

DEPARTMENT OF HEALTH CLEAN WATER BRANCH UPDATES

GCA Environment Committee

July 2026



Presentation Overview

Update 1: Water Quality Management Improvement work
- DOH's role in water quality management; key regulatory water quality concepts ; priorities for program improvement

Update 2: Guidance clarifying state surface water regulation after Sackett decision

Update 3: NPDES General Permit coverage duration for HAR 11-55, Appendices B, E, F, G, and K

Update 4: Blanket Water Quality Certification (WQC1100) for 2026 Nationwide Permits



UPDATE 1: WATER QUALITY MANAGEMENT IMPROVEMENT WORK

Regulatory Role of DOH

- Serves as Hawaii's Water Quality Standards (WQS) authority.
- Administers WQS and regulates water pollution through laws, rules, permitting compliance, enforcement, and oversight.
- Regulates responsible parties rather than performing pollution-mitigation activities directly.

PART III. WATER POLLUTION CONTROL

§342D-50 Prohibition. (a) No person, including any public body, shall discharge any water pollutant into state waters, or cause or allow any water pollutant to enter state waters except in compliance with this chapter, rules adopted pursuant to this chapter, or a permit, water quality certification, or variance issued by the director.

(b) No person, including any public body, shall knowingly establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of currents depended upon for dilution without first securing approval in writing from the director.

(c) No person, including any industrial user, shall discharge any water pollutant or effluent into a publicly owned treatment works or sewerage system in violation of:

(1) A pretreatment standard established by the department or the publicly owned treatment works; or

(2) A pretreatment condition in a permit issued by the department or a publicly owned treatment works.

(d) No person, including any public body, shall violate any rule adopted pursuant to this chapter or any permit, water quality certification, or variance issued or modified pursuant to this chapter. [L 1989, c 212, pt of §2; am L 1995, c 180, §14; am L 2023, c 233, §7]

**Nonpoint Sources
Typically
Discharge
Indirectly to
Waterways:**

Agriculture
Hydromodification
Urban Runoff
Roads, Highways
and Bridges
Abandoned Mine
Drainage
Atmospheric
Deposition
Marinas and
Boating
Timber Harvest
Septic System



**Point Sources
Typically
Discharge
Directly to
Waterways:**

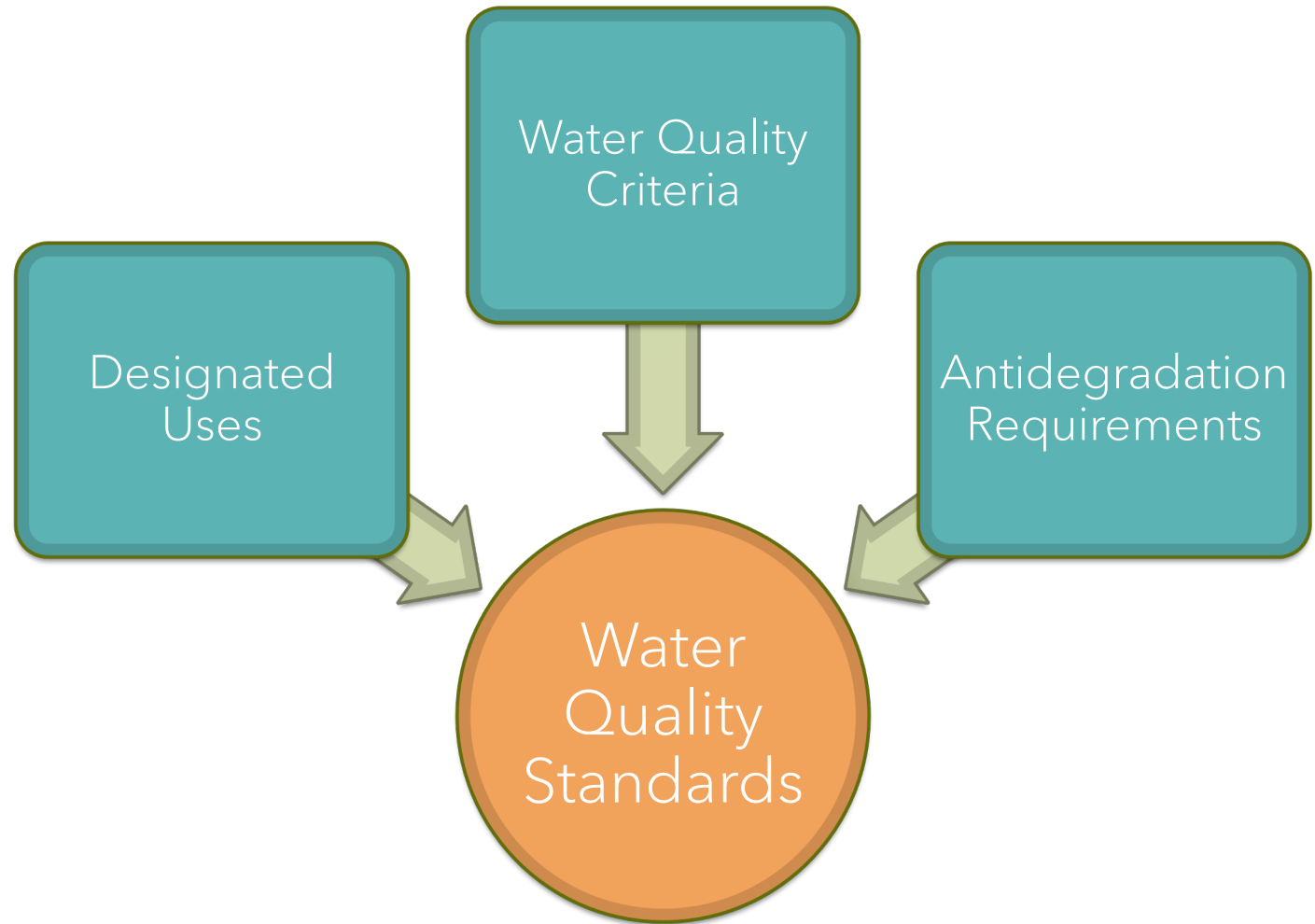
Factory
Wastewater
Treatment Plant
Stormwater
Discharge

**Hydrologic
Cycle:**

Overland Flow
Infiltration
Groundwater Flow
Transpiration
Evaporation
Rainfall
Aquifer

Water Quality Standards (HAR 11-54)

- Legal basis to control water pollution.
- Discharges to State surface waters must comply with WQS.
- Processing and issuance of NPDES permits and Water Quality Certifications implement WQS.



