

**Industrial Storm Water General Permit FAQs**  
**For January 15, 2022 General Permit**

**For Existing Permittees under the December 6, 2013 General Permit:**

**1. Can I apply for continued coverage under the new general permit?**

First you must determine whether the facility can comply with the new general permit for storm water discharges associated with industrial activity. The general permit is in HAR Chapter 11-55, Appendix B, available here: <https://health.hawaii.gov/cwb/hawaii-administrative-rules-har/har-11-55/>.

If the project/activity can comply with the requirements in the new general permit, you may apply for continued coverage under the new general permit.

**2. How do I know which effluent limitations and/or benchmark monitoring applies to my facility?**

You must review the sector-specific requirements in Part 8 of the general permit to see if there are any additional effluent limitations and/or benchmark monitoring for your facility beyond those applicable to all facilities. You can refer to Part 9 of the general permit to determine the sector of your facility. You are required to comply with any effluent limitation and/or benchmark monitoring that applies to all sectors/subsectors and any sector-specific effluent limitations and/or benchmark monitoring that applies to your specific facility. This includes any requirements associated with any regulated co-located activities (see Part 1.1.2.1 of the general permit for more information on co-located industrial activities).

**3. I already have a Storm Water Pollution Control Plan (SWPCP) as required by the previous general permit. Is the SWPCP the same as the Storm Water Pollution Prevention Plan (SWPPP) in the new general permit?**

A SWPCP **is not automatically** equivalent to a SWPPP. While there may be similar information requirements contained in both, to receive coverage under the new general permit, you must ensure that the facility has a compliant SWPPP by either revising your SWPCP to be compliant with the SWPPP requirements in the new general permit or creating a new compliant SWPPP as necessary. Moving forward, the pollution prevention plan associated with industrial storm water discharges is now called a SWPPP.

**4. When do I have to develop a compliant SWPPP (see Part 5 of the general permit)?**

A compliant SWPPP must be created prior to submitting your NOI and in accordance with the time frame specified in question 7 of this section. Submitting an NOI without having completed a compliant SWPPP is a non-compliance with the general permit. While submittal of the SWPPP with the NOI is not required,

certain information from the SWPPP or a URL link to a web accessible version of the SWPPP must be submitted.

**DOH may ask for a copy of your SWPPP at any time, including during processing of your NOI. Failure to produce the SWPPP within the time frame specified by DOH or if DOH becomes aware that you have submitted an NOI prior to developing a compliant SWPPP is a non-compliance with the general permit and may be grounds for enforcement action(s).**

- 5. My currently issued NGPC has different effluent limitations and/or monitoring requirements than those I would be required to comply with under the new general permit. When I am issued my new NGPC, do I still need to follow these previous effluent limitations, or continue to monitor and report sampling results for these pollutants?**

You are only required to comply with the effluent limitations and all other applicable requirements contained in the new general permit.

- 6. The new general permit has a new type of monitoring called benchmark monitoring. It seems that unlike effluent limitations, exceedances of these pollutant concentrations are not considered a non-compliance under the general permit. Is this correct?**

This is correct. However, please note the following explanation from Part 6.2.1 of the general permit:

*This permit specifies pollutant benchmark concentrations that are applicable to certain sectors/subsectors. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in determining when additional corrective action(s) may be necessary to comply with the effluent limitations in Part 2 [of the HAR 11-55 Appendix B general permit].*

*The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. However, if corrective action is required as a result of a benchmark exceedance, failure to conduct required corrective action is a permit violation.*

**While exceedances of a benchmark concentration are not a non-compliance, failure to make an assessment to determine whether corrective actions are necessary, and failure to implement those corrective actions are non-compliances and may be grounds for enforcement action(s).**

## 7. How do I apply for continued coverage under the new general permit?

Appendix B expired on December 5, 2016. If you were notified that your NGPC was administratively extended, you must submit a NOI, including NOI Form B, for coverage under the new Appendix B, by **July 14, 2022**. The administrative extension of the NGPC shall continue to be effective until issuance of a new NGPC. If the DOH-CWB does not receive a complete NOI before **July 14, 2022**, the administrative extension of the NGPC will be automatically terminated.

