

Small Municipal Storm Sewer System 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 discharges of storm water and certain non-storm water discharges from small municipal separate storm sewer systems. The general permit is in HAR Chapter 11-55, Appendix K, available here:

<https://health.hawaii.gov/cwb/hawaii-administrative-rules-har/har-11-55/>.

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

2. The first page of the new general permit mentions a two-step permitting process. What is the two-step process and how does this affect my continued coverage under the new general permit?

In accordance with Title 40 Code of Federal Regulations Section 122.28(d) [40 CFR 122.28(d)], DOH has selected to follow the “two-step” general permit process for regulated small MS4s. The Two-Step General Permit allows the DOH to establish some requirements in the general permit and others applicable to individual MS4s through a second proposal and public comment process.

Step 1. DOH develops and issues the general permit (i.e., Appendix K) that includes requirements applicable to all MS4s.

Step 2. DOH reviews the submitted Notice of Intent (NOI) requesting coverage under Appendix K for completeness. The information contained in the NOI and any proposed additional requirements to meet the MS4 permit standard are then subject to public notice and a thirty-day (minimum) comment period.

Following completion of the second step, DOH will make a final determination on whether to issue coverage under the general permit for your MS4, and what additional requirements are necessary. To apply for coverage, you must follow and complete the two-step permitting process. Specific requirements are contained in sections 13 and 14 of the general permit.

3. I have never been involved in the public notice and public comment process for NPDES permits before. What do I have to do?

You must publish a legal notice in the local area newspaper once Step 1 has been completed. The DOH will provide the public notice text and newspaper contact information. You are required to pay for all costs associated with the

public notice. The public notice will instruct interested parties on how to submit their comments to the DOH and include a deadline for comments.

You **must** submit the original signed affidavit of publication to the DOH within four weeks from the public date. **Failure to provide and pay for public notification, as deemed appropriate by DOH, is a basis to deny coverage under the general permit.**

Specific information regarding the public notice process is contained in section 13 of the general permit, but in general, the process will follow these steps:

1. DOH determines a publication date for the public notice.
2. DOH notifies you of the publication date and provides instructions on how to contact and schedule the public notice in your local area newspaper (e.g., for MS4s located on Oahu, public notice shall be in the Honolulu Star Advertiser).
3. Once you have coordinated with the newspaper and confirmed the public notice date, DOH shall provide the Public Notice document (i.e., the text to be public noticed in the newspaper) at least two (2) weeks prior to the publication date.
4. The public comment period begins on the publication date and continues for a minimum of 30 days.

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

Appendix K expired on December 5, 2016. If you were notified that your NGPC was administratively extended, you must submit a NOI, including NOI Form K, for coverage under the new Appendix K, by **May 15, 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 **May 15, 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 discharges of storm water and certain non-storm water from small Municipal Separate Storm Sewer Systems (MS4s) permit coverage?

You are required to apply for small MS4 permit coverage if your system meets the criteria below and has not received a waiver from NPDES permitting requirements or otherwise notified by DOH that an NPDES permit is not required.

A small MS4 is defined in Hawaii Administrative Rules (HAR) 11-55-01 as the following:

“Small municipal separate storm sewer system” or “small MS4” means all separate storm sewers that are:

- 1) *Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or under state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the [Clean Water] Act that discharges to State waters;*
- 2) *Not defined as “large” or “medium” municipal separate storm sewer systems under 40 CFR [Title 40 Code of Federal Regulations] §122.2(b)(4) and (b)(7), or designated under section 11-55-04(a)(4) or 11-55-34.08(k)(2) or 40 CFR §122.26(a)(1)(v); and*
- 3) *This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.*

2. What kinds of discharges are covered under this general permit?

HAR Chapter 11-55, Appendix K Section 1(a) specifies:

This general permit covers storm water and certain non-storm water discharges, provided they do not cause or contribute to any violation of water quality standards, to state waters from small municipal separate storm sewer systems.

HAR Chapter 11-55, Appendix K Section 1(b) also specifies:

This general permit covers all areas of the State except for discharges in or to natural freshwater lakes, saline lakes, and anchialine pools.

3. 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.

4. The first page of the new general permit mentions a two-step permitting process. What is the two-step process and how does this affect applying for coverage under the general permit?

In accordance with Title 40 Code of Federal Regulations Section 122.28(d) [40 CFR 122.28(d)], DOH has selected to follow the "two-step" general permit process for regulated small MS4s. The Two-Step General Permit allows the DOH to establish some requirements in the general permit and others applicable to individual MS4s through a second proposal and public comment process.

Step 1. DOH develops and issues the general permit (i.e., Appendix K) that includes requirements applicable to all MS4s.

Step 2. DOH reviews the submitted Notice of Intent (NOI) requesting coverage under Appendix K for completeness. The information contained in the NOI and any proposed additional requirements to meet the MS4 permit standard are then subject to public notice and a thirty-day (minimum) comment period.

Following completion of the second step, DOH will make a final determination on whether to issue coverage under the general permit for your MS4, and what additional requirements are necessary. To apply for coverage, you must follow and complete the two-step permitting process. Specific requirements are contained in sections 13 and 14 of the general permit.

5. I have never been involved in the public notice and public comment process for NPDES permits before. What do I have to do?

You must publish a legal notice in the local area newspaper once Step 1 has been completed. The DOH will provide the public notice text and newspaper contact information. You are required to pay for all costs associated with the public notice. The public notice will instruct interested parties on how to submit their comments to the DOH and include a deadline for comments.

You **must** submit the original signed affidavit of publication to the DOH within four weeks from the public date. **Failure to provide and pay for public notification, as deemed appropriate by DOH, is a basis to deny coverage under the general permit.**

Specific information regarding the public notice process is contained in section 13 of the general permit, but in general, the process will follow these steps:

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 3. Once you have coordinated with the newspaper and confirmed the public notice date, DOH shall provide the Public Notice document (i.e., the text to be public noticed in the newspaper) at least two (2) weeks prior to the publication date.
 4. The public comment period begins on the publication date and continues for a minimum of 30 days.
- 6. My system meets the definition of a regulated small MS4. How do I apply for NPDES general permit coverage?**

First you must determine whether the facility can comply with the general permit for discharges of storm water and certain non-storm water discharges from small municipal separate storm sewer systems. The general permit is in HAR Chapter 11-55, Appendix K, 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 K.

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 K).

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 MS4 will be removed or no longer discharge. How do I terminate my NGPC?**

You must submit a Notice of Cessation by filling out and 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 portion of the form and follow the instructions to fully submit.

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

The CWB can be contacted by email at: 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.