Issues with Hawaii's Water Quality Standards (Presenter's Personal Opinion)

- WQS were established in the 1960s and revised in the 1970s as goals.
 - Stringent numeric criteria were based on pristine coastal water quality.
 - Intention was to adjust the numeric criteria as more data became available, however, revisions to WQS criteria and designated use classification were never made.
 - WQS implementation procedures were never created for point and nonpoint source pollution. This is biggest challenge facing current DOH staff and others.

Note: Stringent WQS do not mean they are wrong or outdated – especially if they were never implemented. Regardless of others' opinions, implementation per federal regulations is required until the WQS are amended.

- In 2011, the WQS administration was given to CWB.

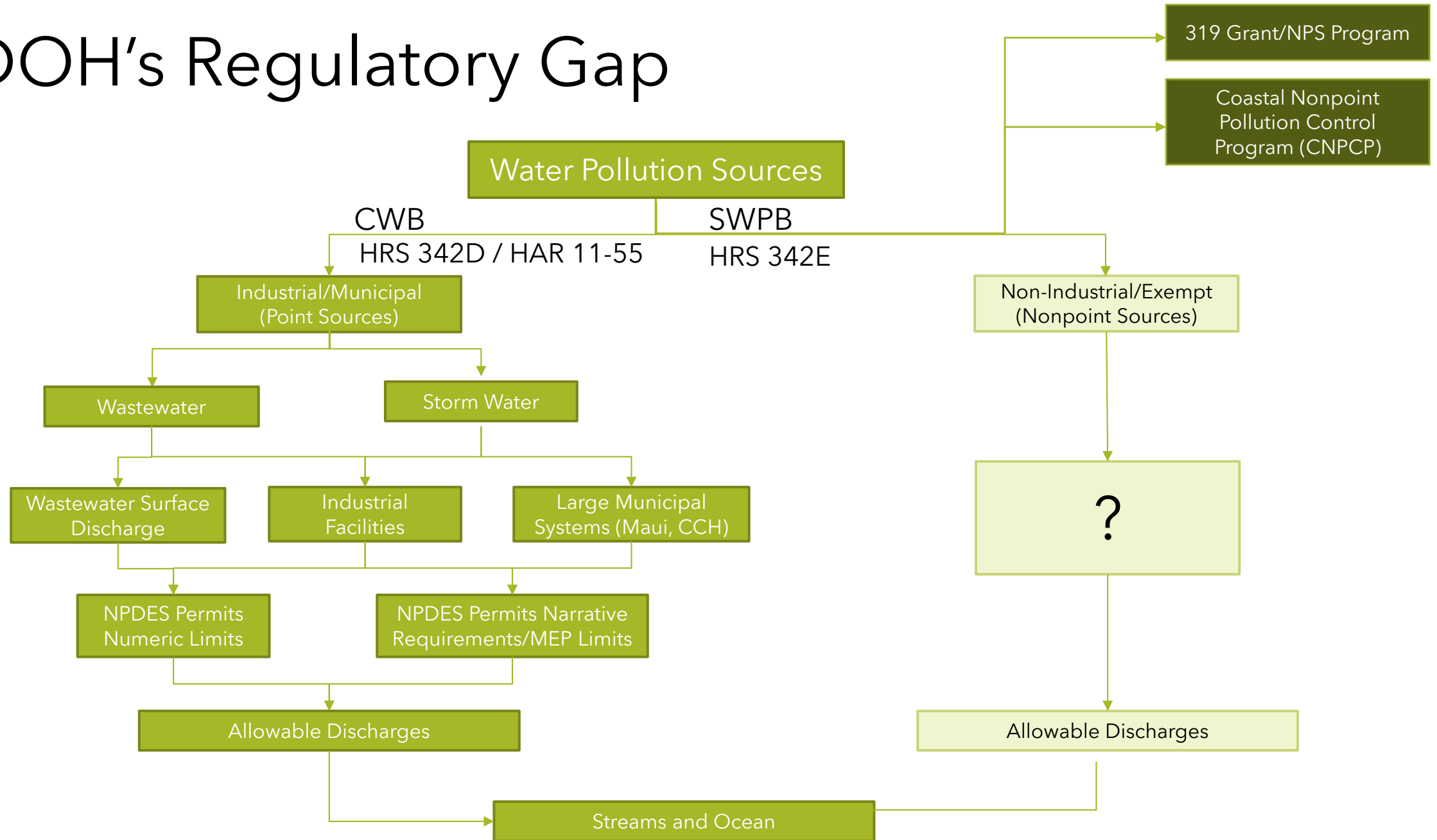
Water Pollution Control Timeline

- 1948 – Federal Water Pollution Control Act
- 1968 – DOH adopted its first comprehensive water quality standards (formerly Chapter 37-A, Public Health Regulations)
- 1972 – Major amendments to form the Clean Water Act; key provisions making it illegal to discharge pollutants from a point source into navigable waters without a permit
- 1973 – Hawaii State Legislature formally established the water pollution control program and codified HRS Chapter 342
- 1974 – EPA delegated administration of the National Pollution Discharge Elimination System (NPDES) Permit program in Hawaii to DOH.
- 1974 – Act 249 represents initial attempt to address nonpoint source pollution problems by instructing each of the counties to develop an ordinance requiring grading permits for erosion control in urban areas
- 1979 – Initial approval of CWA Section 208 Water Quality Management Plans (updated in 1993)
- 1987 – Amendments to Clean Water Act establishing the section 319 Nonpoint Source Management Program
- 1990 – Authority for administrative rules as we know them today (HAR 11-54 and HAR 11-55)
- 1993 – Established authority for a nonpoint source pollution control program at the state level through HRS 342E
- 2011 – Water Quality Standards (WQS), Integrated Report, and Total Maximum Daily Load (TMDL) administration reassigned to Clean Water Branch.
- 2012 – NPDES program overhauled in Hawaii to implement WQS and TMDLs.
- 2019 – DOH's first antidegradation implementation procedures for NPDES and WQCs developed.
- 2019 – Initiation of reorganization to create Surface Water Protection Branch to regulate and enforce nonpoint source.
- 2021 – Adoption of HAR 11-56, nonpoint source rules.
- 2022 – Water Quality Certification program overhauled to improve DOH process to regulate work in Waters of the United States requiring a federal permit.
- 2024 – DOH begins Water Quality Management Improvement Project to improve how DOH will manage and administer water quality statewide with clear and transparent workflow directed at addressing point and nonpoint source pollution.