If you do not submit an NOI for continued coverage under the new general permit in accordance with the timeline specified above, any continued discharges after the expiration of your NGPC will not have NPDES permit coverage.

**For Potential Applicants:**

**1. How do I know if I need to apply for industrial storm water coverage?**

The following excerpts from Title 40 Code of Federal Regulations Section 122.26(b)(14) [40 CFR 122.26(b)(14)] are descriptions of applicable discharge activities required to obtain NPDES permit coverage for storm water discharges associated with industrial activity. Regulated activities are determined based on the primary Standard Industrial Classification (SIC) code of the facility.

For facilities with multiple industrial activities, the primary SIC code is the SIC code that describes the primary industrial activity. It is recommended that the primary industrial activity determination be based on the value of receipts or revenues or, if such information is not available for your facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity.

<u>Subpart</u>	<u>Description</u>
(i)	Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutants effluent standards under 40 CFR, Subchapter N [except facilities with toxic pollutant effluent standards which are exempt under category (xi) in 40 CFR 122.26(b)(14)].
(ii)	Facilities classified as:
SIC 24 (except 2434)	Lumber and Wood Products
SIC 26 (except 265 & 267)	Paper and Allied Products
SIC 28 (except 283 & 285)	Chemicals and Allied Products
SIC 29	Petroleum and Coal Products
SIC 311	Leather Tanning and Finishing
SIC 32 (except 323)	Stone, Clay, and Glass Products
SIC 33	Primary Metal Industries
SIC 3441	Fabricated Structural Metal
SIC 373	Ship and Boat Building and Repairing
(iii)	Facilities including active or inactive mining operations; oil and gas exploration; production, processing, or treatment operations; or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations. Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner or operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.

SIC 10	.....	Metal Mining
SIC 11	.....	Anthracite Mining
SIC 12	.....	Coal Mining
SIC 13	.....	Oil and Gas Extraction
SIC 14	.....	Nonmetallic Minerals, except Fuels

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of the Resource Conservation and Recovery Act (RCRA).

(vi) Facilities involved in the recycling of material, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including, but limited to those classified as:

SIC 5015	.....	Motor Vehicle Parts, Used
SIC 5093	.....	Scrap and Waste Materials

(vii) Steam electric power generating facilities, including coal handling sites.

(viii) Transportation facilities which have vehicle maintenance shops, equipment cleaning operations, or airport de-icing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or airport de-icing operations, or which are otherwise identified under 40 CFR §122.26(b)(14)(i)-(vii) or (ix)-(xi) are associated with industrial activity.

SIC 40	.....	Railroad Transportation
SIC 41	.....	Local and Suburban Transit
SIC 42 (except 4221-25)	.....	Motor Freight and Warehousing
SIC 43	.....	U.S. Postal Service
SIC 44	.....	Water Transportation
SIC 45	.....	Transportation by Air
SIC 5171	.....	Petroleum Bulk Stations and Terminals

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the CWA.

(xi) Facilities which are not otherwise included in 40 CFR §122.26(b)(14)(ii)-(x).

SIC 20 .....	Food and Kindred Products
SIC 21 .....	Tobacco Products
SIC 22 .....	Textile Mill Products
SIC 23 .....	Apparel and Other Textile Products
SIC 2434 .....	Wood Kitchen Cabinets
SIC 25 .....	Furniture and Fixtures
SIC 265 .....	Paperboard Containers and Boxes
SIC 267 .....	Converted Paper and Paper Board Products (except containers and boxes)
SIC 27 .....	Printing and Publishing
SIC 283 .....	Drugs
SIC 285 .....	Paints, Varnishes, Lacquer, Enamels
SIC 30 .....	Rubber and Miscellaneous Plastic Products
SIC 31 (except 311).....	Leather and Leather Products
SIC 323 .....	Products of Purchased Glass
SIC 34 (except 3441).....	Fabricated Metal Products
SIC 35 .....	Industrial Machinery and Equipment, except Electrical
SIC 36 .....	Electronic and Other Electric Equipment
SIC 37 (except 373).....	Transportation Equipment
SIC 38 .....	Instruments and Related Products
SIC 39 .....	Miscellaneous Manufacturing Industries
SIC 4221 .....	Farm Products Warehousing and Storage
SIC 4222 .....	Refrigerated Warehousing and Storage
SIC 4225 .....	General Warehousing and Storage

