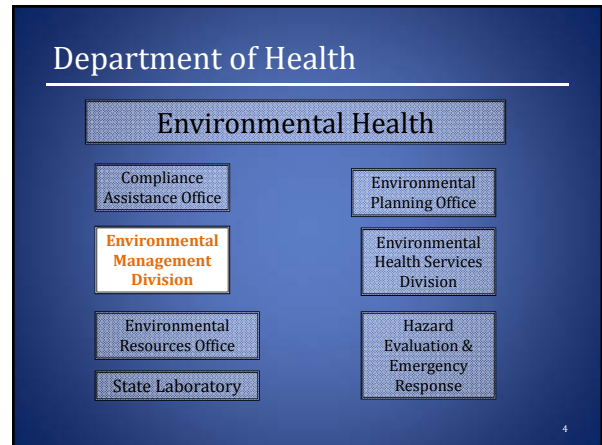
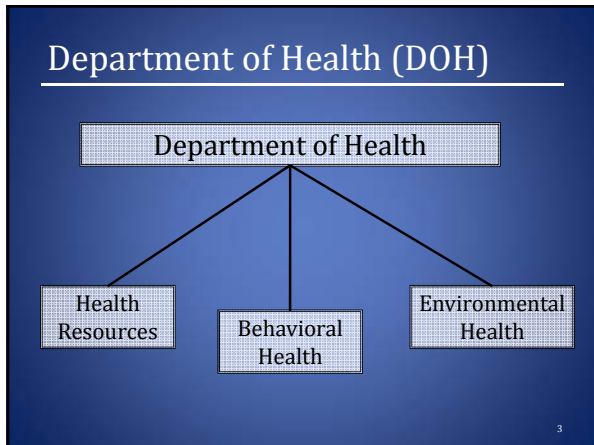


## Agenda

- Introduction to Water Pollution Control Regulations
- Applying for an NPDES Permit
- Complying with Hawaii Water Pollution Rules and Regulations
- BMPs Explained
- Clean Water Act Section 404 Permits and their Section 401 Water Quality Certifications



### DOH Environmental Management Division

- **Clean Water Branch: 808-586-4309**
- Wastewater Branch: 808-586-4300
- Clean Air Branch: 808-586-4200
- Solid and Hazardous Waste Branch: 808-586-7509
- Safe Drinking Water Branch: 808-586-4258

The mission of the Department of Health is to protect and improve the health and environment for all people in Hawai'i.



## Clean Water Branch

919 Ala Moana Blvd., Rm. 301  
 Honolulu, Hawaii 96814-4920  
 Phone: 586-4309  
 Fax: 586-4352  
[cleanwaterbranch@doh.hawaii.gov](mailto:cleanwaterbranch@doh.hawaii.gov)

The Clean Water Branch protects the public health of residents and tourists who enjoy playing in and around Hawaii's coastal and inland water resources. This is accomplished through statewide coastal water surveillance and watershed-based environmental management with a combination of permit issuance, monitoring, enforcement, sponsorship of polluted runoff control projects, and public education.

## Introduction to Water Pollution Regulations

### Why all the Regulations?

### Water Pollution Prevention: Why All Regulations?

- Over 5000 known species of marine plants and animals find their homes in Hawaii's coastal reefs, 25% of which are found nowhere else in the world. - Hawaii Coral Reef Initiative
- The Hawaiian Islands have 410,000 acres of living reef in the main islands alone, more than the landmass of Oahu. - Hawaiiireef.org
- The reef ecosystem feeds, shelters and provides habitats for fish, protects the shoreline from wave and sand erosion and creates Hawaii's famous white sand beaches and underwater paradise. - Hawaiiireef.org



### Water Pollution Prevention: Why All Regulations?

- Throughout the US, 40% of rivers are too polluted for fishing, swimming, or aquatic life.
- Two-thirds of US estuaries and bays (the source of our fisheries) are either moderately or severely degraded from eutrophication (nitrogen and phosphorus pollution).
- In Hawaii: 102 of 1052 coastline miles and 2704 of 3904 total assessed stream miles do not meet State Water Quality Standards.**




### Water Pollution Prevention: Why All Regulations!

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The basis of the CWA was enacted in 1948 and was called the Federal Water Pollution Control Act, but the Act was significantly reorganized and expanded in 1972. "Clean Water Act" became the Act's common name with amendments in 1977.

