, agent, or individual, without permission of the harbor master, lose, sink, drop, or abandon any floating or sinking object in or on the navigable waters and shore waters of the Kewalo Basin, that person shall immediately notify the harbor master and shall immediately take such action as is necessary for removal of the object. Upon failure on the part of the owner, operator, charterer, agent or individual to remove such object, the HCDA will take such actions through federal or commercial

channels as are necessary for such removal, and will charge all costs incurred by the HCDA in effecting the necessary removal to the owner. The harbormaster may require the posting of a bond to assure payment.
[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-115 Approved backflow prevention device required for water supply system. No person shall connect a vessel's water supply system, siphon or other water-operated device, equipment or mechanism connected to the water supply system or operate any water-operated device, equipment or mechanism connected to the water supply system, unless an approved backflow prevention device has been installed at the faucet or other point of connection. An "approved backflow prevention device" means a backflow prevention device that meets the requirements contained in Standard 1001, American Society of Sanitary Engineers, as it existed on June 1, 1993, or the Uniform Plumbing Code, adopted by the International Association of Plumbing and Mechanical Officials (IAPMO) and as it existed on June 1, 1993.
[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-116 Waste outlets; permit required. Notwithstanding the issuance of a permit, no person shall do any of the following within the Kewalo Basin without first having obtained a permit from the state department of health (not applicable to vessels):

- (1) Discharge any wastes from shore into the waters of Kewalo Basin so as to reduce the quality of the water below the standards of water quality adopted for such waters by the state department of health;
- (2) Construct, install, modify, alter, or operate any treatment works or part thereof or any extension or addition thereto which discharges from shore into the waters of the Kewalo Basin; or

- (3) Construct or use any new outlet for the discharge of any wastes from shore into the waters of the Kewalo Basin.

[Eff ~~HRS §206E-4~~ DEC 03 2008] (Auth: HRS §206E-4)
(Imp: ~~HRS §206E-4~~)

§15-212-117 Loading or unloading flammable liquids. Loading or unloading of flammable liquids shall be in strict accordance with applicable federal laws and regulations. [Eff ~~HRS §206E-4~~ DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-118 Appliances and electrical wiring. All cooking or heating appliances or any other machinery, equipment, utensils, or apparatus which are used by small craft and could be the cause of fire shall be so constructed, installed, wired, situated, maintained, and used so as not to constitute a potential fire hazard. The failure to conform to any statute, rule, regulation, standard, or ordinance affecting fire safety may be considered by the HCDA in determining any violation of this section. Particular attention is directed to the applicable provisions of the state boating rules of the department of land and natural resources. In addition, the approval of any machinery, equipment, utensils, or apparatus by Underwriters' Laboratories, Factory Mutual System, Marine Testing Institute, Inc., or any other nationally recognized electrical testing agency, may be considered by the HCDA in determining compliance with this section. All electrical equipment must be properly grounded. [Eff ~~HRS §206E-4~~ DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-119 Fire extinguishing equipment for small craft. Any small craft utilizing the waters of Kewalo Basin shall be provided with approved fire extinguishers as prescribed in the applicable provisions of the state boating rules of the

department of land and natural resources. The fire extinguishers shall, at all times, be maintained in good and serviceable condition for immediate and effective use, and shall be mounted on wall brackets so located as to be readily accessible.

[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-120 Fueling. (a) All fueling operations shall be done in compliance with the stricter of any applicable federal, state, and county rules and in accordance with the instructions of HCDA or its harbor manager as to location and times. The fueling of vessels at the Kewalo Basin where a marine fueling station has been established, or where authorized tank trucks or tank trailers are available shall be accomplished only at a station, or by tank trucks or tank trailers with a state permit. A permit shall be issued only if:

- (1) Proper application has been submitted;
- (2) Established fees have been paid to the HCDA by the applicant; and
- (3) There exists a comprehensive general liability insurance policy or policies, or a certificate of insurance in lieu thereof evidencing that a policy has been issued and is in force with a combined single limit of not less than \$500,000. The specification of limits contained in this section shall not be construed in any way to be a limitation on the liability of the permittee for any injury or damage proximately caused by it. The insurance shall:
 - (A) Be issued by an insurance company or surety company authorized to do business in the State;
 - (B) Name the State and HCDA, its assigns and managing agent as additional insureds;
 - (C) Provide that the HCDA shall be notified at least thirty days prior to any

termination, cancellation, or material change in its insurance coverage;

- (D) Cover all injuries, losses, or damages arising from, growing out of, or caused by any acts or omissions of the permittee, its officers, agents, employees, invitees, or licensees, in connection with the permittee's use or occupancy of the premises; and
- (E) Be maintained and kept in effect at the permittee's own expense throughout the life of the permit. The permittee shall submit evidence to the HCDA of renewals or other actions to indicate that the insurance policy remains in effect as prescribed in this section.

(b) Prior to fueling a vessel at the Kewalo Basin, the operator shall:

- (1) Securely moor the vessel;
- (2) Stop all engines, motors, fans, and devices which could produce sparks;
- (3) Extinguish all fires;
- (4) Close all ports, windows, doors, and hatches; and
- (5) Clear the area of people not directly involved with the operation of the vessel or servicing of the vessel.

(c) Persons fueling a vessel at the Kewalo Basin shall:

- (1) Refrain from smoking, striking matches, or throwing switches; and
- (2) Keep the nozzle of the fuel hose, or fuel can in continuous contact with fuel tank opening to guard against static sparks.

(d) After fueling is completed, the following actions shall be taken:

- (1) Close fill openings;
- (2) Wipe up all spilled fuel;
- (3) Open all ports, windows, doors, and hatches;
- (4) Leave vessel to ventilate for at least five minutes; and

(5) Check that there are no fuel fumes in the vessel's bilges or below deck spaces before starting machinery or lighting fires.

(e) Fueling a vessel from a fuel barge or barge shall be allowed only when it is done in accordance with operational procedures approved by the United States Coast Guard. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-121 Fishing prohibited. Fishing, as defined in section 187A-1, Hawaii Revised Statutes, is prohibited from all piers, wharves, and bulkhead walls. Casting of fishing lines beyond the shallow marginal reef and into the boat channel is prohibited from the Waikiki side of the Kewalo Basin entrance channel. Fishing with nets is prohibited in the basin and channel areas of Kewalo Basin, except for the use of hand-held scoop nets for landing hooked fish at the shallow marginal reef at the Waikiki side of the Kewalo Basin entrance channel, and as provided in these rules. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-122 Lifesaving equipment required. Any small craft utilizing the waters of Kewalo Basin shall be equipped with lifesaving equipment as required by and approved by the United States Coast Guard. Wearable PFDS must be readily accessible and throw able devices must be immediately available for use.

- (1) Boats sixteen feet or over in length shall carry one Type I, II, or III (wearable) PFD for each person on board and one Type IV (throw able) PFD in each boat; and
- (2) Boats less than sixteen feet in length and all canoes and kayaks shall carry one Type I, II, III or IV PFD for each person on board. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-123 Liquor prohibited on Kewalo Basin and waterfront properties without HCDA approval. Except in accordance with a permit issued by the city and county liquor commission or provided in a revocable permit, no person shall consume any liquor as defined in section 281-1, Hawaii Revised Statutes, at Kewalo Basin or its waterfront property except by prior permission from the HCDA for each occasion. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-124 Responsibility for vessel gangplanks. It shall be the responsibility of the vessel to provide a reliable and safe means of access and egress to and from the vessel and the pier for crew members, passengers and visitors to the vessel. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-212-125 to 15-212-132 (Reserved)

SUBCHAPTER 5

WELDING AND BURNING OPERATIONS ON PIERS AND WHARVES AND ABOARD VESSELS

§15-212-133 Welding and burning operations; permits. Before any welding or burning operation can be done on Kewalo Basin facility or on a vessel moored thereto, the party intending to do the work shall secure a permit from the harbormaster of the Kewalo Basin. Applicants for permits to do hot work shall fill out fully a prescribed form, after which the application shall be presented to the harbormaster, and if in the harbormaster's judgment all safety precautions have been provided for, and the welding and burning operations will not involve the possibility of fire or explosion, the harbormaster may approve the permit to do the work. The party

intending to do the work shall also secure permits from any other governmental agencies as required by law, and notify the fire marshall and United States Coast Guard of the intended work.

[Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-134 Proximity to ammunition and dangerous cargo. If ammunition or other dangerous cargo is in close proximity to or on board the ship where the welding and burning operations will be done, the captain of the port, United States Coast Guard, and all other appropriate federal and state agencies shall be notified, and an inspection shall be conducted, and if in the inspector's opinion the welding and burning operations will not involve the possibility of fire or explosion, permission may be granted to perform the work. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-135 Inspections; chemist's certificate.
(a) Before any welding, burning, spark or flame-producing operations may be undertaken aboard any ship, dock, wharf, or waterfront facility, all spaces subject to the accumulation of dangerous gas or gas-producing materials in or on which hot work is to be performed, and other spaces as may be required by the harbormaster having jurisdiction over the operations, or as required under the provisions of the American Bureau of Shipping as they existed on June 1, 1993, National Fire Protection Association standards as they existed on June 1, 1993, or United States Coast Guard regulations as they existed on June 1, 1993, shall be inspected by an American Bureau of Shipping certified chemist or other qualified chemist. Such spaces include but are not limited to oil and ballast tanks, cofferdams, voids, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventives, including hollow rudders and skegs, paint lockers and shaft alleys.

(b) Upon completion of the inspection, the chemist shall issue a certificate setting forth in writing the conditions found at the time of inspection and indicating by appropriate designations whether, in the chemist's judgment, the contemplated repairs or alterations can be undertaken with safety.

(c) One copy of the chemist's certificate shall accompany the application for a permit, and one copy shall be left aboard the ship or waterfront facility, preferably posted in a conspicuous place near the gangway.

(d) Loading or movement of cargo or the movement of ships from one location to another within the shipyard or installation for which a chemist's certificate has been issued is permissible without requiring an additional inspection and issuance of a chemist's certificate when in the judgment of the inspecting authority, such movement has not been sufficient to create a hazardous situation; provided that the movement of ships from one jurisdictional area to another shall require an additional inspection and issuance of a chemist's certificate before continuing hot work. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-136 Welding and burning; procedures.

(a) Hot work shall be done only in locations and under the procedures as designated in writing on the permit and chemist's certificate.

(b) All welding and burning operations shall be under the supervision and control of a competent foreperson or supervisor who shall ensure that all rules pertaining to welding and burning operations are complied with. [Eff DEC 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-137 Welding and burning operations; fire prevention. (a) In all types of operations, fire prevention shall be the watchword. It shall be the

responsibility of each individual worker to prevent fires.

(b) All combustible materials shall be removed from the area in which the welding and burning operations are being conducted; provided that the combustible materials shall be properly protected if removal is not feasible.

