NPDES INSPECTION AND ENFORCEMENT MANUAL

Prepared For:

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I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that this document and its attachments were prepared either by me personally or under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gather and present the information contained therein. I further certify, based on my personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowingly and willfully submitting a materially false statement.

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State of Hawaii
Director of Transportation

NOV 15 2011
Date

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List of Acronyms

AOA	Air Operations Area
API	American Petroleum Institute
ARFF	Aircraft Rescue Fire Fighting
AST	Aboveground Storage Tank
ATA	Air Transport Association of America
BMP	Best Management Practice
CFR	Code of Federal Regulations
CWB	State of Hawaii, Department of Health, Clean Water Branch
DOH	State of Hawaii Department of Health
DOTA	State of Hawaii Department of Transportation, Airports Division
EHS	Environmental Health Specialist
EMS	Environmental Management System
EPA	Environmental Protection Agency
HAR	Hawaii Administrative Rules
HDH	Dillingham Airfield
HDOT	State of Hawaii Department of Transportation
HFFC	Hawaii Fueling Facilities Corporation
HNL	Honolulu International Airport
HNM	Hana Airport
HRS	Hawaii Revised Statues
ITO	Hilo International Airport
JHM	Kapalua Airport
JRF	Kalaeloa Airport
KOA	Kona International Airport
LIH	Lihue Airport
LNY	Lanai Airport
LUP	Kalaupapa Airport
MKK	Molokai Airport
MOU	Memorandum of Understanding Between DOTA and DOH
MS4	Municipal Separate Storm Sewer System
MST	Mobile Storage Tank
MUE	Waimea-Kohala Airport
NATA	National Air Transportation Association
NAV	Notice of Apparent Violation
NOI	Notice of Intent
NFV	Notice of Finding and Violation
NPDES	National Pollutant Discharge Elimination System
NRC	National Response Center
OGG	Kahului Airport
OPA	Oil Pollution Act
PAK	Port Allen Airport
SPCC	Spill Prevention Control and Countermeasure
SWPCP	Storm Water Pollution Control Plan
SWMPP	Storm Water Management Program Plan
UPP	Upolu Airport
UST	Underground Storage Tank

1.0 BACKGROUND AND PURPOSE

The Department of Transportation, Airports Division (DOTA), has been actively involved in the development and implementation of programs to control storm water pollution since the inception of federal storm water regulations by the Environmental Protection Agency (EPA). This document details the procedures implemented by DOTA environmental personnel at Hawaii airports to ensure that all DOTA and tenant operations comply with regulatory requirements and the storm water Best Management Practices (BMPs) that have been adopted in the Storm Water Pollution Control Plans (SWPCP) or Storm Water Management Program Plans (SWMPP) crafted for each airport facility.

The manual is provided to DOTA personnel tasked with the responsibility of storm water pollution prevention, in the content and procedures of a storm water inspection and enforcement program. DOTA has also implemented an annual risk ranking of all airport tenants and will allow for an improved allocation of environmental oversight to those areas of airport operations where storm water impacts are highest, as well as to provide an objective assessment of tenant activities at different facilities. The enforcement procedures contained within this manual, are designed with environmental compliance as the primary goal, and represent a partnership between the DOTA and the Department of Health (DOH) as both agencies strive to conduct business in the best interest of the State of Hawaii.

1.1 Storm Water Regulation

In 1972, congressional amendments to the Federal Water Pollution Control Act (also known as the Clean Water Act) established the National Pollutant Discharge Elimination System (NPDES). The NPDES program prohibited discharges of pollutants to navigable waters from point sources such as wastewater treatment plants and industries, unless those discharges were authorized by permits issued under the program.

The Water Quality Act amended the Clean Water Act in 1987, and in so doing, required the EPA to establish phased NPDES requirements for storm water discharges. EPA promulgated regulations in 1990 to establish permit programs for storm water discharges from ten industrial categories, from municipal separate storm sewer systems (MS4) serving populations of 100,000 or more (“medium” and “large” MS4s), and from construction activities disturbing five acres or more of land. These regulations are referred to as the “Phase I Program.”

In 1999, EPA published the Storm Water Phase II Final Rule, which expands the Phase I program by extending NPDES coverage to certain “small” MS4s in urbanized areas and construction areas that disturb between one and five acres of land.

The Federal Water Program regulations are located in Code of Federal Regulations (CFR) Title 40, Chapter I, Subchapter D, Parts 100 through 135. The Federal storm water discharge regulations are located in CFR Title 40, Part 122 – EPA Administered Permit Programs: NPDES. EPA has delegated authority to the State of Hawaii, DOH Clean Water Branch (CWB), to administer the NPDES program. While EPA continues to maintain overall

enforcement authority, the DOH issues NPDES permits to municipalities, industries, and construction projects.

State water quality regulations have been codified in the Hawaii Administrative Rules (HAR) Title 11 Chapter 54, Water Quality Standards for the State and HAR Title 11 Chapter 55, Water Pollution Control (last Amendment and Compilation May 27, 2009). Hawaii Revised Statutes (HRS) Chapter 342D provides the State with the procedures, rules, and regulations for the enforcement of the State's Clean Water Program. Included in this chapter are procedures for inspection (§342D-8), enforcement procedures/documentation (§342D-9), provisions for enforcement by State and county health authorities (§342D-17), and penalties (§§342D-30 through 39). DOTA shall enforce these rules and regulations as they apply to water pollution and water pollution prevention.

1.2 Department Overview

The Hawaii Department of Transportation is comprised of three Divisions: Airports, Harbors, and Highways. The Airports Division provides administrative oversight, engineering services, property management, computer support, and fiscal control to the four District operations: Oahu, Maui, Hawaii, and Kauai. The DOTA environmental organizational chart is included in Appendix A.

1.3 Environmental Organization

The DOTA environmental organization is centralized at the Division Office within the Engineering Branch, and reports directly to the Engineering Program Manager. The Engineering Program Manager reports to the Deputy Director of Airports, who in turn reports to the Director of Transportation.

The Environmental Program consists of a supervisor and several staff Environmental Health Specialists (EHS) or Environmental Engineers. Although these positions exist on paper in the Division office, the physical locations for the positions may be distributed throughout the Districts to better serve the program. Dependant on availability, Environmental Program staff located in the neighbor island Districts may be assigned statewide tasks or assist with other Districts; however, their primary responsibility is to ensure environmental compliance within their District. The Environmental Program Supervisor continuously evaluates workloads and new tasks are assigned based on location, technical expertise, and current workload. This management structure allows for immediate access to the Environmental Program by the Districts, while maximizing utilization and therefore spreading the workload more evenly.

1.4 Intergovernmental Coordination

Continued coordination between the DOTA Environmental Program, DOH, and EPA concerning NPDES related issues is an integral part of the storm water pollution prevention program at the Hawaii airports. The Environmental Program Supervisor and the DOTA Engineering Program Manager will coordinate regulatory compliance program issues. These issues may include permitting, sampling, reporting requirements, policy and procedures, and staffing. Any changes to the DOTA environmental program will be subject to approval by the Director of Transportation, DOH, and EPA. Some issues may also require the assistance of the Attorney General office and should be coordinated through the DOT Office of Special Compliance. The

DOTA Environmental Program Supervisor and/or the Engineering Program Manager should be included in these discussions.

The Environmental Program staff may need to interact with members of the DOH Clean Water Branch (CWB) or other regulating agencies in order to address storm water issues and concerns as they arise. The Environmental Program Supervisor will be made aware prior to any contact with these agencies, and a summary of the issue(s) will be forwarded to the Environmental Program Supervisor and distributed to the other Districts. This will help to maintain consistent compliance and enforcement and prevent duplication of efforts between the District offices.

An Inspection Checklist has been prepared by DOTA, but can be improved by each district inspectors. For tenants with separate industrial NPDES permit coverage, the completed Inspection Checklists will be routed through the Environmental Program Supervisor and the Engineering Program Manager, and a copy will be sent to CWB after each inspection. All correspondence between DOTA, DOH, and EPA will be tracked through a document control system developed by the Division. Also, the Environmental Program Division office will keep a complete hardcopy set of all correspondence and submittals.

2.0 PROGRAM SCOPE

The DOTA NPDES Inspection and Enforcement program is primarily directed toward the four airports operating under NPDES permits; however, many aspects of the program have been extended to the other State airports. For instance, tenant inspections for compliance with BMPs are conducted as a standard practice for all DOTA airports where DOTA operations are conducted. Brief descriptions of both regulated and non-regulated facilities, under the NPDES program are presented in the following sections.

2.1 Regulated Facilities

Four DOTA airports currently operate under NPDES permits. These airports are Honolulu International Airport on Oahu (HNL), Kahului Airport (OGG) on Maui, Lihue Airport (LIH) on Kauai, and Molokai Airport (MKK) on Molokai. The procedures detailed in this manual, including risk ranking, inspections, enforcement, reporting, and training are requirements of the NPDES program, and failure to follow these procedures may result in penalties.

2.2 Non-regulated Facilities

DOTA operates eleven airports that are not regulated under NPDES requirements. Although inspection and enforcement under NPDES is not required at the non-regulated facilities, DOTA conducts the same level of inspections as part of a Statewide BMP program.

Of the eleven airports not regulated under NPDES requirements, Kalaeloa Airport (JRF) and Dillingham Airfield (HDH) on the island of Oahu as well as Hilo International Airport (ITO) and Kona International Airport (KOA) on the island of Hawaii are regulated under UIC permit requirements through DOH Safe Drinking Water Branch. UIC permits issued to these airports require DOTA facilities to limit the discharges to the injection well of "untreated rainfall runoff water from building, roof, roadway and pavement areas." While a portion of the leased areas at the UIC permitted airports do not drain to permitted drywells, the DOTA has opted, to apply the UIC permit conditions to all tenant areas.

The remaining seven non-regulated facilities include Hana Airport (HNM) on the island of Maui, Kalaupapa Airport (LUP) on the island of Molokai, Kapalua Airport (JHM) on the island of Maui, Lanai Airport (LNY) on the island of Lanai, Port Allen Airport (PAK) on the island of Kauai, Upolu Airport (UPP) on the island of Hawaii, and Waimea-Kohala Airport (MUE) on the island of Hawaii. Even though these seven facilities have neither UIC permits nor NPDES permits, DOTA elects to conduct inspections and enforcement at these airports under the DOTA Statewide BMP program.

2.3 Tenant Responsibility

All DOTA tenant lease agreements and revocable permits include language stating that the tenant is responsible for compliance with all environmental laws and regulations. Details of the lease agreements and revocable permits are included in Section 6.1.2. Tenants at both NPDES and non-NPDES permitted airports have been made aware of DOTA's storm water BMP program and are inspected by DOTA Environmental Health Specialists for compliance. Failure to comply with the DOTA BMPs will result in enforcement actions against tenants as detailed in Section 6.0.

3.0 RISK RANKING

3.1 Purpose

DOTA has ranked each tenant which performs industrial activities at the three major NPDES permitted airports (Honolulu International Airport, Kahului Airport, and Lihue Airport) based on the tenant's potential to either contribute pollutants to storm water runoff, and/or to have a non-storm water discharge into the airport storm sewer system and/or into waters of the United States. The results of the tenant risk rankings will be reevaluated for accuracy each calendar year. The risk designation of high, medium, or low, along with the tenants' NPDES permit coverage status, will determine the frequency at which each tenant will be inspected (i.e. quarterly, annually, biennially).

Some airport tenants may have more than one facility, and each facility may be on a separate inspection schedule. For example, Hawaiian Airlines may operate at the passenger terminal, at the air cargo terminal, and at a separate maintenance hangar. Because these facilities are at three separate physical locations, and possibly three separate drainage basins, each facility may be ranked separately and inspected as three separate tenants.

Because the DOTA utilizes tenant storm water inspections to accomplish multiple environmental objectives, the ranking system will also be applied to DOT airports that operate under UIC permits where spills or storm water runoff from tenant operations has potential to enter injection wells at those locations. The current risk rankings may be obtained from the environmental database by DOTA Environmental Health Specialists (EHS).

3.2 Risk Ranking Criteria

The DOTA baseyards that are regulated under the Consent Decree or NPDES permit will be ranked as "High" and will therefore be inspected quarterly (HNL, OGG, LIH, MKK). All other DOTA baseyards will be inspected based on the cumulative score of their risk ranking.

Tenants at DOT airports will be ranked as high, medium or low as determined by a cumulative score of the twelve risk criteria listed in this section. The EHS may select any number from 0 to 5 in each category and examples are provided for each category for ranking numbers that may be selected. Certain individual criteria include a trigger for automatic assignment of high risk ranking regardless of the cumulative score. Risk rankings for cumulative scores are as follows:

Low = Score of 5 or less
Medium = Score from 6 through 16
High = Score more than 16, or a 5 in any individual criteria.

Each facility will be evaluated using the risk criteria detailed below.

A. Aircraft Maintenance and Repair (AM)

Tenant facilities are ranked based on the aircraft maintenance and repair activities. Aircraft maintenance and repair activities include parts replacement, parts washing, removing and/or replacement of fluids and greases, dismantling, sandblasting, sanding, and painting. Maintenance and repair activities are evaluated based upon the discharge potential to storm water.

0 = No maintenance activities are conducted.

1 = Maintenance activities are conducted entirely indoors or undercover, on a small or large scale, with no to minimal potential for discharge to storm water.

2 = Maintenance activities are conducted in a covered area with no to minimal potential for discharge to storm water.

3 = Minor non-pollutant producing maintenance for small aircraft are conducted outdoors with no to minimal potential for discharge to storm water.

4 = Maintenance activities are conducted in a covered or uncovered area with moderate potential for discharge to storm water.

5 = Maintenance activities are conducted outdoors or in an area with significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

B. Aircraft Fueling (AF)

Tenant facilities are ranked based upon the type and method of aircraft fueling. Aircraft fueling includes fueling of passenger aircraft or corporate jets on the ramps using a fuel hydrant system or a mobile fuel tank truck. Aircraft fueling also includes fueling of smaller aircraft such as helicopters or personal planes using a fuel hydrant system, a mobile fuel tank truck, or a stationary above ground storage tank.

0 = No fuel transfer activities are conducted.

1 = Fueling of small aircraft is conducted (i.e. helicopters, small planes) or aircraft fueling is conducted by a fueling company with spill containment/diversion (typical of airlines).

2 = Fueling of small aircraft is conducted with spill containment/diversion.

3 = Fueling of large aircraft is conducted in areas with spill containment / diversion.

4 = Fueling of small aircraft is conducted in areas WITHOUT containment/diversion.

5 = Fueling of large aircraft is conducted in areas WITHOUT containment/diversion. ***(Automatic trigger to high risk designation)***

C. Aircraft Washing (AW)

Tenant facilities are ranked based upon aircraft washing activities. Aircraft washing includes the washing of large aircraft and small aircraft (i.e. helicopters, small planes). Aircraft washing activities are evaluated based upon the discharge potential to storm water.

0 = No aircraft washing is conducted.

1 = Aircraft washing is conducted in a contained, but uncovered wash area with no to minimal to moderate potential for discharge to storm water.

2 = Aircraft washing has moderate potential for discharge to storm water.

3 = Aircraft washing is conducted in an uncontained area with no direct connection to the storm drainage system and has a minimal potential for discharge to storm water.

4 = Aircraft washing is conducted in an uncontained area with no direct connection to the storm drainage system and has a significant potential for discharge to storm water.

5 = Aircraft washing is conducted in an area that directly discharges to the storm drainage system and has a significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

D. Vehicle and/or Equipment Maintenance and Repair (VM)

Tenant facilities are ranked based upon vehicle and/or equipment maintenance and repair activities. Vehicle and/or equipment maintenance and repairs includes activities such as parts replacement, parts washing, removal and/or replacement of fluids or greases, dismantling, sandblasting, sanding, and painting. Maintenance and repair activities are evaluated based upon the discharge potential to storm water.

0 = No maintenance activities are conducted.

1 = Maintenance activities are conducted entirely indoors with minimal potential for discharge to storm water.

2 = Maintenance activities are conducted in a covered area with minimal potential for discharge to storm water.

3 = Maintenance activities are conducted in a covered area with moderate potential for discharge to storm water.

4 = Maintenance activities are conducted outdoors or in an area with minimal or moderate potential for discharge to storm water.

5 = Maintenance activities are conducted outdoors or in an area with significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

E. Vehicle and/or Equipment Fueling (VF)

Tenant facilities are ranked based upon the amount of fueling and the containment and/or diversion structures available. Small-scale fueling refers to the fueling of vehicles, aboveground storage tanks, and equipment from mobile storage tanks, aboveground storage tanks, underground storage tanks, and/or fuel cans. Large-scale fueling refers to the fueling of mobile fuel trucks from an aboveground storage tank loading rack.

0 = No fuel transfer activities are conducted.

1 = Vehicle and/or equipment fueling is conducted on a small scale for individual facility use.

2 = Vehicle and/or equipment fueling is conducted on a large scale in areas with containment/diversion for individual facility use.

3 = Vehicle and/or equipment fueling is conducted on a large scale in areas with containment/diversion for commercial purposes.

4 = Vehicle and/or equipment fueling is conducted on a small scale for commercial purposes WITHOUT containment/diversion.

5 = Vehicle and/or equipment fueling is conducted on a large scale in areas WITHOUT containment/diversion. ***(Automatic trigger to high risk designation)***

F. Vehicle and/or Equipment Washing (VW)

Tenant facilities are ranked based upon the methods used for vehicle and/or equipment washing. This category includes the washing of ground service equipment, maintenance equipment vehicles, and rental cars. All washing activities must take place in approved areas.

0 = No vehicle or equipment washing is conducted.

1 = Vehicle and/or equipment washing is conducted in a contained and covered wash area with no to minimal potential for discharge to storm water.

2 = Vehicle and equipment washing is conducted in a contained, but uncovered wash area with minimal to moderate potential for discharge to storm water.

3 = Vehicle and equipment washing has moderate potential for discharge to storm water.

4 = Vehicle and equipment washing is conducted in an uncontained area with no direct connection to the storm drainage system and has a significant potential for discharge to storm water.

5 = Vehicle and equipment washing is conducted in an area that directly discharges to the storm drainage system and has a significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

G. Oil Storage (aboveground ≥ 55-gallon containers ONLY) (OS)

Tenants are ranked based upon the oil storage protocols employed at the facilities. Oil is defined in 40 CFR 112 as "oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oil, including oils from seeds, nuts, fruits, or kernels; and other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil." These oils may be stored in Aboveground Storage Tanks (ASTs), Mobile Storage Tanks (MSTs), and 55-gallon drums. New and used oil stored in containers smaller than 55-gallons are evaluated in Risk Ranking Criterion H: Container Storage (CS).

The term "properly stored" indicates that ASTs, MSTs, and drums meet the following SPCC requirements for secondary containment:

- Tenant has a current SPCC plan if they store more than 1,320 gallons of oil.
- Containers are clearly labeled.
- Container material and construction are compatible with the stored material.
- Secondary containment is sufficient to contain the entire capacity of the largest single container (plus sufficient freeboard to contain precipitation, if outdoors).
- The bypass valve is sealed and retained rainwater is properly managed, if necessary.
- Container integrity in appropriately tested.
- Drums are in good condition, neatly organized, and sealed when not in use.

0 = No oil is stored.

1 = Less than 1,320 gallons of oil is properly stored with no or minimal potential for discharge to storm water.

2 = Less than 1,320 gallons of oil is properly stored with moderate potential for discharge to storm water.

3 = More than 1,320 gallons of oil is properly stored with no or minimal potential for discharge to storm water.

4 = More than 1,320 gallons of oil is properly stored with moderate potential for discharge to storm water.

5 = Oil is improperly stored and/or stored with significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

H. Container Storage (CS)

Tenant facilities are ranked based up the container storage methods employed and the toxicity of materials stored. This category includes materials such as chemical products, solid wastes, new oil, and used oil stored in containers smaller than 55-gallon size.

Storage methods are evaluated to ensure that materials are appropriately stored. The term "properly stored" indicates that containers are correctly labeled, in good condition, sealed when not in use, and neatly organized.

0 = No materials are stored.

1 = All materials are properly stored indoors with no or minimal potential for discharge to storm water.

2 = All materials are properly stored under cover with no or minimal potential for discharge to storm water.

3 = Low toxicity materials are improperly stored with a moderate potential for discharge to storm water.

4 = Low toxicity materials are improperly stored with significant potential for discharge to storm water.

5 = High toxicity materials are improperly stored and/or stored outdoors with significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

I. Material Handling (MH)

Tenant facilities are ranked based upon the methods used for loading and unloading of non-fuel materials and cargo. Aviation-related operations during which bulk materials are transferred include aircraft lavatory servicing, cargo handling, fire suppressant loading, handling of non-fuel oil, construction materials staging, painting operations, and handling/mixing of bulk pesticides and herbicides. This criterion can also address pumping operations affiliated with cleaning of tanks, sumps, piping, or ramp areas.

0 = No materials are handled.

1 = All materials are handled entirely indoors with no to minimal potential for discharge to storm water.

2 = Materials are handled indoors and outdoors with no to minimal potential for discharge to storm water.