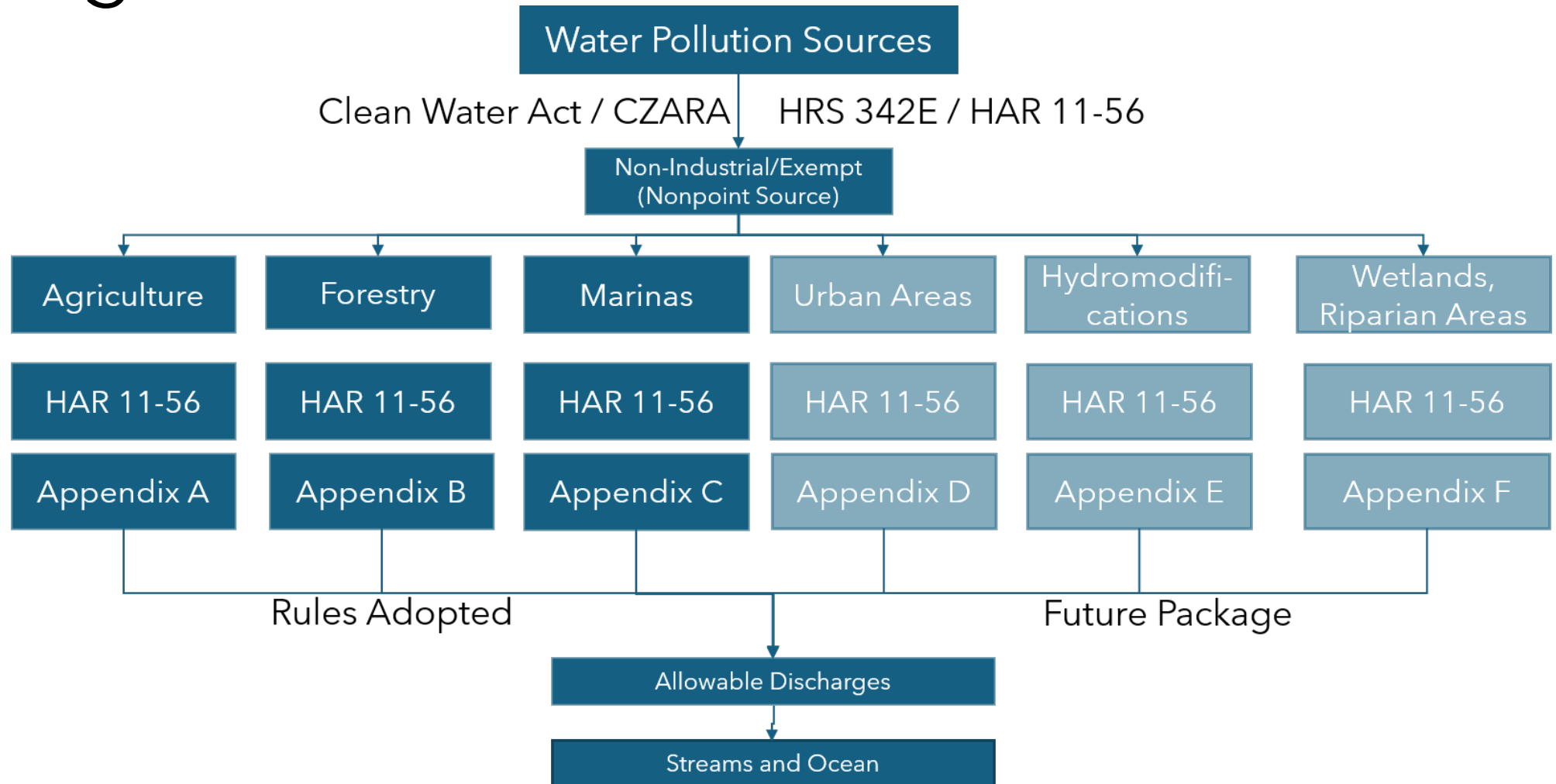
Water Quality Management Improvement Work Priority Initiatives

1. Establish the Surface Water Protection Branch (SWPB) to regulate and enforce nonpoint source pollution.
 - Point source program well established > Working to improve how we address nonpoint source pollution.
2. Improve how water quality is managed in Hawaii.
 - Overall idea is to provide clear workflow that identifies actions DOH will take in response to point and nonpoint source pollution events.
 - Includes addressing water quality problem in systematic and transparent process from beginning (problem identification) to end as defined by DOH.
 - Includes process for other departments such as DLNR involved in improving water quality.