(c) Welding or burning operations shall not be conducted around hatches or companionways unless these are sealed with their own covers or doors. If sealing is not possible, an asbestos blanket or other flame-proof material may be substituted. Such substitution shall meet with the approval of the inspecting authority issuing the permit.

(d) When welding or burning operations are being conducted in locations where sparks could spatter or fly over the outside of the ship hull, a protective shield composed of metal or other flame-proof material shall be used to prevent the sparks from igniting the wharf, dock, barges, oil slicks on the water, or any combustible materials.

(e) Water-charged fire mains, with attached hose and nozzles of sufficient length so that water can reach the base of any fire which may occur, shall be on each deck of the ship where welding or burning operations are being conducted.

(f) Trained fire watchers, the number of which shall be approved by the harbormaster, shall be on board and assigned to each group or individual welder or burner to watch for and extinguish incipient fires. Each fire watcher shall be provided with an approved fire extinguisher or hose line to control any fire which may occur during the welding or burning operations. All fire watchers shall be instructed by the foreperson or supervisor as to their duties in respect to fire prevention and the manner of contacting their plant, or the industrial or municipal fire department when necessary.

(g) When welding or burning operations are conducted on a wooden wharf or on a fire resistive paved wharf with cracks or crevices, the entire surrounding area shall be drenched with water by means

of a hose line and shall be kept wet during entire operations to prevent sparks from igniting the flooring or timbers below. [Eff DEC 03 2008]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-138 Petroleum and other flammable products. (a) No refueling of equipment with flammable petroleum products shall be permitted on any pier or wharf.

(b) On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored except as required for normal operation, and then only when stored in approved metal lockers and in quantities approved by the harbormaster.

(c) Petroleum-based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe from hot work operations. All paint or other flammable liquid materials shall be kept securely covered except when in actual use.

(d) Gasoline-powered generators and compressors shall not be operated on the ship, but shall be kept on the wharf. The generators and compressors shall be equipped with a spark arrester on the exhaust pipe, and a drip pan set in a position to protect the wharf in the event of any gasoline or oil spillage. An attendant shall stand by at all times, equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, the gasoline-powered equipment shall be removed from the wharf. Insulated wire cables in the path of traffic shall be protected from damage by crossovers, and cables leading onto the ship shall be protected from chafing damage by a protective-wrapped covering. Where electric cables lead from one ship to another, the same protective measures shall be complied with.

(e) When acetylene or oxygen cylinders are used, the following precautions shall be followed:

- (1) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times;
- (2) To avoid any possibility of explosion resulting from a ruptured gas cylinder, cylinders shall not be dropped. Cylinders shall not be used for rollers, anvils, or supports;
- (3) When cylinders are not in use, valves shall be closed and protection caps shall be replaced;
- (4) Cylinders shall not be handled by cranes, except when placed in specially constructed bottle racks or in a skip box. Gas cylinders shall not be hoisted by magnet, manila line, steel cable, chains, slings, or nets;
- (5) Cylinders shall be secured on a wheeled truck to be easily moved if a fire occurs in the immediate vicinity;
- (6) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection;
- (7) Valve and hose connections shall be kept tight to prevent leaks. To check for leakage, liquid detergent or soapy water solution shall be applied. Flame shall not be used to check for leaks;
- (8) Cylinders shall be kept away from sparks, flame or heat;
- (9) Acetylene hose shall be tested frequently for leaks. If acetylene has been escaping in confined areas, the areas shall be properly cleared of all gas before welding or burning operations are again carried on. Acetylene hose in the path of traffic shall be protected from damage by use of crossovers;
- (10) No acetylene torch shall be left unattended while burning, and when not in use, the hose

shall be neatly and properly coiled or looped and placed on bracket at cylinders, and the pressure in the hose shall be relieved by closing off the valves on the cylinders and opening the valves on the torch. Lines left unattended during meal times or other extended periods shall be either removed from compartments or disconnected at the cylinders;

- (11) Oxygen cylinders shall be kept free from oil and grease at all times;
- (12) Oxygen shall not be used to blow out oil pipes, for paint spraying, or for pneumatic tools;
- (13) Manifolding or the coupling together of cylinders when necessary to obtain greater amounts of acetylene and oxygen shall be done in conformity with the rules and regulations of the Standards of the American Society of Mechanical Engineers as they existed on June 1, 1993, or the Regulations of the National Board of Underwriters as they existed on June 1, 1993; and
- (14) Compressed gas cylinders shall not be refilled on any wharf. [Eff **DEC 03 2008**]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-139 Penalties. Violation of sections 15-212-133 to 15-212-138 shall be cause for immediate revocation of a permit issued for welding and burning operations and subject such party to such other penalties as provided by law and pursuant to section 206E-22. [Eff **DEC 03 2008**] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-212-140 Notification of other agencies. When the harbormaster has issued a permit to do hot work, the appropriate federal and local agencies shall be notified. [Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-212-141 to 15-212-147 (Reserved)

SUBCHAPTER 6

PRIVATE INSTALLATION OR CONSTRUCTION

§15-212-148 Dredging, filling, and construction.

(a) Any person, firm, or corporation desiring to perform any dredging, filling, or erecting of any construction within Kewalo Basin and entrance channel for Kewalo Basin, shall first obtain a permit therefore from the HCDA.

(b) The application for any dredging, filling, or construction shall be in the form prescribed by the HCDA, accompanied by maps and drawings which shall clearly show the location, scope, character, and details of the proposed work, and shall be further accompanied by a fee of \$50 to cover costs of the necessary investigation. This fee is not refundable whether or not a permit is granted.

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-149 Jurisdiction of other agencies. The United States Army Corps of Engineers, the state department of health, and the state department of land and natural resources may have certain jurisdiction over navigable waters. The approval of these agencies shall also be secured before performing work within their jurisdictions. When directed, the applicant shall notify the United States Coast Guard of such work for publication of a "Notice to Mariners".

[Eff **DEC 03 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-150 Installation of buoys. Any person desiring to install mooring or anchorage buoys in Kewalo Basin shall apply to the HCDA in writing for permission to install such buoys. Applications must

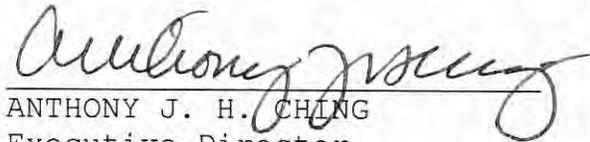
be accompanied by comprehensive plans showing the exact proposed location of buoys and anchors, as well as plans and specifications of the type and size of buoy and anchoring equipment. The executive director may grant permission for the installation of moorings or buoys in Kewalo Basin if, in the executive director's judgment, it is advisable and will not be a menace to, or interfere with, navigation. The right is reserved by the executive director to revoke any license or permission for installation at any time, if in the executive director's opinion revocation is necessary or advisable. Upon revocation, the owner shall remove the moorings or buoys without delay. [Eff **DEC 0 3 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-212-151 Construction of structures. No buildings or structures of any nature shall be erected or constructed on HCDA property, nor shall existing structures be modified, without obtaining the prior permission of the HCDA and any other governmental agency as required by law. The HCDA may require plans, specifications, and other pertinent data to accompany any request for construction or modification of state facilities. In general, approval shall be dependent on an agreement to return the property to its original state when vacating the property, if requested by the HCDA. [Eff **DEC 0 3 2008**] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-212-152 to 15-212-158 (Reserved)

Chapter 15-212, Hawaii Administrative Rules, on the Summary Page dated November 5, 2008, was adopted on November 5, 2008, following a public hearing held on August 1, 2007, after public notice was given in the Honolulu Star-Bulletin, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Isle on July 2, 2007.

The adoption of Chapter 15-212 shall take effect ten days after filing with the Office of the Lieutenant Governor.

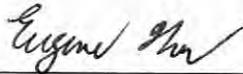


ANTHONY J. H. CHING
Executive Director
Hawaii Community Development
Authority



THEODORE E. LIU
Director
Department of Business,
Economic Development, and
Tourism

APPROVED AS TO FORM:



Deputy Attorney General



LINDA LINGLE
Governor
State of Hawaii

Date: NOV 24 1 46 PM '08

OFFICE
LIEUTENANT GOVERNOR

Filed

ATTACHMENT D

Tenant Self-Inspection Form



TENANT SELF INSPECTION FORM

Date Survey Completed: _____	Company Representative: _____
	(Print): _____
Company Name: _____	(Signature): _____
	Representative Business Address: _____
Facility Address: _____	
Fax Number: _____	Phone Number: _____

Please answer each category. If a question does not apply, please indicate with N/A.
 Multiple AST, MST, or UST, please list separately on another sheet with information requested.

Above Ground Storage Tanks: _____ Number of ASTs: _____ Tank Size (gal.): _____ Materials of Constuction: _____ Material Stored: _____	Oil/Water Separators: _____ Design Size (Gal.): _____ Design Throughput (gpm): _____ Source: _____ Where does water go? _____ Where does oil go? _____ City & County Permit Number: _____
Mobile Storage Tanks: _____ Number of MSTs:: _____ Tank Size (gal.): _____ Materials of Construction: _____ Number of Compartments/Size (gal.): _____ Material Stored: _____ License Plate Number: _____	Do you perform aircraft maintenance? Yes / No (Circle one) Do you perform vehicle maintenance? Yes / No (Circle one) Waste Storage: _____ Drums: _____ Secondary Containment: _____
Under Ground Storage Tanks: _____ Number of USTs: _____ Tank Size (gal.): _____ Material Stored: _____ In Service (Y/N): _____	Used Batteries: _____ Secondary Containment: _____ Solvent Recovery: _____ Secondary Containment: _____
Number of Spill Response Kits: _____ Clean-up Material /Type: _____ Location in Facility: _____	Waste Oil Storage: _____ Material Stored: _____ Amount (Gallons/Mo.) _____ Removal Method _____
Drum Storage Sites: _____ Secondary Containment: _____ Location in Facility: _____	
Paint Booth Sites: _____ Location in Facility: _____	
Vehicle Wash Sites: _____ Location in Facility: _____	

ATTACHMENT E

Facility Inspection Checklist



Kewalo Basin - HCDA

Compliance, Best Management Practices (BMPs), and Pollution Prevention (P2)

Inspection Checklist

Facility Name: _____ Inspector(s): _____
 Facility Address: _____ Phone Number: _____
 _____ Weather Conditions _____
 Facility Representative(s): _____ SIC or NAICS: _____
 Inspection Date/Time: _____ Next Inspection Due _____

NON-STORM WATER DISCHARGES		YES	NO	N/A	Comments
1	Areas of the facility exposed to storm water aren't wet during dry weather and are free of stains.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2	Discharge points to storm drainage system do not exhibit unusual characteristics such as color, odor, sheen, foam, or floatables.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3	Discharge pathway of all floor and facility drains is acceptable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