Under the CWA, EPA has implemented pollution control programs such as setting wastewater standards for industry. We have also set water quality standards for all contaminants in surface waters.

-www.epa.gov




Cuyahoga River on Fire  
June 22, 1969

### Water Pollution Prevention: Why All Regulations!

In Hawaii:

- 1973- Hawaii Legislature Establishes HRS 342- "Environmental Quality"
- Nov 1974 - EPA delegated the administration of NPDES permit program to Hawaii DOH
- In 1989- environmental programs grouped under EMD - Act 212 separates HRS 342 into media specific statutes → HRS 342D "Water Pollution"
- 1990 - Hawaii passes acts that establish authority for:
  - HAR 11-54 "Water Quality Standards" establishes our WQ parameters: 11-54-4(a) states: "All waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants..."
  - HAR 11-55 "Water Pollution Control" addresses NPDES permit issuance and conditions




Wastewater Outfall, Hawaii

## The NPDES Program

**National Pollutant Discharge Elimination System (NPDES)**

- 402 of the Clean Water Act
- Implemented under Hawaii Administrative Rules, Chapter 11-55, Water Pollution Control
- Establishes a program for issuing permits which regulate discharges to State waters




Kahe Generating Station, Hawaii

The NPDES Program regulates nearly all industries which discharge to surface waters


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## The NPDES Program

The NPDES Program regulates discharges from:



Wastewater Treatment Plants




Concentrated Animal Feeding Operations


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## The NPDES Program

Storm Water Discharges from :



Industrial Facilities



Construction Sites  
(One Acre or More)

And Many More Industries and Activities

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## The NPDES Program- Two Types of Permits

<p><b>General Permits</b></p> <ul style="list-style-type: none"> <li>• For construction activities of 1 or more acres that discharge into Class 2 or Class A water</li> <li>• For Activities (Hydrotesting, dewatering, etc.) that discharge to a Class 2 or Class A water</li> <li>• Common type of discharge</li> <li>• \$500 filing fee</li> <li>• Takes ~1 Month to issue</li> <li>• Good for between 1 month and 5 years depending on date of issuance</li> </ul>	Vs.	<p><b>Individual Permits</b></p> <ul style="list-style-type: none"> <li>• For construction activities of 1 or more acres that discharge into Class 1 or Class AA water</li> <li>• For Activities (Hydrotesting, dewatering, etc.) that discharge into Class 1 or Class AA waters</li> <li>• Are highly specific</li> <li>• \$1000 filing fee</li> <li>• Takes 6 Months to a year to issue</li> <li>• May be good for up to 5 years</li> </ul>
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Most "permits" issued by the CWB are Notices of General Permit Coverage (NGPC)

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## Change to HAR, Chapter 11-55

*(effective June 15, 2009)*

- The amendments repealed the requirement for applicants to submit the NPDES permit application or NOI to the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD).
- Do not submit a copy of the NPDES Permit Application or NOI for construction coverage to DLNR-SHPD.

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## EPA Construction Stormwater Rule Takes Effect February 1, 2010

- Requires nearly all construction sites to implement a range of erosion and sediment controls and pollution prevention measures

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## EPA Constr'n Stormwater Rule (con't)

- **Non-numeric effluent limitations will apply to every construction site over one (1) acre when the rule takes effect on February 1, 2010**
  - Implementation of best management practices related to:
    - (1) erosion and sedimentation controls,
    - (2) soil stabilization controls, and
    - (3) pollution prevention measures.

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## EPA Constr'n Stormwater Rule (con't)

- The rule also prohibits discharges from:
  - (1) dewatering activities and concrete washout activities (unless managed by appropriate controls),
  - (2) wastewater from the washout of stucco, paint, form release oils, curing compounds and other construction materials,
  - (3) fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance, and
  - (4) soaps or solvents used in vehicle and equipment washing.
- The rule also requires that discharges from basins or impoundments on a construction site must withdraw water from the surface, unless infeasible.

