

# Stormwater Discharge and Pollution Controls Ordinance

Background, Importance, and Summary



**COUNTY of MAUI**  
**STORMWATER PROGRAM**

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# Background

Legal authority to require Stormwater Discharge and Pollution Controls Ordinance



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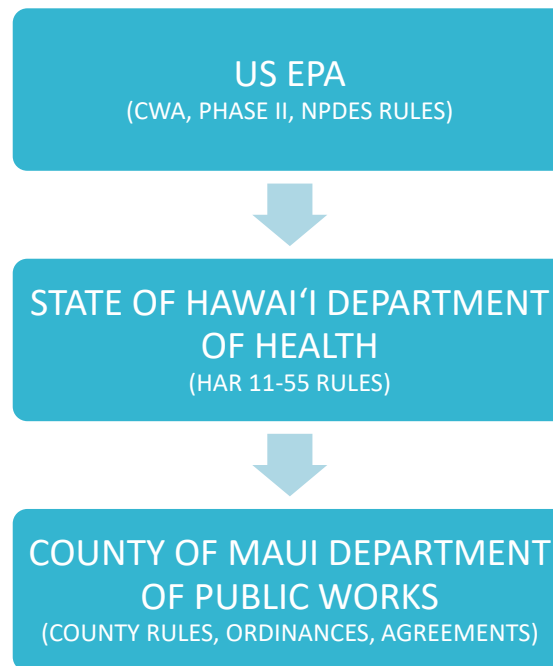
# Background

- Under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) program, the United States Environmental Protection Agency (EPA) regulates stormwater discharges from select municipalities and their Municipal Separate Storm Sewer Systems (MS4s) based on population density.
- The Kahului-Pā'ia area was categorized by the 2010 census as an Urbanized Area (UA) and regulated Small MS4
- Regulated by State of Hawai'i, Department of Health (DOH), Clean Water Branch (CWB)
  - Hawai'i Administrative Rules (HAR) Chapter 11-55, Water Pollution Control, **Appendix K**, *"NPDES General Permit Authorizing Discharges of Storm Water and Certain Non-Storm Water Discharges from Small Municipal Separate Storm Sewer Systems"*

CHAPTER 11-55 APPENDIX K

NPDES GENERAL PERMIT  
AUTHORIZING DISCHARGES OF STORM WATER AND  
CERTAIN NON-STORM WATER DISCHARGES FROM  
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

This General Permit is effective on  
January 15, 2022  
and expires five years from this date,  
unless amended earlier.



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# HAR 11-55, Appendix K

- Two-Step General Permit approach to regulate Small MS4s
  - 1<sup>st</sup> Step: HAR 11-55, Appendix K for the “baseline” conditions
  - 2<sup>nd</sup> Step: Stormwater Management Plan (SWMP) for permittee-specific conditions

In accordance with 40 CFR 122.28(d), the Director has selected the Two-Step General Permit approach to regulate Small MS4s under the State’s NPDES Permit Program. See 40 CFR §122.28(d)(2). “40 CFR” as used in this general permit means the Code of Federal Regulations, Title 40, Protection of Environment, revised as of July 1, 2017. The DOH intends to follow and have permittees comply with the Two-Step General Permit Approach in accordance with FR Vol. 81, No. 237 pg. 89330, Section V.B.

## STORMWATER MANAGEMENT PLAN

COVERAGE UNDER THE STATE OF HAWAII GENERAL PERMIT  
FOR DISCHARGE OF STORMWATER AND CERTAIN NON-STORMWATER DISCHARGE  
FROM A SMALL MS4 (HAR §11-55, APPENDIX K)  
KAHULUI-PĀ‘IA URBANIZED AREA, MAUI