MAINTENANCE AND REPAIR		YES	NO	N/A	Comments
4	Maintenance is performed in authorized area and clean up activities do not impact storm water drainage system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5	Greasy or leaking equipment is stored under cover or with drip pans.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6	Fluids and batteries are removed from salvage equipment before storage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7	Hazardous material substitutions have been explored and are being implemented.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8	List of maintenance inventory available for inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9	Materials such as grease, oil, antifreeze, brake fluid, cleaning agents, hydraulic and trans. fluid, solvents, paints, batteries and filters are recycled or disposed of properly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10	Maintenance employees have received awareness training on storm water BMPs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

FUELING		YES	NO	N/A	Comments
11	Fueling area engineering controls and BMPs are effective in preventing storm water run on/runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
12	Secondary containment devices for fixed and mobile fueling areas are adequate to contain spills.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
13	Structural controls, such as sumps, oil/water separators, and containment areas are being maintained properly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
14	Fueling areas are free of unattended stains and spill cleanup practices/materials (Spill Kits) are adequate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
15	Visible piping, tanks, and hoses do not exhibit signs of leakage, wear, or malfunction. Fuel pumps and tank inlets are clearly labeled. Inspection log available for inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16	Fuel-handling employees are trained on fueling BMPs, spill cleanup practices, and the content of the SPCC plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Inspector Name: _____
 Kewalo Basin MS4
 Tenant Checklist

Date: _____

VEHICLE AND EQUIPMENT WASHING		YES	NO	N/A	Comments
17	Washing takes place in an designated area and is designed to prevent storm water run on/runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18	Discharges from washing activities are authorized by permits if required, and permit documents are on file at facility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19	Wash water treatment system, such as sumps, oil/water separators, and reclamation systems are maintained and operational.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20	Cleaning agents and equipment are stored properly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21	Solid wastes from washing activities are disposed of properly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

OUTDOOR MATERIAL HANDLING		YES	NO	N/A	Comments
22	Loading areas are designed and located to minimize impacts to storm water drainage system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
23	Loading areas are free of unattended stains or pavement degradation indicating poor material handling practices.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
24	Adequate plans and spill cleanup materials are on hand to address spills and leaks due to material transfers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
25	Material handling employees and/or forklift operators have been trained on material handling BMP.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

OUTDOOR CONTAINER STORAGE		YES	NO	N/A	Comments
26	Storage area has adequate secondary containment and integrity protection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
27	Containers are compatible with materials stored, free of damage, and labeled correctly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
28	Bulk product storage containers are equipped with overflow protection alarms or automatic shutdown pumps.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
29	Storm water accumulation in secondary containment areas is minimized, managed, disposed of correctly, and logged.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

WASTE HANDLING AND DISPOSAL		YES	NO	N/A	Comments
30	Hazardous waste, recyclable battery, used lamp, and used oil storage areas have adequate secondary containment and integrity protection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
31	Containers are compatible with materials stored, free of damage, labeled correctly, and not stored past allowable hold times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
32	Storm water accumulation in secondary containment areas is minimized, managed, disposed of correctly, and logged.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
33	Waste storage areas are free of unattended spills or degradations indicating poor waste handling practices.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
34	Wastes are disposed of properly, records kept, employees trained, and hazardous waste generator status is known.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
35	Waste reduction opportunities have been explored and implemented.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Inspector Name: _____
 Kewalo Basin MS4
 Tenant Checklist

Date: _____

BUILDINGS AND GROUNDS HOUSKEEPING		YES	NO	N/A	Comments
36	Good housekeeping controls are implemented to contain debris and pollutants generated by building maintenance activities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
37	Paved surfaces are swept vs. washed down and sweepings are disposed of properly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
38	Fertilizers, pesticides, and herbicides applications pose minimal storm water impacts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
39	Storm water drainage system is maintained regularly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

OIL/WATER SEPARATORS MAINTENANCE		YES	NO	N/A	Comments
40	Operation and maintenance of oil/water separator (OWS) is adequate and wastes are disposed of properly. Maintenance log/disposal manifest available for inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

EMERGENCY SPILL CLEANUP PLANS		YES	NO	N/A	Comments
42	SPCC or Emergency Spill Cleanup Plan is adequate and being implemented effectively.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
43	Spill kits are in high-risk areas and are appropriately stocked and labeled.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
44	Employees have been trained in spill prevention and response and spill and training records are maintained on site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Inspector Name: _____
 Kewalo Basin MS4
 Tenant Checklist

Date: _____

HAZARDOUS MATERIAL/WASTE MANAGEMENT			YES	NO	N/A	Comments
45	Products are used completely before disposal.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
46	Hazardous materials are purchased and stored in minimal quantities. Choose nonhazardous substitutes when possible.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
47	Hazardous materials are recycled and/or reused when possible (spent batteries, used flammable paint, or used lamps).		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
48	Toxic liquid wastes (used oils, solvents, acids, bases, pesticides, and paints) are not disposed of in dumpsters designated for solid waste.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
49	Hazardous materials are purchased and stored in minimal quantities.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
50	Hazardous Waste Storage Area (s) designated under roof and secured. Secondary containment used under liquid hazardous waste. Spill kit available in Hazardous Waste Storage Area (s).		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
51	Hazardous waste not mixed to prevent adverse chemical reactions and complicate (add cost) disposal.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
52	Hazardous materials are recycled and/or reused when possible (spent batteries, used flammable paint, or used lamps).		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
53	Hazardous materials are purchased and stored in minimal quantities.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
54	Regular hazardous waste collection is scheduled and performed by qualified and licensed contractor (s).		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
55	Hazardous Waste generator status is known and associated requirements followed.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
56	Personnel that handle hazardous material and waste are properly trained.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

REVIEW OF STORM WATER POLLUTION CONTROL PLAN (SWPCP)/ SPILL PREVENTION CONTROL AND CONTERMEASURE PLAN (SPCC)							YES	NO	N/A	Comments
57	The facility has a SWPCP and/or SPCC if required under the Consent Decree or applicable regulations. [if facility is not required to obtain either skip this section]		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
58	All changes to the facility layout have been updated in the SWPCP and/or SPCC.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
59	The existing BMPs and P2 practices are effective in reducing potential for storm water pollution.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
60	Personnel responsible for the SWPCP and SPCC are listed in the respective plans.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
50	Is employee training up-to-date. Are training records documented.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
51	Has annual sampling and analysis been performed and submitted to DOH and/or EPA as specified in SWPCP.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					

Inspector Name: _____
 Kewalo Basin MS4
 Tenant Checklist

Date: _____

Item No.	Alleged Violation or Corective Action

Inspection Photos

Photo ID	Photo Description

Inspector Name: _____
*Kewalo Basin MS4
 Tenant Checklist*

Date: _____

ATTACHMENT F

Harbor Master Notice “Prohibiting Disposal of Regulated Hazardous Waste”



**Harbor Master Notice “Prohibiting Disposal of Regulated
Hazardous Waste” and Attachment A, “General Description
of Hazardous Waste and Recycled Used Oil”**

January 15, 2003

TO: HARBOR TENANTS

FROM: PATRICK E. TORRES, HONOLULU HARBOR MASTER
HARBORS DIVISION

SUBJECT: PROHIBITING DISPOSAL OF REGULATED HAZARDOUS WASTE

The State Department of Health requires annual notification by refuse haulers to their clients, tenants and generators of the regulations prohibiting disposal of regulated hazardous waste at a municipal refuse site.

This serves as the required notification and your acknowledgement of the following:

1. Disposal of regulated hazardous waste, as defined in Federal (40 CFR 261) or state laws (HAR 11-260 to 280) and as generally described in Attachment A, in municipal refuse at HPOWER is strictly prohibited.
2. When waste material which matches the description in the hazardous waste regulations is produced at the facility, such material will be separated from municipal refuse and disposed of separately as a hazardous waste, in accordance with Federal and State regulations.
3. Waste loads are subject to periodic inspection. If hazardous wastes are found during such inspection, the generator will be identified and appropriate sanctions will be imposed.
4. Failure to comply with this prohibition subjects the generator and the hauler to possible civil and criminal actions.

If there is any doubt as to whether a waste (or used oil) is hazardous, the Federal Register 40 CFR 261 defining hazardous waste (and used oil) under EPA and Hawaii Department of Health should be reviewed, and if necessary, the generator can consult with the Solid and Hazardous Waste Branch of Hawaii, Department of Health, telephone number 586-4226, to determine if the waste is hazardous.

Honolulu Tenants
Page 2
January 15, 2001

HAR.0C1
4035.03

Also attached is the standing Harbor Master Notice 8-29 regarding Waste Oil Collection and Disposal Service referencing Hawaii Administrative Rules, Commercial Harbors and Tariff, Section 19-42-126(b) Littering or Polluting Areas Prohibited.

Atts

bc: HAR-OC1; HAR-OC2, HAR-OC3; HAR-OCG; HAR-OCK, HAR-OCB

CF:jls

ATTACHMENT A

GENERAL DESCRIPTION OF HAZARDOUS WASTE AND RECYCLED USED OIL

Chemicals that are used in the work place must be labeled if they contain hazardous chemicals and must come with a material safety data sheet (MSDS), which describes the safety precautions to use with the chemicals.

The label is red if it contains highly flammable material (flash point less than 140°F), such as gasoline or alcohol; is blue if it is a toxic chemical and a health hazard, such as chlorobenzene; is yellow if it is reactive or unstable or is white if it is corrosive, infectious, or radioactive. Any labeled chemicals of waste produced from using such labeled chemicals must be presumed to be hazardous, and as such, not discarded with municipal solid waste (MSW).

Firms should compile an inventory of the hazardous chemicals they use and make sure they never discard any of these chemicals in their MSW. In addition, they should become familiar with the general characteristics of a hazardous waste, which can be any one or a combination of the following:

- Ignitable: a liquid with a flash point below 140°F, or a solid which causes fire through friction or adsorption of moisture, or a compressed gas which is “ignitable” and/or vigorously supports combustion.
- Corrosive: a liquid with a pH greater than 12.5 or less than 2.0.
- Reactive: normally unstable and readily undergoes violent reactions, including detonations or explosion.
- Toxic: if taken into the body, would likely cause serious health problems.

In addition, EPA has specified that certain types of waste, such as spent halogenated solvents used in degreasing or wastewater treatment sludges from electroplating operations, must be considered hazardous. Your industry association can tell you whether it is likely your waste may be hazardous. There are also specific wastes such as reaction by-product water from the drying column in the production of tolisenadamine, which generally come from producing chemicals EPA has classified as hazardous. If you are a chemical manufacturer, you should already know about these listed wastes.