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## EPA Constr'n Stormwater Rule (con't)

- **Numeric limit and associated monitoring requirements applicable to large sites disturbing 10 acres or more at one time will be phased in over four (4) years.**
  - construction sites that disturb 20 or more acres of land at one time are required to sample and comply with the turbidity limitation by August 1, 2011
  - construction sites that disturb 10 or more acres at one time are required to sample and comply with the turbidity limitation by February 2, 2014
- **Daily maximum limitation for Turbidity = 280 Nephelometric Turbidity Units (NTU)** - averages of the samples taken over the course of a day may not exceed the maximum daily amount

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## Applying for an NPDES Permit

It's not as difficult as it may seem

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## NOI Procedures

To obtain coverage under the Construction Stormwater General Permit, submit the following:

- CWB NOI General Form
- CWB NOI Form C or EPA SWPPP
- \$500 Filing Fee

See handouts for examples.

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## NOI Procedures

To obtain coverage under the Hydrotesting or Construction Dewatering General Permits, submit the following:

- CWB NOI General Form
- CWB NOI Form F or G
- \$500 Filing Fee

See handouts for examples.

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## NOI Procedures

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**NOI and SSBMPs review priorities:**

- American Recovery and Reinvestment Act (ARRA) Projects
- Capital Improvement Project (CIP) Strike-Force List Projects
- Clean Energy Projects
- All other projects by date received

Indicate in your transmittal that your project meets one of the above criteria to ensure the priority review.

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## NOI Procedures

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**The following may cause the NOI to be incomplete:**

- No electronic submittal of CWB NOI General Form (*xml file*), CWB-NOI Form C or SWPPP or CWB-NOI Form F or G (*pdf file – minimum 300 dpi*), attachments (*pdf files – minimum 300 dpi*)
- No \$500 Filing Fee

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## NOI Procedure Changes

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- **The CWB NOI Form C will be replaced with the requirement to submit a completed EPA Storm Water Pollution Prevention Plan (SWPPP) Template.**
  - See handout for blank SWPPP template. Template will be revised to incorporate State required information. Check CWB website for updates.
  - Blank template is available on the EPA website at [http://www.epa.gov/npdes/pubs/sw\\_swppp\\_template\\_authstates.doc](http://www.epa.gov/npdes/pubs/sw_swppp_template_authstates.doc)
  - Certain Site-specific construction information/Best Management Practices may be submitted at least 30 calendar days before the start of construction activities. Please see CWB NOI Form C for which items may be submitted later.

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## Upcoming Changes

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**Upcoming Changes to Hawaii's NPDES Program**

- eDMR (electronic submittal of Discharge Monitoring Report Form)
- Web-based forms
- Electronic Signatures
- Searchable online database
- Total Maximum Daily Loads and Waste Load Allocations
- Chargeable Filing Fee

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## Site-Specific BMP Plans: What is a SSBMP Plan?

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Site-Specific BMP Plans insure compliance with Hawaii Water Pollution Rules and Regulations by:

- Detailing what pollutant sources exist on site
- What BMPs are going to be used to mitigate sources
- How to use the BMPs (specs and details)
- Detailing inspection procedures for permit compliance



[www.epa.gov/npdes](http://www.epa.gov/npdes)

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## Site-Specific BMP Plans: What is a SSBMP Plan? (cont.)

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**Identifies outfalls and receiving water**

- Details how outfalls are protected
- Details how the BMPs protect receiving waters
- Details where to use each BMP
- Details who's responsible for BMP maintenance

**Is written for your use, not for ours!**



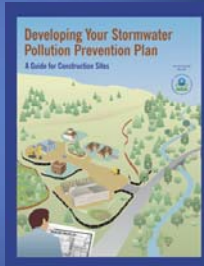
[www.epa.gov/npdes](http://www.epa.gov/npdes)

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### Site-Specific BMP Plans: When

Site-Specific BMP Plans are **PREFERABLY** completed at the time of application.

- Preparing SSBMP Plans before NGPC issuance encourages compliance and make for fair bid practices
- Projects that mobilize without an accepted SSBMP plan submitted 30 days prior to the start of construction activities is already in non-compliance with the NGPC.

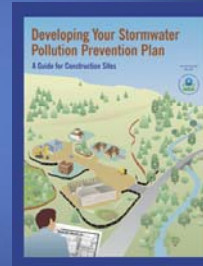


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### Site-Specific BMP Plans: Who

Site-Specific BMP Plans maybe be authored by the design engineer or general contractor.