DOH's Regulatory Gap

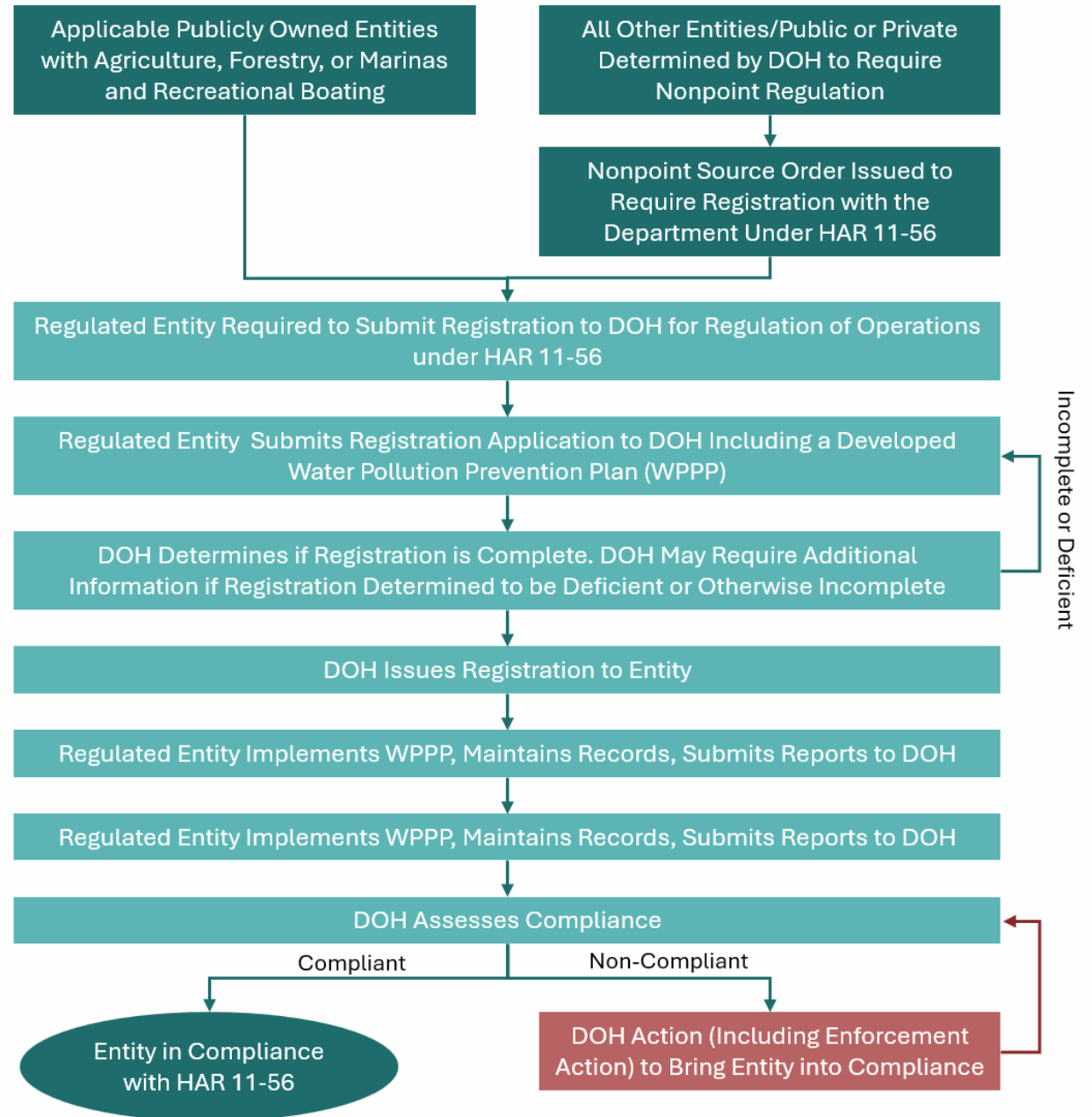


New Regulatory Construct over NPS Management



Initial Process

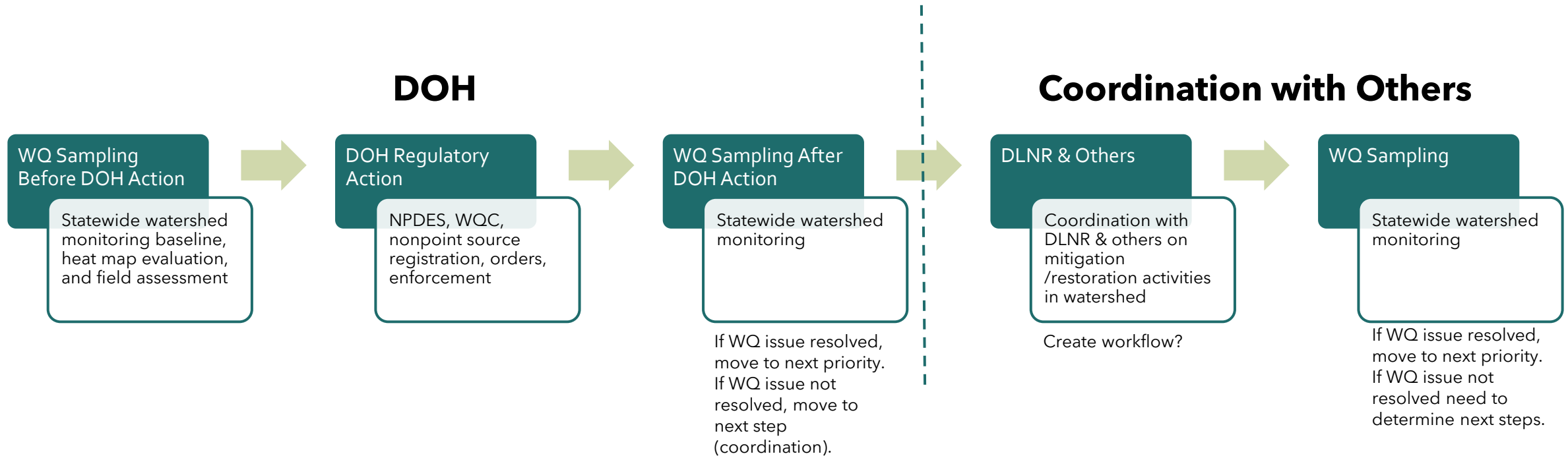
- Start with publicly-owned entities.
- Require registration and development of Water Pollution Prevention Plans (WPPPs).
- Oversee compliance.
- Amend rules as program develops and matures.