3 = Materials are handled outdoors with moderate potential for discharge to storm water.

4 = Material handling is conducted with significant potential for discharge to storm water.

5 = Material handling is conducted with significant potential for discharge to storm water and no BMPs in place.

J. Solid Waste Storage and Disposal (excludes Used Oil) (WH)

Tenant facilities are ranked based upon hazardous waste handling and disposal.

0 = No waste is stored.

1 = All waste is non-hazardous, stored indoors or in covered areas, with no to minimal potential for discharge to storm water.

2 = All wastes are non-hazardous, stored outdoors or in covered areas, with some potential for discharge to storm water.

3 = Hazardous wastes are generated and the tenant is classified as a Conditionally Exempt Small Quantity Generator (CESQG). Hazardous wastes are stored and disposed of properly. Storage areas do not have potential for discharge to storm water.

- CESQG generates ½ drum or less of hazardous waste in one calendar month.

4 = Hazardous wastes are generated and the tenant is classified as a Small Quantity Generator (SQG) or Large Quantity Generator (LQG). Hazardous wastes are stored and/or disposed of properly. Storage areas have minimal potential for discharge to storm water.

- SQG generates ½ - 5 drums of hazardous waste in one calendar month
- LQG generates more than 5 drums of hazardous waste in one calendar month

5 = Hazardous wastes are stored and/or disposed of improperly. Storage areas have significant potential for discharge to storm water. ***(Automatic trigger to high risk designation)***

K. Spill History (SP)

Tenant facilities are ranked based on past reports of oil and/or chemical spills at the tenants' facilities and/or inspection and investigation report.

0 = No history of spills greater than 5 gallons.

1 = One to three spills less than 5 gallons in the past three years.

2 = One to three spills greater than the Reportable Quantity (see 40 CFR 302.4) in the past three years.

3 = More than three spills greater than the Reportable Quantity (see 40 CFR 302.4) in the past three years.

4 = More than five spills of any quantity during a calendar year.

5 = Two or more spills that enter the storm drainage system during a calendar year. ***(Automatic trigger to high risk designation)***

L. Storm Water Enforcement History (EH)

Tenants are ranked based on the history of past storm water compliance warnings as well as the response actions taken by the tenant.

0 = No verbal or written warnings received in the past three years.

1 = Verbal and/or Written warning received in the past three years and corrective actions were taken by the tenant.

2 = Investigation Report and/or Notice of Apparent Violation received in the past three years and corrective actions were taken by the tenant.

3 = Written Warning received in the past three years, but corrective actions were NOT immediately taken by the tenant.

4 = Notice of Apparent Violation received in the past three years, but corrective actions were NOT immediately taken by the tenant.

5 = Civil penalties were assessed for non-compliance in the past three years. ***(Automatic trigger to high risk designation)***

3.3 Inspection Frequency

The frequency of tenant inspections will be based on a combination of the NPDES permit coverage status and the tenant risk ranking determinations of high, medium, or low threat.

At a minimum, DOTA will inspect each tenant in each ranking class as follows:

- DOTA Maintenance Baseyards for HNL, LIH, OGG, MKK will be inspected at least quarterly;
- High ranked tenants, that do NOT have separate NPDES permit coverage, shall be inspected at least quarterly;
- High ranked tenants, that have separate NPDES permit coverage, shall be inspected at least annually and DOTA shall submit a copy of the each inspection report to DOH within 30 days of the inspection;
- Medium ranked tenants shall be inspected at least annually; and
- Low ranked tenants shall be inspected at least biennially.

3.4 Implementation

After entry of the Consent Decree, an initial tenant risk ranking was conducted. The initial risk ranking was accomplished administratively using existing facility inventories as well as knowledge from previous tenant inspections. In some cases, a site visit was conducted to assist with the initial tenant risk ranking classifications. The risk ranking results were provided by the District Environmental Health Specialists (EHSs) to the Division EHS for compilation of a Statewide DOTA tenant risk ranking list.

Subsequent confirmation or reclassification of the risk ranking will be conducted as part of the routine inspection process. During inspections, District EHSs will reevaluate each facility based on the ranking criteria, determine if the current risk ranking classification is adequate, and make changes if warranted.

For new tenants, the EHS for each District may obtain information from an electronic database maintained and updated by the DOTA Property Management Section (AIR-PM). The database has information such as company name, airport, contact information, property space identification number, mailing address, property space use, and risk ranking. This information can then be transferred to the environmental database by the EHS, which is also used to record inspection results, risk ranking, and enforcement actions.

4.0 INSPECTION DESCRIPTION

The risk ranking process determines the number and frequency of facility inspections required each calendar year at all DOTA properties. The primary purpose of routine inspections is to evaluate how facility operations comply with the DOTA Storm Water Best Management Practices (BMPs). Inspection criteria affiliated with each of our twelve BMPs are detailed in Section 4.1. A secondary purpose of routine inspections is to develop and maintain an accurate inventory of environmental assets owned and operated by each facility. These assets are described in Section 4.2. A third purpose for routine inspections is to comply with HRS Chapter 342D; HAR Title 11, chapters 54 and 55; CFR Title 40, Chapter I, Subchapter D, Parts 100 through 135; and applicable NPDES general and individual permits issued to DOTA.

Inspections should be conducted under the following circumstances: 1) routinely as required per the risk ranking; 2) to investigate reported unauthorized discharges of pollutants to receiving water or the storm water collections system; 3) to evaluate new tenant operations; and 4) to evaluate environmental conditions in tenant areas subject to lease termination. Joint inspections may also be conducted with DOH and/or EPA representatives. Inspection criteria for non-routine inspections are discussed in Sections 4.3, 4.4, and 4.5.

4.1 Storm Water Best Management Practices

Best management practices or BMPs are defined in 40 CFR 122 as a schedule or schedules of activities, prohibitions or designations of practices, maintenance procedures, and other management practices to prevent or reduce the pollution to State waters and/or waters of the United States. Best management practices also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs can be operational practices intended to prevent pollutants from entering surface waters by altering activities to eliminate or to minimize the pollution produced. Treatment control BMPs are physical devices or systems that remove pollutants from storm water. Spill Response BMPs rely on a combination of structural controls, employee awareness, and training to be effective methods for protecting storm water quality.

Some of the BMPs to be evaluated during the inspections are based on the May 1999 City and County of Honolulu publication, *Best Management Practices Manual for Construction Sites in Honolulu.* Copies of applicable BMPs are included in Appendix B. Brief descriptions of each BMP and the accompanying key inspection criteria follow below.

4.1.1 Elimination of Non-Storm Water Discharges to Storm Drains

This is a general BMP to be applied to all facilities. Non-storm water discharges can be classified as 1) *activity-based* (subtle) or 2) *overt* (hard-pipe connection). Activity-based non-storm water discharges may include wash water, tank overflows, and spillage. Overt non-storm water discharges – flows piped to the storm water collections system - may include process wastewater, treated cooling water, and sanitary wastewater. Non-storm water discharges can be detected during inspections of facilities and the storm water collections system itself, both of which should take place in both dry and wet weather. Overt connections can also be detected during the engineering plan review process.

Certain non-storm water discharges are exempt from regulation, such as air conditioning condensate drainage, landscape irrigation runoff, foundation drainage, and uncontaminated fire suppression flows. A listing of approved non-storm water discharge can be found in the individual facilities' Storm Water Pollution Control Plan (SWPCP) or Storm Water Management Program Plan (SWMPP).

Key Inspection Criteria:

- Activity-based discharges: identify facility areas exposed to storm water which are wet during dry periods or are stained.
- Activity-based discharges: inspect discharge points to the storm water collections system to identify uncharacteristic volume, color, turbidity, odor, floatables, or foaming.
- Overt discharges: inspect each discharge point to the storm water collections system during dry weather and look for flow.
- Overt discharges: ask the facility manager to identify the discharge pathway of all floor and facility drains. Review as built drawings of facilities as needed to verify piping schematics.

4.1.2 Aircraft, Vehicle and Equipment Maintenance and Repair

Due to the mild climate of Hawaii, significant aircraft, vehicle and equipment maintenance and repair activities take place in uncovered areas. Accordingly, the potential for discharge of pollutants to storm water from these activities is very high. Coordinating with DOTA Management and Security to ensure that maintenance and repair activities take place only in authorized areas is critical to the success of this BMP.

Additional State and Federal regulations apply to some aspects of maintenance operations. A full list of relevant regulations is included with the BMPs in Appendix B. These include, but are not limited to HAR Title 19, Subtitle 2, Chapter 17.1: Small Plane Hangar Units and Tie-down Spaces at Public Airports, State and Federal solid and hazardous waste regulations, sewer use ordinances, and the Uniform Fire Code. Maintenance area problems can be addressed with a combination of these regulatory tools.

Key Inspection Criteria:

- Work area: verify that maintenance occurs in an authorized area.
- Work area: verify that storm drain inlets are labeled and/or protected from waste discharge, and cleaned regularly.
- Work area: verify that maintenance areas are not hosed down, but are cleaned with either dry methods or a mop and bucket.
- Equipment: verify that greasy or leaking equipment is stored under cover and/or with drip pans.
- Equipment: verify that all fluids are drained and batteries removed from salvage aircraft, vehicles, and equipment.
- Materials: evaluate hazardous materials utilized and make suggestions for substitutions of recycled or less toxic products.

- Materials: verify recycling or proper disposal of grease, oils, antifreeze, brake fluid, cleaning solutions, hydraulic and transmission fluids, solvents, paints, batteries, and filters.
- Training: verify that maintenance employees have received awareness training on storm water BMPs.

4.1.3 Aircraft, Vehicle and Equipment Fueling

Fuel transfer activities at DOTA facilities occur in various locations and circumstances. Designated fueling areas have been located and designed to prevent the run-on of storm water and the runoff of spills. Certain fuel storage and transfer operations are regulated under Title 40 of the Code of Federal Regulations (CFR) Part 112: Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities, commonly known as the Spill Prevention Control and Countermeasure (SPCC) Program. Aircraft fueling is also regulated under HAR Title 19, Subtitle 2, Chapter 37: Fuel Handling Procedures at Public Airports. Underground fuel storage tanks are regulated under HAR Title 11, Chapter 281: Underground Storage Tanks.

Some tenants are covered by SPCC plans developed and implemented as a requirement of 40 CFR Part 112. These plans are discussed in Section 4.1.12. The key components of fueling BMPs address some practical measures that should be used independently or in conjunction with an SPCC plan.

Key Inspection Criteria:

- Fueling area: assess fueling area design, and make recommendations for installing a cover, dead-end sump, berms, or impervious surfacing if appropriate.
- Fueling area: inspect sump or oil/water separator and query tenant on maintenance schedule.
- Fueling area: query tenant on fueling location of mobile equipment.
- Operations: check for staining in fueling areas, and evaluate whether adequate spill cleanup methods are routinely employed.
- Operations: evaluate cleanup practices – spent absorbent should be picked up and stored in an appropriate container, fueling areas should not be hosed down, and employees should be trained on fueling, spill cleanup practices, and content of SPCC plan.
- Equipment: evaluate secondary containment devices – portable and permanent – used during fueling operations.
- Equipment: inspect visible piping, tanks, and hoses for signs of leakage, wear, or malfunction.

4.1.4 Aircraft, Vehicle and Equipment Washing

The FAA requires routine washing of commercial aircraft to satisfy maintenance regulations. Additionally, the close proximity of the airport to the ocean causes an increased rate of corrosion on metals. Therefore, there is an increased need to remove accumulated salt water from aircraft, vehicles, and equipment through washing. An effort is underway to design and construct adequate washing facilities at designated airports. Some airports already have both public and privately operated wash racks, while others rely on these washing BMPs to prevent or reduce the discharge of pollutants to storm water.

All washing operations, especially steam cleaning and degreasing operations, must take place in approved areas given their potential for storm water pollution. Where possible, wash water should be discharged to the sanitary sewer through a permitted connection, in accordance with necessary pretreatment process requirements.

Key Inspection Criteria:

- Washing area: evaluate area for the following optimal characteristics – cover, containment, surface integrity, slope, run-on/runoff.
- Wash water treatment: evaluate maintenance, cleaning, and disposal of materials from sumps and oil/water separators.
- Equipment: inspect wash water collection, pretreatment, and reclamation system components for potential discharges.
- Equipment: evaluate storage and use of cleaning agents.
- Permits: evaluate whether discharges to the sanitary sewer or an injection well are authorized.
- Operations: evaluate whether all washing operations take place in approved areas.

4.1.5 Outdoor Handling of Material

This BMP refers to the outdoor handling of non-petroleum materials and cargo. Fuel loading and unloading activities are covered in Section 4.1.3. Aviation-related operations during which bulk materials are transferred include aircraft lavatory servicing, cargo handling, fire suppressant loading, construction materials staging, painting operations, and handling/mixing of bulk pesticides and herbicides. This BMP also addresses pumping operations affiliated with cleaning of tanks, sumps, piping, or ramp areas.

Key Inspection Criteria:

- Loading area: evaluate design and identify opportunities to improve cover, grading, berms, downspout and storm drain locations, and parking orientation.
- Loading area: evaluate non-structural loading areas for proximity to storm drains, stains, or pavement degradation.
- Equipment: verify that adequate supplies of cleanup materials are stocked at outdoor material handling locations.
- Operations: verify that leaks from transfers and spillage from hose disconnections are contained and absorbed and that residue is disposed of properly.
- Operations: review written operations plans and/or emergency spill cleanup plans.

- Operations: query tenant on spill prevention and response training of employees operating forklifts and responsible for loading/unloading operations.

4.1.6 Outdoor Storage

Containers of oil and hazardous waste are subject to specific storage and management standards under the federal Resource Conservation and Recovery Act (RCRA): 40 CFR Parts 260-279 and HAR Title 11 Chapters 260-280: Hazardous Waste Management. These standards include the requirement for secondary containment of all used oil and hazardous waste containers as a spill prevention measure. The SPCC regulations (40 CFR Part 112) specify secondary containment requirements for all aboveground storage of oil. The Outdoor Container Storage BMP extends this secondary containment requirement to all oil and hazardous material containers stored outdoors. Waste handling and disposal will be discussed in Section 4.1.7.

Key Inspection Criteria:

- Storage area: evaluate adequacy of secondary containment – must be sufficient to hold volume of largest container (plus average annual precipitation, if outdoors).
- Storage area: evaluate containers, aboveground tanks and piping for protection guards, such as bollards, to prevent vehicle or forklift damage.
- Equipment: verify that aboveground oil tanks are equipped with overflow protection devices to warn operators or to shut down transfer pumps automatically;
- Equipment: inspect container integrity for signs of failure.
- Operations: verify that all containers are clearly labeled to prevent misuse or accidental release.
- Operations: evaluate management of secondary containment structures to prevent accumulation of storm water and/or free product, and verify that tenant logs releases of uncontaminated storm water from secondary containment.

4.1.7 Waste Handling and Disposal

This BMP is intended to prevent or reduce the discharge of pollutants to storm water from waste handling activities by tracking waste generation, storage, and disposal; reducing waste generation and disposal through source reduction, reuse, and recycling; and preventing run-on and runoff from waste management areas. Waste handling activities and incompatible products are regulated directly by both federal and State laws (see Section 4.1.6) due to a higher likelihood of release.

The high cost and regulation pertaining to waste provides incentives for reducing waste generation and identifying opportunities for reuse and recycling. Components of this BMP target both the required waste management activities and waste reduction efforts.

Key Inspection Criteria:

- Storage area: inspect all hazardous waste and used oil storage areas to verify secondary containment.
- Storage area: inspect all waste storage areas to ensure that dumpsters are covered and not leaking.
- Storage area: ensure that sediments and wastes are not tracked off site.

- Operations: inspect all waste storage areas to ensure that incompatible wastes, such as acids and bases, are segregated and that all waste containers are labeled properly (consult HAR Title 11 Chapters 260-280: Hazardous Waste Management for labeling requirements).
- Operations: inspect waste storage containers for integrity (must be covered when not being filled as well as rust and dent-free) and waste storage areas for signs of leaks or spills.
- Operations: verify that all wastes are disposed of properly, and if applicable, query tenant on hazardous waste generator status (conditionally exempt, small quantity, or large quantity generator), obtain their EPA identification number, and verify that records of waste generation and disposal are being kept.
- Operations: evaluate training of waste-handling employees.
- Waste reduction: recommend maintaining minimal inventory of chemical products to reduce spill potential and waste generation.
- Waste reduction: recommend identifying less toxic chemical substitutes to reduce hazardous waste generation.
- Waste reduction: recommend reusing or recycling materials whenever possible.
- Waste reduction: evaluate processes generating wastes to identify modifications (e.g. double cleaning of parts, material substitutions or eliminations) that would minimize wastes.

4.1.8 Buildings and Grounds Maintenance

Activities such as painting, roofing, pressure washing, and construction generate debris and pollutants that could come into contact with storm water runoff. Grounds maintenance includes cleaning of operational areas and application of fertilizers, herbicides, and pesticides. It also includes management of the storm water drainage system.

Key Inspection Criteria:

- Building maintenance: evaluate temporary controls implemented to contain debris and pollutants, such as tarps, booms, restricted use of wash water, and storm drain covers.
- Grounds maintenance: evaluate cleaning methods for paved surfaces – recommend sweeping over washing, and proper storage and disposal of sweeper debris.
- Grounds maintenance: encourage careful use of fertilizers, herbicides, and pesticides to maximize absorption while minimizing runoff to storm water drainage system.
- Grounds maintenance: recommend leaving or planting native vegetation to reduce irrigation, fertilizer, herbicide, and pesticide needs. When applying herbicides or pesticides follow the manufacturer's instructions and do not spray in high winds or when rainfall is eminent to reduce overspray and runoff.
- Grounds maintenance: encourage collection and composting of green waste to prevent blockages in the storm water drainage system.
- Grounds maintenance: evaluate cleaning schedule of the storm water drainage system.

4.1.9 Storm Water Pollution Prevention Education

SWPCPs or SWMPPs have been developed and implemented for all airports covered by the NPDES program. These plans include provisions for annual training of all DOTA employees and tenants with potential impacts to storm water, in the principles and practices of storm water pollution prevention. Tenants with separate permit coverage are also required to have SWPCPs and independent employee training, which is often a part of their corporate policy.

This section identifies potential components of storm water pollution prevention training programs. Inspection criteria would be limited to confirmation of employee training and review of storm water training materials.

Key Education Components:

- Increase awareness of what is and what is not allowed to enter storm drains.
- Identify storm water collection system components – encourage labeling of storm drains to discourage illegal dumping.
- Increase awareness of the detrimental environmental impacts that result from fuel, antifreeze, lubricants, pesticides, detergent, paint, and waste residue mixing with storm water.
- Promote the proper storage, use, and disposal of potentially harmful chemicals.
- Promote the proper storage and disposal of wastes.
- Encourage acquisition of alternative, less toxic chemicals such as short-lived pesticides, non-chlorinated solvents, water-based paints, and non-aerosol products.
- Encourage waste minimization and recycling.
- Provide mechanism for reporting apparent violations and increase awareness of possible penalties affiliated with illicit dumping and storm water pollution.
- Encourage efficient and safe Best Management Practices in areas with industrial activity.

4.1.10 Oil/Water Separators

Oil/water separators are chambers designed to remove petroleum compounds and greases, floatable debris, and settled solids from either wastewater or storm water. They are installed as a pretreatment device for wastewater, prior to discharge to a sanitary sewer, cesspool, recycling system, treatment plant, or other collection points. Oil/water separators are also installed at locations with high fuel recovery potential, such as fuel truck loading areas where spilled product must be recovered for proper use or disposal. In the case of storm water, oil/water separators have been installed in operational areas prone to frequent small spills and drips that have a significant cumulative impact on storm water quality, such as airport ramp areas. With this application, the oil/water separator is utilized as a flow-through polishing device rather than a reclamation device.

Oil/water separators come in a range of sizes and designs, depending on the volume of flow and characterization of the influent. In order to be effective, all oil/water separators warrant regular maintenance.

Key Inspection Criteria:

- Performance: if possible, inspect effluent from oil/water separator for sheen, odor, clarity, and floatables.
- Operations: query tenant on oil/water separator inspection/cleaning frequency and practices – all solids and liquids must be disposed of properly.
- Operations: query tenant on major maintenance activities or routine parts replacement.
- Operations: query tenant on employee training, in particular with oil/water separators that require valve opening or switching for use.

4.1.11 Runoff Retention Basins

Runoff retention basins, such as the evaporation ponds located at HNL, are designed to collect the dry weather flows (such as washing) and wet weather flows (such as storm water runoff) in a contained area in order to prevent pollutants from flowing to the storm drain system or receiving water. The collected water may be allowed to evaporation, infiltrate, or be treated before disposal to a wastewater handling facility. They also may be designed and constructed to collect catastrophic spills. In the case of storm water collection, typically automatic control valves activate to isolate the basin after a substantial portion of the first flush flows has been captured. The contents of the basin are then pumped through an oil/water separator prior to discharge.

Dry weather flows may include wash waters, irrigation runoff, air conditioning and refrigeration condensates, and clean water from hydrant flushing and foundation sump pumpage. These flows and the initial flow from storm water runoff become contaminated by flowing over impervious surfaces on which pollutants have accumulated. Treating these flows with runoff retention basins is very effective, as long as certain management practices are employed.