## 2. How do I find the SIC code(s) for my facility?

You can find the SIC code(s) for your facility at:

<https://www.osha.gov/data/sic-search>.

SIC codes were developed by the Department of Commerce, Bureau of Census to collect, tabulate and analyze data by business type. SIC codes use a four-digit numbering system to classify a business by its primary activity. For example: SIC code 7539 identifies "automotive repair shops" and SIC code 2521 identifies "wood office furniture manufacturing." In 1997 the Bureau of Census replaced the SIC codes with North American Industry Classification System (NAICS). This means that old SIC codes don't match directly with the new NAICS codes.

Some environmental regulations, for example the National Pollutant Discharge Elimination System (NPDES) industrial storm water requirements, continue to reference the SIC codes. In addition, some permit applications, registrations, and reports require that the business be identified by its SIC code, so, it is important that you have information on both your SIC and NAICS codes. You may already

have your NAICS code on your tax forms. If you do, you can go to <https://www.census.gov/naics/>, find the most recent NAICS to SIC spreadsheet (under concordances), and cross-reference the corresponding SIC code. (Note that an ISIC is not the same as SIC, so be careful when selecting the appropriate spreadsheet).

If you don't have an NAICS code to reference, go to <https://www.census.gov/naics/> and you can use the look up tools to help you find an appropriate NAICS code for your company. Then use the above crosswalk document to cross-reference your SIC code.

Note that for the Clean Water Branch NPDES forms you will need to input both your NAICS and corresponding SIC codes.

**3. My facility has a regulated primary SIC code, however, I conduct all of the regulated industrial activity and store all industrial materials under cover and not exposed to storm water. Do I still need to apply for industrial storm water coverage?**

No, facilities that meet all “no exposure” requirements may apply for a Conditional “No Exposure” Exclusion in lieu of NPDES permit coverage as allowed by 40 CFR 122.26(g). Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is “no exposure” of industrial materials and activities to rain, snow, snowmelt and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

To qualify, the operator of the discharge must:

1. Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff;
2. Allow the DOH to inspect the facility to determine compliance with the “no exposure” conditions (as necessary including after granting of the exclusion, subject to DOH discretion);
3. Allow the DOH to make any “no exposure” inspection reports available to the public upon request; and
4. For facilities that discharge through a Municipal Separate Storm Sewer System (MS4), upon request, submit a copy of the certification of “no exposure” to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

Storm resistant shelter is not required for:

1. Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (“Sealed” means banded or otherwise secured and without operational taps or valves);
2. Adequately maintained vehicles used in material handling; and
3. Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

Please note that this exclusion has the following limitations:

1. Storm water discharges from construction activities are not eligible for this conditional exclusion (please see our construction storm water general permit information for coverage of storm water from construction activities);
2. This conditional exclusion from the requirement for an NPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be “no exposure” discharges, individual permit requirements should be adjusted accordingly;
3. If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances; and
4. DOH retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

Please see 40 CFR 122.26(g) for the full applicability requirements. If the facility can meet these requirements, you may apply for a Conditional “No Exposure” Exclusion. To apply, go to the e-Permitting Portal at: <https://eha-cloud.doh.hawaii.gov/epermit/> and complete and submit a CWB “No Exposure” Certification Form.