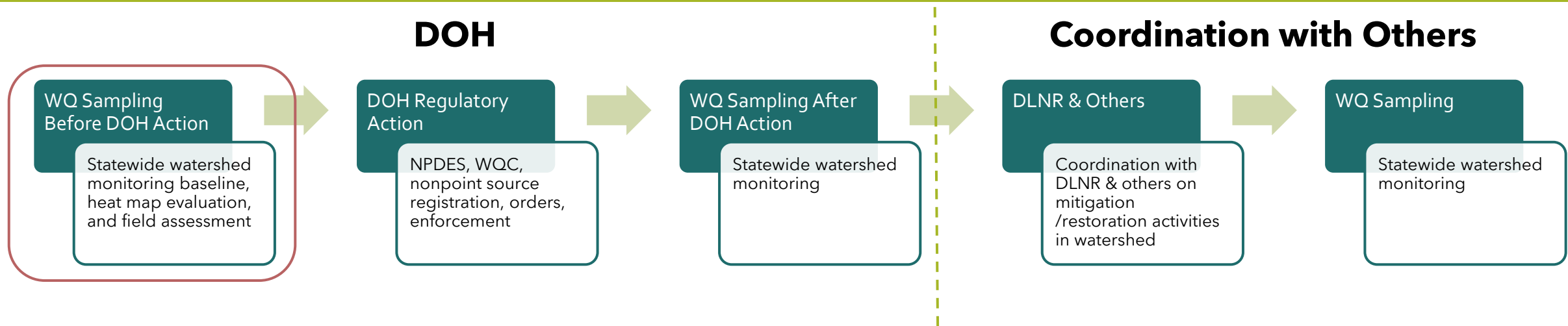
WQM Improvement Project

- The Water Quality Management improvement work with statewide water quality monitoring program is being created to:
 - Tie the water pollution control process together (point and nonpoint source);
 - Direct DOH action so water quality complaints and problems can be addressed;
 - Provide the public a structured and transparent process to address water pollution; and
 - To use water quality monitoring data to drive management decisions.

Basic Process

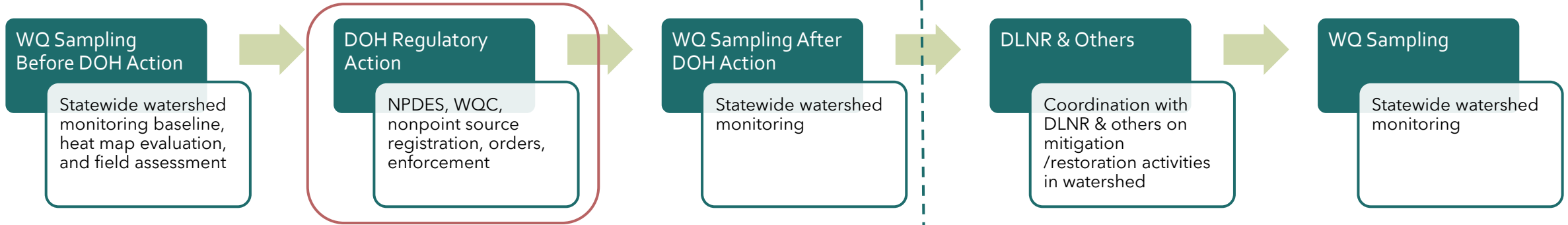


Note: DOH will have a website summarizing this entire process and decision making to show how the water quality issue was resolved from beginning to end.



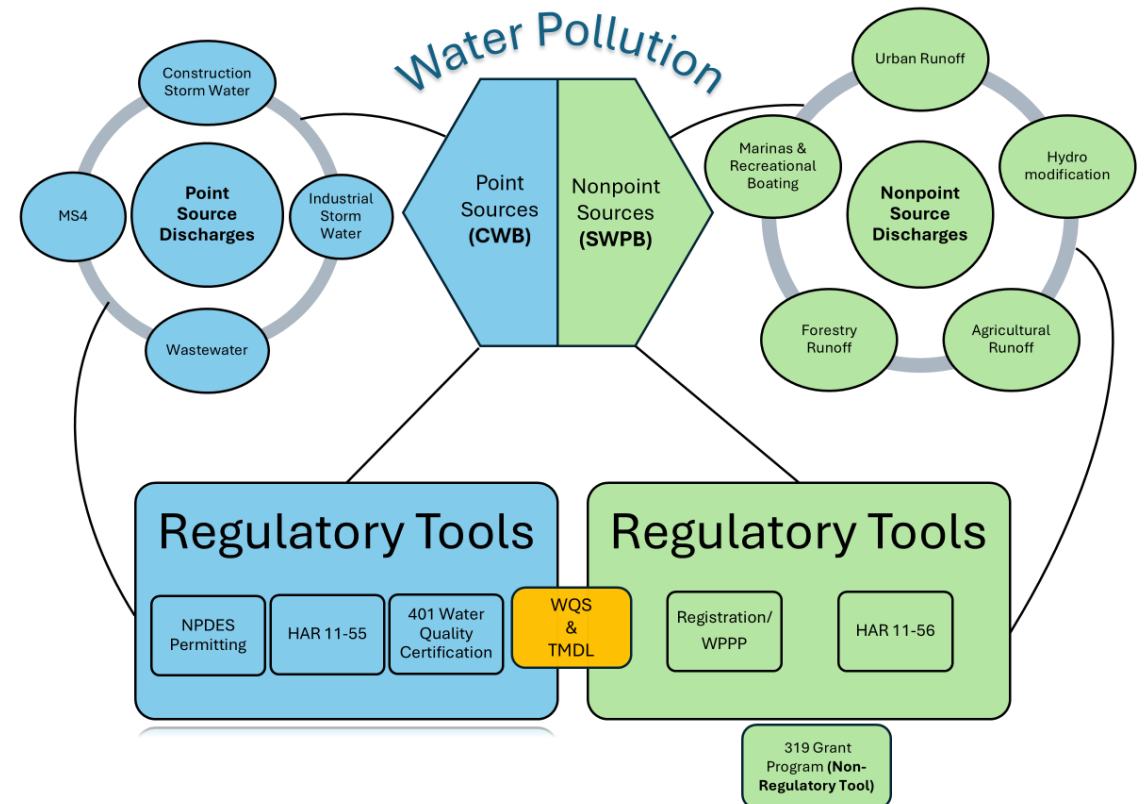
1. Create statewide monitoring program (inland and coastal), collect samples, and analyze results (compare to WQS).
2. Identify impaired waterbodies and add to IR/303(d) list.
3. Perform desktop analysis (using heat map and other resources) and field walkthroughs to identify pollutant sources, land usage, and ownership.