Key Inspection Criteria:

- Operations: if applicable, verify that the oil/water separator is maintained regularly (see Section 4.1.10).
- Operations: verify that sediment build up in the basin is monitored, removed when necessary, and disposed of properly.
- Operations: verify that containment devices, such as earth berm walls, are structurally sound.
- Operations: verify that pools of standing water are minimized to control mosquitoes and odors.

4.1.12 Emergency Spill Cleanup Plans

Emergency Spill Cleanup Plans are developed in support of other BMPs, including those that target maintenance, fueling, outdoor material handling, and waste storage (see Sections 4.1.2, 4.1.3, 4.1.5, 4.1.6, and 4.1.7). Owners and operators of facilities that store, process, use, or consume oil or oil products and have an aggregate aboveground storage capacity of 1,320-gallons or more of oil may be required, under 40 CFR Part 112, to develop and implement a SPCC plan. However, those tenants that use oil in sub-threshold quantities (not requiring SPCC plans) and have operations with high spill potential of potentially hazardous materials, an Emergency Spill Cleanup Plan must be developed, which is tailored to the activities of a single tenant, as a pollution prevention tool.

Key Inspection Criteria:

- Evaluate whether or not the tenant is regulated under the SPCC program – if so, verify that they have provided the DOTA with a current SPCC plan.
- Evaluate whether or not the tenant has operations which would warrant an Emergency Spill Cleanup Plan, and make recommendations.
- Review the existing plan for basic components: facility description, site plan, notification procedures, cleanup instructions, cleanup materials, and responsible parties.
- Review spill response records, if any.
- Verify that contingencies identified in the plan, such as spill kits, are present and stocked.
- Verify that employees are trained on Emergency Spill Cleanup Plan components.

4.2 Environmental Asset Inventory

During routine inspections of tenants conducting industrial activities as well as DOTA operations, a DOTA inventory of environmental assets is verified and updated. A tenant database has been developed and maintained, in which unique identification numbers are assigned to operations and equipment considered to have environmental significance. Key environmental asset categories include mobile storage tanks, aboveground storage tanks, underground storage tanks, hazardous material storage areas, spill kits, waste storage areas, paint booths, vehicle wash areas, pre-treatment, and aircraft/vehicle maintenance areas.

Tracking environmental assets allows for a comprehensive evaluation of operations at each airport, and more effective communication with tenants regarding changes in applicable regulations or policies. Database queries generate reports by asset, by airport, or by tenant. Information within the database is used during routine inspection, illicit discharge investigations, enforcement action, and lease termination proceedings. Therefore, verifying and updating electronic records of environmental assets is an essential component of routine inspections.

4.3 Discharge Response

Whenever a pollution complaint or potential illicit discharge is observed, an investigation shall be conducted and documented with an Investigation Report. The inspector shall verify whether or not an illicit storm water discharge has occurred, and if so, to identify the pollutant(s) source. Investigations may involve multiple tenants, and while they do not preclude the need for a routine inspection, a written record of all investigations will be kept as part of the environmental compliance program.

4.4 New Tenant Evaluation

Ongoing coordination with Properties Management and Airport Operations enables environmental assessments of new tenant operations. Notification of a new lease triggers an evaluation of the potential environmental impacts of the new tenant, and if necessary, an environmental inspection. The purpose of this inspection is to identify any environmental assets, to assign a risk ranking, and to convey the Storm Water BMPs to the new tenant. The database must be updated with any new information, to ensure that annual risk ranking includes all tenants.

4.5 Lease Termination

Tenants with environmental assets such as fuel tanks, maintenance areas, or hazardous materials and/or waste storage activities pose a potential risk to DOTA as the landowner. Prior to terminating leases for these tenants, inspection records shall be reviewed, and if necessary, final inspections are conducted to identify any environmental issues needing resolution prior to lease termination.

Examples of potential environmental issues include site investigations for UST closure, disposal of waste solids from vehicle wash sumps, or removal of stockpiled hazardous materials. If appropriate, tenants can be required to conduct Phase I and Phase II Environmental Assessments to ascertain the presence and extent of environmental contamination that resulted from their operations.

5.0 INSPECTION PROCEDURES

Inspection procedures are designed to maintain compliance with the industrial NPDES permits issued to the DOTA. These procedures will also be implemented, as a Best Management Practice, at airports not covered by the NPDES program.

5.1 Pre-inspection Preparation

Prior to conducting routine storm water inspections, inspectors shall collect and analyze available background information of the tenant to be inspected. Begin by generating a summary from the environmental database, which lists all known environmental assets affiliated with the facility as well as any past inspection records. Review electronic data from AIR-PM and airport layout maps to identify leased areas. Supplement electronic information with a review of file hard copies. Files that are in hard copies that shall be reviewed include a variety of relevant information such as SPCC plans, past enforcement actions, facility plans for tenant improvement projects, and correspondence.

Compare facility diagrams with drainage maps for that area of the airport to identify drainage pathways for potential facility discharges. Pay particular attention to changes that have occurred at the facility, to either operations or the facility structures, as well as to changes in DOTA environmental policies since the previous inspection. Identify and review the BMPs that apply to the facility's operations. Finally, identify any special safety considerations and inspection scheduling limitations prior to contacting the facility to arrange the inspection.

Once the background information has been reviewed, develop an inspection plan to highlight the key objectives of the inspection. While all inspections are intended to identify any environmental concerns, they should also serve to acquire specific information from the tenant, such as copies of permits or plan revisions, or to convey specific information to the tenant in a direct fashion. The inspection plan includes the following components:

1. Objectives: define purpose of inspection and intended accomplishments.
2. Tasks: identify specific tasks and information to be collected and/or reviewed.
3. Procedures: identify any special procedures to be used.
4. Resources: establish personnel and equipment needs.
5. Schedule: given the inspection frequency, assess how much time will be required.
6. Coordination: determine whether this inspection warrants coordination with other airport personnel or regulatory agencies.

5.2 Entry

Leases and Revocable Permits issued by AIR-PM provide DOTA inspectors the right to enter tenant facilities for the purpose of inspection. While notifying tenants of the intent to inspect their facilities is not a requirement, it does enable the tenant to gather necessary records, to make a facility representative available to accompany the inspector, and to prepare themselves to discuss any environmental questions or concerns. Unannounced inspections give a more accurate sense of day-to-day operations, and are generally utilized when inappropriate corrective actions warrant a higher level of enforcement. Since the DOTA inspections have the dual purpose of environmental outreach and NPDES permit compliance, scheduling the

inspection a few days in advance may foster a more productive working relationship with DOTA tenants.

If the inspection has been scheduled in advance, begin by introducing yourself and asking for the facility contact. When using more than one inspector, either from DOTA or a combination of DOTA and DOH or EPA representatives, identify your respective roles in the inspection as well as who will be leading the inspection for the group. This will ensure efficient communication between the tenant and the inspection team.

In the rare instance when an inspector is denied access to a facility on DOTA property, the most efficient recourse, following notification of the inspector's supervisor, is to obtain a copy of the relevant lease or revocable permit section that highlights the right of entry. Lease language typically reads:

> "The LESSOR, and LESSOR'S officers, employees, agents, and any other person or persons permitted on the Premises with the express permission or consent of the LESSOR, shall have the right, at all reasonable times, to enter upon the Premises, or any part or portion thereof: (1) for the purpose of inspecting the same; (2) for observing the performance or nonperformance of the TENANT in its obligations under this Lease; (3) to serve or post, or keep posted thereon, notices provided by any law or statute of the state, the LESSOR, and/or the Premises; and/or (4) for the doing of any act or thing which the LESSOR may be obligated or have the right to do under this Lease or otherwise."

Revocable Permit language is more limited, but carries the same meaning:

> "The DEPARTMENT or its agents and employees may enter the Premises at all reasonable hours to inspect the Premises and determine if the PERMITTEE is complying with the terms and conditions of this Permit or for any other proper purpose. The PERMITTEE shall not make any claim for damages or set off of rent or other charges by reason or on account of such entry."

If the tenant exhibits hostile behavior, inspectors should request airport security to provide escort during the inspection. At no time should an inspector feel compelled to conduct the inspection in an unsafe environment. Some tenant facilities pose safety concerns and have specific safety protection requirements. Where possible, the inspection of operational areas should be conducted with a tenant representative.

5.3 Tenant Conference

Depending on the size of the facility to be inspected, the tenant conference may consist merely of the inspector describing the purpose and order of the inspection to the facility representative. This will allow the facility representative to locate additional documents or key personnel necessary to meet the objectives. Pre-inspection preparation may have identified key areas and issues. If so, convey these to the facility representative to ensure that they are reviewed.

It is imperative that a facility representative accompanies the inspector during the inspection to answer questions and describe operations, as well as to address safety and liability considerations. Often a facility representative will include other employees with specialized roles during specific portions of the inspection.

Records, such as monitoring results, waste disposal manifests, or SPCC documentation, may be reviewed before, during, or after the facility inspection. Most inspections result in one or more follow up activities, so it may be helpful to take a few minutes at the end to review relevant records and recap any deficiencies or violations, as well as questions requiring follow up by either the inspector or the facility representative.

5.4 Inspection

Conducting an effective inspection requires observing operations that have the potential to impact storm water runoff, posing questions to the tenant as necessary to gain a clear picture of whether or not the operations comply with the BMPs, and recording observations for future use.

Use the pre-inspection preparation to identify which areas of concern require the most attention for each tenant. Communicate the areas you plan to inspect with the tenant representative to ensure that all areas are observed. As each area is observed, evaluate how operations conform to the relevant BMP(s) and note any deficiencies on the inspection forms described below. Provide written and/or oral guidance to the tenant concerning environmental improvements that may suit their operations, such as storage techniques, product substitutions, labeling requirements, or proper housekeeping protocols.

The inspection is an opportunity for the inspector to convey information to the tenant in the context of the tenant's operation, as well as a time for the tenant to ask for guidance on particular environmental concerns. Many inspections generate follow up activities, for both the inspector and the tenant, which contribute to the goal of achieving environmental compliance in tenant operations.

5.5 Documentation and Recordkeeping

Accurate inspection documentation and recordkeeping are critical to the success of the DOTA Environmental Program. Photo documentation provides a simple method to illustrate whether storm water compliance has been achieved and is essential in follow-up investigations. If conducting multiple inspections on one day, begin the photo documentation with a picture of the outside of the facility or of an area where the operator of the facility can be easily identified. Record picture numbers on the NPDES Tenant Inspection Checklist.

The Storm Water Inspection Checklist is the primary recordkeeping tool utilized during the inspection (see Appendix E). Inspectors may find it helpful to fill out portions of the form in advance, such as the tenant contact information and notes within each relevant BMP section on the environmental assets or issues of concern.

As the inspector reviews each relevant area, such as Maintenance, Fueling, and Washing, time should be taken to complete these sections with comments and observations. Each line item will be checked whether item is "yes", "no", or "N/A" (item not applicable). Any items

checked “no” require at minimum comments, explanation, and/or further investigation. A copy of the Inspection Checklist will be presented to and/or sent to the tenant, become a part of the permanent DOTA tenant file, and sent to DOH within 30 days of the inspection if the tenant has a separate industrial NPDES permit coverage. The DOTA Maintenance Baseyards for airports designated in the Consent Decree will be inspected quarterly, and each Inspection Checklist will be sent to DOH within 30 days of inspection.

Facility contact or operational information collected during the inspection may be utilized by other DOTA sections, such as Properties Management, to update databases used for other purposes.

6.0 ENFORCEMENT

The primary objective of the DOTA NPDES enforcement program is to a) motivate tenants to voluntarily comply with the DOH storm water regulations, b) to correct any violations, and c) to operate their facilities in accordance with the DOT environmental policy and BMPs. Developing and implementing this enforcement program will protect DOTA's environmental resources.

6.1 Scope of Authority

The enforcement options available to DOTA range from administrative actions including written warnings and eviction to the issuance of citations and a district court verdict of a misdemeanor or fine. Three general areas of the environmental enforcement in addition to the NPDES program are: a) HRS Chapter 261, which authorizes DOTA to issue citations and summons for violations of its rules and have its actions enforced through the district courts by verdict of a misdemeanor or fine, b) Hawaii Administrative Rules Title 19, which establishes uniform safety measures, operational standards and requirements, and the conduct for all tenants at Hawaii airports; and c) the tenant lease agreement or revocable permits that provides the DOTA with the authority to issue additional charges for each day a tenant is in violation of the agreement and also the termination of the lease. These three areas of general enforcement are discussed in Appendix D; however, individual inspectors such as DOTA EHS may not have the authority to pursue all areas of enforcement and would refer cases to the appropriate individuals when necessary.

6.2 Enforcement of DOH Regulations

Through a Memorandum of Understanding (hereinafter “the MOU,” attached in Appendix C), dated March 29, 2000, between the DOT and DOH, a protocol has been established that authorizes the DOT to participate in the enforcement of HRS Chapter 342D. The DOTA adopted the DOH enforcement forms and processes to inspect and document potential violations for an efficient DOH compatible inspection and enforcement program. The workflow between enforcement of HRS Chapter 342D penalties, hearings, civil actions and other administrative processes shall be performed by the DOH with DOTA assistance under its general permit conditions. DOTA has adopted some of DOH NPDES inspection and enforcement procedures and forms into its enforcement program to create a seamless and efficient work process that should be complementary if the CWB chooses further enforcement actions.

6.3 Description of Enforcement Steps

The goal of the DOTA is to motivate tenants to voluntarily comply with their environmental obligations. Environmental enforcement officers are encouraged to assist tenants, without providing specific advice, on how the tenant can achieve environmental compliance; including suggesting that the tenant obtain the advice of a consultant if one is needed. In event that an enforcement action is required, the DOTA, in executing the MOU, will use similar enforcement documents to the DOH Clean Water Branch. Depending on the infraction, the environmental enforcement officer will identify the appropriate enforcement response to achieve compliance. If the tenant does not achieve compliance by implementing the appropriate corrective action, the environmental enforcement officer will “escalate” the enforcement response by issuing a more severe action that will achieve compliance. DOTA has adopted a tiered approach of escalating enforcement actions based on the severity of the violation and the tenant's

compliance response history. A description of the different levels of enforcement action is included in Section 6.4.

The following is the step-by-step progression of a general enforcement action if an NPDES violation or illicit discharge is discovered. The process is also depicted in Figure 1. The timeframes indicated may be amended through an extension granted by the DOTA or DOH if requested by the tenant.

- Written Warning is issued to violator and a copy is provided to the tenant. This will be either in the form of a carbonless copy of the Inspection Checklist if the tenant is on-site during the inspection or the form of a letter if the tenant is not available during inspection.
    - if violation resolved within 30 days – close enforcement
    - if violation continues or there is no response – enforcement escalates.↵

- Formal Investigation Report is issued to alleged violator and a copy is sent to DOH
    - if violation resolved within 30 days of issuance – close enforcement (send closure letter to DOH)
    - if violation continues or there is no response – enforcement escalates.↵

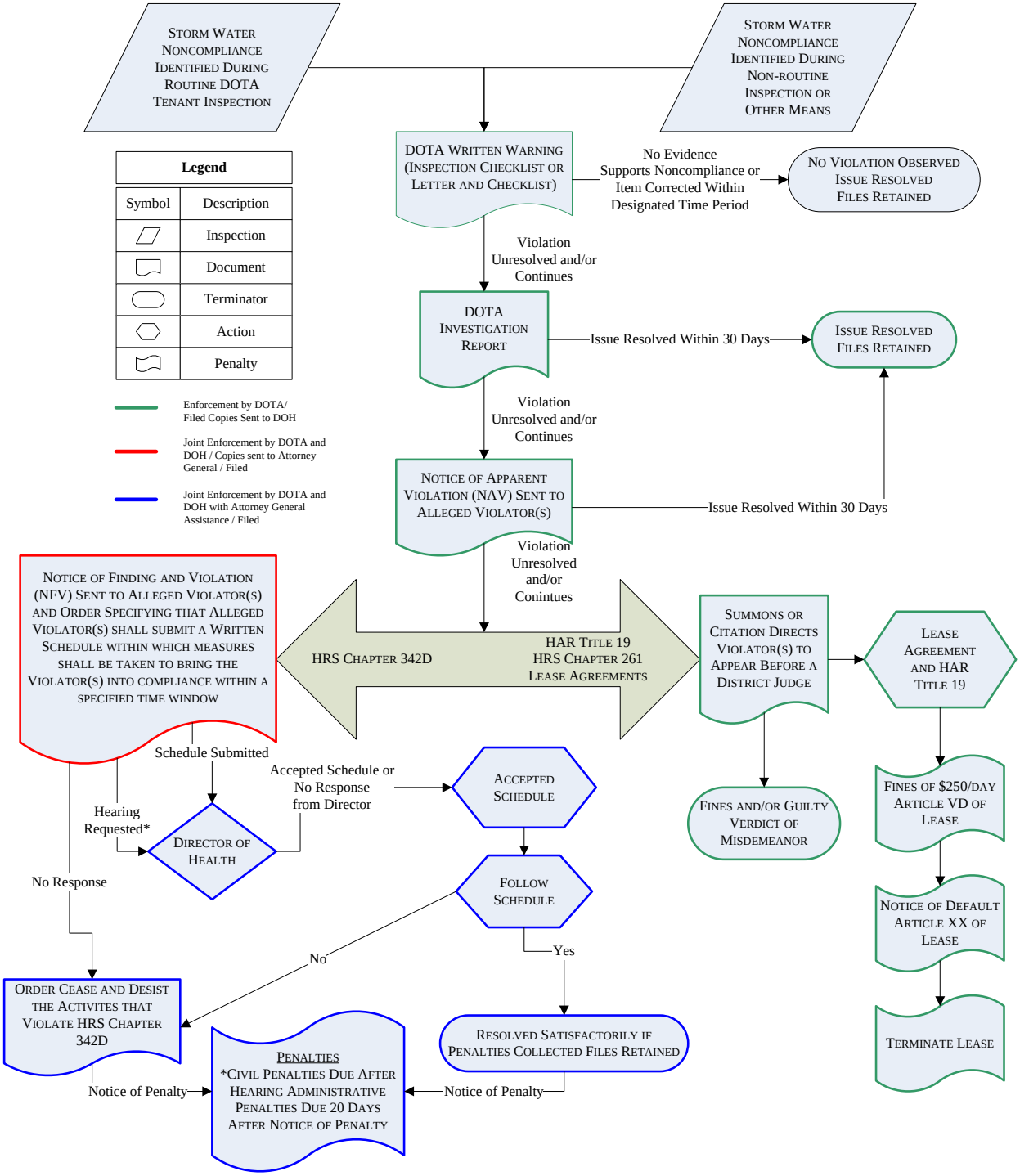
- Formal Notice of Apparent Violation (NAV) issued to alleged violator (copy of NAV sent to DOH)
    - if violation resolved within 30 days of issuance – close enforcement (send copy of closure letter to tenant and DOH)
    - if violation continues or there is no response to NAV – enforcement escalates.↵

- Formal Notice of Finding and Violation; Order; and Certificate of Service issued to alleged violator (performed in conjunction with DOH with assistance from the Office of the Attorney General)
    - an acceptable compliance schedule is presented within 30 days
        - schedule followed – Notice of Penalty may be issued
            - penalty paid to DOH within 30 days – close enforcement (send copy of closure letter to tenant, DOH, and Office of Attorney General)
            - not paid – enforcement action remains open and within 30 day civil action in name of State may open
        - schedule not followed – enforcement escalates.↵
    - unacceptable schedule submitted or no response – enforcement escalates.↵
    - alleged violator requests Hearing with Director of Health – Hearing granted as contested case under chapter 91
        - Director of Health find no NPDES violation occurred or is occurring – closure letter issued
        - Director of Health finds a violation has occurred or is occurring – enforcement escalates.↵

- Director of Health issues an Order prescribing a date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or discharges
    - Notice of Penalty issued
        - penalty paid to DOH within 30 days – close enforcement (send copy of closure letter to tenant, DOH, and Office of Attorney General)
        - not paid – enforcement action remains open and within 30 day civil action in name of State may open

Figure 1.

Hawaii Department of Transportation
Airports Division
NPDES Enforcement Flow Chart



6.4 Enforcement Documentation

The levels of written enforcement actions to be utilized by inspectors, in order of increasing severity, are as follows:

- Written Warning (Inspection Checklist or Letter and Inspection Checklist);
- Investigation Report;
- Notice of Apparent Violation (NAV);
- Issuance of Summons or Citation; and
- Notice of Finding and Violation (NFV) and Order – DOTA in conjunction with DOH

The following sections contain brief descriptions of each level of enforcement action and procedures for implementation.

6.4.1 Written Warning

A Written Warning is given to a tenant where the finding is a minor discrepancy with one or two BMP items and good faith efforts to have the tenant comply and to employ BMPs were not successful. Written Warnings are limited to conditions that do not pose an immediate threat to an illicit discharge of a pollutant to the storm water system; illicit discharges enforcement action should follow procedures outlined the HNL SWMPP Section B. Examples of conditions that warrant a Written Warning may include:

- Lack of or out-of-date spill plans,
- Lack of good housekeeping,
- Improper storage of batteries,
- Lack of labeling on drums, and/or
- Lack of drip pans beneath a vehicle.