Generally used oil mixed with conditionally exempt small quantity generator (“squee-gee”) waste is not hazardous waste, and household “do-it-yourself” oil changes are not subject to regulation (unless delivered to a collection site). All others must be carefully reviewed as potentially hazardous waste.

Finally, there is a broader list of chemicals and radioactive or infectious materials which are prohibited from disposal with municipal solid waste. Contact the Solid and Hazardous Waste Branch of Hawaii Department of Health, telephone number 586-4226, for specifics.

ATTACHMENT G

Used Oil Disposal Instructions



STATE OF HAWAII

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

**DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT &
TOURISM**



USED OIL

사용유

DAÀU CUŌ

**DISPOSAL INSTRUCTIONS
FOR KEWALO BASIN HARBOR**

1.0 INTRODUCTION

Used oil can be a dangerous pollutant if improperly managed. One gallon of used oil can contaminate one million gallons of water and can injure fish, birds, and other wildlife. In addition, used oil contains toxic components that can cause cancer and other diseases in humans. If used oil is contaminated with a hazardous waste such as solvents, paint, paint thinner, anti-freeze, fuel, or heavy metals, the whole mixture can become hazardous waste.

Used oil must be recycled. Hawaii Community Development Authority (HCDA) has provided an oil collection stations in Kewalo Basin near the Harbor Agent's office on the makai-side of the harbor. Also Hawaii Department of Transportation – Harbors Division continues to provide two oil collection stations at Pier 18 and Pier 36 in Honolulu Harbor. These stations are provided at no cost to small craft and smaller commercial vessel users. A private contractor (currently Unitek) collects and arranges for recycling of diesel fuel, bilge water (oily water) and used oil from these collection points.

2.0 USE OF OIL COLLECTION STATIONS

➤ DO's

- Pour smaller containers of oil, bilge water and diesel fuel into 55-gallon drums provided. Try not to mix different types of used fluids.
- Ensure that containers are completely drained and place in a sealed plastic garbage bag before disposal in the trash bins.
- Clean up spills from transfer of fluids.
- If 55-gallon drums are full, other containers may be left on the spill pallets inside the oil collection stations provided that the containers are in good condition and labeled with contents of fluid. (Good condition in this case means tightly closed, not dented, corroded (rusted), cracked, or leaking.)
- Place drums of used fluids on the spill pallets inside the collection station.
- Oil filters may be drained in a vertical position for 24 hours, placed in a sealed plastic rubbish bag and disposed of in the trash bins.

➤ DON'Ts

- Mix oily water (bilge) or fuel with used oil.
- Leave oil filters or other trash in the oil collection stations.
- Mix used oil, oily water or diesel fuel with paint, paint thinner, anti-freeze, soap or any hazardous waste.
- Leave hazardous waste in or outside the oil collection stations or trash bins. It is the responsibility of the vessel owner to dispose of such materials. If you have questions regarding whether a substance is hazardous, Contact the Kewalo Basin Harbor Agent at 594-0849.
- Pour liquids into the spill pallets or floors in the oil collection stations.
- Remove empty 55-gallon drums from the oil collection stations. It is the responsibility of the vessel owners to provide drums for transport to the oil collection stations.
- Leave drums or containers of oil, bilge water or fuel outside of the oil collection stations or in the vicinity of the trash bins.

3.0 LAWS, RULES AND REGULATIONS

HAWAII REVISED STATUTES (HRS)

HRS §342J-52 Standards for persons who deal with used oil or used oil fuel.

(b) No new oil, used oil or recycled oil shall be discharged or caused or allowed to enter into the sewers, drainage systems, surface or ground water, watercourse, marine waters or into the ground.

HRS §342J-09 Civil penalties provide for a maximum \$25,000. for each separate offense.

HAWAII ADMINISTRATIVE RULES (HAR)

HAR §15-212-111 Littering or polluting land area prohibited.

(b) No Person shall deposit oil, oily refuse, sludge, chemicals or other hydrocarbons on state property except in specially designated collection points. These items may not be left in or near standard refuse containers or anywhere else on harbors property. Penalties including but not limited to the revocation of mooring permits and the right to use the facilities, may be revoked. [Eff Dec 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

HAR §15-212-112 Littering or polluting waters prohibited

No person shall place, throw, deposit, or discharge, or cause to be placed, thrown, deposited, or discharged into the waters of Kewalo Basin any litter, or other gaseous, liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health and welfare, or a navigational hazard. No person shall discharge oil sludge, oil refuse, fuel oil or molasses either directly or indirectly, or pump bilges or ballast tanks containing other than clean water into the waters of Kewalo Basin. [Eff Dec 03 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

4.0 ENFORCEMENT

Violations will be investigated by the HCDA, its Harbor Agent, and Harbor Patrol and violators will be cited and permits revoked. Eye witness reports and surveillance devices such as video cameras will be used to identify violators and other noncompliance with Kewalo Basin rules. Public participation is intended to raise public consciousness of water quality issues and create a sense of responsibility for water quality, to lessen the likelihood that informed members of the public will commit actions which may lead to water quality degradation. Public awareness of storm water quality issues may invite comment by informed members which leads to a better and more effective plan, and better implementation.

Harbors Division has invited public involvement/participation during the previous NGPC term by posting the Storm Water Management Plan to the Harbors Division website. Currently HCDA will do the same and post this revised SWMPP on the HCDA website. On the TSI and during annual compliance inspection, HCDA will inform the tenants and the public the location of the SWMPP on the HCDA website and ask them to provide comments to the program and plan. Comments received will be replied to and posted on the website.

Effectiveness of the TSI mailing and compliance inspections will be assessed by the responses provided by the tenant public, and comments received by HCDA.

NOTICE

Dumping of appliances, construction material, vehicular tires, batteries, scrap metal, gas cylinders, hazardous materials and petroleum products prohibited. Violators will be subject to a maximum penalty of \$1,000.00

Harbors Division

Harbors Administrative Rules

LEAVING OIL OR PETROLEUM PRODUCTS ON HARBORS PROPERTY, OTHER THAN AT OIL COLLECTION STATIONS SUBJECT TO A MAXIMUM \$1,000.00 FINE.

HARBORS DIVISION
HAWAII ADMINISTRATIVE RULES

ĐỪNG NÊN ĐỂ NHỮNG CHẤT DẦU MỎ
Ở NHỮNG NƠI NÀO KHÁC, HƠN LÀ NHỮNG NƠI CHỨA
CHỈ ĐỊNH THUỘC VÙNG TÀI SẢN CỦA HẢI CẢNG.

NẾU KHÔNG LÀM THEO LUẬT LỆ SẼ BỊ PHẠT,
TIỀN PHẠT TỐI ĐA LÀ MỘT NGÀN ĐÔ LA

ĐIỀU LUẬT HÀNH CHÁNH CỦA CƠ QUAN HẢI CẢNG

기름이나 석유를 지정된 장소 외에 버리면 벌금 \$1,000.00 부과함
하와이 항구과 관리법

01/22/2009 12:57 AM

ATTACHMENT H

Example Revocable Lease



Lease Agreement Addendum 1

Environmental Compliance - Lessee's Duties

ADDENDUM 1

ENVIRONMENTAL COMPLIANCE – LESSEE'S DUTIES

A. Definitions.

For purposes of this Lease, Lessee agrees and understands that the following terms shall have the following meanings:

“Environmental Laws” shall mean all federal, state and local laws of every nature including statutes, ordinances, rules, regulations, codes, notices, standards, directives of every kind, guidelines, permits, licenses, authorizations, approvals, interpretations of the foregoing by any court, legislative body, agency or official, judicial decisions, orders, rulings or judgments, or rules of common law which currently are in effect or which may come into effect through enactment, issuance, promulgation, adoption or otherwise, which in any way pertain to, relate to, or have any relevance to the environment, health or safety. These environmental laws include, but are not limited to, regulations and orders of the federal Environmental Protection Agency and of the State of Hawaii Department of Health.

“Hazardous Substance” shall mean and include any chemical, substance, organic or inorganic material, controlled substance, object, condition, waste, living organism, or combination thereof which is, may be, or has been determined by proper state or federal authority under any environmental law to be, hazardous to human health or safety or detrimental to the environment. This term shall include, but not be limited to, petroleum hydrocarbons, asbestos, radon, polychlorinated biphenyls (PCBs), methane, and other materials or substances that are regulated by state or federal authorities.

B. Lessee's Activities and Duties.

1. **Compliance with Environmental Laws.** Lessee agrees, at its sole expense and cost, to comply with all environmental laws that apply to the leased premises during the term of this lease, and Lessee's occupancy of, and activities on, the leased premises. This duty shall survive the expiration or termination of this lease which means that the Lessee's duty to comply with environmental laws shall include complying with all environmental laws, regulations and orders that may apply, or be determined to apply, to the occupancy and activities of the Lessee on the leased premises after the expiration or termination of this lease. Failure of the Lessee to comply with any environmental laws shall constitute a breach of this lease for which the Lessor shall be entitled, in its discretion, to terminate this lease and take any other action at law or in equity it deems appropriate. Lessee shall conform its operations with 49 CFR, Part 195 (Pipeline Safety), and shall install Time Domain Reflectivity (TDR) cable leak detection and monitoring equipment, which meet or exceed industry standards, adjacent to the fuel pipelines and related facilities, to provide an indication of any leak occurrence from any fuel pipeline or containment

device. In addition, the Lessee shall install a secondary containment wall/vaulting to prevent releases into the environment. The Lessee shall also develop, implement, and follow a written integrity management program that addresses the risks of each pipeline, and provides for periodic assessment of the integrity of each pipeline through internal inspection, pressure testing, or other equally effective assessment means, on a regular basis.

2. **Hazardous Substances.** Lessee shall not use, store, treat, dispose, discharge, release, generate, create, or otherwise handle any Hazardous Substance, or allow the same by any third person, on the leased premises (with the exception of the intended routine management of the petroleum products within the proposed pipeline) without first obtaining the written consent of the Lessor and complying with all environmental laws, including giving all required notices, reporting to, and obtaining permits from, all appropriate authorities, and complying with all provisions of this lease.

3. **Notice to Lessor.** Lessee shall keep Lessor fully informed at all times regarding all environmental law related matters affecting the Lessee or the leased premises. This duty shall include, without limited the foregoing duty, providing the Lessor with a current and complete list and accounting of all hazardous substances of every kind which are present on or about the leased premises and with evidence that the Lessee has in effect all required and appropriate permits, licenses, registrations, approvals and other consents that may be required of or by federal and state authorities under all environmental laws. This duty shall also include providing immediate written notice of any investigation, enforcement action, remediation, or other regulatory action, order of any type, or any legal action, initiated, issued, or any indication of an intent to do so, communicated in anyway to the Lessee by any federal or state authority, or individual, which relates in any way to any environmental law, or any hazardous substance, and the Lessee or the leased premises. As part of this written notice to the Lessor, the Lessee shall also immediately provide the Lessor with copies of all written communications from individuals, or state and federal authorities, including copies of all correspondence, claims, complaints, warnings, reports, technical data and any other documents received or obtained by the Lessee. At least thirty days prior to termination of this lease, or termination of the possession of the leased premises by Lessee, Lessee shall provide the Lessor with written evidence satisfactory to the Lessor that Lessee has fully complied with all environmental laws, including any orders issued by any governmental authority to the Lessee that relate to the leased premises.

