

Pesticide General Permit FAQs
For June 26, 2023 General Permit

For Existing Permittees under the July 13, 2018 General Permit:

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

First you must determine whether the project/activity can comply with the new general permit for discharges of pollutants resulting from the application of pesticides. The general permit is in HAR Chapter 11-55, Appendix M, 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. My currently issued NGPC has different 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 requirements, or continue to monitor and report sampling results for these pollutants?

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

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

The previous Appendix M was issued on July 13, 2018, and expired on June 26, 2023. Your NGPC is automatically extended to **August 25, 2023**. To continue coverage under the new general permit beyond this date, you must submit a Notice of Intent (NOI) by **August 25, 2023**. If you do not provide an NOI to continue coverage under the new general permit by **August 25, 2023**, your NGPC will expire on **August 25, 2023**.

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 discharge of pollutants resulting from the application of pesticides coverage?

You must apply for National Pollutant Discharge Elimination System (NPDES) permit coverage if you will discharge pollutants resulting from the application of pesticides to State waters.

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

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

This permit covers any Operator of a point source discharge of pollutants (i.e., discharge) resulting from the application of pesticides that meets the eligibility requirements identified in section 1(a) of this pesticide general permit (PGP) and if so required, submits a Notice of Intent (NOI) in accordance with section 1(e) of this general permit. For the purpose of this permit, an Operator is defined in section 11-55-01 to mean any entity associated with the application of pesticides which results in a discharge to state waters that meets either of the following two criteria: (1) any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities); or (2) any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. Operators identified in (1) above are referred to in this permit as Applicators while Operators identified in (2) are referred to in this permit as Decision-makers. As defined, more than one Operator may be responsible for complying with this permit for any single discharge from the application of pesticides.

For purposes of this permit, all Operators are defined as either an Applicator or a Decision-maker or both an Applicator and a Decision-maker.

When an Operator is both an Applicator and a Decision-maker, the Operator must comply with all applicable requirements imposed on both Applicators and Decision-makers. When the permit references all "Operators," both Applicators and Decision-makers must comply.

(a) Activities Covered.

This permit is available to Operators who discharge to state waters from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (collectively called pesticides), when the pesticide application is for at least one of the following pesticide use patterns:

- (1) Mosquito and Other Flying Insect Pest Control – to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water.*

Public health/nuisance and other flying insect pests in this use category include mosquitoes and black flies.

- (2) Weed and Algae Pest Control – to control weeds, algae, and pathogens that are pests in water and at water's edge, including ditches and/or canals.*
- (3) Animal Pest Control – to control animal pests in water and at water's edge. Animal pests in this use category include, but are not limited to, fish, lampreys, insects, mollusks, and pathogens.*
- (4) Forest Canopy Pest Control - application of a pesticide to a forest canopy to control the population of a pest species (e.g., insect or pathogen) where, to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to water.*

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

Limitations on Coverage under this General Permit

- (1) Discharges to Water Quality Impaired Waters.*

Except for discharges from pesticide applications made in response to a declared pest emergency situation or as determined by the director, Operators are not eligible for coverage under this permit for any discharges from a pesticide application to state waters if the water is identified as impaired by a substance which either is an active ingredient in that pesticide or is a degradate of such an active ingredient. For purposes of this general permit, impaired waters are those that have been identified by the State pursuant to Section 303(d) of the CWA as not meeting applicable State water quality standards. Impaired waters, for the purposes of this general permit, consist of both waters with EPA-approved Total Maximum Daily Loads (TMDLs) and waters for which EPA has not yet approved a TMDL. Coverage under this general permit is allowed for discharges to impaired waters listed generically for "pesticides" where the specific pesticide for which the waterbody is impaired has not been identified and without additional information suggesting that the waterbody is impaired for a specific active ingredient or degradate of the active ingredient.