If the tenant or their representative is available during the inspection for a conference concerning the discrepancies, the Inspection Checklist will serve as the warning of enforcement. The DOTA inspector will mark the discrepancy on the checklist and include the date of re-inspection for correction of noted items (typically 30 days). A carbonless copy of this Inspection Checklist will be presented to the tenant during the inspection conference.

If the tenant or their representative is not available during the inspection, then any discrepancies will be noted on the Inspection Checklist and sent to the tenant with a letter to serve as written warning of enforcement. The letter will note the date of re-inspection for correction of noted items (typically 30 days).

These documents will become a part of the permanent tenant file. Note that for violations which also are classified as illicit discharges, the DOTA inspector will forward a copy of the Inspection Checklist and Written Warning to the CWB in accordance with procedures listed in the HNL SWMPP Section B.

6.4.2 Investigation Report

The Investigation Report can be used either as a follow-up to a written warning or as an initial enforcement response to a major violation. The Investigation Report should be written when the inspector returns from the site of the alleged noncompliance, while observations are still fresh in the inspector's mind. The report identifies witnesses/inspectors, the investigation purpose, weather conditions, a description of facility operations, investigation findings, interviews, recommendations, and includes photo documentation. The Investigation Report will include a letter with a compliance deadline and a follow-up inspection should be scheduled within 30 days to verify that the infractions were corrected. A copy of the report will be sent to the tenant and CWB, and will become a part of the permanent tenant file. If the tenant does not respond to the Investigation Report by the deadline, the enforcement officer will issue a Notice of Apparent Violation.

6.4.3 Notice of Apparent Violation

A NAV letter is used to send a stronger message than a Written Warning or Investigation Report. It documents the DOTA's efforts to have the tenant voluntarily comply with the environmental laws and BMPs. It also serves as a basis for future penalties, should the occurrence of violations continue or even increase. The NAV is served to a tenant under several different circumstances. The tenant may have a good record of employing BMPs and complying with environmental regulations, but the seriousness of the infraction warrants written communication. If the infraction is relatively minor and the tenant has a record of receiving Written Warnings, the inspector may seek approval to issue a NAV to have the tenant initiate immediate corrective action. The NAV shall be sent from DOTA by certified mail to the tenant. The DOTA inspector shall notify the DOH CWB by telephone and forward a copy of the NAV and the Investigation Report(s) to the DOH and the Department of the Attorney General. A sample of a NAV letter is included in Appendix G.

6.4.4 Issuance of Summons/Citation

The issuance of the Summons/Citation by DOTA requires that the tenant appear before a District Judge to address the violation(s) and corrective action. This action may lead to fines and/or a Notice of Default for the lease under Article XX of the lease.

6.4.5 Notice of Finding and Violation (NFV), Order, and Further Action

An NFV specifies the alleged violation and contains an order requiring the named individual(s) to submit a written schedule within 30 days to the Director of Health specifying the measures to be taken and the time within which such measures shall be taken to bring that person into compliance with HRS 342D. A sample of a NFVO is included in Appendix H.

- If the alleged violator submits a schedule, the Director of Health has 30 days to approve or modify the submitted schedule. Any schedule not acted upon after 30 days of receipt by the Director of Health shall be deemed acceptable.
- If the alleged violator does not submit a written schedule within 30 days of receipt of the NFV and Order, the Director of Health shall issue a cease and desist order against the activities that violate HRS 342D.
- If the Director of Health determines that any person has violated an accepted schedule or order issued concerning this NFV, the Director of Health shall impose penalties by

sending a notice in writing, either by certified mail or personal service, to that person, describing such nonadherence or violation with reasonable particularity.

- Any administrative penalty imposed under this chapter shall become due and payable 20 days after a notice of penalty is served to that person(s) unless a hearing with the Director of Health is requested.
- The person(s) named in the NFV may request in writing a hearing before the Director of Health. Any hearing conducted under HRS Chapter 342D shall be conducted as a contested case under HRS Chapter 91. If after a hearing held pursuant to this section the Director of Health finds a violation(s) have occurred, the Director of Health shall affirm or modify any penalties imposed or shall modify or affirm the order previous issued or issue an appropriate order or orders for prevention, abatement, or control of the violation or discharges involved, or for the taking of such other corrective action as may be appropriate. Whenever a hearing is requested on any penalty imposed on under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. If, after a hearing on and order or penalty contained in a notice, the Director of Health finds that no violation has occurred or is occurring; the Director shall rescind the order of penalty. Any order issued after hearing may prescribe timetables for violation(s) shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or discharges.

6.5 Guidelines for Selecting Enforcement Level

These following guidelines are the minimum enforcement action requirements. The environmental enforcement officer has the discretion, based on the circumstances stated below:

- Written Warning (Inspection Checklist) – For tenants who are available on-site during the inspection; have no previous NAV letters, Summons, or Citations; and when a tenant is compliant on all other matters excluding the minor noncompliance.

- Written Warning (Letter) – For tenants who are not available on-site during the inspection; have no previous NAV letters, Summons, or Citations; and when a tenant is compliant on all other matters excluding the minor noncompliance.

- Investigation Report – After Written Warning and no corrective action within 30 days.

- Investigation Report – With or without Written Warning, when pollutants are observed outdoors and it is a reasonable to foresee that pollutants will enter the storm water drainage system or waters of the State during a storm event (i.e. spills, open containers, etc.).

- NAV–When a tenant has been given an Investigation Report and no corrective action taken within 30 days.

- NFV/Order and/or Citation/Summons after a tenant(s) does not correct an NPDES violation after 30 days of issuing an NAV.

All copies of Written Warnings and NAVs issued for environmental violations shall be sent to the Environmental Program Supervisor, Engineering Program Manager, and the Director of Transportation or his designee to monitor tenant compliance with the terms of the lease. The Director or his designee will determine, after repeated violations, whether to levy additional charges for each day the tenant is in violation with environmental compliance under the lease agreements or permit or seek more severe action under the lease agreement, including default and termination of the lease.

In addition to the penalties in the above paragraph, DOTA will use the MOU to develop and prepare the documents that will allow the DOH to efficiently enforce its regulations under Water Pollution Control (HRS 342D) and administrative rules. By its own motion and in addition to all other actions, DOH can initiate a separate action under its rules and regulations to achieve compliance.

7.0 TRAINING

Inspector, tenant, and employee training has been designed to ensure that storm water pollution prevention requirements and responsibilities are clearly understood by all airport personnel responsible for preventing storm water pollution at DOT airports. Inspector training guarantees that complete and accurate inspections and enforcement actions under the NPDES program are conducted at all tenant facilities, while tenant and employee training is a necessary part of instructing airport employees on the DOTA BMPs.

7.1 DOTA Inspector Training

This manual will guide DOTA personnel and contract management staff tasked with implementing and overseeing airport tenant inspections and enforcement activities. The Risk Ranking process detailed in Section 3.0 determines the number and frequency of facility inspections required each calendar year at leased and DOTA-operated areas. The key inspection criteria, inspection procedures and enforcement responses are covered in Sections 4.0, 5.0, and 6.0 of this manual.

In addition to this manual, new inspectors will gain inspection experience by spending at least one day conducting tenant inspections with the Division EHS. During the joint inspection, the new inspector will observe the Division EHS conduct airport facility inspection as well as conduct their own facility inspections with assistance from the Division EHS. New inspectors will continue to have frequent conversations with the Division EHS to discuss inspection issues as they arise.

7.2 Annual Tenant and Employee Training

Storm Water Pollution Prevention training will be provided annually to DOTA tenants and employees at the NPDES regulated DOTA airports. The annual training will discuss how and why storm water discharges are regulated, provide an in-depth discussion of the twelve BMPs detailed in Section 4.1 that were developed to address the most common sources of storm water pollution at Hawaii airports, explain the inspection criteria used by DOTA during tenant inspections, and cover the basics of spill response and clean-up.

Similar annual training will also be conducted at the airports not covered by the NPDES program.

8.0 ANNUAL PROGRAM REQUIREMENTS

Implementation of this NPDES Inspection and Enforcement Manual will help DOTA and airport tenants comply with regulatory requirements and storm water BMPs that have been adopted for each airport facility.

DOTA and tenant facilities must be inspected on a frequency determined by the Risk Ranking procedures outlined in Section 3.0. The inspection procedures, inspection process and potential enforcement actions are further detailed in the manual to guide DOTA personnel tasked with the responsibility of storm water pollution prevention.

8.1 Risk Ranking Review

At least once each calendar year, DOTA will review and confirm or reclassify the tenant risk ranking results as part of the routine inspection process. The risk ranking criteria explained in this manual will be followed to ensure that a consistent review process is completed annually for all airport facilities. Changes to the risk ranking determination will be noted in the tenant lists.

8.2 Annual Reporting

The DOTA is required to submit quarterly reports to the EPA and DOH for the first year of operating under the Consent Decree, and semi-annual reports for the following year. Reports must include lists of tenants from regulated airports, including the respective risk rankings, inspection dates, enforcement actions taken, and dates of required follow up activities. These reports must also summarize the number and dates of tenant inspection and enforcement program trainings, types of trainings, and attendees participating at each event.

Copies of Storm Water Inspection Checklists for all tenants that have separate NPDES permit coverage and DOTA Maintenance Baseyards, Investigation Reports, Warning Letters, and NAV letters will be forwarded to the DOH within 30 days of issuance.

9.0 REFERENCES

- The California Department of Transportation. May 2003. *Statewide Storm Water Management Plan.*
- The California Department of Transportation, Division of Construction. December 2003. *Storm Water Management Enforcement Guidance Manual.*
- The City & County of Honolulu, Department of Environmental Services. May 1999. *Best Management Practices Manual for Construction Sites in Honolulu*.
- The EPA Office of Water Enforcement and Permits. September 1989. *Guidance for Developing Control Authority Enforcement Response Plans.*
- The EPA Office of Water Enforcement and Permits. July 1986. *Pretreatment Compliance Monitoring and Enforcement Guidance.*
- State of Hawaii. *Hawaii Revised Statutes Chapter 342D.*
- State of Hawaii, Department of Health. June 2009. *Hawaii Administrative Rules, Chapters 11- 54.*
- State of Hawaii, Department of Health. June 2009. *Hawaii Administrative Rules, Chapters 11- 55.*
- State of Hawaii, Department of Transportation, Airports Division. May 2007. *Honolulu International Airport, Small Municipal Separate Storm Sewer System, Storm Water Management Program.*
- State of Hawaii, Department of Transportation, Airports Division. January 19 2007. *National Pollutant Discharge Elimination System, Permit Number HI S000005,* expires June 1, 2011.

Appendix A

Department of Transportation
Airports Division
Environmental Organization Chart

Storm Water Management Program

State of Hawaii Department of Transportation, Airports Division
Honolulu International Airport

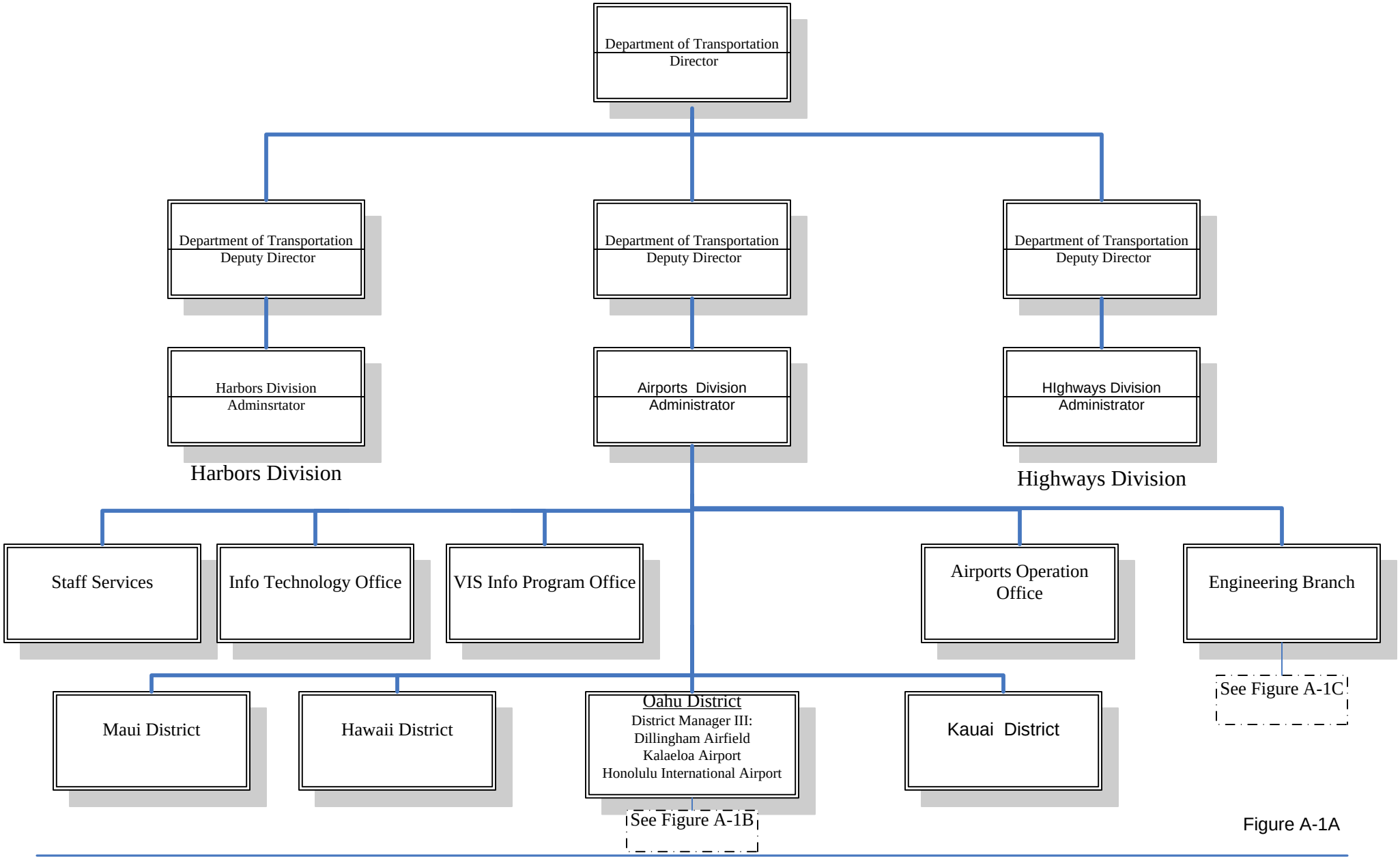


Figure A-1A

Storm Water Management Program

State of Hawaii Department of Transportation, Airports Division
Honolulu International Airport

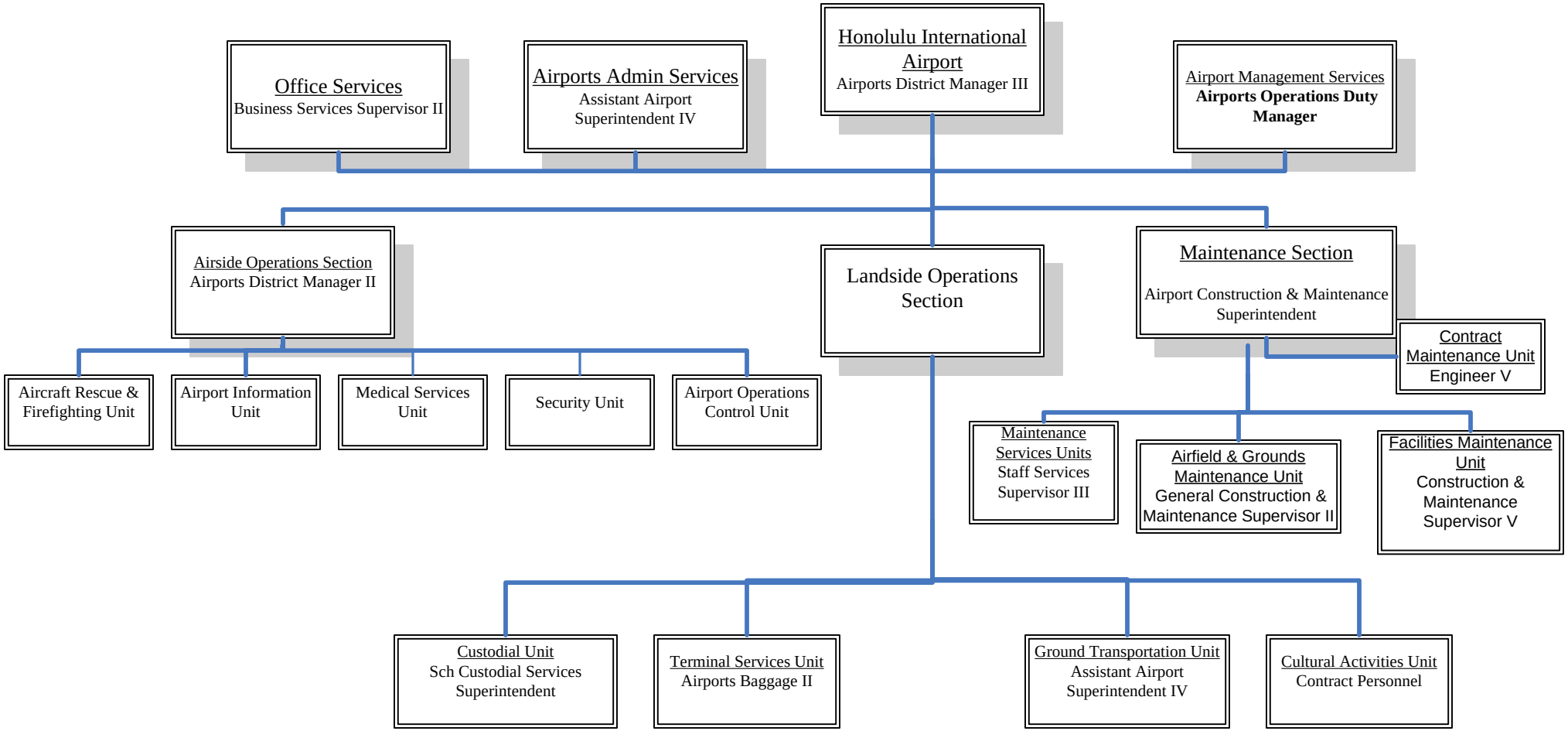


Figure A-1B

Storm Water Management Program

State of Hawaii Department of Transportation, Airports Division
Honolulu International Airport

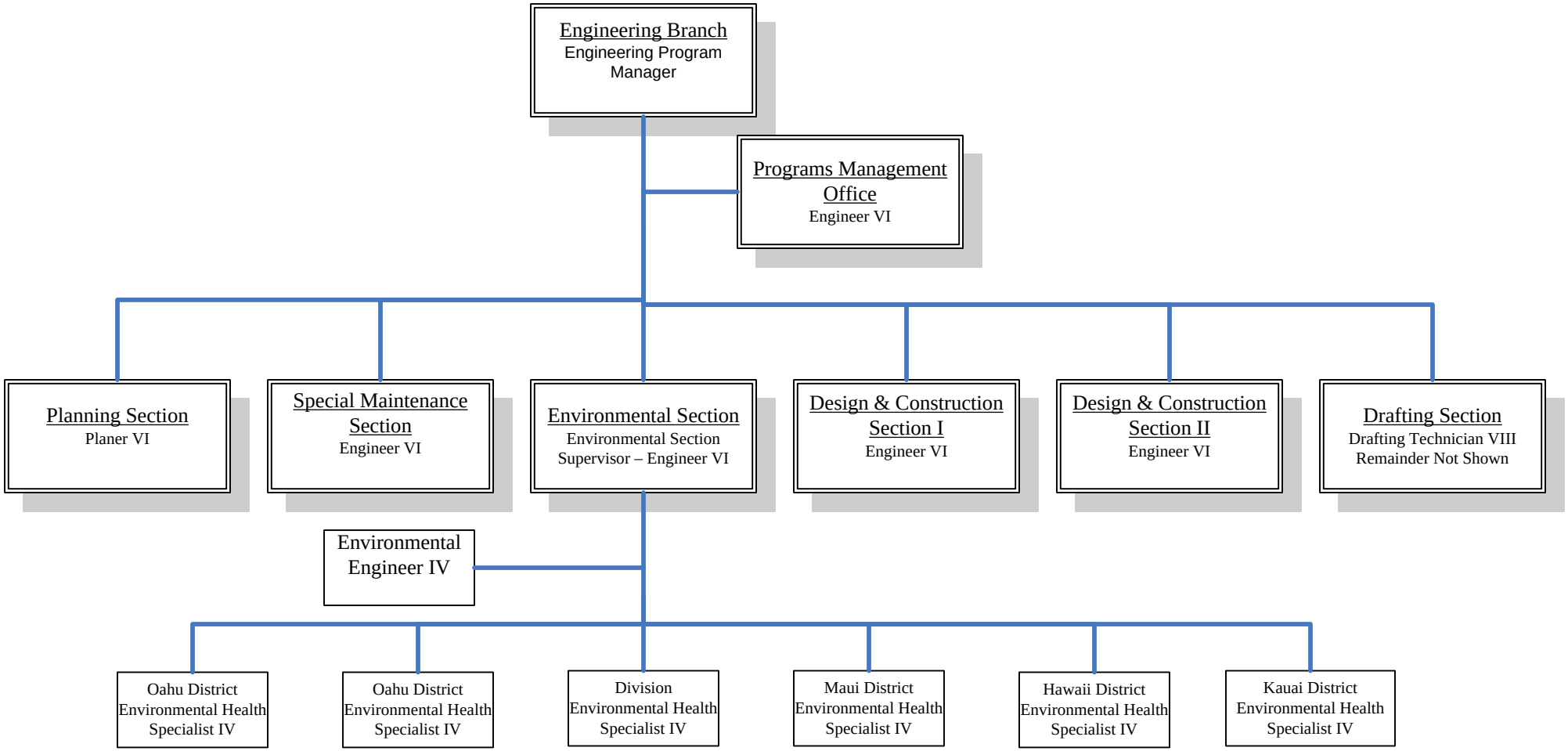


Figure A-1C

Appendix B

Storm Water General
Best Management Practices

BEST MANAGEMENT PRACTICES FOR CONDUCTING OPERATIONS AT STATE OF HAWAII AIRPORTS

Disclaimer

The list of federal, state, and local regulations applying to environmental compliance at the airports provided herein shall serve as a guidance document for general activities conducted by any and all tenants at State of Hawaii, DOT Airports. It is every tenant's responsibility to ensure that their activities are in compliance with all current and applicable environmental laws and regulations.