4. **Notice to Authorities.** Lessee shall provide written notice to the Environmental Protection Agency and the State of Hawaii Department of Health at least sixty days prior to the termination of this lease, or sixty days prior to Lessee's termination of possession of the leased premises, whichever occurs first, that Lessee intends to vacate the leased premises and terminate its operations on those leased premises. Lessee shall allow the agents or representatives of said authorities access to the leased premises at any and all reasonable times for the purpose of inspecting the leased premises, and taking samples of any material for inspection or testing for compliance with any environmental laws. Lessee shall provide copies of said written notices to Lessor at the time said notices are provided to said authorities.

5. **Disposal/Removal.** Except for materials that are lawfully sold in the ordinary course of the Lessee's business, Lessee shall cause any hazardous substances to be removed from the leased premises for disposal, and to be transported from the leased premises solely by duly

licensed hazardous substances transporters, to duly licensed facilities for final disposal as required by all applicable environmental laws. Lessee shall provide Lessor with copies of documentary proof, including manifests, receipts, or bills of lading, which reflect that said hazardous substances have been properly removed and disposed of in accordance with all environmental laws.

6. Environmental Investigations and Assessments. The Lessee, at its sole cost and expense, shall cause to be conducted such investigations and assessments of the leased premises to determine the presence of any hazardous substance on, in, or under the leased premises as may be directed from time to time by the Lessor, in its sole discretion, or by any federal or state authority. The extent and number of any environmental investigations and assessments shall be determined by the Lessor or the federal or state authority directing said investigations and assessments to be conducted. Lessee shall retain a competent and qualified person or entity that is satisfactory to the Lessor or governmental authority, as the case may be, to conduct said investigations and assessments. Lessee shall direct said person or entity to provide the Lessor or governmental authority, if so requested, with testable portions of all samples of any soils, water, ground water, or other material that may be obtained for testing, and provide to the Lessor and the governmental authority written results of all tests on said samples upon completion of said testing.

7. Remediation. In the event that any hazardous substance is used, stored, treated, disposed on the premises, handled, discharged, released, or determined to be present on the leased premises, Lessee shall, at its sole expense and cost, remediate the leased premises of any hazardous substances, and dispose/remove said hazardous substance in accordance with paragraph 4. This duty to remediate includes strictly complying with all environmental laws and directives to the Lessee to remediate said hazardous substance from the Lessor. This duty to remediate shall include replacement of any materials, such as soils, so removed with material that is satisfactory to the Lessor and governmental authority, as the case may be. In the event Lessee does not remediate the leased premises to the same condition as it existed at the commencement of the lease, as determined by the Lessor, Lessee understands and agrees that Lessor may exercise its rights under the paragraph entitled Lessor's Right to Act, and until such time as the remediation is complete to the satisfaction of the Lessor, Lessee shall be liable for lease rent in the same manner and amount as if the lease had continued in effect during the period of remediation.

8. Restoration and Surrender of Premises. The Lessee hereby agrees to restore the leased premises, at its sole cost and expense, including the soil, water and structures on, in, or under the leased premises to the same condition as the premises existed at the commencement of this lease, fair wear and tear to the structures excepted. In the event Lessee does not restore the leased premises to the same condition as it existed at the commencement of the lease, as determined by the Lessor, Lessee understands and agrees that Lessor may exercise its rights under the paragraph entitled Lessor's Right to Act, and until such time as the restoration is complete to the satisfaction of the Lessor, Lessee shall be liable for lease rent in the same manner and amount as if the lease had continued in effect during the period of restoration.

9. Lessor's Right to Act. In the event Lessee fails for any reason to comply with any of its duties under this lease or under any environmental laws within the time set for doing so, or

within a reasonable time as determined by the Lessor, Lessor shall have the right, but not the obligation, in its sole discretion, to perform those duties, or cause them to be performed. Lessee hereby grants access to the leased premises at all reasonable hours to the Lessor, its agents, and anyone designated by the Lessor in order to perform said acts and duties. Any cost, expense, or liability of any type that may be incurred by the Lessor in performing said acts or duties shall be the sole responsibility of the Lessee, and Lessee hereby agrees to pay for those costs and expenses, and indemnify the Lessor for any liability incurred. This obligation shall extend to any costs and expenses incident to enforcement of Lessor's right to act, including litigation costs, attorneys fees, and the costs and fees for collection of said cost, expense or liability.

10. Release and Indemnity. Lessee hereby agrees to release the Lessor, its officers, agents, successors, and assigns from any liability of any kind, including, but not limited to, any liability for any damages, penalties, fines, judgments, or assessments that may be imposed or obtained by any person, agency, or governmental authority against the Lessee by reason of any hazardous substance that may be present by whatever means on, in or under the leased premises. The Lessee hereby agrees to indemnify, defend with counsel suitable to the Lessor, and hold harmless the Lessor from any liability that may arise in connection with, or by reason of, any occurrence involving any hazardous substance that may be alleged to be connected or related in any way with the leased premises, the Lessor's ownership of the premises, or this lease, including the presence of any hazardous substance on the leased premises.

11. Surety/Performance Bond for Cleanup/Restoration. At its sole cost and expense, Lessee shall provide the Lessor with a Bond, or other security satisfactory to Lessor, in the amount of \$100,000.00 to assure removal of any hazardous substances, and the remediation and restoration of the leased premises during the term of, and at the conclusion of the lease so as to comply with the terms of this lease to the satisfaction of the Lessor, and in order to comply with environmental laws. Lessee shall provide written evidence that said Bond or security has been secured by the Lessee, which evidence shall indicate the term during which said Bond or other security shall irrevocably remain in effect.

12. Insurance. Effective at the commencement of this lease, Lessee shall obtain and keep in force a comprehensive liability and property damage policy of insurance issued by an insurer licensed to do business in the State of Hawaii, with limits of indemnity coverage no less than \$1,000,000. Said policy of insurance shall provide coverage for personal injury or damage to property caused by hazardous substances or any occurrence that may constitute a violation of any environmental law by the Lessee. Said policy of insurance shall name the Lessor as an additional insured. Lessee shall provide proof of said insurance satisfactory to the Lessor which shall include, at a minimum, the coverage provided, and the term during which said policy shall be effective.

ATTACHMENT I

Kewalo Basin Mooring and Commercial Fishing Permits



Excerpt from Standard Revocable Permit

Environmental Compliance - Permittee's Duties

26. SPECIAL TERMS AND CONDITIONS.

ENVIRONMENTAL COMPLIANCE – PERMITTEE'S DUTIES

A. Definitions.

For purposes of this Revocable Permit, Permittee agrees and understands that the following terms shall have the following meanings:

“Environmental Laws” shall mean all federal, state and local laws of every nature including statutes, ordinances, rules, regulations, codes, notices, standards, directives of every kind, guidelines, permits, licenses, authorizations, approvals, interpretations of the foregoing by any court, legislative body, agency or official, judicial decisions, orders, rulings or judgments, or rules of common law which currently are in effect or which may come into effect through enactment, issuance, promulgation, adoption or otherwise, which in any way pertain to, relate to, or have any relevance to the environment, health or safety. These environmental laws include, but are not limited to, regulations and orders of the federal Environmental Protection Agency and of the State of Hawaii Department of Health.

“Hazardous Substance” shall mean and include any chemical, substance, organic or inorganic material, controlled substance, object, condition, waste, living organism, or combination thereof which is, may be, or has been determined by proper state or federal authority under any environmental law to be, hazardous to human health or safety or detrimental to the environment. This term shall include, but not be limited to, petroleum hydrocarbons, asbestos, radon, polychlorinated biphenyls (PCBs), methane, and other materials or substances that are regulated by state or federal authorities.

B. Permittee's Activities and Duties.

1. **Compliance with Environmental Laws.** Permittee agrees, at its sole expense and cost, to comply with all environmental laws that apply to the premises during the term of this Revocable Permit, and Permittee's occupancy of, and activities on, the premises. This duty shall survive the expiration or termination of this Revocable Permit which means that the Permittee's duty to comply with environmental laws shall include complying with all environmental laws, regulations and orders that may apply, or be determined to apply, to the occupancy and activities of the Permittee on the premises after the expiration or termination of this Revocable Permit. Failure of the Permittee to comply with any environmental laws shall constitute a breach of this Revocable Permit for which the State shall be entitled, in its discretion, to terminate this Revocable Permit and take any other action at law or in equity it deems appropriate.

2. **Hazardous Substances.** Permittee shall not use, store, treat, dispose, discharge, release, generate, create, or otherwise handle any Hazardous Substance, or allow the same by any third

person, on the premises without first obtaining the written consent of the State and complying with all environmental laws, including giving all required notices, reporting to, and obtaining permits from, all appropriate authorities, and complying with all provisions of this Revocable Permit.

3. Notice to the State. Permittee shall keep the State fully informed at all times regarding all Environmental law related matters affecting the Permittee or the premises. This duty shall include, without limit to the foregoing duty, providing the State with a current and complete list and accounting of all hazardous substances of every kind which are present on or about the premises and with evidence that the Permittee has in effect all required and appropriate permits, licenses, registrations, approvals and other consents that may be required of or by federal and state authorities under all environmental laws. This duty shall also include providing immediate written notice of any investigation, enforcement action, remediation or other regulatory action, order of any type, or any legal action, initiated, issued, or any indication of an intent to do so, communicated in anyway to the Permittee by any federal or state authority or individual which relates in any way to any environmental law or any hazardous substance and the Permittee or the premises. This written notice to the State shall include the Permittee immediately providing the State with copies of all written communications from individuals or state and federal authorities, including copies of all correspondence, claims, complaints, warnings, reports, technical data and any other documents received or obtained by the Permittee. At least thirty (30) days prior to termination of this Revocable Permit, or termination of the possession of the premises by Permittee, which ever shall first occur, Permittee shall provide the State with written evidence satisfactory to the State that Permittee has fully complied with all environmental laws, including any orders issued by any governmental authority to the Permittee that relate to the premises.

4. Notice to Authorities. Permittee shall provide written notice to the Environmental Protection Agency and the State of Hawaii Department of Health at least sixty (60) days prior to the termination of this Revocable Permit, or sixty (60) days prior to Permittee's termination of possession of the premises, whichever occurs first, the fact that Permittee intends to vacate the premises and terminate its operations on those premises. Permittee shall allow the agents or representatives of said authorities access to the premises at any and all reasonable times for the purpose of inspecting the premises and taking samples of any material for inspection or testing for compliance with any environmental laws. Permittee shall provide copies of said written notices to the State at the time said notices are provided to said authorities.