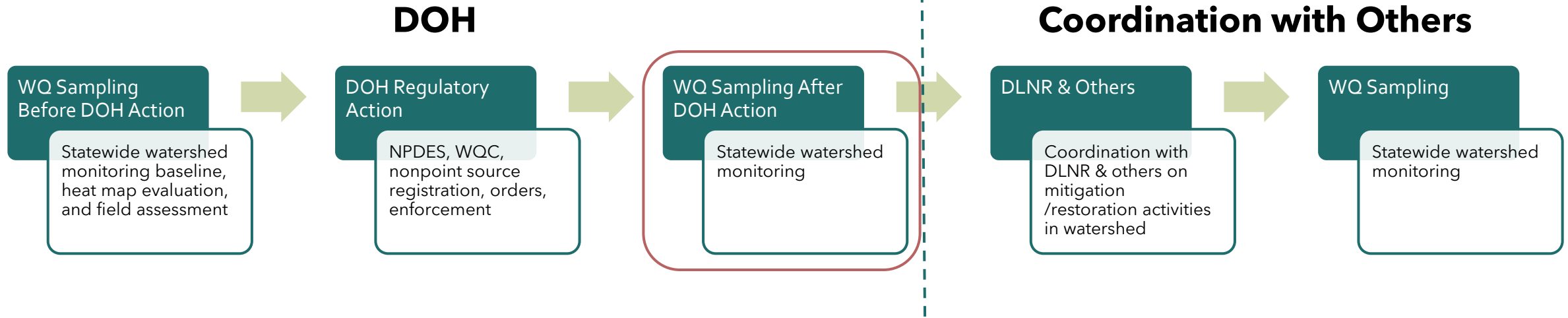
DOH



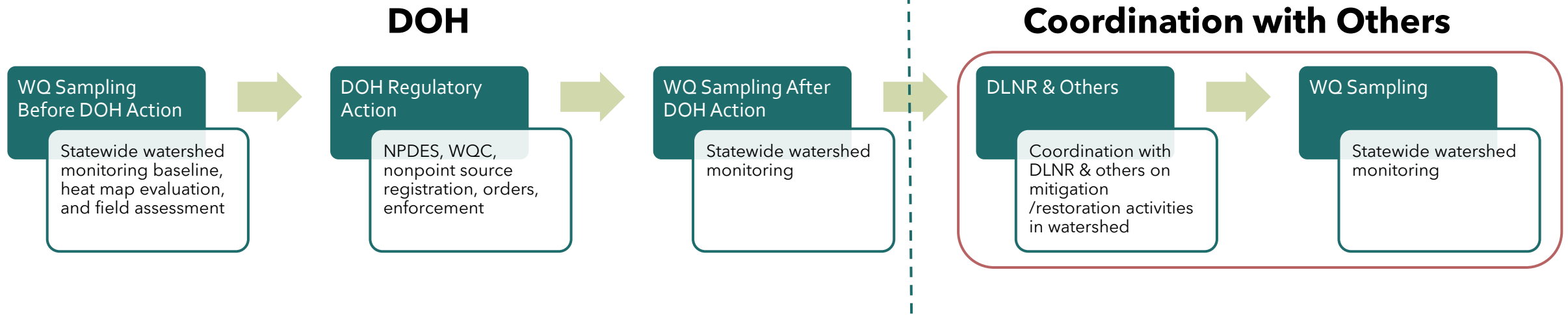
4. Implement point and nonpoint source tools (e.g., NPDES, nonpoint source registrations, and enforcement).
5. Assess compliance to determine whether tools identified were implemented and if not, DOH will take follow up action.

Coordination with Others





6. After compliance determination and appropriate DOH follow up action, collect samples and reanalyze to determine whether actions taken by DOH were effective at reducing pollutants of concern.

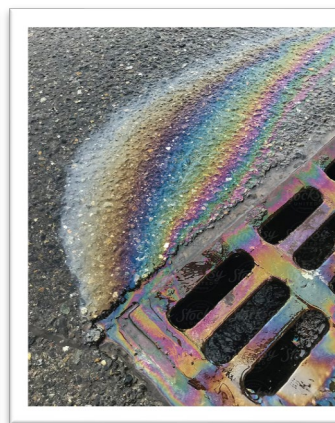
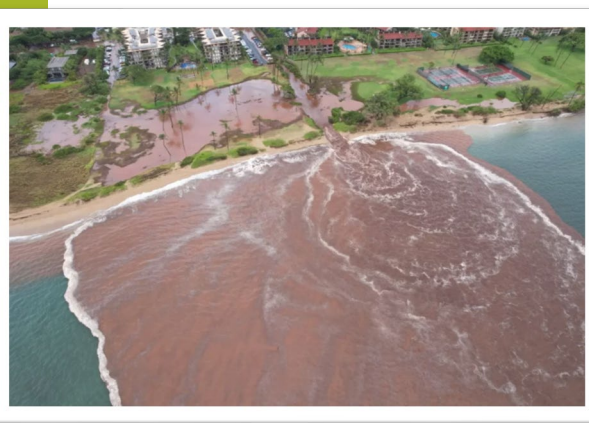


7. If criteria are not met, coordinate with others to narrow down potential causes:

- Regulated sources that have been addressed by DOH action can be ruled out.
- Pollutant sources determined or presumed to originate from cesspools will be documented. Cesspools are scheduled to be banned in 2050, and those sources are expected to be mitigated by this action (although follow-up monitoring should be conducted and documented).
- Consult with other departments such as DLNR and counties to determine whether there are any planned or ongoing activities in the area and coordinate with them to reduce pollutant loads.
- Explore 319 funding opportunities in area through interested community/watershed groups.
- Determine and verify whether pollutant source(s) may be due to natural background conditions, and if so, document specific pollutants, provide rationale, and move on.
 - 319 funds may also be used to mitigate sources of pollution.

