

**Title 40**  
**Code of Federal Regulations**  
 (July 1, 2006 Edition)

&

**Hawaii Administrative Rules**  
**Chapter 11-55**

as referenced in

**Appendix A**  
**Standard General Permit Conditions**

Effective Date: June 15, 2009

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**5. Applications**

*Comply with 40 CFR § 122.22 Signatories to permit applications and reports (applicable to State programs, see § 123.25).*

- (a) *Applications.* All permit applications shall be signed as follows:
- (1) *For a corporation.* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
    - (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or
    - (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 122.22(a)(1)(ii) rather than to specific individuals.
  - (2) *For a partnership or sole proprietorship.* By a general partner or the proprietor, respectively; or
  - (3) *For a municipality, State, Federal, or other public agency.* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
    - (i) The chief executive officer of the agency, or
    - (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (b) All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

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- (1) The authorization is made in writing by a person described in paragraph (a) of this section;
  - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,
  - (3) The written authorization is submitted to the Director.
- (c) *Changes to authorization.* If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)) [48 FR 14153, Apr. 1, 1983, as amended at 48 FR 39619, Sept. 1, 1983; 49 FR 38047, Sept. 29, 1984; 50 FR 6941, Feb. 19, 1985; 55 FR 48063, Nov. 16, 1990; 65 FR 30907, May 15, 2000]

#### 6. Duty to comply

*Comply with 40 CFR § 122.41(a) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (a) Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

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- (1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- (2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- (3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I

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penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

#### 7. Need to halt or reduce activity not a defense

*Comply with 40 CFR § 122.41(c) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (c) *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#### 9. Proper operation and maintenance

*Comply with 40 CFR § 122.41(e) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (e) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

#### 10. Permit actions

*Comply with 40 CFR § 122.41(f) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (f) *Permit actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

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#### 11. Property rights

*Comply with 40 CFR § 122.41(g) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (g) *Property rights.* This permit does not convey any property rights of any sort, or any exclusive privilege.

#### 12. Duty to provide information

*Comply with 40 CFR § 122.41(h) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (h) *Duty to provide information.* The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

#### 13. Inspection and entry

*Comply with 40 CFR § 122.41(i) Conditions applicable to all permits (applicable to State programs, see § 123.25).*

- (i) *Inspection and entry.* The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:
- (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
  - (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - (4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

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### 15. Signatory requirement

Comply with 40 CFR § 122.41(k) Conditions applicable to all permits (applicable to State programs, see § 123.25).

- (k) *Signatory requirement.*
- (1) All applications, reports, or information submitted to the Director shall be signed and certified. (See § 122.22)
  - (2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

### 16. Reporting requirements

Based in part on 40 CFR § 122.41(l) Conditions applicable to all permits (applicable to State programs, see § 123.25).

- (l) *Reporting requirements.*
- (1) *Planned changes.* The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
    - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in § 122.29(b); or
    - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under § 122.42(a)(1).
    - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
  - (2) *Anticipated noncompliance.* The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
  - (3) *Transfers.* This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other

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requirements as may be necessary under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

- (4) *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
- (5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (6) *Twenty-four hour reporting.*
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - (ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
    - (A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See § 122.41(g).)]
    - (B) Any upset which exceeds any effluent limitation in the permit.
    - (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See § 122.44(g).)
  - (iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (l)(6)(ii) of this section if the oral report has been received within 24 hours.

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- (7) *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs (1) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.
- (8) *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

#### 19. Existing manufacturing, commercial, mining, and silvicultural dischargers

*Comply with 40 CFR § 122.42(a) Additional conditions applicable to specified categories of NPDES permits (applicable to State NPDES programs, see § 123.25).*

- (a) *Existing manufacturing, commercial, mining, and silvicultural dischargers.* In addition to the reporting requirements under § 122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:
  - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
    - (i) One hundred micrograms per liter 100 µg/l;
    - (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
    - (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7); or
    - (iv) The level established by the Director in accordance with § 122.44(f).
  - (2) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
    - (i) Five hundred micrograms per liter 500 µg/l;
    - (ii) One milligram per liter (1 mg/l) for antimony;
    - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7).
    - (iv) The level established by the Director in accordance with § 122.44(f).

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#### 20. Publicly owned treatment works

*Comply with 40 CFR § 122.42(b) Additional conditions applicable to specified categories of NPDES permits (applicable to State NPDES programs, see § 123.25).*

- (b) *Publicly owned treatment works.* All POTWs must provide adequate notice to the Director of the following:
  - (1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA if it were directly discharging those pollutants; and
  - (2) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (3) For purposes of this paragraph, adequate notice shall include information on
    - (i) the quality and quantity of effluent introduced into the POTW, and
    - (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

#### 21. Reopener clause

*Comply with 40 CFR § 122.44(c) Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).*

- (c) *Reopener clause:* For any permit issued to a treatment works treating domestic sewage (including “sludge-only facilities”), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

*Comply with 40 CFR § 125.123(d)(4) Permit requirements.*

- (d) All permits which authorize the discharge of pollutants pursuant to paragraph (c) of this section shall: . . .
  - (4) Contain the following clause: In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the director determines that continued discharges may cause unreasonable degradation of the marine environment.

**22. Privately owned treatment works**

The following conditions were established by EPA Region 9 to enforce applicable requirements of the Resource Conservation and Recovery Act and 40 CFR §122.44(m).

*EPA Region 9 Conditions*

This section applies only to privately owned treatment works as defined in 40 CFR §122.2.