5. Disposal/Removal. Except for materials that are lawfully sold in the ordinary course of the Permittee's business and for which the Permittee has obtained all required authorizations from appropriate authorities including the prior written permission of the State to have said substance on the premises, Permittee shall cause any hazardous substances to be removed from the premises for disposal. This duty shall include the transportation of said hazardous substance from the premises solely by duly licensed hazardous substance transporters to duly licensed facilities for final disposal as required by all applicable environmental laws. Permittee shall provide the State with copies of documentary proof, including manifests, receipts or bills of lading, which reflect that said hazardous substances have been properly removed and disposed of in accordance with all environmental laws.

6. Environmental Investigations and Assessments. The Permittee, at its sole cost and expense, shall cause to be conducted such investigations and assessments of the premises to determine the presence of any hazardous substance on, in, or under the premises as may be directed

from time to time by the State, in its sole discretion, or by any federal or state authority. The extent and number of any environmental investigations and assessments shall be determined by the State or the federal or state authority directing said investigations and assessments to be conducted. Permittee shall retain a competent and qualified person or entity that is satisfactory to the State or governmental authority, as the case may be, to conduct said investigations and assessments. Permittee shall direct said person or entity to provide the State or governmental authority, if so requested, with testable portions of all samples of any soils, water, ground water or other material that may be obtained for testing and provide directly to the State and the governmental authority at the sole expense of the Permittee written results of all tests on said samples upon completion of said testing.

7. **Remediation.** In the event that any hazardous substance is used, stored, treated, disposed on the premises, handled, discharged, released, or determined to be present on the premises, or to have migrated from the premises, Permittee shall, at its sole expense and cost, remediate the premises, or any location off the premises to which it is determined that the hazardous substance has migrated, of any hazardous substances. Said duty to remediate includes the removal and disposal of said hazardous substances in accordance with paragraph 5. This duty to remediate includes strictly complying with all environmental laws and directives to remediate said hazardous substance issued from the State or any federal or State governmental authority charged with enforcing the Environmental laws. This duty to remediate shall include replacement of any materials, such as soils, removed with material that is satisfactory to the State and governmental authority, as the case may be.

8. **Restoration and Surrender of Premises.** The Permittee hereby agrees to restore the premises, at its sole cost and expense, including the soil, water and structures on, in, or under the premises, to the same condition as the premises existed at the commencement of this Revocable Permit, fair wear and tear to the structures excepted. In the event Permittee does not restore the premises to the same condition as it existed at the commencement of the Revocable Permit, as determined by the State, the Permittee understands and agrees that the State may exercise its rights under the paragraph entitled State's Right to Act, and until such time as the restoration is complete to the satisfaction of the State, Permittee shall be liable for Revocable Permit rent in the same manner and amount as if the Revocable Permit had continued in effect during the period of restoration.

9. **State's Right to Act.** In the event the Permittee fails for any reason to comply with any of its duties under this Revocable Permit or under any environmental laws within the time set for doing so, or within a reasonable time as determined by the State, the State shall have the right, but not the obligation, in its sole discretion, to perform those duties, or cause them to be performed. Permittee hereby grants access to the premises at all reasonable hours to the State, its agents and anyone designated by the State in order to perform said acts and duties. Any cost, expense or liability of any type that may be incurred by the State in performing said acts or duties shall be the sole responsibility of the Permittee and Permittee hereby agrees to pay for those costs and expenses and indemnify the State for any liability incurred. This obligation shall extend to any costs and expenses incident to enforcement of State's right to act, including litigation costs, attorneys fees and the costs and fees for collection of said cost, expense or liability.

10. Release and Indemnity. Permittee hereby agrees to release the State, its officers, agents, successors and assigns from any liability of any kind, including, but not limited to, any liability for any damages, penalties, fines, judgments or assessments that may be imposed or obtained by any person, agency or governmental authority against the State and/or the Permittee by reason of any hazardous substance that may be present by whatever means on, in or under the premises. The Permittee hereby agrees to indemnify, defend with counsel suitable to the State, and hold harmless the State from any liability that may arise in connection with, or by reason of, any occurrence involving any hazardous substance that may be alleged to be connected or related in any way with the premises, the State's ownership of the premises, or this Revocable Permit, including the presence of any hazardous substance on the premises. Permittee understands and agrees that any assessments, fines or penalties that may be assessed against the Permittee or the State by reason of any environmental law violation concerning the premises shall be paid, complied with, and in every way satisfied by the Permittee and not the State.

11. Surety/Performance Bond for Cleanup/Restoration. At its sole cost and expense, Permittee shall provide the State with a Bond, or other security satisfactory to State, in the amount of \$ N/A to assure removal of any hazardous substances and the remediation and restoration of the premises during the term of, and at the conclusion of the Revocable Permit so as to comply with the terms of this Revocable Permit to the satisfaction of the State and in order to comply with environmental laws. Permittee shall provide written evidence that said Bond or security has been secured by the Permittee which evidence shall indicate the term during which said Bond or other security shall irrevocably remain in effect.

12. Insurance. Effective at the commencement of this Revocable Permit, Permittee shall obtain and keep in force a comprehensive liability and property damage policy of insurance issued by an insurer licensed to do business in the State of Hawaii with limits of indemnity coverage no less than \$500,000.00. Said policy of insurance shall provide coverage for personal injury and damage to property caused by hazardous substances or any occurrence that may constitute a violation of any environmental law by the Permittee or the State. Said policy of insurance shall name the State as an additional insured. Permittee shall provide proof of said insurance satisfactory to the State which shall include, at a minimum, the coverage provided and the term during which said policy shall be effective.

ATTACHMENT J

Site Investigation Sheet



MS4 Site Investigation Sheet

COMMENTS/SKETCH:

COMMENTS:

SKETCH

ATTACHMENT K

Kewalo Basin Private Drain Connection Application



Executive Director
Department of Business, Economic
Development & Tourism
Hawaii Community Development Authority
677 Ala Moana Boulevard, Suite 1001
Honolulu, Hawaii 96813

Dear Madam/Sir:

Subject: **Application for a New/Existing/Temporary Private Storm Drain
Connection (s) to Hawaii Community Development Authority
Kewalo Basin Separate Storm Sewer System**

Pursuant to Hawaii Administrative Rules (HAR), Chapter 11-55, Appendix K, applicant hereby requests a license for a private storm drain connection(s) to the Kewalo Basin separate storm sewer system.

I. Project Information:

Project Title: _____

Street Address: _____

Tax Map Key: _____ Total Area: _____

II. Brief Description of Connection(s) serving this property. For each connection, provide size, inflow type, flow rate, and location. (Attach 3 copies of the drainage plan showing the location of the drain connection(s).)

III. Pursuant to Section II – of the City and County of Honolulu Storm Water Quality of the Rules Related to Storm Drainage Standard (see also City and County of Honolulu Revised Ordinance of Honolulu, Section 14.12-12) the follow is required:

- A. For development/redevelopment projects with a total area of one acre and less than five acres, list permanent post construction Best Management Practices (BMP) including maintenance schedule. (Attach 2 copies of the permanent post construction BMP plan, if not shown on the drainage plan.)
- B. For nonresidential subdivision development/redevelopment projects with total area of 5 acres or more and residential subdivision development projects with total area of 10 acres or more, attach 2 copies of the Storm Water Quality Report.

IV. The following information are related to activities that could affect the quality of storm water discharged from the property:

A. North American Industry Classification System (NAICS) Code. (List as many activities and codes as applicable, i.e. Private Household - 8141.) NAICS codes can be found at www.census.gov/epcd/naics/framesrc.htm.

B. Does your property/facility discharge runoff associated with "industrial activity"?

C. Is your property/facility presently covered by a National Pollutant Discharge Elimination System (NPDES) permit? If yes, attach a copy of the NPDES permit including effluent limitation.

V. Type of discharge and total estimated quantity or flow rate (CFS: cubic feet per second, GPD: gallons per day, etc.):

- Storm Water Runoff, _____ CFS
- Roof Drain, _____ CFS
- Swimming Pool Drain, _____ CFS
- Groundwater Seepage, _____ CFS/GPD
- Non-Contact Cooling Water, _____ CFS/GPM (Heating, Ventilating, and Air Conditioning (HVAC) Once-Through Condenser Water)
- Uncontaminated HVAC Cooling Tower Water, _____ CFS/GPM
- Landscape Irrigation Water, _____ CFS/GPD
- Unpolluted Process Water, _____ CFS/GPM
- Treated Process Water, _____ CFS/GPM
- Decorative Pool, _____ CFS/GPD
- Other Runoff, _____ CFS (give description)

VI. Construction Schedule for New Connection (s):

Work will start: _____

Work will start: _____

VII. Person to contact in the event the licensee is subject to enforcement action for any violations of the conditions of HAR, Chapter 11-55, Appendix K:

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Very truly yours,

Owner/Lessee (Signature) Date

Print Name

Title

Company

ATTACHMENT L

Construction BMP Plan Checklist



CONSTRUCTION ACTIVITIES BEST MANAGEMENT PRACTICE PLAN CHECKLIST

Applicant Name: _____ Date: _____

Project Name: _____ TMK: _____

Site Location: _____

Existing and Proposed Site Features

	Yes	No	N/A
➤ The following site features should be included on the plans, if deemed necessary based on project type, size, and scope.			
❖ <u>Existing and proposed topography and features</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Preliminary location, size in square feet, and limits of disturbance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Location of existing and proposed roads, curbs, gutters, storm drains, inlets, buildings, signs, sidewalks, traffic signals, light standards, guardrails, and other structures</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Location of internal swales and ditches, and other drainage facilities</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Flow paths for both existing and proposed topography</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Maps of predominant soils from USDA soil surveys</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Boundaries of existing predominant vegetation and proposed limits of clearing and grubbing</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Existing and proposed utilities and easements</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ If the project or site includes, is adjacent to, or otherwise may impact any of the following, they should be shown on the plans.			
❖ <u>Perennial and intermittent streams or other surface water</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Location and boundaries of resource protection areas such as wetlands, lakes, ponds, and other setbacks (e.g., stream buffers, drinking water well setbacks, septic setbacks)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>The limits of the existing and proposed maps and plans shall extend past the project limits if any existing condition has an impact to the project. Include future projects that have the potential to start prior to the subject project.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
❖ <u>Stream flow velocity for stream work</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Identify non-storm water potential pollutants on site?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Scheduling**Yes No N/A**

- | | Yes | No | N/A |
|--|--------------------------|--------------------------|--------------------------|
| ➤ Schedule that includes sequencing of construction activities with the <u>implementation of construction site BMPs is provided?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Shows how the rainy season relates to soil-disturbing and re- <u>stabilization activities?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Schedule includes detail on the implementation and deployment of soil stabilization, sediment control, non-storm water management, waste management and pollution control, and inspection and <u>maintenance BMPS?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ If the project is performed in multiple phases, are the phase-specific <u>BMPs that take into account phase-specific potential pollutants?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Construction Site BMPs***Soil Stabilization Practices***

Plans address or include the following practices and situations?