- Even the best plans will need to be revised during construction
- Revisions must be submitted by the duly authorized representative or certifying person.
- SSBMP Plans are Binding



www.epa.gov/npdes

### Site-Specific BMP Plans: Templates Exist

**SSBMP Plans MUST BE USABLE FOR YOU!**

- Free templates exist to make the process easier
- If a NGPC has been issued, most of the work is already done. CWB-NOI Form C is 80-90% of a SSBMP Plan.
- Can be changed if needed.



www.epa.gov/npdes

BMPs are not set in stone.  
It's about the water!

### Site-Specific BMP Plans: FAQs

Do SSBMP plans need to be stamped by a license engineer? **No!**

- Can I make changes to SSBMP Plans? **Yes!**
- Does the DOH have a list of "approved" BMPs? **No!**
- Can I use a BMP that has not been readily tested in Hawaii before? **Yes!**
- What are the Best BMPs? Whatever works for you!



www.epa.gov/npdes

## Complying with Hawaii Water Pollution Rules and Regulations

A Common Sense Approach to Compliance

### Compliance with your NPDES Permit

#### **Conditional NPDES Permits & NGPCs**

- Many Permits/NGPCs have Conditions which need to be fulfilled.
- Read the conditions and make a checklist of conditions:



- Some come 30 days before start of work (Submitting SSBMP Plans)
- Some 7 days before (Start of work notice)
- Some after work is completed (NOC)


### Compliance with your NPDES Permit

**What must be kept onsite?**

- Permits/NGPCs
- SSBMP Plan
- Inspection Records
- Copy of the NOI

**Who's Responsible for compliance?**

- Permittee
- Contractor
- Joe Backhoe Driver



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### Compliance with your NPDES Permit

**What if I need to make changes?**

1. Make the Change
2. Update SSBMP Plan
3. Notify CWB of the update

**What about during a big storm?**

- Inspect Site
- Secure BMPs
- Rebuild, Redesign as needed
- Document, Document, Document



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### Compliance with your NPDES Permit: Inspections

**What's the Point?**

1. Insure Water Pollution Prevention by:
  - A. Determine Applicability of the SSBMP
  - B. Evaluate Adherence to the SSBMP

**What are the Penalties?**

- Notices of Apparent Violation (NAVs)
- Field Citations (\$100-\$3600)
- Notice and Finding of Violation and Order (\$500-\$25,000/per day)
- Criminal Felony Prosecution



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### Compliance with your NPDES Permit: Inspections

**So What's an Inspection Like?**

CWB Representative will show up

- Will ask for representative
- Will ask for all documentation
- Will ask lots of questions about: the Site/project/company/management
- Will ask to inspect the Site
- Will point out all issues and take photos
- Will have an exit interview whereupon findings will be discussed.
- May offer suggestions which should be taken seriously

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### Compliance with your NPDES Permit: Inspections

**What Happens Between Inspection and Enforcement?**

CWB Enforcement Section Tasks:

- Give a verbal briefing to our boss(es)
- Review the file
- Draft Inspection Report and Enforcement Action
  - Could be NAV or NFVO
- Calculate penalty if applicable
- Issue Enforcement Action

Process may take 1 week to 6 months depending on situation

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### Compliance with your NPDES Permit: Good Results

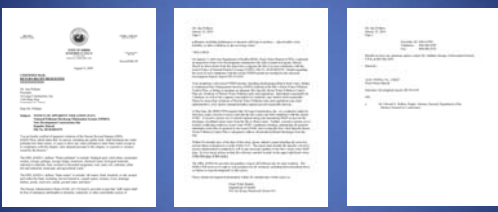
**Be Prepared, it's not IF but WHEN**

- Have all required documentation consolidated and in USE
- Make time for the inspectors, be forthcoming
- Document what we document
- Be able to describe HOW YOU COMPLY
- Make compliance a daily activity so you don't have to worry about us showing up