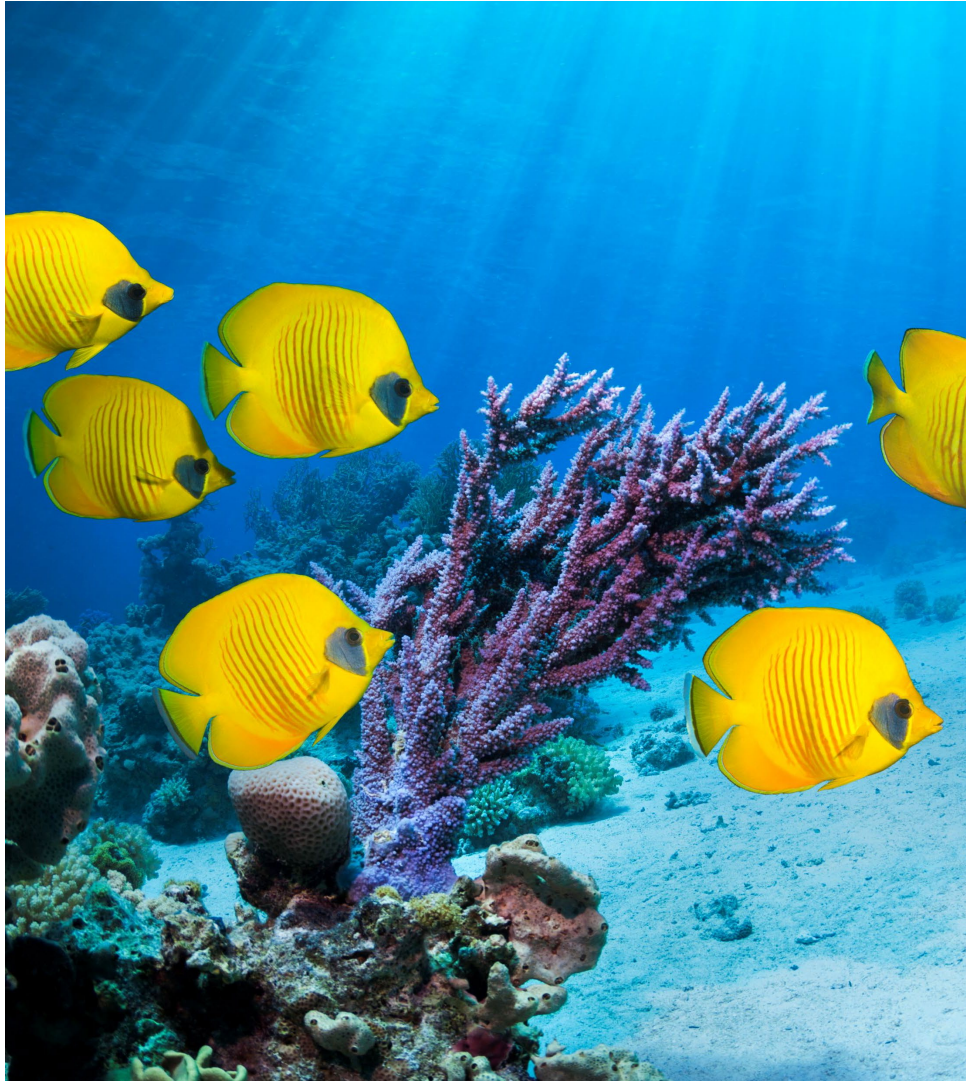
Water Quality Management Challenges

- Pollution comes from everything we do - from the way we use land, the policies we create, the products we consume, and the everyday choices we make.



What's Next

- Waikele/Kapakahia Stream monitoring for pilot project for WQM improvement project. Project began July 2026.
- Special project legislative proposal for 2027 legislative session for Year 1 baseline statewide monitoring for WQM improvement project.
- Reorganization to establish 7 new CWB positions for WQM improvement project.
- Outreach and initial registrations for HAR 11-56.



**UPDATE 2:
GUIDANCE
CLARIFYING STATE
SURFACE WATER
REGULATION AFTER
SACKETT DECISION**

Check Out our Updated Website

- CWB updated website: <https://health.hawaii.gov/cwb/clean-water-branch-home-page/protecting-hawaiis-state-waters/> -
- 2023 Supreme Court Sackett decision narrowed definition of Waters of the United States (WOTUS), excluding ephemeral streams (typically only flows after rain events) and certain wetlands without continuous surface connections to navigable waters.
- Non-WOTUS state waters are no longer subject to U.S. Army Corp permitting process authorizing dredge and fill activities. Although this created a permitting gap, these waters are still protected under HRS 342D-50 which prohibits unauthorized discharges to state waters.
- To address this gap, our website was updated to provide clear guidance to help communities understand how state waters are identified and regulated under Hawaii law.
- To assist in desktop identification of state waters, the CWB developed a state waters mapping application.



NPDES

**UPDATE 3:
NPDES GENERAL
PERMIT COVERAGE
DURATION FOR HAR
11-55, APPENDICES
B, E, F, G, AND K**

NPDES General Permit Coverage

- NPDES general permits provide coverage for applicable discharges.
 - NPDES general permits have 5-year terms.
 - Coverage of NPDES general permit terminates on expiration date or approval date of renewed NPDES general permit.
 - Notice of General Permit Coverage (NGPC) is issued to provide coverage under a NPDES general permit.
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TAKEAWAY #1 – For permittee, duration of NPDES general permit coverage is from effective date of NGPC to approval date of renewed NPDES general permit.

