

US EPA ARCHIVE DOCUMENT

Notice of Final Decision on City and County of Honolulu's Honouliuli Wastewater Treatment Plant Application for a Modified NPDES Permit under Section 301(h) of the Clean Water Act
January 6, 2009

On January 5, 2009, Environmental Protection Agency (EPA) Regional Administrator Wayne Nastri signed a final decision denying the City and County of Honolulu's request for the Honouliuli Wastewater Treatment Plant for a variance from secondary treatment requirements of the Clean Water Act pursuant to section 301(h) of the Act.

Notice of this decision is being served today, January 6, 2009, on the applicant and on all persons who submitted written comments during the public comment period or requested notice of the final decision. Notice is being sent to every person who provided an address to EPA, at the U.S. Mail or electronic mail address provided. (Persons who provided both mail and electronic addresses are being notified by electronic mail.) EPA is also posting this notice on the Region 9 website at

<http://www.epa.gov/region09/water/npdes/pubnotices.html>

EPA is also posting the following documents on the Region 9 website:

Final Decision on City and County of Honolulu's Honouliuli Wastewater Treatment Plant Application for a Modified NPDES Permit under Section 301(h) of the Clean Water Act

Response to Comments from the City and County of Honolulu on the Environmental Protection Agency's March 27, 2007, Tentative Decision regarding the City and County of Honolulu's request for a Variance at the Honouliuli Wastewater Treatment Plant under Section 301(h) of the Clean Water Act

Response to Comments from the Public on the Environmental Protection Agency's March 27, 2007, Tentative Decision regarding the City and County of Honolulu's request for a Variance at the Honouliuli Wastewater Treatment Plant under Section 301(h) of the Clean Water Act

Copies of these documents may be made from the website. Additionally, if anyone would like either an electronic or a paper copy of any of these documents, they may be obtained from Sara Roser, Water Division (WTR-5), U.S. EPA Region 9, telephone (415) 972-3513 or email Roser.Sara@epa.gov.

As provided in EPA regulations at 40 CFR 124.15(b), this decision shall become effective 30 days after service of this notice (January 6, 2009), unless a later date is

specified in the decision or review is requested under 40 CFR 124.19. The decision specifies that this decision will be effective on **February 9, 2009**. If review is requested under 40 CFR 124.19, the decision is stayed pursuant to 40 CFR 124.14(b)(2) and 124.16.

EPA regulations at 40 CFR 124.19 provide that requests for review must be filed within 30 days after service of notice of the decision, subject to the provisions of 40 CFR 124.20. In calculating the time during which a request for review must be filed, 40 CFR 124.20(d) provides that if service is made by mail, three days shall be added to the prescribed time. Additionally, 40 CFR 124.20(c) provides that if the final day falls on a weekend, the time period shall be extended to the next working day. This decision is being served on some persons by mail and others by electronic mail, depending on what address was provided to EPA. Since some of the interested persons are receiving notice by mail, those persons have thirty days from the date of service (January 6, 2009), plus three days pursuant to 124.20(d), to file a request for review. This calculates to February 8, 2009, which is a Sunday. Thus, under 124.20(c), these persons have until Monday, **February 9, 2009**, to file a request for review with the EAB. Although the regulations do not specifically provide that three days shall be added to the prescribed time when a person is served by electronic mail, EPA considers it appropriate to apply a similar time calculation for those persons as to this specific action. Therefore, persons served by electronic mail also have until Monday, **February 9, 2009**, to file a request for review with the EAB. To the extent the regulations do not specifically require adding three days for persons served by email, setting the deadline for this date is permissible under 40 CFR 124.19(a), which allows EPA to specify a later deadline in the notice.

All requests for review should be addressed to the Environmental Appeals Board. Those persons filing a request for review must have filed comments on the tentative decision, or participated in the public hearing. Requests for review from other persons must be limited to the extent of changes from the tentative decision to the final decision. Any request for review must meet the requirements of 40 CFR 124.19. Information concerning EAB requirements, including the address for the EAB, can be found on the EAB website at <http://www.epa.gov/eab/>, or by calling the Clerk of the Board at (202) 233-0122. Please note that under EAB procedures, a request for review must be **received** by the EAB on the required date (in this case, February 9, 2009).