**Prevent Polluted Discharges to State Waters**

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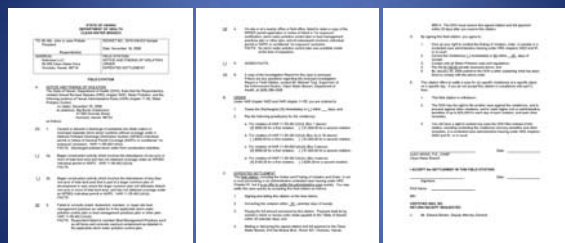
### Compliance with your NPDES Permit: NAVs



Notice of Apparent Violations (NAVs)  
20 Days to make corrections  
May result in a monetary penalty

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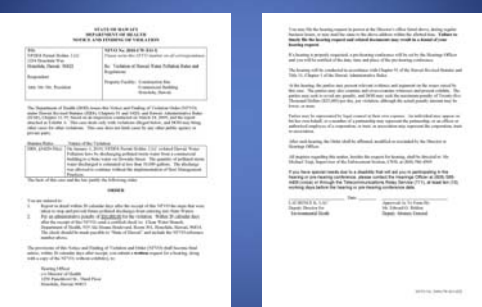
### Compliance with your NPDES Permit: Field Citations



Field Citations

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### Compliance with your NPDES Permit: NFVOs




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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

**Site 1**



Discharge of Cement Wastewater from a Construction Site

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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

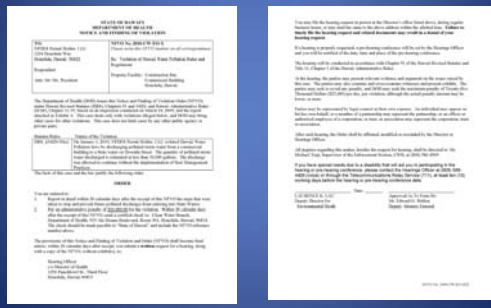
**Case Details:**

- Inspection conducted in response to a complaint
- Construction project NGPC had been issued by the CWB.
- Previous inspections of other related projects had been conducted with non-discharge related findings
- A discharge of concrete wastewater was identified.
- The discharge was terminated immediately.
- 

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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities



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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

**NFVO Orders:**

- Cease the Discharge Immediately
- Make Changes to Prevent Similar Violations from Occurring
- Report Changes
- Pay a Penalty of ~\$8000.00

**NFVO Results:**

- Changes Made
- Changes Reported
- Penalty Paid


Future Penalties will be Substantially Higher and may be referred for Criminal Prosecution!

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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

**Site 2**



Failing to Maintain/Implement BMPs as required

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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

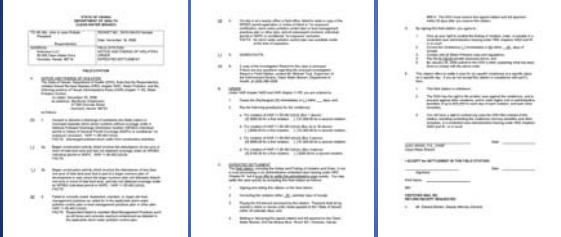
**Case Details:**

- Routine Compliance Inspection
- Construction project NGPC had been issued by the CWB.
- Previous inspections of other related projects had been conducted with non-discharge related findings
- No discharges were identified

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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities



Field Citation Issued

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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

**Field Citation Orders:**

- Cease the Discharge Immediately
- Make Changes to Prevent Similar Violations from Occurring
- Report Changes
- Pay a Penalty of \$600.00

**NFVO Result**

- Changes Made
- Changes Reported
- Penalty Paid

Future Penalties will be Substantially Higher and may be referred for Criminal Prosecution!


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### NPDES Program– Recent Enforcement Actions

Storm Water Associated With Construction Activities

**Why a Field Citation and Not NFVO:**

- No observed polluted discharge
- Good downstream BMP
- Rapid Good Faith actions to comply



Large Capacity Retention Basin

Good Permanent BMPs go a long way!

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Compliance with your NPDES Permit: Examples

Ingress/Egress BMPs

Bad Good

Tracking is the leading complaint we receive about construction sites

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Compliance with your NPDES Permit: Examples

Ingress/Egress BMPs

Bad Good

Contain Concrete Washout

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Compliance with your NPDES Permit: Examples

Perimeter Sediment Control

Bad Good

Perimeter Sediment Control is only part of the BMP system  
Source control and good planning is critical.  
Maintain your BMPs.