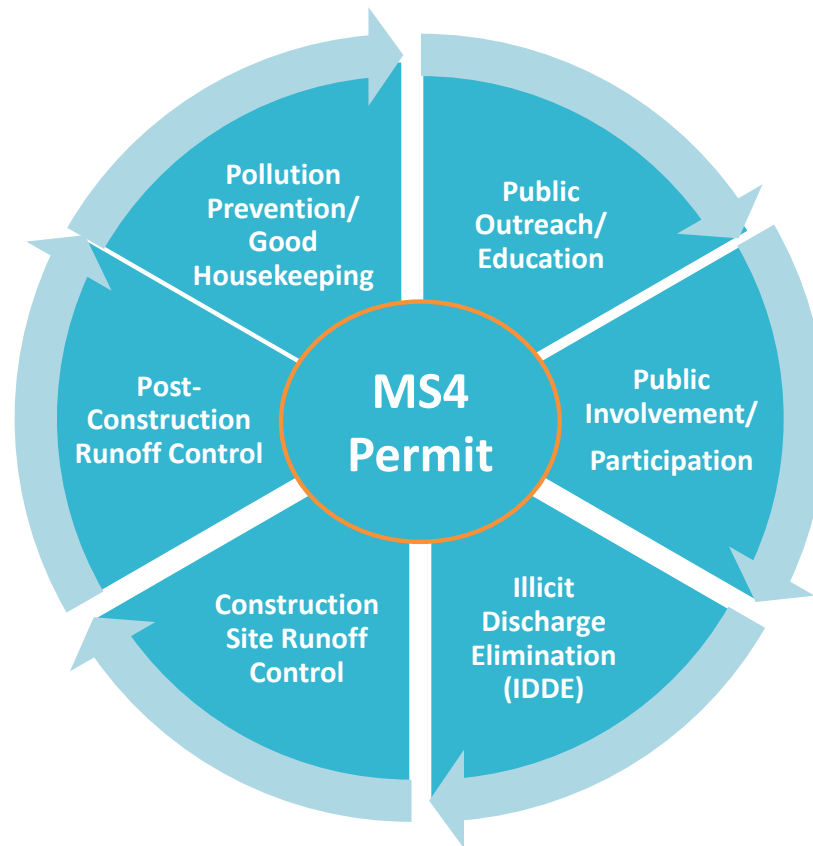
PREPARED BY:  
COUNTY OF MAUI, DEPARTMENT OF PUBLIC WORKS

MAY 2022



# Program Components

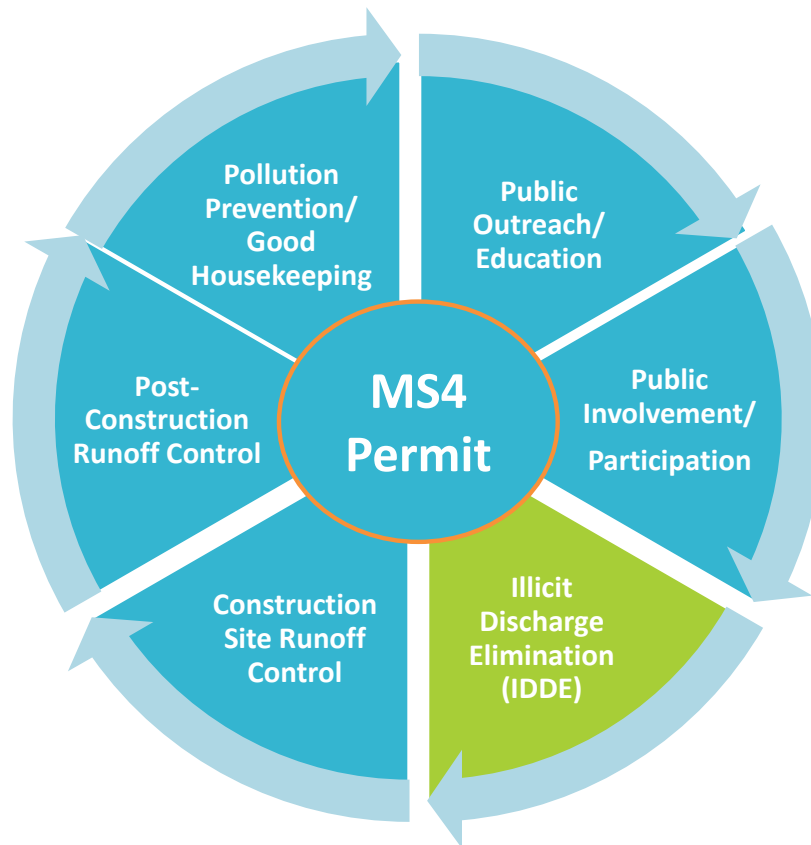
MS4 Permit requires the County to take actions in **6 categories** to control pollutants from their MS4 to the “*maximum extent practicable*”



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# Program Components

Stormwater Discharge and Pollution Controls Ordinance falls under the **Illicit Discharge Elimination (IDDE)** category



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## Legal Authority

- HAR 11-55, Appendix K, Section 6.a.3.a
  - Establish a program that prohibits non-stormwater discharges into the permittee's small municipal separate storm sewer system

### 6. Storm Water Management Plan Requirements

The permittee shall develop, implement, and enforce a written storm water management plan document designed to meet the MS4 permit standard. The storm water management plan shall include a description of the best management practice (BMPs) that the Permittee will implement for each of the minimum control measures identified below with implementation dates; timing and frequencies, as appropriate; measurable goals [refer to section 6(b)]; and rationales for each BMP. The BMPs terms and conditions shall be expressed in clear, specific, and measurable terms to adhere to the requirements of 40 CFR 122.34. Refer to EPA's "Municipal Separate Storm Sewer System Permits, Compendium of Clear, Specific & Measurable Permitting Examples," November 2018, EPA-830-S-16-002. The rationales shall explain to the DOH's satisfaction how it meets the MS4 permit standard. Refer to the FR Vol. 81, No. 237 pg. 89333, Section VI.A. The contents of the SWMP document are enforceable under this permit.