Best Management Practices

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AIRCRAFT, VEHICLE, AND EQUIPMENT FUELING 4
MATERIAL STORAGE 5
MATERIAL HANDLING 6
SOLID WASTE STORAGE AND DISPOSAL 7
SPILL PREVENTION AND RESPONSE PRACTICES 9
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APPENDIX I - LIST OF APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS APPLYING TO ENVIRONMENTAL COMPLIANCE AT AIRPORTS

APPENDIX II – SUMMARY OF FEDERAL AND STATE REGULATIONS FOR SOLID WASTE MANAGEMENT

Best Management Practices
Good Housekeeping Practices

Description

Daily activities performed at the tenant facility require the use of materials and products that may be potential contaminants in storm water. Good housekeeping practices are intended to maintain a clean, safe, and orderly working environment at the facility where these materials are used or stored. Implementing the good housekeeping BMPs will reduce the amount of pollutants entering the storm water system.

Limitations

There are no major limitations to the implementation of this BMP.

Practice		
☐	1	Do not overfill trash dumpsters or leave trash outside of containers. Ensure that materials put into dumpsters will not leak out of dumpsters and commingle with storm water runoff. Use leak-proof dumpsters and keep covered when not in use.
☐	2	Remove and properly dispose of debris from all areas daily.
☐	3	Use appropriate clean up tools in the facility such as a broom for dry sweeping. Do not hose down facility floors with water or use a blower to remove clean up materials. Dry sweep or vacuum all areas to prevent tracking of materials.
☐	4	Maintain ample spill clean-up supplies and keep them in proper physical condition.
☐	5	Use absorbent materials to contain any non-hazardous spills. Promptly clean spills with rags or absorbent material, and properly dispose of cleaning materials. Put spent rags or absorbent material in a durable container until disposal can be facilitated. Disposal of hazardous spilled material should be in accordance with the Solid Waste Storage and Disposal BMP.
☐	6	Inspect storm drain inlets regularly for illicit discharge such as sediment runoff or debris accumulation. Clean and remove debris as necessary.
☐	7	Identify storm drains and waterways in each work area and prevent non-storm water discharges into the storm drainage system.
☐	8	Perform daily facility inspections to ensure good housekeeping practices are being followed by facility personnel.
☐	9	Conduct employee training on all best management practices annually and as required.

Best Management Practices
Aircraft, Vehicle, and Equipment Maintenance and Repair

Description

Routine maintenance vehicles and equipment must be done to maintain their proper operation. Additionally, emergency maintenance of aircraft at Tenant facility may be required. The maintenance and repair activities conducted may include fluids removal, engine and parts cleaning, or tire repair and replacement. These activities represent a potentially significant source of contaminants due to the harmful materials and waste generated. This BMP is designed to prevent or reduce the impact of contaminates from maintenance and repair on the storm water system.

Limitations

There are no major limitations to the implementation of this BMP.

Practice		
☐	1	Maintain aircraft, vehicles, and equipment used at the facility in good operating condition.
☐	2	Perform aircraft, vehicles, and equipment maintenance and repair activities in designated indoor or covered areas away from storm water runoff.
☐	3	Inspect damaged aircraft, vehicles, and equipment for fluid leaks and repair as soon as possible. Do not leave leaking aircraft, vehicles, and equipment parked overnight on airport common use areas without appropriate drainage controls and prior approval from Airport Duty Manager.
☐	4	Remove fluids and batteries from damaged equipment and equipment no longer in use before storage. Store under cover, if possible, until repair or disposal.
☐	5	Transfer removed vehicle fluids to designated storage container as soon as possible.
☐	6	Use drip pans, tarps, or any other drainage control whenever removing fluids to capture any releases of oil, fluids, and solvent.
☐	7	When not in use, store drums/containers of liquid material or waste indoors or under cover and within secondary containment pallets.
☐	8	Designate areas in service bays for parts cleaning. Allow parts to drain over solvent tank or drip pan. Do not wash or rinse parts outdoors and do not allow solvent to drip or spill onto the floor.
☐	9	Use appropriate clean up materials in the facility. Do not hose down with water or use a blower to remove clean up materials. Dry sweep or vacuum all areas.
☐	10	Maintain well stocked spill kits throughout the facility, especially in maintenance areas to protect discharge to receiving waters and storm drain inlets in the event of spill.
☐	11	Conduct employee training annually and as required.

Best Management Practice
Aircraft, Vehicle, and Equipment Washing

Description

Routine washing of aircraft, vehicles, and equipment shall be conducted at DOTA approved wash pads or designated areas using minimal water. Additionally, washing activities may be conducted at the tenant facility if their wash rack or wash area has been approved by DOTA. Wash water may contain oils, greases, heavy metals, sediments, and other pollutants that can pose a threat to storm drain system and receiving water bodies. This BMP is intended to reduce the impact of these activities on storm water runoff.

Limitations

None.

Practice		
☐	1	Wash aircraft, vehicles, and equipment in designated wash racks using minimal water. Use DOTA approved biodegradable detergents. If washing must occur at the tenant facility, do so at designated wash racks or wash areas of the facility.
☐	2	Ensure the designated wash racks or wash areas of the facility are inside a building or on an impervious area where wash water can be contained and directed to an OWS that drains to the sewer system, wells, or retention pond. Obtain all applicable permits.
☐	3	Follow posted directions for wash rack or wash area use. At the tenant facility, post directions for use near the wash racks or wash areas.
☐	4	See Solid Waste Storage and Disposal BMP for OWS maintenance.
☐	5	Where applicable, sponge wash vehicles, or equipment with a bucket of water to eliminate excess wash water. Clean up any water on the ground or the floor using absorbent materials or a wet/dry vacuum immediately after washing.
☐	6	Washing of personal vehicles are prohibited.
☐	7	Conduct employee training annually and as required.

Best Management Practice
Aircraft, Vehicle, and Equipment Fueling

Description

During fueling of aircraft, vehicles, and equipment, there is the potential for leaked or spilled fuel to contaminate storm water. The procedures outlined in this BMP are intended to prevent fuel spills and leaks and reduce their impact on storm water.

Limitations

There are no major limitations to the implementation of this BMP.

Practice		
☐	1	Perform fueling of aircraft, vehicles, and equipment in designated areas, away from storm drain inlets, drainage channels, or receiving waters.
☐	2	Maintain an ample supply of spill cleanup materials and spill control equipment near fueling areas to protect discharge to storm drain inlets and receiving waters, in the event of a spill. Equip fuel trucks and mobile tanks with spill cleanup materials.
☐	3	No topping off or no unattended fueling.
☐	4	Post proper fueling and cleanup instructions in fueling areas.
☐	5	Do not hose off fueling area. Use absorbents.
☐	6	Inspect storage tanks, hoses and dispensing nozzles daily for cracks and leaks. If any defects are noticed, replace defective parts immediately or remove from service until repaired.
☐	7	Check for proper operation of automatic shut off controls on fuel dispensing nozzles. Repair as needed.
☐	8	Test, monitor, and maintain fuel storage tanks as required by all applicable federal, state and local laws.
☐	9	Use absorbents materials to contain any spills. Promptly clean spills with rags or absorbent material, and properly dispose of cleaning materials. Put spent rags or absorbent material in a durable container until disposal can be facilitated. For larger spills, contact spill response personnel immediately. See Spill Prevention and Response BMP.
☐	10	Train oil and hazardous material handling personnel annually and as required.

Best Management Practices
Material Storage

Description

A variety of products and materials that may adversely affect water quality are stored at the tenant facility. This BMP is intended to reduce the potential for the contamination of storm water by minimizing exposure of such products and materials to storm water.

Limitations

There are no major limitations to the implementation of this BMP.

Practice		
☐	1	Store materials in their original or appropriate containers as recommended by the manufacturer. Store small containers of flammable materials within flammable storage lockers.
☐	2	Ensure that all containers are closed, secured to prevent movement, fastened, stored neatly, and properly labeled.
☐	3	Maintain accurate inventory of stored supplies. Periodically review inventory and properly dispose of materials that are expired or no longer used. Only purchase and store required quantities of hazardous materials.
☐	4	Store materials and containers indoors or in covered areas. Containers holding liquid materials should also be within secondary containment.
☐	5	Identify, list and inventory all chemical substances present in the facility. Compile Material Safety Data Sheets (MSDS) for all chemical substances. Have MSDS data readily accessible for facility employees.
☐	6	Cover containers and materials with a plastic wrap or tarp when storing them outdoors temporarily (24 hours or less). Do not store materials outdoors that may leach pollutants into the storm water or come in contact with storm water runoff.
☐	7	Maintain an ample supply of spill clean-up materials near storage areas.
☐	8	Use absorbent materials to contain any spills. Promptly clean spills with rags or absorbent material, and properly dispose of cleaning materials. Put spent rags or absorbent material in a durable container until disposal can be facilitated. For larger spills, contact spill response personnel immediately. See Spill Response BMP.
☐	9	Sweep or vacuum up spilled materials immediately.
☐	10	Inspect material storage and equipment parking areas daily. Look for leaking or corroded containers, chemical discoloration, or other changes in the containers or contents that may indicate a potentially hazardous condition or chemical deterioration.
☐	11	Conduct employee training annually and as required.

Best Management Practices
Material Handling

Description

Prevent or reduce the discharge of pollutants to storm water from material handling by minimizing hazardous material use on site and training employees in the proper handling and use of materials. The loading and unloading of materials usually takes place outside; therefore, materials spilled, leaked, or lost during the process may collect in the soil or on other surfaces and have the potential to be carried away by storm water runoff.

Limitations

There are no major limitations to the implementation of this BMP.

Practice		
☐	1	Use materials only where and when needed to complete the work.
☐	2	Minimize use of hazardous materials on-site. Use less hazardous, alternative materials where possible.
☐	3	Follow manufacturer's instructions regarding uses, protective equipment, ventilation, flammability, and mixing of chemicals.
☐	4	Limit exposure of material to rainfall whenever possible, such as only loading or unloading during dry weather or conducting the loading or unloading indoors or under cover. Avoid placing the loading area near storm drains or cover storm drains during loading or unloading operations.
☐	5	Conduct regular dry sweeping of the loading or unloading areas.
☐	6	Conduct employee training annually and as required.

Best Management Practices
Solid Waste Storage and Disposal

Description

The chemicals used at the airport may ultimately require waste management. The improper handling of solid wastes can allow contaminants to enter the storm water runoff. The discharge of these pollutants can be prevented and reduced by tracking solid waste storage, handling, and disposal as well as reducing the waste generation through reuse and recycling.

The solid waste generated from the tenant facility may include, but not be limited to, oil based paints, solvents, thinners, petroleum products, acid from batteries, anti-freeze, and other compounds. Some of these wastes should be managed as hazardous waste, universal waste, and/or used oil as required by state and federal regulations (Refer to Appendix II). Hazardous waste generators are responsible for making a hazardous waste determination and to dispose of the waste properly. Universal waste includes batteries, some pesticides, mercury containing equipment (mercury thermostats), and bulbs (lamps).

The procedures outlined in this BMP are intended to prevent or reduce the discharge of pollutants to storm water and to the land from waste through proper solid waste storage and disposal and training of employees and subcontractors.

Limitations

All hazardous waste that can or cannot be reused or recycled must be disposed of by a certified hazardous waste hauler.

Practice		
☐	1	Use the entire product before disposing of the container. Minimize use of hazardous materials on-site. Use less hazardous, alternative materials where possible.
☐	2	Do not remove the original product label; it contains important safety and disposal information.
☐	3	Inspect containers regularly and transfer waste from damaged containers into containers that are intact.
☐	4	Identify, list and inventory all chemical substances present in the facility. Compile Material Safety Data Sheets (MSDS) for all chemical substances. Have MSDS data readily accessible for facility employees
☐	5	Only purchase and store required quantities of hazardous materials.
☐	6	Do not clean out brushes or rinse paint containers into the dirt, street, gutter, storm drain, or stream. “Paint out” brushes as much as possible. Water-based paints should be dried and disposed of in the landfill. Dispose of excess oil based paints and sludge as hazardous waste.
☐	7	Ensure that hazardous waste or chemicals (acids, pesticides, additives, curing compounds) are not disposed of in dumpsters designated for dry construction debris.

Best Management Practices
Solid Waste Storage and Disposal
(Continued)

☐	8	Designate an indoor or covered hazardous waste collection area.
☐	9	Hazardous wastes should be stored in secure, covered containers, and protected from damage. Place hazardous waste containers in secondary containment.
☐	10	Label hazardous waste containers clearly with the words “Hazardous Waste” and the date when the hazardous waste accumulation began.
☐	11	Do not mix waste, this can cause chemical reactions, make recycling impossible, and complicate disposal.
☐	12	Arrange for regular hazardous waste collection before containers reach capacity.
☐	13	Ensure that hazardous wastes are collected, removed, and disposed of only at authorized disposal sites by an approved hazardous waste hauler. Maintain disposal manifests for a minimum on three years.
☐	14	Recycle any useful waste such as used oil, spent solvents, spent lead acid batteries, scrap metal, and used oil filters, etc. Filter and re-use thinners and solvents.
☐	15	If the facility generates used oil, at a minimum, the facility shall store used oil in appropriate containers, label containers clearly with the words “Used Oil”, and provide secondary containment.
☐	16	If the facility generates Universal Waste, at a minimum, the facility shall store universal waste in appropriate containers, label containers clearly with the words “Universal Waste” followed by “lamps, batteries, etc.”, and mark with the accumulation start date. Dispose of the Universal Waste within a year of the accumulation start date.
☐	17	Place spill cleanup materials where it will be readily accessible.
☐	18	If containers do spill, clean up immediately – follow procedures in Spill Prevention and Response BMP.
☐	19	At minimum, OWSs must be inspected annually and cleaned to remove accumulated oil, grease, floating debris, and sediment in order to maintain solids and petroleum removal efficiency. Maintain an inspection and maintenance log.
☐	20	Conduct employee training annually and as required.

Best Management Practices
Spill Prevention and Response Practices

Description

Spills of materials used and stored at the tenant facility can contaminate storm water runoff. The procedures outlined in this BMP are intended to prevent spills form occurring and to outline procedures to be followed in the event of a spill.

Small spills of oil (less than 25 gallons) which are capable of being cleaned up within 72 hours and that do not threaten ground or surface waters will be cleaned up using absorbent materials or other acceptable practices and disposed properly, without disrupting airport operations. All the tenants and/or their contractors are requested to report any spills (irrespective of the size) to the DOTA Airport Operations Controller (AOC). Daily inspections of the facility will identify any small spills, which will be addressed immediately.

In the event of a large or uncontrolled release, the owner or manager of the tenant facility shall act as the Emergency Coordinator (EC). Employees should follow the guidelines listed below where practicable.

Limitations

A spill response contractor may need to be retained to respond to large or hazardous spills.

Practice		
☐	1	Stop work.
☐	2	Shut down equipment and secure work operations.
☐	3	Determine the source of the release and any hazards present.
☐	4	Notify the EC, AOC, Security Dispatch, and ARFF. Notify and alert others of the incident via: (1) voice; (2) hand-held radios; and/or (3) other effective communication.
☐	5	The EC shall evaluate the situation and decide whether to implement a "fight or flight" response by gathering the following information, if it can be done safely: 1. Your name, location, and how you may be reached. 2. Location of the release. 3. Type, quantity, and description of the release. 4. Hazards of the release. 5. Type of media affected (soil, asphalt, concrete, etc.). 6. Rate of the release. 7. Migratory direction of the release. 8. Potential for fire or explosion. 9. Potential for human exposure. 10. Potential for migration to surface water (ocean, storm drains, etc.).

Best Management Practices
Spill Prevention and Response Practices
(continued)

☐	6	Keep non-essential employees and visitors away from the spill area.
☐	7	Prevent vehicles and equipment from driving through the spill area.
☐	8	Remove all injured persons from the area of danger and render first aid.
☐	9	Never subject yourself or other personnel to unreasonable risk of illness or injury.
☐	10	If the decision is to "fight," spill response personnel are to don the appropriate PPE.
☐	11	Eliminate all possible sources of ignition/detonation such as vehicle engines, welding and grinding operations, and smoking.
☐	12	Remove or isolate ignitable and incompatible materials from the area of the release if the spill is of a flammable substance.
☐	13	Locate, stop, and contain the source of the release.
☐	14	Confine the release to prevent further migration using drainage controls, including but not limited to methods from the following list: ▪ Diking and berming using sand, soil, or other inert material; ▪ Sealing storm drains with plastic and sandbags; ▪ Placing granular absorbent or absorbent pads and booms; ▪ Diverting the chemicals from entering drains, manholes, streams, etc.; and ▪ Implementing retention techniques.
☐	15	Call the facility spill response contractor for cleanup and removal of accumulated product resulting from the release. Ensure that the contactor collects and containerizes the spilled materials, affected media, used decontamination solutions, and disposable PPE in proper containers. The contractor will transport and properly dispose of the hazardous waste in accordance with applicable state and federal regulations.
☐	16	Implement proper decontamination procedure on vehicles, pavement, PPE, equipment, and other affected media to prevent the spilled material from being tracked into a larger area.

Best Management Practices
Spill Prevention and Response Practices
(continued)

☐	17	Clean any stained pavement by placing a berm for containment around the stained area, scrubbing the area using detergent or cleaning agent, and rinsing. The detergent and rinse water must be collected in the bermed area around the spill and removed.
☐	18	If the release is not readily and easily controlled, evacuation may be necessary.
☐	19	If the EC decides on the "flight" option, the EC is to immediately alert and evacuate all personnel to a safe distance upwind from the spill in a designated assembly area.
☐	20	Call the facility spill response contractor to handle the clean-up of the spilled material.
☐	21	DOTA personnel will assist the EC in determining whether the spill is of a reportable quantity. If the spill is of a reportable quantity, the following agencies should be notified: ▪ National Response Center - (800) 424-8802 ▪ U.S. Coast Guard - (808) 842-2606 ▪ DOH HEER office - (808) 586-4249 or after hours (808) 247-2191 ▪ DOH Clean Water Branch (CWB) – (808) 586-4309 (only if spill reaches state waters) The following information should be provided: 1) Caller Name, location, organization, and telephone number 2) Name, address, and telephone number of the facility owner 3) Name, address, and telephone number of the facility contact person 4) Date, time, and duration of the release 5) Date and time the release was discovered 6) Name of the chemical spilled and the approximate quantity released 7) Location of the release 8) Type of media affected (e.g. soil, asphalt, concrete, etc.) 9) Measures taken in response to the release 10) Danger or threat posed by the release or spill 11) Number and type of injuries (if any) 12) Weather conditions at the incident location 13) Any other information that may help emergency personnel respond to the incident
☐	22	If the spilled material is of a reportable quantity, a written notification must also be submitted to the DOH HEER no later than thirty (30) days following the discovery of the release. A copy of this report must be provided to the DOH CWB if the spilled material reached the state waters.

Best Management Practices
Sewage Spill Prevention and Response Practices

Description

Spills of wastewater materials generated at the tenant facility can contaminate storm water runoff. The procedures outlined in this BMP are intended to prevent spills from occurring and to outline procedures to be followed in the event of a spill.

Potential sources of wastewater spills include failing private laterals, portable toilet failure, or triturators servicing passenger aircraft. Due to the potential for exposure to unknown pathogens, all wastewater spills, no matter how small, must be reported. No employee shall attempt to remove or clean spilled material without proper PPE.

Limitations

There are no major limitations to the implementation of this BMP.

