Water Pollution Prevention and the NPDES Program in the State of Hawaii

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HAWAII STATE DEPARTMENT OF HEALTH

Clean Water Branch
Who We Are

- Environmental Management Division
  - Clean Water Branch
  - Wastewater Branch
  - Clean Air Branch
  - Solid and Hazardous Waste Branch
  - Safe Drinking Water Branch

The Clean Water Branch monitors State Water Quality, Issues Permits for Discharges to State Waters, and Ensures Compliance with the Federal Clean Water Act and Hawaii Water Pollution Rules and Regulations

Clean Water Branch
What We Do

Engineering, Monitoring, Polluted Runoff Control and Enforcement Sections

- 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.

Clean Water Branch

- Engineering Section
- Administers National Pollutant Discharge Elimination System (NPDES) permit program as delegated by the EPA
- Issues Clean Water Act Section 401 Water Quality Certifications for federal permits

Clean Water Branch
NPDES Permitting

- Three Party "Contract" authorizing discharge
- Limits polluted discharges to State waters
- Obligates pollution prevention and monitoring
- Sets discharge parameters to protect water quality, health, and the environment
- Insures dischargers use/implement BMPS

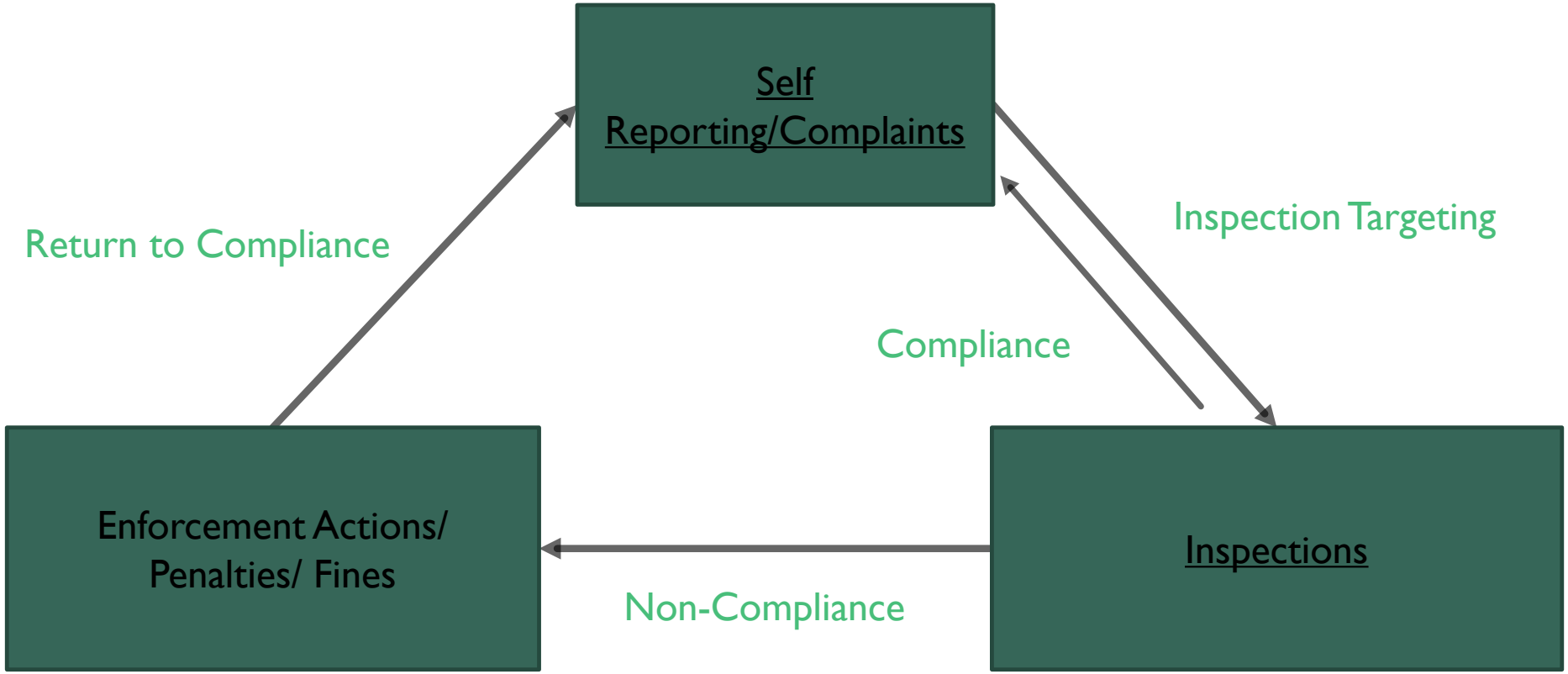
NPDES Permits for Construction Projects

- Required if the project disturbs one (1) acre or more of land as part of a TOTAL COMMON PLAN OF DEVELOPMENT
- NPDES General Permit
  - For construction projects which discharge to Class 2 or Class A waters
- Individual NPDES Permit
  - For construction projects which discharge to Class 1 or Class AA waters