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Compliance with your NPDES Permit: Examples

Inlet Protection Devices (IPD)

Good? Bad? Good

The best way to think about protecting your inlets is to NOT use IPDs as your primary BMP.

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Compliance with your NPDES Permit: Examples

Fuel/Oil Storage

Bad OK

No Secondary Containment  
No Overhead Cover

Secondary Containment  
No Overhead Cover

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Compliance with your NPDES Permit: Examples

Tire Washing

Bad Good

Grounds for a Fine

Wastewater Contained Onsite

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## BMPs Explained

BMPs for Construction Sites,  
Dewatering Activities and  
Hydrotesting

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## Best Management Practices

**Definition:**  
**Best Management Practices (BMPs)**  
 Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage

www.epa.gov/npdes

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## Best Management Practices

**Examples:**

- **At the Organizational Level:** Providing Training, Adequate Budgeting, Time Sensitive Planning and Common Sense Design
- **At the Operational Level:** Having a good SSBMP Plan, Conducting Regular Inspections, Having Clear Contracts to Assign Responsibility for Maintenance, Having Enough Materials Available for Repairs
- **On the Ground:** Sediment and Erosion Control Devices, Designated Concrete Washout Areas, Traffic Management Onsite, Covered Disposal Bins, Inlet Protection Devices, etc.

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## EPA's Developing Your Stormwater Pollution Prevention Plan


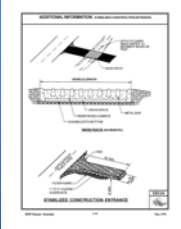
www.epa.gov/npdes



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## City and County of Honolulu's Best Management Practices Manual for Construction Sites in Honolulu

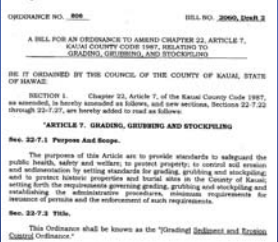
[http://www.cleanwaterhonolulu.com/storm/learning\\_center/BMP\\_manual.pdf](http://www.cleanwaterhonolulu.com/storm/learning_center/BMP_manual.pdf)

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## County of Kauai's Sediment and Erosion Control Ordinance No. 808

<http://www.kauai.gov/LinkClick.aspx?fileticket=o1Wk6BlHc%3d&tabid=133&mid=1604>



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## Clean Water Act Section 404 Permits and their Section 401 Water Quality Certifications

Navigating Regulations for Work in  
Waters of the U.S.

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### CWA Section 404 Permit - What is it?

- A Federal permit to discharge dredged or fill material into waters of the U.S. (wet or dry)
  - Deposition (placement) of fill or dredged material in waters of the U.S. or adjacent wetlands
  - Placement of riprap and road fills (bridge replacement)
  - Site-development fill for residential, commercial, or recreational developments
  - Construction of piers, wharves, intake structures, cable or pipeline crossings (Section 10 too)
  - Dredging & excavation (Section 10 too)
  - Beach Nourishment & Artificial Reefs (Section 10 too)

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### CWA Section 404 Permit - What is it?

- Issued by the Department of the Army, Corps of Engineers, Honolulu District  
<http://www.poh.usace.army.mil/EC-R/EC-R.htm>
- Section 404 Permit requires multi-agency review (not limited to the following):
  - U.S. Fish and Wildlife Service
  - NOAA
  - Hawaii Department of Land and Natural Resources-Coastal Zone Management Program
  - Hawaii DOH-CWB

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### CWA Section 404 Permit - How do you get it?

- Contact the Department of the Army, Corps of Engineers, Honolulu District at (808) 438-9258 or [CEPOH-EC-R@usace.army.mil](mailto:CEPOH-EC-R@usace.army.mil)
- Corps recommends hiring a recognized environmental consultant to perform a preliminary determination of jurisdiction
- Corps then verifies and provides an approved jurisdictional determination
- Applicant submits the Section 404 Application to the Corps

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### CWA Section 404 Permit - How do you get it? (con't.)

- Applicant submits the Section 401 Water Quality Certification (WQC) Application to the DOH-CWB

See handouts for examples.

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### Our Goal...

Keep Hawaii's water clean!

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