Practice		
☐	1	Keep non-essential employees and visitors away from the spill area.
☐	2	Prevent vehicles and equipment from driving through the spill area.
☐	3	Stop the source of the discharge. This may require shutting down equipment or closing pipe valves.
☐	4	Proceed to the nearest spill kit. Note that all lavatory vehicles must have a spill kit. The spill kit should contain the following: • Broom • Gloves • Trash bags • Absorbent pads • Pine Oil Note: kitty litter, clay granules, and bleach are NOT permitted for clean-up at the triturators.
☐	5	Contain the waste and remove using the absorbent pads.
☐	6	Disinfect the area using pine oil.
☐	7	Double bag all wastes in trash bags and dispose in the trash.
☐	8	Regardless of size, notify the Airport Duty Manager. Notify and alert others of the incident via: (1) voice; (2) hand-held radios; and/or (3) other effective communication.

Best Management Practices
Sewage Spill Prevention and Response Practices
(continued)

☐	9	If the spill enters the storm drain or other surface water body, the responsible party must call the Department of Health (DOH) Clean Water Branch (CWB) (586-4309 during business hours and 247-2191 after hours). • Report back to the Airport Duty Manager with the name of person that the spill was reported to and the time the spill was reported. • If spill is greater than 1,000-gallons, hold a press release. • Disinfect the receiving water. • Post warning signs along the shoreline of the receiving water. • Monitor the receiving water for bacteria. • Provide a follow-up report to the DOH CWB.
☐	10	If the spill is contained on the ground, the responsible party must do the following in addition to notifying the Airport Duty Manager: • Disinfect the area with pine oil. • Post warning signs in the area. • Clean-up the spilled wastewater. • Provide a follow-up report to DOTA.
☐	11	Records should be maintained for spills greater than 50 gallons, including: • Date and time of spill. • Amount released. • Cause for the spill. • Clean-up efforts. • Remedial actions taken to prevent future spills. • Submit tabulated summary to DOH Wastewater Branch each year.

APPENDIX I
LIST OF APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS APPLYING TO ENVIRONMENTAL COMPLIANCE AT AIRPORTS

LIST OF REGULATIONS

Code of Federal Regulations

29 CFR 1910 (Subparts G, H, I, J, and K,) Hazardous Materials, Environmental Controls, and Personnel Protection.
29 CFR 1910.1200 OSHA Hazard Communication Standard
40 CFR 110 Discharge of Oil
40 CFR 112 Oil Pollution Prevention (SPCC/OPA Plans)
40 CFR 117 Determination of Reportable Quantities for a Hazardous Substance
40 CFR 122-124, 401 NPDES Regulations for Stormwater Discharges
40 CFR 260-263 Hazardous Waste Management
40 CFR 273 Universal Waste Management
40 CFR 279 Used Oil Management
40 CFR 280 Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)
40 CFR 355 Emergency Planning and Notification
40 CFR 370 Hazardous Chemical Reporting: Community Right-to-Know
40 CFR 372 Toxic Chemical Release Reporting: Community Right-to-Know
40 CFR 403 General Pre-Treatment Regulations For Existing And New Sources Of Pollution
40 CFR 761 Toxic Substances (PCBs)
49 CFR 110.3 Discharge of Oil
49 CFR 171-173, 175, and 177 Department of Transportation Regulations

Hawaii Administrative Rules

HAR Title 11 Chapter 54 Water Quality Standards
HAR Title 11 Chapter 55 Water Pollution Controls
HAR Title 11 Chapter 58.1 Solid Waste Management Control
HAR Title 11 Chapter 62 Wastewater Systems
HAR Title 11 Chapter 104.1 Management and Disposal of Infectious Waste
HAR Title 11 Chapter 260-263 Hazardous Waste Management
HAR Title 11 Chapter 273 Universal Waste Management
HAR Title 11 Chapter 279 Used Oil Management
HAR Title 11 Chapter 281 Underground Storage Tanks
HAR Title 11 Chapter 451 State Contingency Plan
HAR Title 19 Department of Transportation, Airports Division

Hawaii Revised Statutes

HRS 128D Environmental Response Law
HRS 128E Hawaii Emergency Planning and Community Right-to-Know Act
HRS 174C State Water Code
HRS 261 Transportation and Utilities
HRS 342-D Water Pollution
HRS 342-G Integrated Solid Waste Management
HRS 342-H Solid Waste Pollution
HRS 342-I Special Waste Management
HRS 342-J Hazardous Waste
HRS 342-L Underground Storage Tanks
HRS 342-N Used Oil Recycling

City and County Ordinances

City and County of Honolulu Sewer Ordinance 14

Airport Rules

Property Management Clauses

APPENDIX II
SUMMARY OF FEDERAL AND STATE REGULATIONS FOR SOLID WASTE MANAGEMENT

Solid waste is defined in 40 CFR Part 261.2 of the RCRA regulations as well as the HAR Title 11, Chapter 261.2 (§11-261-2). Solid waste can be further classified into hazardous waste and non-hazardous waste. Hazardous waste is defined in 40 CFR Part 261.3 as well as §11-261-3. Hazardous wastes are divided into listed wastes, characteristic wastes, universal wastes, and mixed wastes. Hazardous waste generators are responsible for making a hazardous waste determination and to dispose of waste properly. The identification and listing of hazardous waste and standards applicable to hazardous waste generators are available in the 40 CFR Parts 261 and 262 as well as §11-261 and §11-262. The facility can determine their hazardous waste generator status based on the following table:

Table 1 – Hazardous Waste Generator Status, Quantity, and Accumulation Time

Hazardous Waste Generator Status	**Quantity Of Hazardous Waste Generated Per Calendar Month**	**On-site Accumulation Time**
Large Quantity (LQG)	• ≥ 1,000 kg (approximately 2,200 lbs); • > 1 kg (approximately 2.2 lbs) of acute hazardous waste; and • > 100 kg (approximately 220 lbs.) residue or contaminated soil from cleanup of acute hazardous waste spill.	≤ 90 days
Small Quantity (SQG)	• Between 100 kg (approximately 220 lbs) and 1,000 kg (approximately 2200 lbs); • < 1 kg (approximately 2.2 lbs) of acute hazardous waste; • ≤ 100 kg (approximately 220 lbs.) residue or contaminated soil from cleanup of acute hazardous waste spill; and • Never accumulate more that 6,000 kg (approximately 13,200 lbs) at any one time.	≤ 270 days (for Hawaii, since hazardous waste is shipped 200 miles or more)
Conditionally Exempt Small Quantity (CESQG)	• ≤ 100 kg (approximately 220 lbs) • < 1 kg (approximately 2.2 lbs) of acute hazardous waste; • ≤ 100 kg (approximately 220 lbs.) residue or contaminated soil from cleanup of acute hazardous waste spill; and Never accumulate more that 1,000 kg (approximately 2,200 lbs) at any one time.	Not applicable

Universal Waste, as defined in 40 CFR Part 273 and §11-273, includes batteries, some pesticides, mercury containing equipment (mercury thermostats), and bulbs (lamps). The Universal Waste rules are not applicable to the conditionally exempt small quantity generators of hazardous waste. Universal Waste handlers are classified into small quantity Universal Waste handlers and large quantity Universal Waste handlers. A small quantity handler of universal waste means a universal waste handler who does not accumulate more than 5,000 kilograms (approximately 11,000 lbs) total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time (§11-273-6). A large quantity handler of universal waste means a universal waste handler who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time (§11-273-6). This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

Universal Waste must be managed in a way that prevents releases of any Universal Waste or component of a Universal Waste to the environment. Universal Waste must be labeled or marked to identify the type of universal waste as follows: Universal Waste - Batteries, Universal Waste - Lamps, Universal Waste – Pesticides, and Universal Waste – Mercury Containing Equipment or Universal Waste – Mercury Thermostat. Universal Waste can be stored for one year starting from the date the universal waste was generated. A large quantity Universal Waste handler shall retain the non-hazardous waste manifest associated with Universal Waste disposal at the facility for three years. A small quantity Universal Waste handler is not required to keep records of shipments of universal waste.

Used oil, as defined in 40 CFR Part 279.1 and §11-279-1, is regulated under the 40 CFR Part 279, §11-279, and §11-261-6(a)(4). Containers and aboveground tanks used to store used oil as well as fill pipes used to transfer used oil into UST at generator facilities must be labeled or marked clearly with the words "Used Oil". Additionally, used oil generators are subject to all applicable SPCC requirements (40 CFR Part 112). Used oil generators are also subject to the State's UST standards and any applicable federal standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste.

Appendix C

Memorandum of Understanding between DOH and DOTA

MEMORANDUM OF UNDERSTANDING

BETWEEN

DEPARTMENT OF TRANSPORTATION
STATE OF HAWAII

AND

DEPARTMENT OF HEALTH
STATE OF HAWAII

I. PURPOSE

This Memorandum of Understanding (MOU) is to help the Department of Transportation (DOT), Airports Division, comply with its National Pollutant Discharge Elimination System (NPDES) Permits (permits):

- NPDES SW, Permit No. HI 0021440, Honolulu International Airport
- NGPC SW, Permit No. HI R80A413, Molokai Airport
- NGPC SW, Permit No. HI R80A414, Kahului Airport
- NGPC SW, Permit No. HI R80A416, Lihue Airport
- NGPC SW, Permit No. HI R80A415, Dillingham Airfield

in particular to control illicit discharges into the DOT Airports Division's municipal storm sewer system (drainage system) covered by the permits.

II. BACKGROUND

The permits issued by the Department of Health (DOH), and 40 C.F.R. § 122.26(d)(2)(i) require DOT to prohibit certain discharges into its storm sewer system to ensure that certain discharges do not cause violations of the permits or state water quality standards, as covered by permit Part A, Discharge Limitations. These discharges are "illicit discharges" for the purposes of this memorandum.

DOT does not have its own statutes or rules to prohibit such illicit discharges.

III. OBJECTIVES

A. DOT and DOH want DOT to comply with its permits.

B. DOT and DOH want effective interagency cooperation.

C. DOH and DOT want DOT to be able to use the water pollution control enforcement authority in Chapter 342D, Hawaii Revised Statutes ("HRS"), administered by DOH. HRS, Section 342D-2, authorizes the director of health to delegate certain powers and authority. DOT will be authorized to prosecute administratively against illicit discharges to its storm sewer system, and DOH will reserve to itself the adjudicatory functions in those administrative cases.

IV. DELEGATION OF ENFORCEMENT AUTHORITY

A. Under HRS, Section 342D-2, the director of health delegates the authority to enforce HRS, Section 342D-50, against illicit discharges to the DOT storm sewer system covered by NPDES Permits, including the following specific powers:

1. Inspection of premises and records under HRS, Section 342D-8;

2. The issuance of informal and formal administrative notices of violations and orders, including the imposition of penalties, under HRS, Section 342D-9(a), (b), (c);

3. The collection by civil action of any unpaid penalties under HRS, Section 342D-9(f);

4. The handling of public records received, created, or maintained by DOT, and requests for those records, under HRS, Section 342D-14;

5. The testing of water and aquatic and other life under Section 342D-52; and

6. The requiring of record keeping and monitoring under HRS, Section 342D-55.

B. The delegation of enforcement authority is to the director of transportation and such DOT employees that the director of transportation appoints, and the director of transportation accepts the delegated powers.

C. Under HRS, Section 342D-9(d), (e), (f), and (g), the director of health reserves the authority to appoint hearing officers for any HRS, Chapter 91, administrative hearings, to conduct such hearings personally, to hear any administrative appeals from any hearing officers' recommendations, and to render the final administrative decisions in all HRS, Chapter 91, cases under HRS, Chapter 342D.

D. This delegation of power to the director of transportation and DOT employees is in addition to the power delegated to DOH employees by the director of health and does not diminish or eliminate any powers of the director of health or DOH employees. For example, the DOH retains the power to enforce the permits against DOT.

V. RESPONSIBILITIES

A. The DOT shall:

1. Investigate and enforce against illicit discharges.

2. Inform DOH of all complaints, investigations, and reports of alleged illicit discharges;

3. Send to DOH copies of all informal notices of violation and other informal enforcement letters regarding illicit discharges;

4. Coordinate with DOH before issuing formal notices of violation and orders against illicit discharges. This provision shall be reviewed within one year and may be terminated after one year;

5. Coordinate with DOH on whether the State should start a civil or criminal suit against illicit discharges.

6. Seek training and advice from DOH on the investigation of and administrative enforcement against illicit discharges.

B. The DOH shall:

1. Train and advise DOT on the investigation of and administrative enforcement against illicit discharges.

2. Inform DOT of current developments in laws and programs regarding illicit discharges;

3. Coordinate with DOT regarding formal notices of violation and orders against illicit discharges;

4. Coordinate with DOT on whether the State should start a civil or criminal suit against illicit discharges.

5. Provide a hearing officer as needed to hear and recommend decisions on contested cases arising from DOT administrative enforcement cases against illicit discharges.

VI. OTHER PROVISIONS

A. This MOU does not alter the statutory authority and responsibilities or the respective permit requirements under the NPDES of the DOT. The intent of the MOU is to form a basis by which the aforementioned goals and objectives can be carried out by each agency in a cooperative manner.

B. The MOU does not obligate any funds from the DOT and DOH.

C. The MOU complies with the nondiscrimination provision of Title VI of the Civil Rights Act of 1964, including Section 504 of Title IX, the Age Discrimination Act of 1975, and other applicable nondiscrimination policies.

D. The MOU may be amended or terminated at anytime by mutual consent of the DOT or the DOH, or the MOU may be terminated by any agency alone by giving sixty (60) days written notice to the other agency.

E. This MOU shall take effect upon signing by both the DOH and DOT.

DEPARTMENT OF TRANSPORTATION
STATE OF HAWAII

By _____

Title Director of Transportation

Date _____

DEPARTMENT OF HEALTH
STATE OF HAWAII

By _____

Title Director of Health

Date MAR 29 2000

Appendix D

Airport Rules and Regulations and
Property Management
Environmental Clauses

APPENDIX D:
AIRPORT REGULATIONS APPLYING TO ENVIRONMENTAL COMPLIANCE

In addition to HRS Chapter 342D and DOH Administrative Rules the following are the procedures and regulations available to the DOTA environmental enforcement inspectors. These include citations, court summons, and may lead to eviction.

HRS § 261-12, Rules, standards, establishes the DOTA authority to establish and enforce its rules. Except for § 261-17.6, parking control at airports, there are no specific statutory provisions in this section that sets any amount of fines or penalties that the DOTA can issue. The DOTA relies on HRS § 261-17, which permits the Director of Transportation the authority to designate persons to enforce Chapter 261 and all rules and orders issued pursuant thereto and of all other laws of the State. Such officers, employee's agents, and representatives of the DOTA have police powers to serve and execute warrants and arrest offenders, and the power to serve notices and orders. When arresting or issuing a citation to a purported violator of any provision of Chapter 261, the Director of Transportation's designee, hereinafter "enforcement officer" can 1) issue a summons or citation (similar to a traffic ticket) warning or directing the violator to appear and answer the charge before a district judge, or 2) take the purported violator without delay before a district judge. Penalties for violating the provision of chapter 261 or rules or orders issued pursuant to Chapter 261 are issued by the district court and includes a finding or guilty or not guilty verdict of a misdemeanor and a fine.

In enforcing environmental compliance, the Airport District Manager or Airport Security will be designated as environmental enforcement officers pursuant to HRS § 261-17 and shall have the authority to issue Citations and Summons. The enforcement officer will enforce environmental compliance under the DOTA's authority in HRS §§ 261-17 and 17.5.

Hawaii Administrative Rules, Title 19

Hawaii Administrative Rules, Title 19, Chapters 11 through 38.1 were adopted by the State of Hawaii DOT to regulate operations of the State airports. Chapters 13, 15.1, 17.1, 33 and 37 contain language specifying storage, usage, and/or handling requirements for hazardous materials or other potential pollutants. There are no specific rules governing environmental compliance. There are specific environmental practices detailed below where enforcement is by arrest or citation and presented before the district judge.

Chapter 13 - Aircraft Operations at Public Airports

- Washing, cleaning and maintenance of aircraft shall be conducted only in areas designated for these purposes. [19-13-3(c)]

Chapter 15.1 – Operation of Motor Vehicles at Public Airports

- Unauthorized parking within the public airport for the purpose of washing, polishing, greasing, or repairing a vehicle (except minor repairs necessary to move the vehicle). [19-15.1-8(b)]

- Operating an improperly constructed, covered, or loaded vehicle on airport roadways or other airport areas so as to allow other than clear water to leak, spill, or otherwise escape therefrom. [19-15.1-27(j)]
- No vehicle maintenance or servicing is permitted in areas not specifically designated for such activity. [19-15.1-29]

Chapter 17.1 - Small Plane Hangar Units and Tie Down Spaces at Public Airports

- No person shall keep, store, or discard any flammable liquids in or about the hangar buildings. [19-17.1-14(a –d)].
- Storage of used oil or other flammable liquid wastes in the hangar buildings. [19-17.1-14(g)]
- Washing aircraft in hangar units or on paved community ramps or taxiways. [19-17.1-16(c)]

Chapter 33 – Control of Hazardous Materials and Waste at Public Airports

- Non-compliance with Title 49, Chapter 1, Section 171.1 to 173.1300, 175.705, and 178.0 to 178.350-3 CFR. [19-33-2(c)]
- Storage of hazardous materials including radioactive materials, etiologic agents, poisons and hazardous waste in non-designated areas. [19-33-3(b)]

Note: The majority of Chapter 33 deals with transportation of hazardous materials and does not apply to storage of materials and waste that are used at airport operations. In the case of improper use or storage of hazardous materials or wastes, DOTA will follow the terms of the tenant lease or permit procedures as stated below.

Chapter 37 – Fuel Handling Procedures at Public Airports-covers

- Failure to report fuel spill (to Airport authority). [19-37-6]
- Failure to contain and remove spilled fuel and prevent entry or runoff into airport drainage system. [19-37-6]

Enforcement Officers may issue Title 19 penalties for the following circumstances:

- A tenant who is in violation of a BMP, but where a Written Warning is not an effective tool.
- A tenant in violation of a DOTA requirement, but not in violation of DOH storm water regulations.
- A transient aircraft owner who is in violation of a DOTA requirement, BMP, or DOH storm water regulation, but does not have a tenant lease agreement or revocable permit.

Tenant Lease Agreement/Revocable Permit

Lease agreements and revocable permits have been amended during the 1990s to include specific provisions that lessees or permitees have a contractual responsibility for environmental compliance. As older leases are renewed, these leases will include the updated environmental provisions. More of the current tenant lease agreements contain contractual provisions that bind the tenant to comply with various aspects of environmental regulations and clarify liabilities. For example, Article XV, Compliance with Environmental Matters, provides that the tenant agrees to comply with all environmental laws applicable to occupancy, activities, operations, and use of the property. Moreover, the lease terms provide that failure of the tenant to comply with any environmental laws shall constitute a violation of the lease and gives the DOTA the right to levee additional charges and/or terminate the lease.

In Article VD of the Lease, the DOTA retain the right to levy on and collect from the tenant a charge of two hundred and fifty dollars ($250.00) each and every day the tenant is in violation of any of the contractual obligations for violations that continue beyond the 30 consecutive days after the receipt of written certified notice to comply or as otherwise provided in Article XX. Notice of Default and procedures to terminate the lease are in accordance with Article XX.

All disputes and controversies between the DOTA and the tenant that are not resolved by mutual agreement, are decided by the Director of Transportation, in writing, within one hundred twenty (120) calendar days after receiving a written request by tenant for a final decision.

The DOTA has the option to issue a Notice of Default and initiate the termination of the lease and eviction. The DOTA prefers to foster cooperative relationships with its tenants to comply with the environmental obligations than to evict – this option is reserved for extreme measures and would likely be considered as a last resort.

Summaries of the newer environmental clauses are listed below. A sample version of the detailed clauses is included below in sample articles from a tenant lease.

Compliance with Environmental Laws
This section states that the tenant agrees to comply with all environmental laws that apply to the premises. Failure to comply with all environmental laws shall constitute a breach of contract and the DOTA, at its discretion, may terminate the lease.

Hazardous Substances
This section states that the tenant (or third party) may not use, store, treat, dispose, discharge, release, generate, create or otherwise handle any Hazardous Substance on the premises without written consent from the DOTA.

Notice to the Department
The tenant shall keep the DOTA fully informed at all times regarding all matters relating to or covered by the Environmental Laws affecting the tenant or the premises.

Notice to Authorities
The tenant shall provide written notice to the EPA and the DOH, at least sixty days prior to the termination of this tenant agreement, or sixty days prior to tenant's termination of possession of the premises, whichever occurs first. Tenant shall also allow the agents of said authorities' access to the premises at any and all reasonable times for the purpose of inspecting or testing for compliance with any environmental laws.

Disposal/Removal
Except for materials that are lawfully sold in the ordinary course of the tenant's business, the tenant shall cause any hazardous substance to be removed from the premises for disposal and to be transported from the premises by a licensed hazardous substance transporter to a licensed facility for final disposal.

Environmental Investigations and Assessments
The tenant, 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 directed by the State, or by any federal or State authority.

Remediation
In the event that any hazardous substances are used, stored, treated, disposed on the premises, handled, discharged, released, or determined to be present on the premises, the tenant shall remediate the premises of any hazardous substances.