- (a) **Minimum Control Measures.** In case of conflict between the minimum control measures stated herein and those in the 40 CFR 122.34(b)(1) through (6), the more stringent control measures shall apply.

#### (1) Public Education and Outreach

Develop and implement a public education program to distribute educational materials to users of the permittee's small municipal separate storm sewer system or equivalent

### (3) Illicit Discharge Detection and Elimination

Develop, implement, and enforce a program to detect and eliminate illicit discharges that, at a minimum, includes the following:

- (A) Establishment of rules, ordinances, or other regulatory mechanism, including enforcement procedures and actions, that prohibit non-storm water discharges, except those listed in section 1 that do not cause or contribute to any violations of water quality standards, into the permittee's small municipal separate storm sewer system,



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# Legal Authority

COM SWMP Revised  
2022

Goal 4-1:

Enact an IDDE  
Ordinance  
by the end of 2024

*Table 4: Measurable Goals and Schedule – Illicit Discharge Detection and Elimination*

Item No.	Proposed Activity or BMP	Measurable Goals and Schedule
4-1	Establish ordinances and rules that enable enforcement of illegal non-stormwater discharges and drain connections.	<ul style="list-style-type: none"><li>• Enact an IDDE Ordinance by the end of 2024.</li><li>• Launch an educational campaign to inform the public of the IDDE Ordinance regulations by the end of 2025.</li></ul>



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# Potential Cost of Inaction

- Potential fines
- EPA – Up to \$32,500/day/violation of CWA
- DOH – Up to \$25,000/day/violation
- Could be subject to consent decree where COM is mandated to establish a program with less local control
- Impacts to the environment

honoluluadvertiser.com

Posted on: Friday, October 7, 2005

## State to pay \$52M for polluting waters

The state Department of Transportation has agreed to pay \$52 million in one of the nation's largest stormwater violation settlements.

As part of a consent decree with the U.S. Environmental Protection Agency and the state Department of Health, the transportation agency will pay a \$1 million fine, another \$1 million for a program to assess its environmental responsibilities and \$50 million over five years to resolve violations of the federal Clean Water Act at highways and airports.



United States Environmental Protection Agency

## U.S. EPA, DOH require Hawaii Department of Transportation to protect Oahu's coastal waters

Release Date: 09/10/2014

(09/10/14) HDOT to pay \$1.2 million for stormwater violations at Honolulu and Kāleloa Harbors

## EPA ISSUES ACTION AGAINST HAWAII DEPARTMENT OF TRANSPORTATION

Release Date: 9/9/1999

Contact Information: Lois Grunwald, U.S. EPA, 415-744-1588

Department violated stormwater requirements



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# Environmental Impact

Why does it matter?



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# Pollution Prevention

What flows in storm drains ends up in our rivers, streams, and ocean.





# Illicit Discharge Investigation



Illicit discharge observed in 2019



Source evidence

➤ Enforcement Action: NONE (No IDDE Ordinance)

# Stormwater Discharge and Pollution Controls Ordinance

## Overview



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## Proposed Ordinance Summary

- **Purpose:** Prohibit activities that may result in stormwater pollution that could enter the County's storm drainage system.
- **Prohibition:** "No person shall cause or allow others to cause an illicit discharge into the County's storm drainage system or any drainageway within the County."
- **Best management practices:** "Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, shall provide, at their own expense, reasonable protection from accidental discharge into the County's storm drainage system and may be required by the County to implement additional structural and non-structural BMPs to prevent discharge of pollutants to the County's storm drainage system."
- **Violation:** subject to the civil penalties and enforcement procedure of MCC 19.53.030.
- **Enforcement:**
  - Notice of Violation ordering compliance by the responsible party or the property owner.
  - Abatement at the expense of the responsible party.

