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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 12 1983

*Keith Silva*

Honorable George R. Ariyoshi  
Governor of Hawaii  
Honolulu, Hawaii 96801

THE ADMINISTRATOR <sup>8/17</sup>

*[Signature]*  
R/DRA \_\_\_\_\_

Referred To W-1

CC: \_\_\_\_\_

File: \_\_\_\_\_

Dear Governor:

It is with great pleasure that I am today approving the State of Hawaii NPDES Pretreatment Program in accordance with the General Pretreatment Regulation, 40 CFR Part 403.

Your State is the eighteenth to request and receive approval for administration of this important program. I congratulate you and your staff for moving to assume authority to implement the pretreatment program.

We look forward to working with you and the Department of Health in continued efforts toward the prevention and control of water pollution in the State of Hawaii.

Sincerely yours,

*William D. Ruckelshaus*

William D. Ruckelshaus

Enclosure

cc: Charles G. Clark  
Director of Health  
State of Hawaii  
Department of Health

John C. Wise, Acting  
Regional Administrator  
Region IX

WIS  
MODIFICATION TO NATIONAL POLLUTANT DISCHARGE ELIMINATION  
SYSTEM MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF HAWAII  
AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,  
REGION 9

The Memorandum of Agreement approved November 28, 1974, by the Administrator of the United States Environmental Protection Agency between the Hawaii Department of Health (hereinafter, the "State") and the United States Environmental Protection Agency (hereinafter, "U.S. EPA") Region 9 is hereby modified to define State and U.S. EPA responsibilities for the establishment and enforcement of National Pretreatment Standards for existing and new sources under Section 307 (b) and (c) of the Clean Water Act (hereinafter the "Act") as follows:

The State has primary responsibility for: (a) enforcing against discharges prohibited by 40 C.F.R. Section 403.5; (b) applying and enforcing any National Pretreatment Standards established by the U.S. EPA in accordance with Section 307(b) and (c) of the Act; (c) reviewing, approving, and overseeing Publicly Owned Treatment Works (POTW) Pretreatment Programs to enforce National Pretreatment Standards in accordance with the procedures discussed in 40 C.F.R. Section 403.11; (d) requiring a POTW Pretreatment Program in National Pollutant Discharge Elimination System (NPDES) Permits issued to POTWs as required in 40 C.F.R. Section 403.8 and as provided in Section 402(b)(8) of the Act; (e) reviewing and approving modification of categorical Pretreatment Standards to reflect removal of pollutants by a POTW and enforcing related conditions in the POTWS NPDES Permit. U.S. EPA will

overview and approve State pretreatment program operations consistent with 40 C.F.R. 403 regulations and this Memorandum of Agreement.

The State shall carry out inspection, surveillance and monitoring procedures which will determine, independent of information supplied by the POTW, compliance or noncompliance by the POTW with the pretreatment conditions incorporated into the POTW permit, and carry out inspection, surveillance and monitoring procedures which will determine, independent of information supplied by the industrial user. These inspections shall be agreed upon as part of the annual Section 106 program plan process.

Section 403.6 National Pretreatment Standards: Categorical Standards

The State shall review requests from industrial users for industrial subcategories, make a written determination whether the industrial user does or does not fall within a particular categorical pretreatment standard and state the reasons for this determination. The State shall forward its findings together with a copy of the request and necessary supporting information to the U.S. EPA Regional Water Management Division Director. If the Director does not modify the State's decision within 60 days after receipt thereof, the State's finding is final. Where the Director elects to modify the State's decision, the Director's decision will be final. State shall be informed of the finding in writing.

Section 403.7 Categorical Pretreatment Standard Credit Removal  
and 403.9 POTW Pretreatment Program Approval

The State shall review and act on POTW applications to revise discharge limitations for industrial users who are or may in the future be subject to categorical pretreatment standards and requests for approval of POTW Pretreatment Programs.

Copies of applications or other related submissions together with State recommendation shall be forwarded to EPA in a timely manner. No POTW Pretreatment Program shall be approved by the State if during the 30-day (or extended) evaluation period provided, the EPA sets forth in writing objections to the approval of such submissions/applications and the reasons for such objections.

Section 403.13 Variance From Categorical Pretreatment Standards  
for Fundamentally Different Factors

The State shall conduct an initial review of all categorical pretreatment standards fundamentally different factors requests from industrial users. If the State's determination is to deny the request, this determination shall be forwarded to the industrial user with a copy of the determination and request also forwarded to the U.S. EPA Regional Water Management Division Director. If the State's determination is that fundamentally different factors do exist, the request and recommendation that the request be approved shall be sent to the Director for final action. If the Director's determination differs from that of the State, the Director shall notify the State in writing indicating reasons why the determinations differ and allow the

State a reasonable amount of time to respond. The State shall be provided a copy of the Director's final determination.

Miscellaneous

The State has submitted a list of POTW's requiring pretreatment. This list may be revised from time to time and any addition or deletion will not require modification to the Memorandum of Agreement. The list of POTW's requiring pretreatment may be modified at any time upon the mutual agreement of the State and the U.S. EPA Regional Water Management Division Director.

Nothing in this agreement is intended to affect any Pretreatment requirement including any standards or prohibitions, established by State or local law as long as the State or POTW requirements are not less stringent than any set forth in the National Pretreatment Standards, or other requirements or prohibitions established under the Act or this regulation.

Nothing in this Modification shall be construed to limit the authority of U.S. EPA to take action pursuant to Sections 204, 208, 301, 304, 306, 307, 309, 311, 402, 405, 501, or other Sections of the Clean Water Act of 1977 (33 USC Section 1251 et seq).

This Modification will become effective upon approval of the Administrator.

STATE AGENCY

U.S. ENVIRONMENTAL PROTECTION  
AGENCY REGION 9

Charles G. Clark

CHARLES G. CLARK, DIRECTOR  
Hawaii State Department  
of Health

Date: 7-22-82

By

John F. Long

Date: Sept 30, 1982

William J. Furbush

Administrator  
United States Environmental  
Protection Agency

Date: AUG 12 1983