Restoration and Surrender of Premises
The tenant agrees to restore the premises, including soil, water and structures on, in or under the premises to the same condition as the premises existed at the commencement of the agreement.

Tanks, Pipelines; Inspections and Repairs
All tanks, pipelines, containers, or conduits of any kind that may at any time contain, or intended to contain hazardous substances of any type that the tenant intends to install on the premises must be installed above ground to allow for periodic inspection.

The DOTA also requires in its lease that the tenant obtain a $250,000.00 Surety/Performance Bond for Cleanup/Restoration to pay for the costs or remediation and restoration of the site during the term or, and at the expiration of the Lease.

ARTICLE XIII. COMPLIANCE WITH LAWS

A. Generally. The Concessionaire shall at all times during the term of this Concession Agreement comply with all applicable laws, statutes, rules, regulations, orders and ordinances of all governmental authorities, including, without limitation, the United States of America, the State of Hawaii and the County of Maui, and any political subdivision or agency, authority, or commission thereof, which may have jurisdiction to pass laws, statutes, or ordinances or make and enforce orders, rules and regulations with respect to the Concession, the Premises, or the Airport. The Concessionaire's obligation to comply with all laws, statutes, rules, regulations, order and ordinances hereunder shall apply to the Concessionaire's use and occupancy of the Premises, the operation of the Concession thereon and the construction and installation of the Leasehold improvement and FFE.

The Concessionaire shall also take out and keep current all licenses and permits required by any governmental authority for the Concessionaire's conduct of the Concession at or on the Premises and the Airport, and pay promptly when due all fees.

Notwithstanding the foregoing provisions, the Concessionaire shall have the right, in its own name, to contest in good faith the validity or applicability of any law, statute, rule, regulation, order or ordinance of any governmental body or agency to the Premises or Concessionaire's operation thereon. The fact that the Concessionaire may, in connection with such contest, refrain from complying with such law, statute, rule, regulation, order or ordinance shall not affect in any way the Concessionaire's obligation to (1) refrain from subjecting any part of the Premises to forfeiture or loss, and (2) pay the required rentals set forth in Article VI (Rental).

B. Compliance with Americans with Disabilities Act.

1. Concessionaire's warranty. The Concessionaire agrees that it shall conduct its Concession operation and use and occupy the Premises in accordance with the Americans with Disabilities Act, 42 U.S.C.S. Section 12101 et seq. (hereafter collectively the "ADA"), including, without limitation, modifying the Concessionaire's policies, practices, and procedures, and providing auxiliary aids and services to disabled persons.

2. Accessible services. The Concessionaire acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity, whether directly or through a contractor, must be accessible to the disabled public. The Concessionaire

shall provide the services specified in this Concession Agreement in a manner that complies with the ADA and any and all other applicable federal, state or county disability rights legislation. The Concessionaire agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Concession Agreement and further agrees that any violation of this prohibition on the part of the Concessionaire, its officers, employees, agents, servants or assigns shall constitute a material breach of this Concession Agreement.

3. Concessionaire's alterations. With respect to all work required to be performed by the Concessionaire in preparing the Premises for the Concessionaire's use and occupancy, including, without limitation, the construction and installation of all Leasehold improvements and FFE on or at the Premises, the Concessionaire agrees to complete such work in full compliance with the ADA. Upon the STATE's request, the Concessionaire shall provide the STATE with evidence reasonably satisfactory to the STATE that all such work by the Concessionaire was completed in compliance with the ADA. The Concessionaire further agrees that any future alterations or improvements made by the Concessionaire to the Premises shall comply with the ADA.

4. ADA audit. The Concessionaire shall conduct and complete, at the Concessionaire's sole cost and expense, an audit as required under the ADA identifying and describing the architectural barriers to disabled access which must or should be removed, which audit shall be subject to the STATE's review and approval. The Concessionaire agrees to remove, at the Concessionaire's sole cost and expense, all such barriers identified and described in the audit approved by the STATE.

5. Notice. The STATE and the Concessionaire agree to promptly give written notice to the other (not to exceed three (3) days), of any notices which it receives alleging ADA violations.

6. Concessionaire's indemnification. The Concessionaire shall defend, indemnify and keep and hold harmless the STATE, its successors and assigns, from and against any and all claims, demands, suits, actions, causes of action, judgments, liabilities, losses, damages, costs and expenses resulting or arising from the Concessionaire's failure to comply with the Concessionaire's obligations hereunder with respect to the ADA.

C. Compliance with Environmental Matters.

1. Definitions. For purpose of this Concession Agreement, Concessionaire 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 (hereinafter the "EPA") and of the State of Hawaii, Department of Health (hereinafter the "DOH").

"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.

2. Concessionaire's Activities and Duties

a. Compliance with Environmental Laws. Concessionaire agrees, at its sole expense and cost, to comply with all Environmental Laws that apply to the Premises during the term of this Concession Agreement, and Concessionaire's occupancy of, and activities on, the Premises. This duty shall survive the expiration or termination of this Concession Agreement which means that the Concessionaire'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 Concessionaire on the Premises after the expiration or termination of this Concession Agreement. Failure of the Concessionaire to comply with any Environmental Laws shall constitute a breach of this Concession Agreement for which the STATE shall be entitled, in its discretion, to terminate this Concession Agreement and take any other action at law or in equity it deems appropriate.

b. Hazardous Substances. Concessionaire 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 Concession Agreement.

c. Notice to STATE. Concessionaire shall keep STATE fully informed at all times regarding all matters relating or related to or covered by the Environmental Laws affecting the Concessionaire or the Premises. This duty shall include, without limiting the foregoing duty, providing the STATE with a current and complete list and accounting of all hazardous substances of every kind, by completing, submitting and updating Attachment 9 (Concessionaire's Listing of Hazardous Substances) in this Concession Agreement, which are present on or about the Premises and furnishing the STATE with evidence that the Concessionaire 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, by completing, submitting and updating Attachment 10 (Concessionaire's Listing of Environmental Permits). 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 any way to the Concessionaire by any federal or state authority or individual which relates in any way to any environmental law or any hazardous substance and the Concessionaire or the Premises. This written notice to the STATE shall include the Concessionaire immediately providing the STATE with copies of all written communications from individual 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 Concessionaire. At least thirty days prior to termination of this Concession Agreement, or termination of the possession of the Premises by Concessionaire, Concessionaire shall provide to the STATE written evidence satisfactory to the STATE that Concessionaire has fully compiled with all Environmental Laws, including any orders issued by any governmental authority to the Concessionaire that relate to the Premises.

d. Notice to Authorities. Concessionaire 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 Concession Agreement, or sixty days prior to Concessionaire's termination of possession of the Premises, whichever occurs first, that Concessionaire intends to vacate the Premises and terminate its operations on those Premises. Concessionaire shall allow the agents or representatives of said authorities access to the Premises at any and all reasonable times for the purpose of inspecting or testing for compliance with any Environmental Laws. Concessionaire shall provide copies of said written notices to STATE at the time said notices are provided to said authorities.

e. Disposal/Removal. Except for materials that are lawfully sold in the ordinary course of the Concessionaire's business, Concessionaire shall cause any Hazardous Substances to be removed from the Premises for disposal and to be transported from the Premises solely by duly licensed Hazardous Substances transporters to duly licensed facilities for final disposal as required by all applicable Environmental Laws. Concessionaire shall

provide 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.

f. Environmental Investigations and Assessments. The Concessionaire, 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 it 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. Concessionaire 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. Concessionaire 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 to the STATE and the governmental authority written results of all tests on said samples upon completion of said testing.

g. Remediation. In the event that any Hazardous Substances are used, stored, treated, disposed on the premises, handled, discharged, released, or determined to be present on the Premises, Concessionaire shall, at its sole expense and cost, remediate the Premises of any Hazardous Substances, and dispose/remove said Hazardous Substances in accordance with Article XIII.C.2.e (Disposal/Removal) herein. This duty to remediate includes strictly complying with all Environmental Laws and directives to the Concessionaire to remediate said hazardous substance from the STATE. This duty to remediate shall include replacement of any materials, such as soils, so removed with material that is satisfactory to the STATE and governmental authority, as the case may be.

h. Restoration and Surrender of Premises. The Concessionaire 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 Concession Agreement, fair wear and tear to the structures excepted. In the event Concessionaire does not restore the Premises to the same condition as it existed at the commencement of the lease, as determined by the STATE, Concessionaire understands and agrees that STATE may exercise its rights under Article XIII.C.2.h (1) (STATE's Right to Act) herein, and until such time as the restoration is complete to the satisfaction of the STATE, Concessionaire shall be liable concession fees, lease rent, and all other charges due under this Concession Agreement in the same manner and amount as if this Concession Agreement had continued in effect during the period of restoration.

(1) STATE's Right to Act. In the event Concessionaire fails for any reason to comply with any of its duties under this Concession Agreement or under any Environmental Laws within the time set for doing so, or within a reasonable time as determined by the STATE, STATE shall have the right, but not obligation, in its sole discretion, to perform those duties, or cause them to be performed. Concessionaire 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 Concessionaire and Concessionaire 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 without limitation, litigation costs, attorneys fees and the costs and fees for collection of said cost, expense or liability.

(2) Release and Indemnity. Concessionaire hereby agrees to release the STATE, and the STATE's 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 Concessionaire by reason of any hazardous substance that may be present by whatever means on, in or under the Premises. The Concessionaire 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 Concession Agreement, including without limitation, the presence of any Hazardous Substance on, in, or under the Premises.

(3) Surety/Performance Bond for Cleanup/Restoration. At its sole cost and expense, Concessionaire shall provide the STATE with a bond, with a surety acceptable to the STATE, in the STATE's sole discretion, in the amount of $100,000.00 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 lease so as to comply with the terms of this Concession Agreement to the satisfaction of the STATE and in order to comply with Environmental Laws. Concessionaire shall provide written evidence that said bond or security has been secured by the Concessionaire which evidence shall indicate the term during which said Bond or other security shall irrevocably remain in effect.

(4) Insurance. Effective at the commencement of this Concession Agreement, Concessionaire 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 $1,000,000.00. 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 Laws by the Concessionaire. Said policy of insurance shall name the STATE as an additional insured. Concessionaire 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.

D. Airport Security. The Concessionaire shall comply with any and all of the security requirements covering the Airport and all applicable security access procedures, rules or regulations prescribed by the STATE and/or the Transportation Security Administration.

1. Security agreements. The Concessionaire shall enter into security agreements with the STATE that may be required by the Transportation Security Administration for security purposes covering the Airport, and said agreements shall become part of this Concession Agreement and the covenants, terms and conditions herein, although executed separately.

2. Concessionaire to maintain security. The Concessionaire shall also maintain security in such a manner that unauthorized persons shall not have access to any secure or restricted aircraft operations area through any portion of the Premises, and guests, visitors, invitees, agents or any other party acting with the permission of the Concessionaire, shall be under the control, supervision, or guidance of the Concessionaire when entering any secure or restricted operations area. The Concessionaire shall enter into any separate supplemental agreement required by the STATE or the Transportation Security Administration that covers Airport security requirements to ensure the protection of the Airport.

3. Failure to prevent violations. The Concessionaire accepts liability and responsibility (a) for the Concessionaire's failure to comply with any Airport security requirements and applicable security access procedures, rules or regulations prescribed by the STATE and/or the Transportation Security Administration and to prohibit unauthorized persons and vehicles from entering the Airport's restricted operations area through any portion of the Premises, and (b) for any reimbursement to the STATE for the STATE making direct payment to any citing authority for any fines or penalties of any and all airport security violations by the Concessionaire, its contractors, agents, representatives, guests or invitees. Failure to observe this security requirement shall be cause for the assessment of additional charges under this Concession Agreement and/or termination of this Concession Agreement by the STATE.

ARTICLE XLII. STATE RESERVATIONS

The STATE may (a) at any time, upon reasonable advance written or oral notice, enter the Premises to show the Premises to interested parties, to post notices of non-responsibility, to re-measure the Premises, to repair any part of the Premises or adjoining areas, to install equipment for adjoining areas, to conduct a financial audit, and for any other lawful purpose; (b) without advance notice, enter the Premises to conduct an environmental audit, operational audit, or general inspection, or in an emergency. The STATE shall use reasonable efforts to minimize disruption to the Concessionaire's Concession operation. Such entry shall not constitute a forcible or unlawful entry into or a detainer of the Premises, or an eviction, actual or constructive, of the Concessionaire from the Premises. The STATE reserves the exclusive right to use all areas of the Airport not comprising the Premises, and the exterior walls and roofs of the Premises. The STATE reserves the exclusive right to use such areas, together with the right to install, maintain, use, repair, and replace pipes, ducts, conduits, wires, columns, equipment, appurtenances and structural elements serving other parts of the Airports in and

through the Premises. This reservation in no way affects the Concessionaire's maintenance obligations contained in the Concession Agreement.

ARTICLE XLIII. SURVIVAL OF OBLIGATIONS

A. STATE's right to enforce. Termination of this Concession Agreement, whether by expiration or sooner termination, shall not affect the right of the STATE to enforce any or all indemnities and representations and warranties given or made by the Concessionaire to the STATE under this Concession Agreement, nor shall it affect any provision of this Concession Agreement that expressly states it shall survive termination hereof, including, without limitation, Articles XI (Liability and Indemnity), XIII.B (Americans With Disabilities Act), XIII.C (Compliance with Environmental Matters), XXIV (Condemnation), XXV (Concession Bond), XXVI (Litigation), XXVII (Liens) and XLII (Brokers). The Concessionaire specifically acknowledges and agrees that, with respect to each of the Concessionaire's indemnities contained in this Concession Agreement the Concessionaire has an immediate and independent obligation to defend the STATE from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the Concessionaire by the STATE.

B. Accrued obligations. The Concessionaire's obligation to make payments to the STATE in respect of accrued charges (including those which have not yet been billed) and to make repairs (including those relating to the return of the Premises to the STATE) which are accrued at the expiration or earlier termination of this Concession Agreement shall survive the expiration or earlier termination of this Concession Agreement.

Appendix E

Storm Water
Inspection Checklist

State of Hawaii
Airports Division

Storm Water BMP Inspection Checklist

Department of Transportation
Environmental Section

Tenant Name		**PMID**		**Date**	
Address		**SIC Code**		**Time**	
		Contact Number		**Weather**	
Contact Person		**Inspection Type**	☐Routine ☐Complaint ☐Follow Up		

	NON-STORM WATER DISCHARGES			**WASTE HANDLING & DISPOSAL**	
1	Areas of the facility exposed to storm water not wet during dry weather & free of stains.	Y / N NA	24	Hazardous waste, recyclable battery, used lamps, used oil storage areas have adequate secondary containment & integrity protection.	Y / N NA
2	Discharge points to storm drainage system do not exhibit unusual characteristics, i.e. color, odor, sheen, foam, or floatables.	Y / N NA	25	Containers are compatible with materials stored, free of damage, labeled correctly, and not stored past allowable hold times.	Y / N NA
3	Discharge pathways of all floor & facility drains acceptable.	Y / N NA	26	Waste storage areas are free of unattended spills or degradations indicating poor waste handling practices.	Y / N NA
	MAINTENANCE & REPAIR		27	Wastes are disposed of properly, records kept, employees trained, and hazardous waste generator status is known.	Y / N NA
4	Maintenance performed in authorized areas & clean-up activities do not impact the storm water drainage system.	Y / N NA	28	Waste reduction opportunities and substitutions have been explored and implemented.	Y / N NA
5	Greasy/leaky equipment stored under cover or w/ drip pans.	Y / N NA		**BUILDINGS AND GROUNDS HOUSEKEEPING**	
6	Fluids & batteries removed from salvage equipment.	Y / N NA	29	Good housekeeping controls implemented to contain debris & pollutants generated by building maintenance activities.	Y / N NA
7	Equipment maintenance inventory available for inspection.	Y / N NA	30	Paved surfaces are swept vs. washed down and sweepings are disposed of properly.	Y / N NA
8	Materials such as grease, oil, anti-freeze, cleaning agents, hydraulic fluid, solvents, paints, batteries, filters recycled or properly disposed.	Y / N NA	31	Fertilizer, pesticide, and herbicide applications pose minimal impact to storm water.	Y / N NA
	FUELING		32	Storm water drainage system is maintained regularly.	Y / N NA
9	Fueling area engineering controls & BMPs effective in preventing storm water run on/runoff.	Y / N NA		**OIL WATER SEPARATOR MAINTENANCE**	
10	Secondary containment devices for fixed & mobile fueling areas adequate to contain spills.	Y / N NA	33	Operation & maintenance of OWS is adequate & wastes are properly disposed. Maintenance log/disposal manifest available for inspect.	Y / N NA
11	Fueling areas free of unattended stains & spill cleanup practices/materials (Spill Kits) are adequate.	Y / N NA		**EMERGENCY SPILL CLEANUP PLANS**	
12	Visible piping, tanks, & hoses do not exhibit leakage, wear, or malfunction. Inspection log available for inspection.	Y / N NA	34	Tenant SPCC/Emergency Spill Cleanup Plan/SWPCP adequate and implemented effectively.	Y / N NA
	VEHICLE & EQUIPMENT WASHING		35	Spill kits in high-risk areas and appropriately stocked.	Y / N NA
13	Washing takes place in a designated area and is designed to prevent storm water run on/runoff.	Y / N NA		**WASTE MANAGEMENT**	
14	Discharges from washing activities are authorized by permits if required, and permit documents on file at facility.	Y / N NA	36	Product containers are properly emptied before disposal.	Y / N NA
15	Cleaning agents and equipment are stored properly.	Y / N NA	37	Hazardous materials purchased and stored in minimal quantities and non-hazardous substances substituted when possible.	Y / N NA
16	Solid wastes from washing activities are disposed of properly.	Y / N NA	38	Waste collection and disposal handled by licensed & qualified party, and recycled when possible.	Y / N NA
	OUTDOOR MATERIAL HANDLING		39	Hazardous waste generator status is known and requirements followed.	Y / N NA
17	Handling areas are designed and located to minimize impacts to storm water drainage system.	Y / N NA		**PLAN REVIEW**	
18	Handling areas are free of unattended stains or pavement degradation indicating poor material handling practices.	Y / N NA	40	Facility has NPDES permit, SWPCP, and/or SPCC, if required.	Y / N NA
	OUTDOOR OIL/CONTAINER STORAGE		41	All changes to facility are updated in applicable permits and plans.	Y / N NA
19	Storage area has adequate secondary containment and integrity protection.	Y / N NA	42	Tenant & employee training for NPDES, SWPCP & SPCC is current. List of trained personnel to DOT Airports Environmental Section.	Y / N NA
20	Containers are compatible with materials stored, free of damage, and labeled correctly.	Y / N NA		**OTHER**	
21	Bulk product storage containers are equipped with overflow protection alarms or automatic shutdown pumps.	Y / N NA	43	Any site improvement projects planned?	Y / N NA
22	Tenant is performing monthly AST inspections and keeping AST Inspections Forms on site.	Y / N NA	44		
23	Storm water accumulation in secondary containment areas is minimized, managed, disposed of correctly, and logged.	Y / N NA	45		

Comments:

INSPECTOR		**TENANT REPRESENTATIVE**	
Print Name		Print Name	
Sign & Date		Sign & Date	

INSPECTION PHOTOGRAPHS

Photo 1 Description:	**Photo 2 Description:**
Photo 3 Description:	**Photo 4 Description:**

Tenant Name: _____ Inspection Date: _____

Appendix F

Sample and Blank Investigation Report

Sample

Environmental Investigation Report
Department of Transportation
Airports Division

ID#:	OGG-05-001	Date of Investigation:	1/12/2005		Page: 1 of 5
Airport:	Kahului	Facility Name:	Bob's Bus Charter		
Permit#:	HI R80A414	Facility Address:	737 Koko Place, Kahului, HI 96732		
Phone#:	(808) 871-6226	SIC Code:	4131,-41,-51	DOTA Property ID#:	002104, 002105

Representatives / Inspection Purpose:

Department of Health (DOH), Clean Water Branch, representatives Mike Tsuji and Leanne Watanabe accompanied Kyle Cockerham and Linda Scheffler, of the Department of Transportation, Airports Division (DOTA), on this storm water inspection. The purpose of this inspection was to reinspect areas found to be deficient during the previous inspection on August 17, 2004, and for the DOH to observe and provide feedback on DOTA inspection procedures. Bob Carter, of Bob's Bus Charter, participated in the inspection.

Weather Conditions:

Weather conditions were sunny and dry during this inspection, but puddled water from previous rains was still present in low areas of the facility. Significant storms had occurred during the week prior to the inspection.

Description of Facility Operations:

Bob's Bus Charter is a full-service tour and transportation provider. The vehicle fleet includes motor coaches, mini-coaches, vans, and school buses. This facility has fueling operations from two underground storage tanks, a bus washing rack, two maintenance buildings, aboveground storage of new and used oil, and significant equipment parking areas.

Inspection Findings:

The following findings were either observed or noted during the inspection:

1. The facility serves as a maintenance and storage area for a large fleet of buses and vans. Two large maintenance buildings, with multiple bays, are utilized for both light and heavy maintenance. The east building is utilized for body work and light maintenance. The west building, which is equipped with a trench drain leading to an oil/water separator, is utilized for heavy maintenance.