- (2) Discharges to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and areas restricted in accordance with the State's "No Discharge" policy in chapter 11-54 entitled "Water Quality Standards."*

Operators are not eligible for coverage under this permit for discharges from a pesticide application to state waters classified by the department as "class 1, inland waters," "class AA, marine waters," and discharges into natural freshwater lakes, saline lakes, and anchialine pools.

Except for discharges from the following pesticide applications:

- (A) made in response to a declared pest emergency situation or as determined by the director;*
 - (B) to protect the public health or the environment that either do not degrade water quality or only degrade water quality on a short term basis; or*
 - (C) to maintain water flow in agricultural irrigation ditches and canals if the pesticide application is for the activity covered in 1(a)(2) (i.e., weed and algae pest control) or is for the activity covered in 1(a)(3) (i.e., animal pest control) in flooded agricultural fields.*
- (3) Discharges to surface drinking water sources (for domestic use) and their tributaries up-stream are not eligible for coverage under this permit. Such discharges will require coverage under an individual NPDES permit.*

Except in the following conditions:

- (A) made in response to a declared pest emergency situation or as determined by the director; or*
- (B) the following:*
 - (i) the NOI indicates whether the proposed application may discharge to surface drinking water sources; and*
 - (ii) the application to surface drinking water sources is consistent with the FIFRA label, including but not limited to, following any distance restriction and intended use; and*
 - (iii) the Decision-maker provides the owner (e.g., municipality, private) of the surface drinking water source the following information, including but not limited to: the pesticide(s) to be applied, general location, and approximate frequency and the department receives written consent from the owner of the surface drinking water source for such discharges; and*
 - (iv) the Operator adheres to the Safe Drinking Water Act and safe drinking water regulations; and*

(v) the Operator shall coordinate with the owner of the surface drinking water source to prevent pesticide-treated water from entering the drinking water intake and distribution system (e.g., the valve to the drinking water source is shut, or by diversion).

(4) Discharges Currently or Previously Covered by another Permit.

Discharges are not eligible for coverage under this permit if any of the following circumstances apply:

(A) The discharge is covered by another NPDES permit, or

(B) The discharge was included in a permit that in the past five (5) years has been or is in the process of being denied, terminated, or revoked by the State or EPA (this does not apply to the routine reissuance of permits every five (5) years).

3. So, if my activity cannot comply with one or more of the limitations, I can't get coverage under the general permit?

Correct, you cannot get coverage under the general permit.

4. I will be conducting an activity that will cause me to discharge pollutants resulting from the application of pesticides to State waters. How do I apply for NPDES general permit coverage?

First you must determine whether the project/activity can comply with the general permit for discharges of pollutants resulting from the application of pesticides. The general permit is in HAR Chapter 11-55, Appendix M, 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 project/activity must be able to provide all information required in the NOI and certify that the project/activity will comply with all applicable requirements specified in the general permit. Inability to comply with any applicable requirement in the general permit disqualifies the project/activity 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 M.

If the CWB grants the project/activity 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 M).

Please note that if a project/activity 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 an Electronic Signature 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 an Electronic Signature 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 an Electronic Signature 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 electronically sign the e-Permitting form. Information on the electronic signature process is available at: <https://health.hawaii.gov/cwb/permitting-faqs/#E-Permitting-Portal-Electronic-Signatures>.**

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 an electronic signature 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 new Certifying Person must electronically sign the e-Permitting form. Information on the electronic signature process is available at: <https://health.hawaii.gov/cwb/permitting-faqs/#E-Permitting-Portal-Electronic-Signatures>.**

- 4. The legal name of my company (i.e., the Permittee) 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 project/activity (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 Electronic Signature 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 and specify that you are conducting a non-automatic transfer of ownership.

- 6. My project has completed and will no longer discharge pollutants resulting from the application of pesticides. How do I terminate my NGPC?**

You must submit a Notice of Cessation by filling out and submitting an Electronic Signature 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.