NPDES General Permit Coverage (continued)

HAR 11-55	TYPES OF DISCHARGES AUTHORIZED BY NPDES GENERAL PERMITS	EXPIRATION
Appendix B	Discharges of Storm Water Associated with Industrial Activities	01/14/27
Appendix C	Discharges of Storm Water Associated with Construction Activities	01/28/29
Appendix D	Discharges of Treated Effluent from Leaking Underground Storage Tank Remedial Activities	06/25/28
Appendix E	Discharge of Once Through Cooling Water Less Than One (1) Million Gallons Per Day	01/14/27
Appendix F	Discharges of Hydrotesting Waters	01/14/27
Appendix G	Discharges (including Storm Water) Associated with Construction Activity Dewatering	01/14/27
Appendix H	Discharges of Treated Wastewater Associated with Petroleum Bulk Stations and Terminals	06/25/28
Appendix I	Discharges of Treated Process Wastewater Associated with Well Drilling Activities	06/25/28
Appendix J	Unintentional Discharges from Recycled Water Systems	01/28/29
Appendix K	Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems	01/14/27
Appendix L	Discharges of Circulating Water from Decorative Ponds or Tanks	01/28/29
Appendix M	Point Source Discharges from the Application of Pesticides	06/25/28

Rulemaking Process

- NPDES general permits are specified as administrative rules in HAR 11-55.
- Rulemaking process is initiated to renew expiring NPDES general permits.
- Rulemaking process is completed when the Governor approves HAR 11-55.
- Rulemaking process can take one (1) year or maybe longer to complete.
- Latest rulemaking process was initiated on January 12, 2026, to renew Appendices B, E, F, G, and K, and to propose revisions to HAR 11-55.

Rulemaking Process (continued)

HAR 11-55	TYPES OF DISCHARGES AUTHORIZED BY NPDES GENERAL PERMITS	EXPIRATION
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Approval Date

- Public hearing held on May 11, 2026, to renew Appendices B, E, F, G, and K, and to propose revisions to HAR 11-55.
- HAR 11-55 rule package to be submitted for approval in Sept. 2026.
- Approval of HAR 11-55 by the Governor is unknown.
- Actions to take depend on approval and administrative extension period.
- Administrative extension period varies depending on NPDES general permit.

REVISED TAKEAWAY #1 – For permittee, duration of NPDES general permit coverage is from effective date of NGPC to approval date *plus administrative extension period* of renewed NPDES general permit.

Approval Date (continued)

Possible scenarios are “early approval date” and “late approval date”.

Following conditions are assumed in possible scenarios shown below:

- Early approval date is November 1, 2026.
- Late approval date is April 1, 2027.
- Length of administrative extension period is 60 days.

“EARLY APPROVAL DATE” for example November 1, 2026								
NOV	DEC			JAN	FEB	MAR	APR	MAY
“LATE APPROVAL DATE” for example April 1, 2027								
NOV	DEC			JAN	FEB	MAR	APR	MAY



Expiration Date (January 14, 2027)



Administratively Extended Period (60 Days)

Administrative Extension of Coverage

Before end of administrative extension period, permittee must:

- Submit Renewal NOI for coverage under new NPDES general permit; or
- Submit NPDES permit application for coverage under individual permit; or
- Submit Notice of Cessation.

Currently, there are about 350 in-effect (Appendix B, E, F, G, K) NGPCs.

TAKEAWAY #2 – Do not wait until approval of proposed NPDES general permit.

- Get updates about approval of proposed NPDES general permit.
- Review proposed NPDES general permit to verify if compliance is possible.
- Ensure certifying person can submit electronically.

Administrative Extension of Coverage (continued)

HAR 11-55	TYPES OF DISCHARGES AUTHORIZED BY NPDES GENERAL PERMITS	EXTENSION
Appendix B	Discharges of Storm Water Associated with Industrial Activities	180 Days
Appendix C	Discharges of Storm Water Associated with Construction Activities	60 Days
Appendix D	Discharges of Treated Effluent from Leaking Underground Storage Tank Remedial Activities	60 Days
Appendix E	Discharge of Once Through Cooling Water Less Than One (1) Million Gallons Per Day	60 Days
Appendix F	Discharges of Hydrotesting Waters	60 Days
Appendix G	Discharges (including Storm Water) Associated with Construction Activity Dewatering	60 Days
Appendix H	Discharges of Treated Wastewater Associated with Petroleum Bulk Stations and Terminals	60 Days
Appendix I	Discharges of Treated Process Wastewater Associated with Well Drilling Activities	60 Days
Appendix J	Unintentional Discharges from Recycled Water Systems	60 Days
Appendix K	Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems	120 Days
Appendix L	Discharges of Circulating Water from Decorative Ponds or Tanks	60 Days
Appendix M	Point Source Discharges from the Application of Pesticides	60 Days



**UPDATE 4:
BLANKET WATER
QUALITY CERTIFICATION
(WQC1100)
FOR
2026 NATIONWIDE
PERMITS**

Section 401 Water Quality Certification

When is a Section 401 Water Quality Certification (WQC) required?

- **Project results in a discharge of pollutants into State waters that can be classified as waters of the United States (WOTUS); and**
- **Project requires either an individual or a general permit coverage from a federal agency, such as the U.S. Army Corps of Engineers (USACE).**

To prevent the discharge of pollutants into State waters, a Section 401 WQC must be obtained before a permit coverage can be issued by a federal agency.

TAKEAWAY #3 – If a project involves work in, over, or under waters, applicant should contact the USACE Honolulu District Office at (808) 835-4303.

Section 401 Water Quality Certification (continued)

- Federal permit coverages can be individual or general permit coverage.
- USACE general permits are called Nationwide Permits (NWP) and USACE general permit coverages are called NWP Verifications.
- At the beginning of 2026, USACE reissued 56 existing NWPs and issued 1 new NWP. The 2026 NWPs became effective on March 15, 2026.
- As a pre-requisite, CWB issued Section 401 Blanket WQC1100 for certain 2026 NWPs and activities. Blanket WQC1100 also became effective on March 15, 2026.

On average, USACE Honolulu District Office issues 80 NWP Verifications per year.

Questions & Answers

Department of Health, Clean Water Branch

- Phone: 808-586-4309
- Email: CleanWaterBranch@doh.hawaii.gov
- Address: Clean Water Branch
2827 Waimano Home Road #225
Pearl City, HI 96782
- Website: <https://health.hawaii.gov/cwb/>

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- **Mahalo for your attention, comments, and questions.**