#### **4. What kinds of activities are covered under this general permit?**

The general permit covers storm water discharges associated with industrial activity and certain types of non-storm water. See Part 1 of the general permit for the full explanation of authorized discharges.



Note that as specified on page 1 of the general permit, discharges in or to natural freshwater lakes, saline lakes, or anchialine pools are not authorized by the general permit.

**5. So, if my activity will discharge to a natural freshwater lake, saline lake, and/or anchialine pool, I can't get coverage under the general permit?**

Correct, you cannot get coverage under the general permit.

**6. How do I know which effluent limitations and/or benchmark monitoring applies to my facility?**

You must review the sector-specific requirements in Part 8 of the general permit to see if there are any additional effluent limitations and/or benchmark monitoring for your facility beyond those applicable to all facilities. You can refer to Part 9 of the general permit to determine the sector of your facility. You are required to comply with any effluent limitation and/or benchmark monitoring that applies to all sectors/subsectors and any sector-specific effluent limitations and/or benchmark monitoring that applies to your specific facility. This includes any requirements associated with any regulated co-located activities (see Part 1.1.2.1 of the general permit for more information on co-located industrial activities).

**7. The general permit has a type of monitoring called benchmark monitoring. It seems that unlike effluent limitations, exceedances of these pollutant concentrations are not considered a non-compliance under the general permit. Is this correct?**

This is correct. However, please note the following explanation from Part 6.2.1 of the general permit:

*This permit specifies pollutant benchmark concentrations that are applicable to certain sectors/subsectors. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in determining when additional corrective action(s) may be necessary to comply with the effluent limitations in Part 2 [of the HAR 11-55 Appendix B general permit].*

*The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. However, if corrective action is required as a result of a benchmark exceedance, failure to conduct required corrective action is a permit violation.*

**While exceedances of a benchmark concentration are not a non-compliance, failure to make an assessment to determine whether corrective actions are necessary, and failure to implement those corrective actions are non-compliances and may be grounds for enforcement action(s).**

**8. Do I have to prepare anything prior to requesting coverage under the general permit?**

A compliant Storm Water Pollution Prevention Plan (SWPPP, see Part 5 of the general permit) must be created prior to submitting your NOI. Submitting an NOI without having completed a compliant SWPPP is a non-compliance with the general permit. While submittal of the SWPPP is not required for the NOI, as required by the general permit, certain information regarding information from the SWPPP or a URL link to a web accessible version of the SWPPP must be submitted.

**DOH may ask for a copy of your SWPPP at any time, including during processing of your NOI. Failure to produce the SWPPP within the time frame specified by DOH or if DOH becomes aware that you have submitted an NOI prior to developing a compliant SWPPP is a non-compliance with the general permit and may be grounds for enforcement actions.**

**9. I have determined that my facility has a regulated industrial activity, and cannot meet the requirements for a Conditional “No Exposure” Exclusion. How do I apply for NPDES general permit coverage?**

First you must determine whether the facility can comply with the general permit for storm water discharges associated with industrial activities. The general permit is in HAR Chapter 11-55, Appendix B, available here: <https://health.hawaii.gov/cwb/hawaii-administrative-rules-har/har-11-55/>.

General permits are permits that the CWB issues that cover a specific category of discharge. These permits are not issued to any single discharger or legal entity, rather, it provides specific requirements and criteria for controlling potential pollution from the category of discharge and allows applicants to request coverage under the general permit. This request is called a Notice of Intent or NOI. To request coverage under a general permit, a facility must be able to provide all information required in the NOI and certify that the facility will comply with all applicable requirements specified in the general permit. Inability to comply with any applicable requirement in the general permit disqualifies the facility from coverage under the general permit.

To submit an NOI, go to the e-Permitting Portal at: <https://eha-cloud.doh.hawaii.gov/epermit/> and use the form finder to find the CWB NOI Form. Follow all instructions on the form to complete and submit an NOI to the CWB. You will need to specify that you are requesting coverage under Appendix B.