- | | Yes | No | N/A |
|---|--------------------------|--------------------------|--------------------------|
| ➤ <u>Preservation of existing vegetation?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Stabilized construction entrance?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Protection of stockpiles?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Bank stabilization?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Topsoil management?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Mulching, seeding, and/or planting with installation/application <u>procedures and requirements?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Velocity reduction devices in flow paths?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ Geotextiles, plastic covers, turf reinforce mats, and/or erosion control <u>blankets/mats, with installation/application procedures and requirements?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Temporary drains, swales, earth dikes, and/or lined ditches?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Slope drains, subsurface drains?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Top and toe of slope diversion ditches/berms?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Sediment Control Practices

Plans address or include the following practices and situations?

- | | Yes | No | N/A |
|--|--------------------------|--------------------------|--------------------------|
| ➤ <u>Location of potential sediment sources?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Does on-site drainage enter into off-site drainage?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Dust fence?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Silt fence, wattles, and matting rolls?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Watering?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Soil binders, including acrylic polymers?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Storm drain inlet protection?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Sediment Control Practices (Continued)

	Yes	No	N/A
➤ <u>Temporary sediment basin?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Sediment trap?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Flared culvert end sections?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Outlet protection?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Temporary stream crossing?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Slope roughening/terracing/rounding?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Entrance/Exit equipment tire wash?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Sand bag barrier?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Brush or rock filter?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Shoveling, sweeping, and disposing?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Non-Storm Water Management Practices

Plans address or include the following practices and situations?

➤ <u>Employee training?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Vehicle and equipment cleaning, refueling, and maintenance?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Dewatering operations?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Paving operations?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Concrete washout procedure?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Structure construction and painting?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Water conservation?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Good housekeeping practices?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Waste Management and Pollution Control Practices

Plans address or include the following practices and situations?

➤ <u>Material delivery and storage?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Material use?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Spill prevention control?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Waste disposal?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Solid waste management?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Hazardous waste management with designated and prohibited storage areas?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Sanitary/Septic waste management?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Liquid waste management with storage containment devices?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Contaminated soil management?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Concrete waste management?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Fertilizer management?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Herbicide and fungicide management?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
➤ <u>Pesticide application?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Inspection and Maintenance Responsibility

Yes No N/A

Plans address of include the following practices and situations?

- | | | | |
|---|--------------------------|--------------------------|--------------------------|
| ➤ <u>Long-term inspection entity identified?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Long-term operation and maintenance identified?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Minimum frequency and maintenance described?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Record keeping?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Schedule and/or triggers for inspection of BMP measures?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Rain gauge?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Incident reporting?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

OTHER PERMITS, REPORTS, AND PLANS

Review this section to assess if the project requires any other possible permits, reports, or plans that include or impact BMPs. If none are required, check N/A above.

- | | | | |
|--|--------------------------|--------------------------|--------------------------|
| ➤ <u>NPDES Form C for Construction Activities is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>NPDES Form F for Hydrotest Waters discharge is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>NPDES Form G for Dewatering discharge is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>401 Water Quality Certification (WQC) is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>404 Department of the Army (DA) Permit is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Coastal Zone Management (CZM) Permit is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Special Management Area (SMA) permit is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Drainage report is provided, if required?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>Grading permit with temporary erosion control plan is provided? (if project requires City and County approval and meets requirements)</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ➤ <u>If multiple permits or approvals are required for the project, are BMPs consistent in all permits and plans?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Reviewed by Name & Title: _____

Signature: _____ Date: _____

ATTACHMENT M

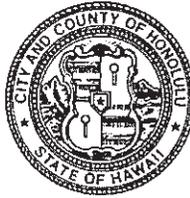
CCH Construction Site BMPs Weekly Checklist



DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 523-4432 • FAX: (808) 527-6743
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUÉ
DEPUTY DIRECTOR

July 20, 2006

(wyw)

ENGINEERING AND POLICY MEMORANDUM NO. CEB-2-06

TO: DEVELOPERS AND OTHER INTERESTED PARTIES
FROM: HENRY ENG, FAICP, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING
SUBJECT: CONSTRUCTION SITE BMP CHECKLIST

A handwritten signature in black ink, appearing to read "Henry Eng", is written over the "FROM:" line of the memorandum.

Effective immediately, pursuant to National Pollutant Discharge Elimination System (NPDES) requirements, the attached Construction Site BMPs Weekly Checklist form shall be completed and submitted for all grading, grubbing, and stockpiling permits that result in the disturbance of one acre or more of total land area.

The form, which is intended to supplement our Civil Engineering Branch's permit inspections, contains checkboxes for daily entries under each column. A responsible person, designated by the owner or developer (permittee), must fill in and turn in the form to the appropriate Civil Engineering Branch inspector at the end of each week. Depending on the specific site conditions and/or stage of construction for the project, adjustments to the entry frequencies may be allowed. However, this must be coordinated through the inspector. The form submittal process concludes when the inspector determines that the work under the permit is complete.

The City's Rules Relating to Soil Erosion Standards and Guidelines and Best Management Practices Manual for Construction Sites in Honolulu are two relevant references. Both of these documents are available for purchase at the Municipal Bookstore, 558 South King Street, City Hall Annex, Ph. 523-4577.

Should there be any questions, please call Messrs. Marvin Fukagawa or Weston Wataru of the Civil Engineering Branch, at 527-5066 or 527-6303, respectively.

HE:ky

Attachment

cc: Building Division
All Site Development Division Branches
Inspection Unit

CONSTRUCTION SITE BMPs WEEKLY CHECKLIST

CITY & COUNTY OF HONOLULU DEPARTMENT OF PLANNING AND PERMITTING
 SITE DEVELOPMENT DIVISION CIVIL ENGINEERING BRANCH

YEAR _____

Project Name: _____

Location: _____ TMK: _____

Developer: _____ Auth. Rep.: _____

Contractor: _____ Auth. Rep.: _____

NPDES Permit needed? No Yes NPDES Permit: HI R

Construction on schedule per ECP? No Yes Grading Permit: GP200

DATE (month/day) →	SUNDAY		MONDAY		TUESDAY		WEDNESDAY		THURSDAY		FRIDAY		SATURDAY	
	Comply	Not Applicable	Comply	Not Applicable	Comply	Not Applicable	Comply	Not Applicable	Comply	Not Applicable	Comply	Not Applicable	Comply	Not Applicable
A. DUST CONTROL/TIRE TRACKING														
1. Dust Screen														
2. Stabilized Construction Entrance														
3. Inlet Protection														
4. Street Sweeping and Vacuuming														
5. Exit Tire Washing														
6. Other:														
B. STABILIZATION CONTROL														
1. Grass/Vegetation														
2. Mulching/Seeding														
3. Plastic or Geotextile Covering														
4. Slope Protection														
5. Other:														
C. SEDIMENT CONTROL														
1. Silt Fence/Barrier														
2. On Site Inlet Protection														
3. Dikes/Swales/Ditches														
4. Sediment Trap/Basin														
5. CB or In-Line Filtration														
6. Other:														
D. HOUSEKEEPING														
1. Vehicle and Equipment Cleaning														
2. Vehicle and Equipment Fueling														
3. Vehicle and Equipment Maintenance														
4. Material and Chemical Storage														
5. Spill Prevention and Control														
6. Trash Collection Areas														
7. Stockpiles														
8. Other:														

ACTION/REMARKS: _____ CHECKLIST NO:

ATTACHMENT N

NPDES Construction BMP Inspection Worksheet



NPDES Industrial Storm Water Worksheet (Construction)

National Database Information				General	
Inspection Type				Inspector Name	
NPDES ID Number				Telephone	
Inspection Date				Entry Time	
Inspector Type <i>(circle one)</i>	EPA	State	EPA Oversight	Exit Time	
Facility Type <i>(circle one)</i>	Commercial/ Industrial	Residential	Municipal	Signature	

Facility Location Information					
Name/Location/ Mailing Address					
GPS Coordinates	Latitude		Longitude		
Receiving Water(s)					
Disturbed Area		Start Date		Stop Date	

Contact Information		
	Name(s)	Telephone
Name(s) and Role(s) of All Parties Meeting the Definition of Operator		
Facility Contact		
Authorized Official(s)		

Site Information: <i>(circle all that apply)</i>							
Nature of Project	Residential	Commercial/ Industrial	Roadway	Private	Federal	State/ Municipal	Other
Construction Stage	Clearing/ Grubbing	Rough Grading	Infrastructure	Building Const.	Final Grading	Final Stabilization	

NPDES Industrial Storm Water Worksheet (Construction)

<u>Basic Permit Information</u>			<u>Basic SSBMP Information</u>		
Permit Coverage <i>ESO Element 3 & 4</i>	Y	N	SSBMP Prepared & Available <i>ESO Element 5 & 30</i>	Y	N
Permit Type	General	Individual	SSBMP Contents Satisfactory <i>ESO Elements 5 - 31</i>	Y	N
Permit notice/sign visibly posted including: copy of NOI, contact name & phone number, location of SSBMP <i>ESO Element 41</i>	Y	N	SSBMP Implementation Satisfactory <i>ESO Elements 32 - 48</i>	Y	N
NOI Date			SSBMP Date		
If applicable, is waiver certification & approval on file?	Y	N	<i>Intentionally left blank</i>		

SSBMPP Review *(can be completed in office)*

<u>General</u>			<u>Notes:</u>
Is there a SSBMP? <i>ESO Element 5</i>	Y	N	
SSBMP completed prior to NOI submission? <i>ESO Element 6</i>	Y	N	
Copy of permit language? <i>ESO Element 25</i>	Y	N	
Is SSBMP consistent with state/tribal/local regulations and permits? <i>ESO Element 26</i>	Y	N	
SSBMP updated to incorporate changes to State, Tribal, Local erosion plans? <i>ESO Element 27</i>	Y	N	
Have copies of inspection reports/all other documentation been retained as part of the SSBMP for 3 years from date permit coverage expires? <i>ESO Element 28</i>	Y	N	
Is a copy of the SSBMP on site or made available? <i>ESO Element 30</i>	Y	N	
Did all "operators" sign/certify the SSBMP? <i>ESO Element 31</i>	Y	N	

NPDES Industrial Storm Water Worksheet (Construction)

