WHAT HDOT CONTRACTORS SHOULD EXPECT DURING A DOH COMPLIANCE INSPECTION

FOR HDOT PROJECTS WITH NPDES NGPC/INDIVIDUAL PERMIT

INTRODUCTION

The Department of Health (DOH) has the authority to enforce Hawaii Water Pollution rules and regulations, as well as regulations set by the Environmental Protection Agency (EPA). Therefore, DOH conducts compliance inspection visitations to Hawaii Department of Transportation (HDOT) construction sites. DOH will generally perform these compliance inspections based on their internal inspection schedule, as well as in response to complaints, so there is little to no advance warning!

DOH will inspect projects to check for the following:

- Applicability and adherence to the **Site-Specific BMP Plan**
- Potential for polluted runoff from your construction site
- Compliance with your project's **Permit conditions**
- Evidence of discharge from your site

Additionally, DOH requires that any changes to the Site-Specific BMP Plan originally submitted to DOH be marked up on the on-site copy of the Site-Specific BMP Plan and be signed and certified by the appropriate HDOT representative.

ARE ALL YOUR IMPORTANT DOCUMENTS ON-SITE?

You must have the following documents on-site at all times. Failure to produce any of these documents at the time of a compliance visit will negatively impact your review:

- Site-Specific BMP Plan and Certified Amendments to the plan
- Project's permits and related referenced documents
- Weekly BMP Inspection and Maintenance Records
- Other applicable permit documentation (e.g., dewatering, hydrotesting, 401 WQC)

CONTACT THE HDOT PROJECT CONSTRUCTION ENGINEER

DOH will typically ask for the following when they conduct a Compliance Visit:

- A representative
- All documentation
- Information about: the Site, the Project, the Contractor, and HDOT personnel working at the site, etc.
- Permission to inspect the project site

If DOH arrives on your construction site, immediately contact the HDOT Project Construction Engineer to inform them.

SEEING YOUR JOBSITE THROUGH DOH'S EYES

DOH expects that you:

- Keep all copies of permits and **Site-Specific BMP Plans and Amendments** on-site, including the **NPDES NGPC/Individual Permit**
- Install and maintain all BMPs shown on the Site-Specific BMP Plans and Amendments
- Keep records of maintenance and any corrective actions made to prevent polluted discharges
- Make pollution prevention part of your daily routine

When DOH performs a compliance inspection, they will inquire about construction activities that are on-going. They will request the appropriate documentation and look at the jobsite to see if the BMPs installed are effectively preventing polluted runoff from leaving the site. They will also check to verify that the BMPs are installed per plan and are properly maintained. Their focus will be on the potential for polluted runoff to leave your site, so it is important that all members of the project team are mindful in their daily routines of ways to minimize the potential for pollution.

PLANS, PERMITS, REGULATIONS, WHY SHOULD I COMPLY?

Many HDOT construction projects hold National Pollutant Discharge Elimination System (NPDES) Individual Permits or Notice of General Permit Coverage (NGPC). There are many state and federally mandated requirements that HDOT must adhere to. DOH enforces these requirements, and there are penalties for non-compliance.

Some of these requirements are passed down to the contractor because they are related to the actual construction. Therefore, fines and penalties incurred can be passed on to the contractor as well.

In the past, DOH has even taken action against individuals involved in water pollution violations, resulting in jail time.

DOH enforcement personnel will walk your construction site and usually ask questions and/or take photos of certain things they observe. Their questions should be answered honestly, and situations should be explained to the best of your ability. Also, it is crucial to **LISTEN** to what DOH says and the concerns they may have.

END OF INSPECTION BRIEFING

At the end of the DOH compliance inspection, the DOH enforcement personnel may provide a briefing on the potential findings that are of concern. **LISTEN CAREFULLY and TAKE NOTES**. Part of avoiding a fine is to quickly address DOH's concerns.

PROACTIVELY ADDRESSING DOH'S CONCERNS

HDOT will work at addressing DOH's concerns within a few hours if possible. The contractor must cooperate with HDOT by quickly assisting in addressing DOH's concerns on the construction site – the sooner you do it, the better. While fines may still be assessed, a proactive response could lessen the severity.

YOU ARE RESPONSIBLE FOR POLLUTED RUNOFF COMING OFF YOUR SITE

Although you ensure that a project's Site-Specific BMPs are per plan, properly maintained, in good working order, and effectively preventing polluted runoff from leaving your site during normal conditions, sometimes polluted runoff leaving the site is unavoidable.

VIOLATORS WILL BE PENALIZED

Violators will face enforcement actions as follows (according to the State of Hawaii Water Pollution Laws):

- Warning Letter – Notice of Apparent Violation (NAV)
- Field Citations – Penalties from $100-$3200
- Administrative/Civil Penalties – Notice and Finding of Violation and Order (NFVO) – monetary penalties of up to **$25,000 per day per violation**
- Criminal Enforcement – monetary penalties up to $50,000 per day per violation and **jail time possible**

Fines are calculated on a **per day basis**. Waiting to report a potential polluted runoff situation for any reason leaves HDOT at **risk** for paying the accumulated fines between when the polluted runoff was first observed to when it was stopped, regardless of who reported it.

If polluted runoff does leave your construction site due to your BMPs being overrun or being rendered ineffective for any reason, you are responsible to:

- **Immediately** report any BMP failures and polluted runoff to HDOT (Preferably before a neighbor or the media contacts DOH about it). HDOT will make a report to DOH according to the site's Contingency Plan. If a discharge occurs after hours, call your designated HDOT project contact.
- Immediately implement measures to reduce polluted discharge from leaving your site and document the changes on the Site-Specific BMP Plan. Submit these changes to HDOT as soon as possible.
- Account for the previously unaccounted for upon repair – this means that in replacing or re-installing your BMPs you may need to consider additional BMP measures to avoid your BMPs from being overrun in the future.

If you are uncertain whether the polluted runoff you observe is from your project site, it is recommended that you report it to HDOT immediately.

If you later verify that the source of polluted runoff was not your project site, inform HDOT immediately. It is better to report potential polluted runoff immediately and then later inform them that it has been verified the source is not from your site, rather than wait to verify whether or not it is from your site and then report it at that time.

If you wait to report a discharge, someone else will do it for you. If your project site is found to be the source of the polluted discharge, you may be faced with daily fines beginning from the first report, even if it was not you who reported the discharge.



ARE YOU READY FOR A DOH COMPLIANCE INSPECTION?

Being prepared for a DOH Compliance Inspection of your project site is not something you can get ready for moments before DOH personnel visit your project since there will be little or no advance warning of their visit.

It's not if, but WHEN...

Therefore, you should:

- Know your permit requirements
- Have all required documentation consolidated, available, and in USE
- Be able to describe HOW YOU COMPLY
- Make compliance a daily activity so you don't have to worry when DOH shows up at your jobsite