If the CWB grants the facility general permit coverage, you will be issued a Notice of General Permit Coverage (NGPC). The NGPC is not the permit. The NGPC is a notice that the project is now covered under the General Permit, and

must comply with its requirements (i.e., must comply with HAR Chapter 11-55, Appendix B).

**Please note that if a facility is unable to comply with the requirements of the general permit and must have NPDES permit coverage, you must apply for an individual NPDES permit. To apply for an individual NPDES permit, go to the e-Permitting Portal and complete and submit a CWB Individual NPDES Form.**

## For Current NGPC Permittees:

### 1. How do I submit new/updated information and/or required notifications to the CWB (e.g., new contact information, Notice of Cessation, etc.)?

You can submit new/updated information and required notifications to the CWB by submitting a CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs through the e-Permitting Portal located at:

<https://eha-cloud.doh.hawaii.gov/epermit/>. Fill out the applicable portions of the form and follow the instructions to fully submit.

### 2. My Certifying Person has changed and is no longer the same as the individual identified on my issued NGPC. Do I need to get a revised NGPC that is addressed to the new Certifying Person?

No, you do not need a new NGPC that is addressed to the new Certifying Person. However, you will need to submit new contact information for the new Certifying Person by submitting a CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs through the e-Permitting Portal located at:

<https://eha-cloud.doh.hawaii.gov/epermit/>. Fill out the applicable portions of the form and follow the instructions to fully submit. **Please note that the new Certifying Person must sign the “Transmittal Requirements and Certification Statement for E-Permitting NPDES/NGPC Compliance Submissions” form.**

Please also note that if there is an Authorized Representative associated with the NGPC, they must be re-authorized by the new Certifying Person. To do this, complete the Authorized Representative Information section by providing all required information for the Authorized Representative. You may also authorize a different representative by providing different information or elect not to authorize a representative by providing no information.

### 3. How do I authorize a new Authorized Representative or submit new Authorized Representative information after my NGPC is issued?

You will need to submit a CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs through the e-Permitting Portal located at:

<https://eha-cloud.doh.hawaii.gov/epermit/>. Fill out the applicable portions of the form by putting in the updated information (either authorizing a new individual or updating the currently authorized individual’s new information) and follow the instructions to fully submit. **Please note that the Certifying Person must sign the “Transmittal Requirements and Certification Statement for E-Permitting NPDES/NGPC Compliance Submissions” form for this type of submission.**

- 4. The legal name of my company (i.e., the Owner of the NGPC) will change and no longer match the name identified in the issued NGPC. Do I need to do something?**

Yes. You must submit a new NOI and filing fee.

- 5. My company wants to legally transfer ownership of my facility (including its NGPC) to another legal entity. Are there any requirements from the CWB regarding this transfer?**

Yes. If you can meet the requirements for an automatic transfer in 40 Code of Federal Regulations (CFR) 122.61(b) and HAR Chapter 11-55-34.08(i)(2), you can complete and submit the Transfer of Ownership section in the CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs through the e-Permitting Portal located at: <https://eha-cloud.doh.hawaii.gov/epermit/>. You must submit this form at least 30 calendar days in advance of the proposed transfer date.

If you cannot meet these requirements, you will need to submit a new NOI to the CWB. You will also need to submit a Notice of Cessation to terminate the current NGPC once the new NGPC is issued.

- 6. My facility will shut down or will otherwise cease the discharge of storm water associated with industrial activities (e.g., the facility has been upgraded and will apply for a Conditional “No Exposure” Exclusion). How do I terminate my NGPC?**

To terminate coverage, follow the procedures in Part 1.3 of the general permit. If the facility has become eligible for a Conditional “No Exposure” Exclusion, you must follow the procedures in Part 1.4 of the general permit.

### **How can I contact the CWB if I have additional questions?**

The CWB can be contacted by email at: [CleanWaterBranch@doh.hawaii.gov](mailto:CleanWaterBranch@doh.hawaii.gov). The CWB can also be contacted by phone at (808) 586-4309, Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m.