Clean Water Branch

- Enforcement Section
- Determines compliance with NPDES permits, issues enforcement action if non-compliant
- Conducts inspection of permitted facilities and investigations of possible water pollution violations
- Issues enforcement actions for Water Pollution violations

Enforcement Program Duties



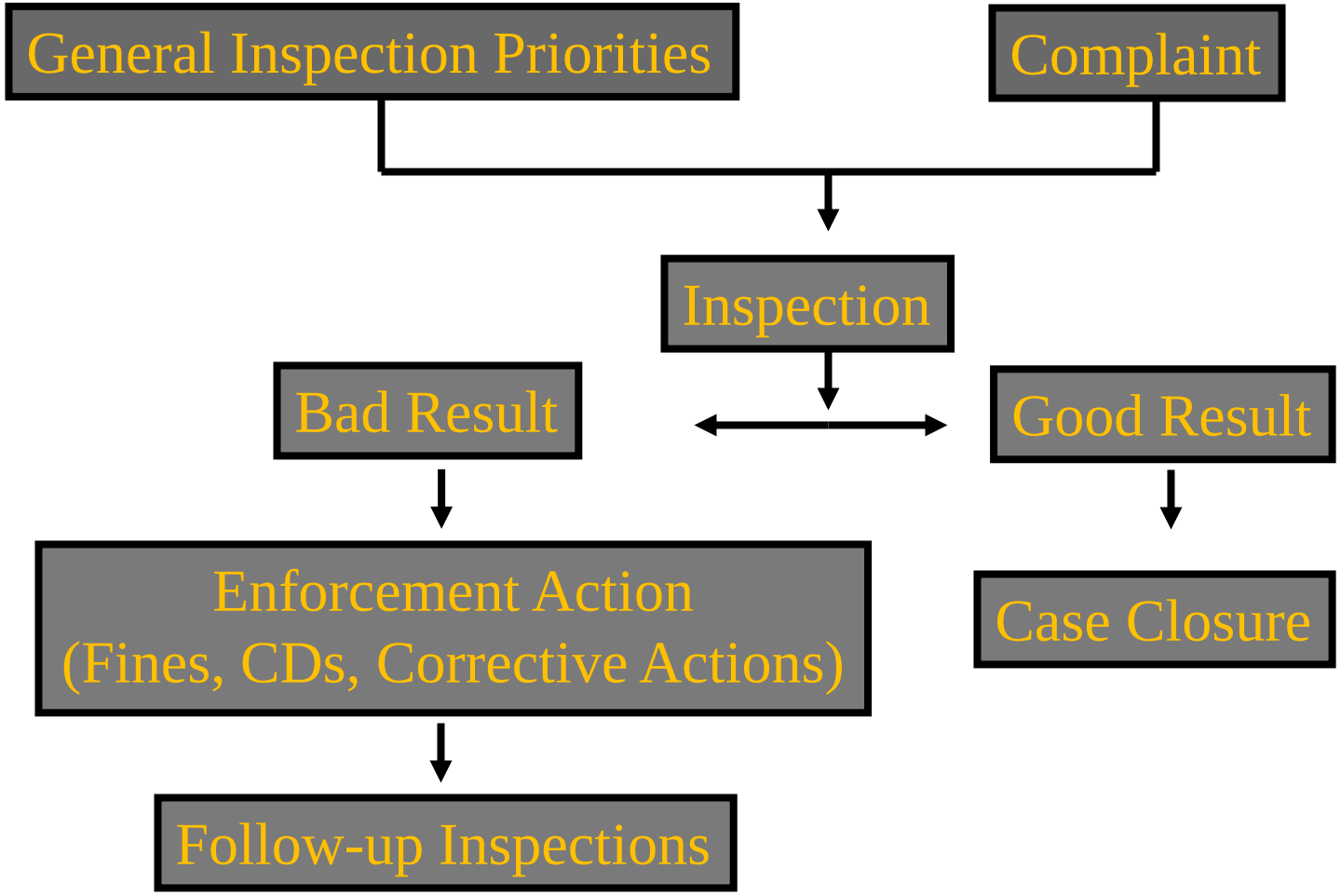
Keys to Maintaining Compliance with Water Pollution Rules and Regulations

- 1. Obtain permit coverage before starting construction
- 2. Develop SWPPP prior to the start of construction
- 3. Notify the DOH-CWB of the start of construction
- 4. Implement SWPPP
- 5. Maintain BMPs as needed
- 6. Update SWPPP
- 7. Submit Notice of Cessation upon completion of the project