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2024)

A BILL FOR AN ORDINANCE TO ESTABLISH ARTICLE 5 WITHIN TITLE 14 OF THE MAUI COUNTY CODE RELATED TO THE REGULATION OF STORMWATER DISCHARGE AND POLLUTION CONTROLS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

Title 14, Maui County Code, is amended to read as follows:

"Article 5. – Stormwater Discharge and Pollution Controls



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# Proposed Ordinance Summary

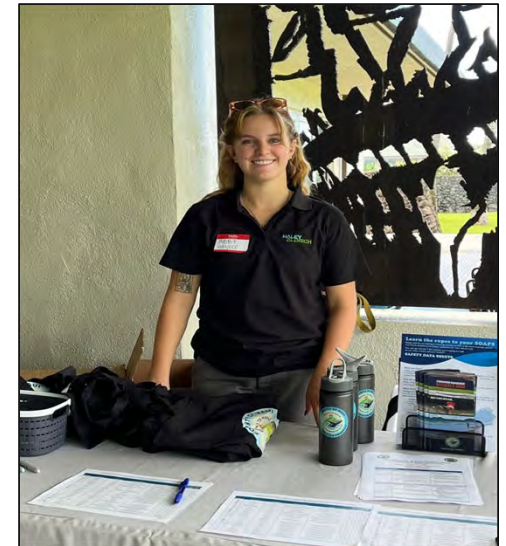
## Allowable Discharges

- ✓ **Water line flushing**
- ✓ Runoff from **irrigation** and **lawn watering**
- ✓ **Diverted stream** flows
- ✓ Uncontaminated **ground waters**
- ✓ Discharges from **potable** water sources
- ✓ **Air conditioning condensate**
- ✓ **Springs**
- ✓ Water from **crawl space** pumps, **footing drains**, and **foundation drains**
- ✓ Water from individual **residential and charity car washing**
- ✓ Flows from **riparian habitats** and **wetlands**
- ✓ **Dechlorinated swimming pool** discharges
- ✓ Residual **street wash water**
- ✓ Discharges or flows from **firefighting activities**
- ✓ Runoff from fire **hydrant flushing**
- ✓ Runoff **from dust control activities**
- ✓ Runoff from **washing**, including pressure washing, **exterior building surfaces and sidewalks**
- ✓ Discharges specified by the director as being necessary to **protect public health and safety**
- ✓ **Dye testing** associated with environmental studies
- ✓ Discharges **authorized under an NPDES permit**, waiver, or waste discharge



# Proposed Ordinance Summary

- The proposed standards incorporate **language consistent with the EPA Illicit Discharge Detection and Elimination Technical Appendices, Appendix B, “Model Illicit Discharge and Connection Ordinance” and ordinances from various municipalities.**
- The County is also committed to **launching an educational campaign** to inform the public about these standards by the end of 2025.



# Environmental Concern Reporting

Illicit discharge means any direct or indirect non-stormwater discharge to the storm drainage system or surface waters.

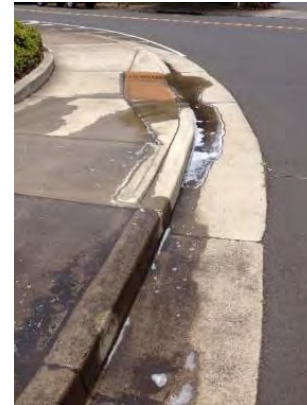
You can report illicit discharges or spills in any of the following ways:

1. Fill out the [Complaint Reporting Form](#)  
([Stormwater Webpage](#))
2. Submit a service request through [COM Connect](#)  
([SeeClickFix](#))  
<https://www.mauicounty.gov/2024/COM-Connect>
3. Call (808) 270-7869  
([Highways Division](#))
4. Email [stormwater@mauicounty.gov](mailto:stormwater@mauicounty.gov)



Department of Public Works

[www.mauicounty.gov/stormwater](http://www.mauicounty.gov/stormwater)



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# Questions?



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## WAI Committee

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**From:** Jordan K. Molina <Jordan.K.Molina@co.maui.hi.us>  
**Sent:** Thursday, November 14, 2024 5:00 PM  
**To:** WAI Committee  
**Cc:** Albert S. Hahn; Melissa-Ann Y. Migita; Paul M. Barany; John R. Smith; Slentz, Mikki  
**Subject:** WAI-35 Bill 157 (2024)  
**Attachments:** IDDE\_WAICommittee\_241119.pdf

Aloha WAI Committee,

Please see the attached presentation that DPW plans to provide at the 11/19 WAI meeting.

Also, requesting consideration to designate the following DPW representatives as resource persons for the meeting:

1. Albert Han, Civil Engineer VI, DPW Highways Division
2. Mikki Slentz, Sr. Project Manager, Haley & Aldrich, DPW MS4 Program Management Consultant

Mahalo,  
Jordan