<u>Site Description</u>			Notes:
SSBMP identifies potential sources of pollution? <i>ESO Element 7</i>	Y	N	
SSBMP identifies all operators and their areas of control? <i>ESO Element 8</i>	Y	N	
Is there a site description? <i>ESO Element 9</i>	Y	N	
Nature/sequence of construction activity? <i>ESO Element 9A - 9B</i>	Y	N	
Total area of site and total area to be disturbed? <i>ESO Element 9C</i>	Y	N	
Is there a general location map? <i>ESO Element 9D</i>	Y	N	
Is there a site map? <i>ESO Element 9E</i>	Y	N	
Drainage patterns/outfalls on site map? <i>ESO Element 9F</i>	Y	N	
Area of soil disturbance on site map? <i>ESO Element 9F</i>	Y	N	
Location of major structural controls on site map? <i>ESO Element 9F</i>	Y	N	
Location of storm water discharges to a surface water on site map? <i>ESO Element 9F</i>	Y	N	
Location of materials or equipment storage on site map (on-site or off-site)? <i>ESO Element 9F</i>	Y	N	
Location/description industrial activities? <i>ESO Element 9G</i>	Y	N	
Name of Receiving water(s) or MS4 listed?	Y	N	<i>Note: Indicate whether receiving water is 303(d) listed.</i>

NPDES Industrial Storm Water Worksheet (Construction)

<u>Site Description</u>		Notes:	
Does the SSBMP include dates of major grading activities, temporary/permanent construction cessation, and initiation of stabilization practices? <i>ESO Element 14</i>	Y	N	
Endangered Species Documentation? <i>ESO Element 23</i>	Y	N	

<u>Controls to Reduce Pollutants</u>		Notes:	
Does the SSBMP include a description of all pollution control measures (BMPs) that will be implemented to control pollutants in storm water discharges, including sequence and which operator responsible for implementation? <i>ESO Element 10 A - C</i>	Y	N	
Does the SSBMP include a description of interim and permanent <i>stabilization practices</i> (e.g., seeding, mulching, riprap for the site)? <i>ESO Element 11; 12</i>	Y	N	
Does the SSBMP identify the contractor(s) and timing by which <i>stabilization practices</i> will be implemented? <i>ESO Element 13</i>	Y	N	
Does the SSBMP include a description of <i>structural practices</i> (e.g., vehicle track-out, silt fences, sediment traps, storm drain inlet protection) for the site? <i>ESO Element 15</i>	Y	N	
Does the SSBMP identify the contractor(s) and timing by which <i>structural practices</i> will be implemented? <i>ESO Element 10B - 10C</i>	Y	N	
Does the SSBMP identify storm water management measures to address storm water runoff once the construction is completed (e.g., retention ponds, velocity dissipation controls)? <i>ESO Element 16</i>	Y	N	

NPDES Industrial Storm Water Worksheet (Construction)

Controls to Reduce Pollutants			Notes:
Does SSBMP describe measures to prevent discharge of dredge/fill materials to waters of the U.S.? Does site have 404 permit? <i>ESO Element 17</i>	Y	N	
Does SSBMP describe measures to minimize off-site vehicle tracking and generation of dust? <i>ESO Element 18</i>	Y	N	
Does SSBMP describe controls for pollutants from storage of construction or waste materials? <i>ESO Element 19</i>	Y	N	
Does the SSBMP describe controls for pollutants from non-construction activities? <i>ESO Element 20</i>	Y	N	
Does SSBMP identify allowable non-storm water discharges? <i>ESO Element 21</i>	Y	N	
Does SSBMP ensure implementation of pollution prevention measures for non-storm water discharges? <i>ESO Element 22</i>	Y	N	
Is SSBMP revised when BMPs added/modified within 7 days after inspection reveals problems? <i>ESO Element 29</i>	Y	N	

Inspections			Notes:
Inspections performed once every 7 days, or every 14 days within 24 hours of a rain event greater 0.5"? <i>ESO Element 32</i>	Y	N	
Inspections performed by qualified personnel? <i>ESO Element 33</i>	Y	N	
All disturbed areas and/or used for storage and exposed to rain inspected? <i>ESO Element 34</i>	Y	N	
All pollution control measures inspected to ensure proper operation? <i>ESO Element 35</i>	Y	N	

**NPDES Industrial Storm Water
Worksheet (Construction)**

Inspections		Notes:	
All discharge locations inspected if accessible, or if not accessible, are nearby downstream locations inspected? <i>ESO Element 36; 37</i>	Y	N	
Entrance/exit inspected for off-site tracking? <i>ESO Element 38</i>	Y	N	
Inspection report contain all required items and certified? <i>ESO Element 39; 40</i>	Y	N	

Site Description:

**NPDES Industrial Storm Water
Worksheet (Construction)**

SSBMP Implementation *(complete in field)*

Stabilization Practices

**List and describe
stabilization
practices**
ESO Element 43, 48

(e.g., seeding, mulching, geotextiles, sod stabilization)

**NPDES Industrial Storm Water
Worksheet (Construction)**

Stabilization Practices

**Are stabilization
measures initiated
no more than 14
days after temporary
or permanent
construction
cessation?**
ESO Element 46

(e.g., indicate "yes" or "no"; if "yes", how long without stabilization measures?)

**NPDES Industrial Storm Water
Worksheet (Construction)**

Structural Practices

**List and describe
structural controls**
ESO Element 42, 43, 47

(e.g., silt fences, hay bales, storm drain inlet protection, sedimentation pond, rip rap, check dam, diversion structure, off-site vehicle track-out)

Non-Structural Practices

Street Cleaning
ESO Element 44

(e.g., describe measures taken to remove offsite accumulation of sediment)

**NPDES Industrial Storm Water
Worksheet (Construction)**

Non-Structural Practices	
Good Housekeeping & Waste Disposal Practices <i>ESO Element 45</i>	<i>(e.g., describe measures taken to prevent litter and debris from becoming a pollutant source)</i>
Equipment Wash/ Maintenance Area <i>ESO Elements 43</i>	<i>(provide brief description)</i>
Concrete Washout Areas <i>ESO Elements 43</i>	<i>(provide brief description)</i>

**NPDES Industrial Storm Water
Worksheet (Construction)**

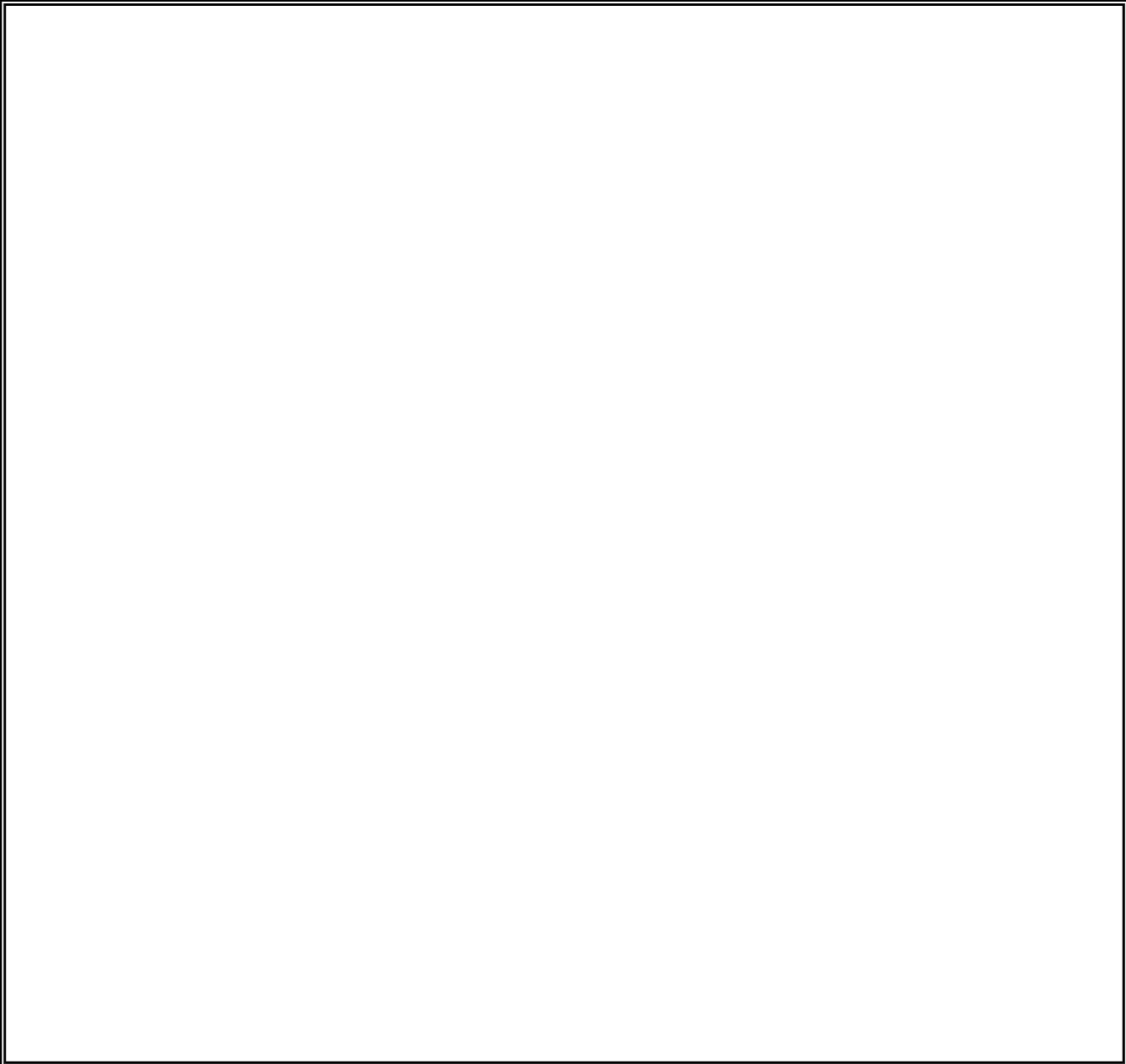
Miscellaneous

<p>Evidence of Sediment Deposition to Surface Waters <i>*ESO Eligibility - if "yes," site not eligible for ESO</i></p>	<p><i>(e.g., significant turbidity observed in a receiving water body)</i></p>
<p>Pollution prevention measures for non-storm water discharges? <i>*ESO Eligibility - If evidence of non-allowable non-storm water discharges, site not eligible for ESO</i></p>	<p><i>(provide brief description and determine whether/if non-storm water discharges allowable)</i></p>
<p>Has implementation of additional/modified BMPs been completed before next anticipated storm event? <i>ESO Element 43.C.1</i></p>	<p><i>(provide brief description)</i></p>

**NPDES Industrial Storm Water
Worksheet (Construction)**

Notes on SSBMP Implementation

**NPDES Industrial Storm Water
Worksheet (Construction)**



Photograph Log

1.

*Insert additional rows as needed