2. The facility includes an old, out-of-use washing and fueling area, as well as a newer uncovered bus wash rack which discharges to the sanitary sewer after wash water passes through a series of settling basins.

3. An uncovered fuel pump (Photograph #1), connected to two 6000-gallon underground storage tanks, dispenses gasoline and diesel. The fueling area was stained heavily, with significant evidence of asphalt degradation around the pump. One fuel nozzle was observed to be leaking fuel. Because the dispenser is exposed to rain, the entire unit is in poor condition. Mr. Carter stated that he was awaiting replacement parts, which are difficult to locate.

4. The bus wash rack is uncovered, and water was observed to be running continuously to the sump in the center, despite it not being in use. A plastic aboveground tank, presumably filled with reclaimed water, was observed to be overflowing back into the drainage sump as well as off the edges of the concrete slab.

5. An aboveground oil storage tank at the east maintenance building (Photographs #2-3) was observed to have spilled oil around it. Saturated absorbent was observed on the ground, in areas exposed to storm water runoff. No waste drum for collection and storage of used absorbent appeared to be in the vicinity.

6. In the fleet parking area between the east and west maintenance buildings, a bus was observed to be leaking hydraulic or transmission oil to the ground (Photograph #4). The spill was unattended, and no drip pan was being utilized.

Sample

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: OGG-05-001 Date of Investigation: 1/12/2005

Inspection Findings (cont.):

7. Drums of new and used oil are stored outside, at various locations within the fleet parking areas, without adequate labels or secondary containment. Staining in these areas could be a result of leaking equipment, poor filling practices, or failing container integrity (Photographs #5-6).

8. Aboveground oil storage tanks at the west maintenance building, noted in the previous inspection of August 17, 2004, have been removed.

9. Housekeeping in and around the maintenance buildings has improved since the previous inspection, but is still inadequate. More effort will be required to ensure that maintenance activities do not impact storm water runoff. Following the inspection, a review of facility drawings confirmed that the trench drain within the west maintenance building was plumbed to an oil/water separator. Storage of oil products and liquid materials within proximity of this drain should be evaluated to ensure that the risk of a prohibited discharge to the sanitary sewer is minimized.

10. Mr. Carter indicated that all storm water drains towards to Koko Place. However, inspectors noted water stains leading to vegetated areas to the north, east, and west as well. Nonetheless, due to the topography of the surrounding area and the lack of a storm water collections system, it does not appear that storm water runoff discharged from this facility impacts surface water.

Recommendations:

In conclusion, the DOTA will issue a Notice of Apparent Violation letter, and await follow up from the Department of Health on the regulatory status of Bob's Bus Charter under the NPDES program. Bob's Bus Charter is still not in compliance with the following Storm Water BMPs: Aircraft, Vehicle, and Equipment Maintenance and Repair (SC2), Aircraft, Vehicle, and Equipment Fueling (SC3), Outdoor Container Storage (SC7), and Waste Handling and Disposal (SC8). Significant improvements to housekeeping in the maintenance and equipment storage areas are warranted. Past efforts by DOTA representatives to improve BMP implementation have been only partially successful. Given the scope of this operation, a facility Storm Water Pollution Control Plan could serve to delegate environmental responsibilities to specific personnel, and improve the day-to-day management of environmental concerns.

Sample

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: OGG-05-001 Date of Investigation: 1/12/2005

Inspection Signatures:

Name: _____
Signature: _____
Title: _____
Organization: _____
Date: _____

Name: _____
Signature: _____
Title: _____
Organization: _____
Date: _____

Name: _____
Signature: _____
Title: _____
Organization: _____
Date: _____

Environmental Investigation Report Prepared by: _____ 1/27/2005
Linda Scheffler Date

Sample

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: OGG-05-001 Date of Investigation: 1/12/2005

Photograph #1: 1/12/05
Observers: L.Scheffler, K. Cockerham, L. Watanabe, M. Tsuji
Location: Bob's Bus Charter, Kahului Airport
Description: Vehicle fueling area.

Photograph #2: 1/12/05
Observers: L.Scheffler, K. Cockerham, L. Watanabe, M. Tsuji
Location: Bob's Bus Charter, Kahului Airport
Description: Oil storage area.

Photograph #3: 1/12/05
Observers: L.Scheffler, K. Cockerham, L. Watanabe, M. Tsuji
Location: Bob's Bus Charter, Kahului Airport
Description: East maintenance area.

Photograph #4: 1/12/05
Observers: L.Scheffler, K. Cockerham, L. Watanabe, M. Tsuji
Location: Bob's Bus Charter, Kahului Airport
Description: Fleet parking area.

Sample

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: OGG-05-001 Date of Investigation: 1/12/2005

Photograph #5: 1/12/05
Observers: L.Scheffler, K. Cockerham, L. Watanabe, M. Tsuji
Location: Bob's Bus Charter, Kahului Airport
Description: Fleet parking area.

Photograph #6: 1/12/05
Observers: L.Scheffler, K. Cockerham, L. Watanabe, M. Tsuji
Location: Bob's Bus Charter, Kahului Airport
Description: Fleet parking area.

Photo Certification:

I certify that the six (6) attached photos described above were taken by the undersigned and are a true, accurate, and unaltered representation of what was observed on January 12, 2005 at the Kahului Airport Bob's Bus Charter facility.

Kyle Cockerham

Date

Environmental Investigation Report
Department of Transportation
Airports Division

ID#:		Date of Investigation:		Page: 1 of 5	
Airport:		Facility Name:			
Permit#:		Facility Address:			
Phone#:		SIC Code:		DOTA Property ID#:	

Representatives / Inspection Purpose:

Weather Conditions:

Description of Facility Operations:

Inspection Findings:

Inspector Initials:

_____

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: Date of Investigation:

Inspection Findings (cont.):

Recommendations:

Inspector Initials:
_____

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: Date of Investigation:

Inspection Signatures:

Name: _____
Signature: _____
Title: _____
Organization: _____
Date: _____

Name: _____
Signature: _____
Title: _____
Organization: _____
Date: _____

Name: _____
Signature: _____
Title: _____
Organization: _____
Date: _____

Environmental Investigation Report Prepared by: _____
Date

Inspector Initials:
_____

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: Date of Investigation:

Photograph #1:
Observers:
Location:
Description:

Photograph #2:
Observers:
Location:
Description:

Photograph #3:
Observers:
Location:
Description:

Photograph #4:
Observers:
Location:
Description:

Inspector Initials:
_____

Environmental Investigation Report
Department of Transportation
Airports Division

ID#: Date of Investigation:

Photograph #5:
Observers:
Location:
Description:

Photograph #6:
Observers:
Location:
Description:

Photo Certification:

I certify that the six (6) attached photos described above were taken by the undersigned and are a true, accurate, and unaltered representation of what was observed on_____at the _____ Airport _____.

_____ _____
Inspector Date

Inspector Initials:
_____

Appendix G

Notice of Apparent Violation
Example

GOVERNOR

SAMPLE

DIRECTOR

Deputy Directors

IN REPLY REFER TO:
AIR-EE

[*Date*]

[*Name*]
[*Title*]
[*Owner/Company Name*]
[*Owner/Company Address*]
[*City, State, Zip Code*]

Dear [*Name*]:

Subject: Notice of Apparent Violation ("NAV")
[*Area of Violation*]

You are hereby notified of apparent violations of the Hawaii Revised Statutes ("HRS"), § 342-50(a), which states that "no person, including any public body, shall discharge any water pollutant into State waters, or cause or allow any water pollutant to enter State waters except as in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the Director of Transportation."

The HRS, § 342-1, defines "Water pollutant" to include "dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste."

The HRS, § 342-1, defines "State waters" to include "all waters, fresh, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes."

The Hawaii Administrative Rules, § 11-54-04(a)(3), provides in part that "[a]ll waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants, including substances in amounts sufficient to produce…objectionable color, turbidity or other conditions in the receiving waters."

Violation:

On [*date*], the State of Hawaii Department of Transportation, Airports Division ("DOTA") conducted a periodic environmental conditions inspection of the Facility. The DOTA observed or noted the following during the inspection: [*Violation Description*]. There has been no response or compliance to the Written Warning or Investigation Report provided on [*date*].

The DOTA requires the Facility to do the following: [*Steps to Compliance*]. *[if needed]* Submit a complete Notice of Intent form to the Department of Health ("DOH"), Clean Water Branch

("CWB") as soon as possible, as application for a NPDES general permit for authorization to discharge storm water associated with industrial activity. Please submit the Notice of Intent to:

Clean Water Branch
State Department of Health
919 Ala Moana Boulevard, Room 301
Honolulu, Hawaii 96814-4352
Telephone: (808) 586-4309
Fax: (808) 586-4352

Within 30 days from this letter, submit a report to DOTA detailing all procedures to be used to comply with the abovementioned requirements. In your report, please include the reference number located on the upper right-hand corner of the first page of this NAV. Please submit the report to:

Airports Division – Environmental Program
State Department of Transportation
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1880
Telephone: (808) 838-8064
Fax: (808)

The HRS, § 342D-30, provides for penalties of up to $25,000 per day for each violation. A copy of this NAV has been forwarded to the DOH. Failure to respond adequately to this letter will indicate the need for the DOH to seek even larger penalties than it is now contemplating. Further enforcement action with monetary penalties is forthcoming. If you have any question regarding this letter, please contact [*Section Supervisor Name, Title, Phone Number*] or [*EHS Name, Title, Phone Number*].

Sincerely,

[*Director's Name*]
Director of Transportation

Enclosures: Inspection Reports

c: [*Airport Manager*], (w/o encl.)
[*Attorney General*], (w/o encl.)
[*Director, Department of Health*] (w/ encl.)

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Appendix H

Notice and Finding of Violation
Example

STATE OF HAWAI'I

DEPARTMENT OF HEALTH

NOTICE AND FINDING OF VIOLATION

TO: Respondent	**NFV & O No. XXXXX** *Please write this NFVO number on all correspondence* Re**:** XXXX Property/Facility: XXXX

Under Hawaii Revised Statutes ("HRS"), Chapters 91 and 342D, and Hawaii Administrative Rules ("HAR"), Chapter 11-55, the Department of Health ("DOH") issues this Notice and Finding of Violation and Order ("NFV & O"). Based on an inspection of the XXXX by the Department of Transportation, Airports Division (DOTA), and the investigation report attached as Exhibit X, the DOH finds these violations. This case deals only with violations alleged below, and DOTA may bring other cases for other violations. This case does not limit cases by any other public agency or private party.

Statutes/Rules	Nature of the Violation
HRS, §342D-50(d) HAR, §11-54-4 XXXX XXXX	XXXX

The facts of this case and the law justify the following order.

ORDER

You are ordered to:

1. Cease in the discharge of pollutants, including polluted storm water runoff, to State waters immediately.
2. Report in detail the steps to be taken to prevent future non-permitted discharges to State waters, as well as violations similar in nature to those referenced in this NFV & O within 20 days after the receipt of the NFV & O.
3. Pay an administrative penalty of $XXX for the violation. Within 20 days after the receipt of the NFV & O, send a certified check to: XXXX. The check should be made payable to "State of Hawaii" and include the NFV & O reference number above.

The provisions of this Order and the Notice and Finding of Violation shall become final unless, within Twenty (20) days after receipt, you submit a **written** request for a hearing, along with a copy of the Order and Notice and Finding of Violation, to the Hearings Officer, c/o Director of Transportation, 869 Punchbowl St., Fifth Floor, Honolulu, Hawaii 96813. Your written request for hearing, along with the Order and Notice and Finding of Violation, must be filed with the Hearings Office within the twenty (20) day period. You may file the hearing request in person at the Director's office, during regular business hours, or may mail the same to the above address within the allotted time. **Failure to timely file the hearing request and related documents may result in a denial of your hearing request.**

If a hearing is properly requested, a pre-hearing conference will be set by the Hearings Officer and you will be notified of the date, time and place of the pre-hearing conference.

The hearing will be conducted in accordance with Chapter 91 of the Hawaii Revised Statutes and Title 11, Chapter 1 of the Hawaii Administrative Rules. If you have special needs due to a disability and these needs will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 587-2150, at least ten (10) working days before the hearing or pre-hearing conference.

At the hearing, the parties may present relevant evidence and argument on the issues raised by this case. The parties may also examine and cross-examine witnesses and present exhibits.

Parties may be represented by legal counsel at their own expense. An individual may appear on his/her own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, or trust, or association may represent the corporation, trust or association.

After such hearing, the Order shall be affirmed, modified or rescinded by the Director or Hearings Officer.

The written request for a hearing, along with the related documents and pleadings in this case shall be directed to:

Hearings Officer
c/o Director of Transportation
Department of Transportation
869 Punchbowl Street, Fifth Floor
Honolulu, HI 96813

All other inquiries regarding this matter shall be directed to: Mr. Allen Thomas, Acting Supervisor of the DOTA Environmental Section at (808) 838-8803

If you have special needs due to a disability that will aid you in participating in the hearing or pre-hearing conference, please contact the Hearings Officer at (808) 586-4409 (voice) or through the Telecommunications Relay Service (711), at least ten (10) working days before the hearing or pre-hearing conference date.

_____ Date: _____

XXX
Deputy Director for
XXXX

Approved As To Form By:

Mr. XXXX
Deputy Attorney General

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII, Complainant, vs. *[fill in alleged violator]*, Respondent.	))))))))))))	DOCKET NO. 06-CW-EO-XX NOTICE AND FINDING OF VIOLATION; ORDER; CERTIFICATE OF SERVICE DISCHARGE OF WATER POLLUTANT INTO STATE WATERS WITHOUT AN NPDES PERMIT

SAMPLE

NOTICE AND FINDING OF VIOLATION

The Department of Health, State of Hawaii, brings its action under Hawaii Revised Statutes ("HRS") chapters 91 and 342D; and complains of *[fill in alleged violator]* ("Respondent") regarding the discharge of construction dewatering effluent, without a National Pollutant Discharge Elimination System (NPDES) permit or a Notice of General Permit Coverage (NGPC) into State Waters, as follows:

A. AUTHORITY

1. General Authority. HRS §§ 342D-2 and 342D-4 authorize the Director of Health ("Director") to administer HRS chapter 342D, to prevent, control, and abate water pollution in the State, and to adopt rules.

2. Enforcement. HRS § 342D-9 authorizes the Director to issue this Notice and Finding of Violation, and the attached Order.

3. Remedies. HRS §§ 342D-9, 342D-11, 342D-30, and 342D-31 apply to any person who violates HRS 342D, or a permit or variance issued thereunder.

4. Prohibition. HRS § 342D-50(a) provides that:

> No person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters, except as in compliance with the provisions of this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the Director.

5. Definition of Water Pollutant. HRS § 342D-1 states that "Water Pollutant" means:

> Dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste.

6. Definition of State Waters. HRS § 342D-1 states that "State Waters" means:

> All waters, rash, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as part of a water pollution control system are excluded.

7. *[fill in receiving water]* is classified as a Class A, marine water embayment under HAR § 11-54-06(a)(2)(B).

8. *[fill drainage system if any]* is classified as Class 2, inland waters under HAR § 11-54-05.1(c).

SAMPLE

B. STATEMENT OF FACTS

1. The Respondent, *[fill in alleged violator]*, a corporation is licensed to do business in Hawaii.

2. The Respondent owns, operates, manages and/or controls the *[fill in facility name]* along 123 Boulevard between ABC Drive and DFE Avenue located in Honolulu, Oahu, Hawaii.

3. On *[date of alleged violation]*, the Respondent discharged silty construction dewatering effluent from their *[insert site]* into the Hawaii Department of Transportation Airports Division (DOTA) storm sewer system without an NPDES permit or NGPC. The storm sewer system drains into ABC Park Lagoon and subsequently into the Pacific Ocean.

4. The Respondent owns, operates, manages and/or controls the *[fill in facility name]* located in Honolulu, Oahu, Hawaii.

5. Between *[date1]* and *[date2]* and again on *[date 3]*, the respondent discharged vehicle wash water into a ponding area that is part of the DOTA's storm sewer which is considered State waters without an NPDES permit or NGPC.

6. On *[date3]*, the respondent discharged dewatering effluent into *[receiving water]* without an NPDES permit or NGPC when the water level in the ponding area exceeded the berm to the inlet.

SAMPLE

7. Between *[date 1]* and *[date 2]*, the respondent discharged construction dewatering effluent into an unnamed pond without an NPDES permit or NGPC. The unnamed pond is considered State waters under the definition of "Low Wetlands". "Low Wetlands" are defined in HAR § 11-54-05 as "standing water that is always fresh, ponds or marshes. These wetlands are found in lowland areas near coasts or in valley termini modified by man. Their origin may be natural or man-made."

8. Imposition of an administrative penalty is justified by:

   a. The nature of the violation;

   b. The economic benefit to the violator, or anticipated by the violator, resulting from the violation;

   c. The opportunity, difficulty, and history of corrective action;

   d. Good faith effort to comply; and

   e. Such other matters as justice may require.

C. FINDING OF VIOLATIONS

On the basis of the provisions of Authority and Statement of Facts cited above, it is hereby found and determined that:

1. The Respondent is in violation of HRS § 342D-50(a) for discharging construction dewatering effluent

SAMPLE

into state waters on the above stated occasions, without an NPDES permit.

2. The Respondent is therefore subject to the provisions of HRS §§ 342D-9, 342D-11 and 342D-31, including penalties not to exceed $25,000.00 for each day of each violation.

DATED: Honolulu, Hawaii, _____

_____
Lawrence K. Lau
Deputy Director for
Environmental Health

APPROVED AS TO FORM:

_____
[fill in Deputy AG name]
Deputy Attorney General

SAMPLE

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII, Complainant, vs. *[fill in alleged violator]*, Respondent.	))))))))))))	DOCKET NO.06-CW-EO-XX ORDER

ORDER

Pursuant to Hawaii Revised Statutes ("HRS") chapters 91 and 342D; and Hawaii Administrative Rules ("HAR"); and the attached Notice and Finding of Violation ("NFV") made this day in this Docket, *[fill in alleged violator]* ("Respondent"), is hereby ordered to:

1. Take immediate corrective action to prevent the occurrence of similar violations in the future.
2. Within 30 days of receipt of this Order, report to the Department of Health, on the corrective action that has been or will be taken to prevent the occurrence of similar violations in the future. A schedule of implementation should accompany any report on corrective action.
3. Appear at a hearing to held on a date, time and place to be specified later. The issue to be heard will be how much of a monetary penalty should be assessed for the violations covered in the NFV.

Paragraph Nos. 1 and 2 of this Order and the NFV are effective and become final 20 days after receipt, unless before

SAMPLE

the 20 days expire the Respondent submits a written request to the Director of Health for a hearing before the Director of Health. If a hearing on any of the foregoing is requested, it will be held in conjunction with the hearing on the penalty specified by paragraph No. 3 of this Order.

A pre-hearing conference may be held at a time, date and location to be specified later.

The hearing will address the penalty covered by paragraph No. 3 of this Order, and if there is a timely request for a hearing on other matters, the issues and facts raised by the NFV and the rest of the Order in this case.

The hearing will be conducted in accordance with HRS chapter 91, and the Rules of Practice and Procedure of the Department of Health. Parties may present evidence and argument on the subjects addressed by the hearing. Parties may examine and cross-examine witnesses and present exhibits.

Parties may be represented by lawyers at their own expense, or parties may represent themselves. An individual may appear on his or her own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, trust or association may represent the corporation, trust, or association.

SAMPLE

After such hearing, this Order will be affirmed, modified, or rescinded by the Director of Health.

Please direct the written request for a hearing, if any, and all inquiries concerning this case to:

Mr. Denis R. Lau, P.E., Chief
Clean Water Branch
State Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378
Telephone: 586-4309 or toll free number at
1-800-468-4644, Ext. 64309
FAX No.: 586-4352

Failure to comply with this Order may subject the Respondent to additional penalties and measures under chapter 342D, HRS, and the rules adopted under that chapter.

DATED: Honolulu, Hawaii, _____

_____
LAURENCE K. LAU
Deputy Director for
Environmental Health

APPROVED AS TO FORM:

_____
[fill in Deputy AG name]
Deputy Attorney General

SAMPLE

IN THE DEPARTMENT OF HEALTH

STATE OF HAWAII

DEPARTMENT OF HEALTH, STATE OF HAWAII, Complainant, vs. *[fill in alleged violator]*, Respondent.	)))))))))))	DOCKET NO. 98-CW-EO-XX CERTIFICATE OF SERVICE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the documents listed herein by mailing, via certified mail, return receipt requested (# xxx) on _____, a copy of those documents to the person named herein at the address indicated.

DOCUMENTS:

1. Notice and Finding of Violation
2. Order

PERSON SERVED AND ADDRESS:

[fill in name]
President and Director
[fill in alleged violator]
[fill in address]

DATED: Honolulu, Hawaii, _____

_____
DENIS R. LAU, P.E., CHIEF
Clean Water Branch

[author]
cc: Attorney General, State of Hawaii
EPA, Region 9, Water Division,
CWA Compliance Office, WTR-7

SAMPLE