- a. Materials authorized to be disposed of into the privately owned treatment works and collection system are typical domestic sewage. Unauthorized materials are hazardous waste (as defined 40 CFR Part 261), motor oil, gasoline, paints, varnishes, solvents, pesticides, fertilizers, industrial wastes, or other materials not generally associated with toilet flushing or personal hygiene, laundry, or food preparation, unless specifically listed under "Authorized Non-domestic Sewer Dischargers" elsewhere in this permit. The Domestic Sewage Exclusion (40 CFR §261.4) does not apply to hazardous wastes mixed with domestic sewage in a sewer leading to a privately owned treatment works.
- b. It is the Permittee's responsibility to inform users of the privately owned treatment works and collection system of the prohibition against unauthorized materials and to insure compliance with the prohibition. The Permittee must have the authority and capability to sample all discharges to the collection system, including any from septic haulers or other unsewered dischargers, and shall take and analyze the samples for conventional, toxic, or hazardous pollutants when instructed by the permitting authority or by an EPA or State inspector. The Permittee must provide adequate security to prevent unauthorized discharges to the collection system.
- c. Should a user of the privately owned treatment works desire authorization to discharge non-domestic wastes, the Permittee shall submit a request for permit modification and an application, pursuant to 40 CFR §122.44(m), describing the proposed discharge. The application shall, to the extent possible, be submitted using EPA Forms 1 and 2C, unless another format is requested by the permitting authority. If the privately owned treatment works or collection system user is different from the Permittee, and the Permittee agrees to allow the non-domestic discharge, the user shall submit the application and the Permittee shall submit the permit modification request. The application and request for modification shall be submitted at least six (6) months before authorization to discharge non-domestic wastes to the privately owned treatment works or collection system is desired.

*40 CFR § 122.44(m) Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).*

- (m) *Privately owned treatment works.* For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

**23. Transfers by modification**

*Comply with 40 CFR § 122.61(a) Transfer of permits (applicable to State programs, see § 123.25).*

- (a) *Transfers by modification.* Except as provided in paragraph (b) of this section [or section 24 of HAR, Chapter 11-55, Appendix A], a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under § 122.62(b)(2)), or a minor modification made (under § 122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.

*Comply with HAR, §11-55-16 Modification or revocation and reissuance of NPDES permits.*

- (a) Each NPDES permit shall be subject to modification or revocation and reissuance by the director after notice and opportunity for a contested case hearing.
- (b) Permits may be modified for the reasons and under the procedures specified in 40 CFR §§122.62 and 122.63.
- (c) Permits may be revoked and reissued for the reasons and under the procedures specified in 40 CFR §122.62.
- (d) The procedures and criteria for minor permit modifications are those specified in 40 CFR §122.63.
- (e) All applications made under section 342D-7, HRS, for a variance from the terms and conditions of an NPDES permit shall also be deemed as applications for a modification under this section. Any variances, if granted, shall be for a period not to exceed five years.

**24. Automatic transfers**

*Comply with 40 CFR § 122.61(b) Transfer of permits (applicable to State programs, see § 123.25).*

- (b) *Automatic transfers.* As an alternative to transfers under paragraph (a) of this section [or section 23 of HAR, Chapter 11-55, Appendix A], any NPDES permit may be automatically transferred to a new permittee if:
- (1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
  - (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - (3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under § 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

*Comply with HAR, §11-55-04(d) Application for NPDES permit, notice of intent, or conditional "no exposure" exclusion.*

- (d) Every owner or operator applying for an individual permit or renewal of an individual permit shall pay a filing fee of \$1,000. This filing fee shall be submitted with the NPDES permit application and shall not be refunded nor applied to any subsequent NPDES permit application following final action of denial of the NPDES permit application.
- (1) When an NPDES permit application is submitted for an individual permit for a substantial alteration or addition to a treatment works or waste outlet and where an individual permit had previously been granted for the treatment works or waste outlet, the owner or operator shall pay a \$1,000 filing fee which shall be submitted with the NPDES permit application.
  - (2) A new owner of a discharge facility covered by an individual permit shall submit a new NPDES permit application for a new individual permit unless the new owner submits a notice of automatic transfer that meets 40 CFR §122.61(b). The owner or operator shall pay a \$500 filing fee which shall be submitted with the NPDES permit application or notice of automatic transfer that meets 40 CFR §122.61(b);
  - (3) An NPDES individual permittee shall submit a new NPDES permit application for the transfer of discharge from one permanent location to another permanent location. The owner or operator shall pay the \$1,000 filing fee which shall be submitted with the NPDES permit application;
  - (4) Fees shall be made payable to the "State of Hawaii" in the form of a pre-printed check, cashier's check, money order, or as otherwise specified by the director.

**25. Minor modification of permits**

*Comply with 40 CFR § 122.63 Minor modifications of permits.*

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of part 124. Any permit modification not processed as a minor modification under this section must be made for cause and with part 124 draft permit and public notice as required in § 122.62. Minor modifications may only:

- (a) Correct typographical errors;
- (b) Require more frequent monitoring or reporting by the permittee;
- (c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
- (d) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
- (e)(1) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under § 122.29.
- {e}(2) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- (f) [Reserved]
- (g) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

**26. Termination of permits**

*Comply with 40 CFR § 122.64 Termination of permits (applicable to State programs, see § 123.25).*

- (a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:
- (1) Noncompliance by the permittee with any condition of the permit;

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- (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
  - (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
  - (4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).
- (b) The Director shall follow the applicable procedures in part 124 or part 22 of this chapter, as appropriate (or State procedures equivalent to part 124) in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Director may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Director shall follow part 124 of this chapter or applicable State procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use part 22 of this chapter procedures for NPDES permit terminations.

*Comply with HAR, §11-55-18 Reporting discontinuance or dismantlement.*

An NPDES permittee shall report within thirty days after the permanent discontinuance or dismantlement of that treatment works or waste outlet for which the NPDES permit had been issued by submitting a notice of cessation.