Inspections and Enforcement

- Who gets inspected, what do we look for, what are potential outcomes

Enforcement Policy
General Regulatory Practices



NPDES Program
Inspection

- So What's an Inspection Like?
- CWB representative will show up
  - Will ask for a representative
  - Will ask for all documentation
  - Will ask a lot of questions about: Site/Project/Company/Management
  - Will ask to inspect the Site
  - Will point all issues and take photos
  - Will have an exit interview whereupon findings will be discussed
  - May offer suggestions which should be take seriously

Storm Water Inspections
Construction Activities

- Site Walk
- Start at the Site's ingress/egress
- Evaluate perimeter controls
- Compare Site conditions to SWPPP
- Evaluate effectiveness of BMPs

NPDES Program
How To Pass An Inspection

- What Can You Do?- TELL US HOW YOU DON'T POLLUTE!
- Be Prepared, it's not If but When
  - Have all required documentation 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
  - **Prevent Polluted Discharges**

NPDES Program
After the Inspection

- What Happens Between Inspections and Enforcement?
- CWB inspectors gives a verbal briefing to our boss(es)
- Review the file
- Draft inspection report consult with AG on enforcement action
- Calculate penalty if applicable
- Issue enforcement action

Process may take 1 week to 6 months depending on situation

NPDES Program
If You Fail the Inspection

- What Can You Do?
- Correct deficiencies ASAP
- Update the CWB of any changes you've made
- Communicate with us any changes that you've planned
- Good Faith Actions are Considered During and Enforcement Proceedings

Enforcement Actions
General Regulatory Practices

- Warning Letter/Administrative Action – Notice of Apparent Violation (NAV) letter or monetary penalty (Field Citation)
- Civil Enforcement – Notice and Finding of Violation and Order (NFVO) monetary penalties up to $25,000 per day per violation
- Criminal Enforcement – Monetary penalties up to $50,000 per day per violation and possible jail time

The local County, State and the EPA can take separate civil and criminal actions for the analogous violations. Private citizens can also sue.

Responses to Enforcement Actions
General Regulatory Practices

- Warning Letter/Administrative Action – Make Corrective actions immediately. Document all corrective actions and detail changes made such that future violations of a similar nature will not occur. Pay penalty.
- Civil Enforcement – Call your legal Counsel. Pay a fine, make all corrections listed in the Order, or go to hearing.
- Criminal Enforcement – Call your legal Counsel. Face the AG Criminal Investigators/ EPA Criminal Investigators. Face heavy fines and/or possible jail time.

NPDES Program
Storm Water Associated with Construction Activities

Who's Responsible

- The permit holder for NPDES permitted projects
- The general contractor for not maintaining BMPs or for having prior violations of a similar nature
- The individual responsible for discharge
- The owner for authorizing the discharge

Common Construction Findings

Top 10 Common Construction Findings

- 1) Concrete washout, plaster, paint waste water on the ground without containment or adequate controls.

Concrete Washout

Concrete Washout

Top 10 Common Construction Findings

- 2) Poor housekeeping (construction debris, garbage, etc. blown around the Site and overflowing dumpsters not covered or emptied).

Waste Container

Material Storage

Oil Staining

Portable Toilets

Top 10 Common Construction Findings

- 3) Not installing adequate controls to prevent erosion and control sediment (e.g. disturbed slopes that haven't been worked in the last 14 days not stabilized, perimeter and intermittent controls not being implemented through the Site, sediment ponds insufficiently sized, un-stabilized, and outlet structures not properly constructed to prevent sediment laden water from flowing from the Site).

Silt Fence

Silt Fence- where you should have Erosion Control

Silt Fence

Stockpiles and Slopes

Top 10 Common Construction Findings

- 4) Not maintaining BMPs (e.g. broken biosocks, silt fencing broken and falling down, insufficient rock at the entrances causing tracking onto streets, etc.).

Drain Inlet Protection

Curb Inlet Protection

Curb Inlet Protection

Tracking

Top 10 Common Construction Findings

- 5) Not updating the SWPPP to represent conditions of the Site for all pollutant sources and to comply with the requirements of Appendix C (e.g. concrete/paint wash waste water on the ground without being contained in an impermeable liner and no BMP was included in the SWPPP).

Top 10 Common Construction Findings

- 6) Not conducting training and inspections required by Appendix C. Inspection reports not certified by authorized representative or certifying person.

Top 10 Common Construction Findings

- 7) Not retaining records onsite (NGPC/Permit, SWPPP, training/inspection records, etc.).

Top 10 Common Construction Findings

- 8) Monitoring equipment not functioning or maintained (e.g. broken rain gauge, etc.).

Top 10 Common Construction Findings

- 9) Doing work outside of the limits of the project that were disclosed to the DOH-CWB which would require a new permit/NGPC.

Top 10 Common Construction Findings

- 10) Not transferring ownership of an NGPC to a new owner prior to the transfer of ownership, which leaves the Site without permit coverage.

HAWAII STATE DEPARTMENT OF HEALTH

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