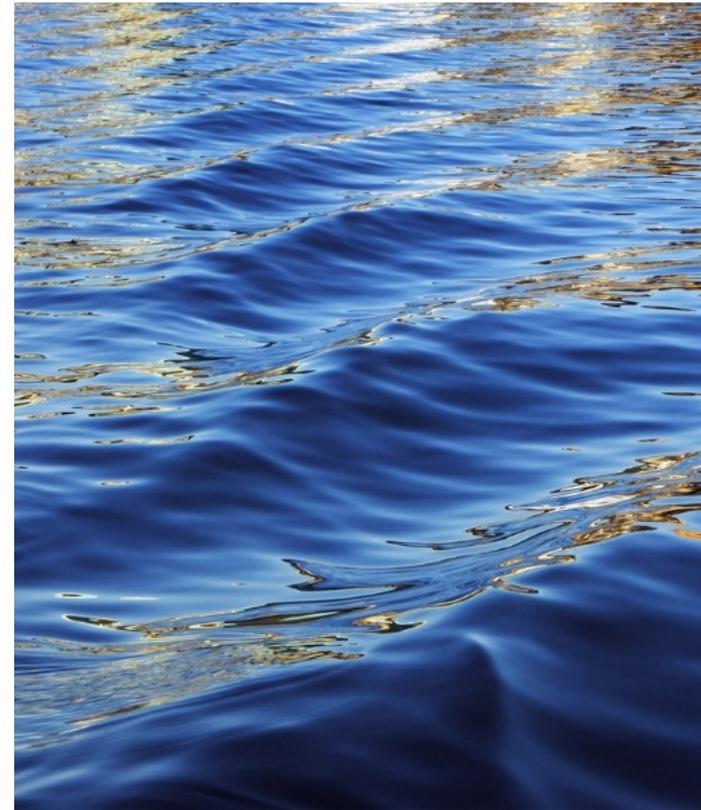


# DOH Enforcement Trends for Construction Storm Water

+

## Upcoming Changes to Electronic Signatures



# Enforcement Priorities



Protect Human Health and the Environment



Wastewater Discharges  
(Industrial, Municipal, Dewatering, etc.)



Storm Water Discharges  
(MS<sub>4</sub>, Construction, Industrial)



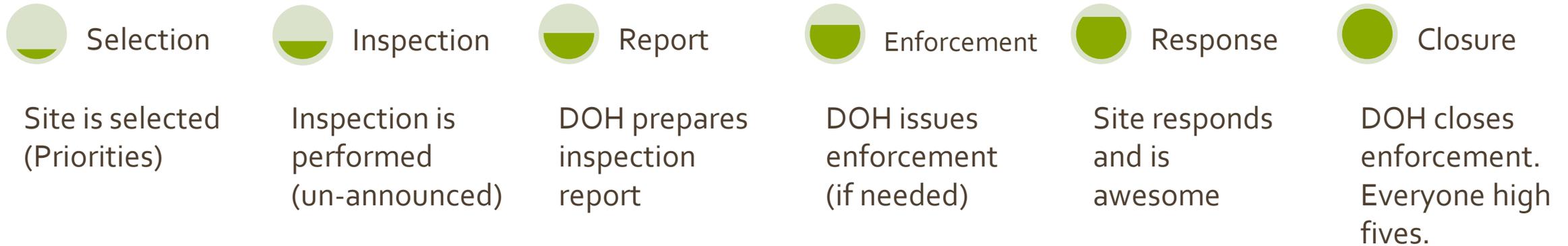
Other Polluted Discharges

# CWB's NPDES Compliance Monitoring Strategy

- NPDES Permits cover many types of pollutant discharges
- CWB monitors permittee's compliance in different ways
- Inspections are one method of compliance monitoring

NPDES Permit Category	Minimum Inspection Frequency
Individual Major	Once every 2 years
Phase I and II MS <sub>4</sub>	Once per permit term
"Traditional" Non-Major	Once per permit term
Industrial Storm Water General	10 % of permit universe each year
Construction Storm Water General	10 % of permit universe each year*

# The Inspection – Enforcement Process

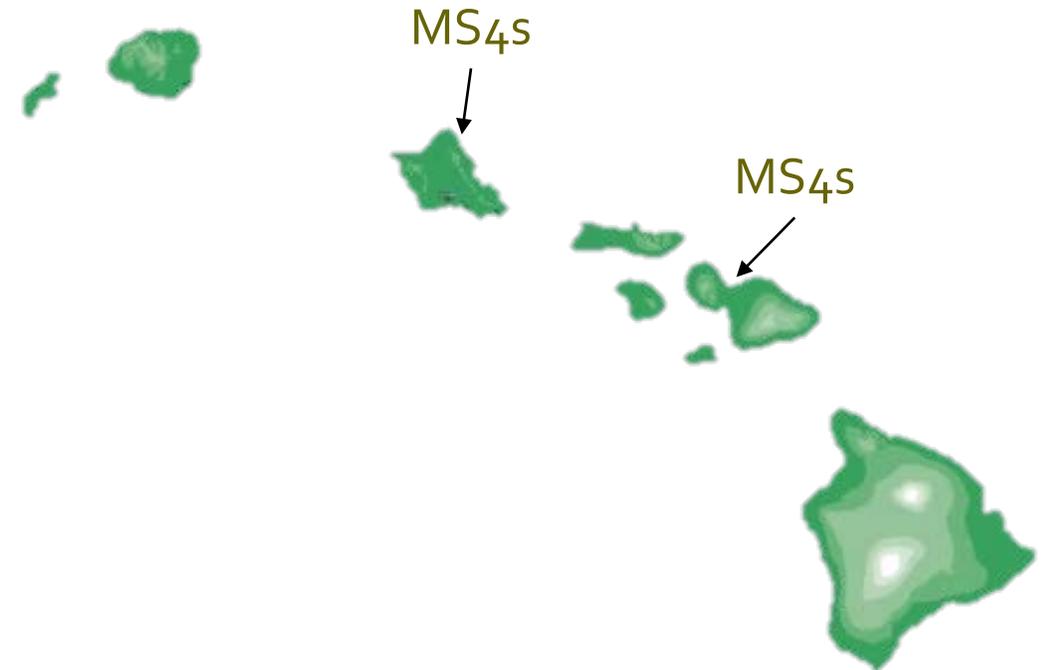


## Goals:

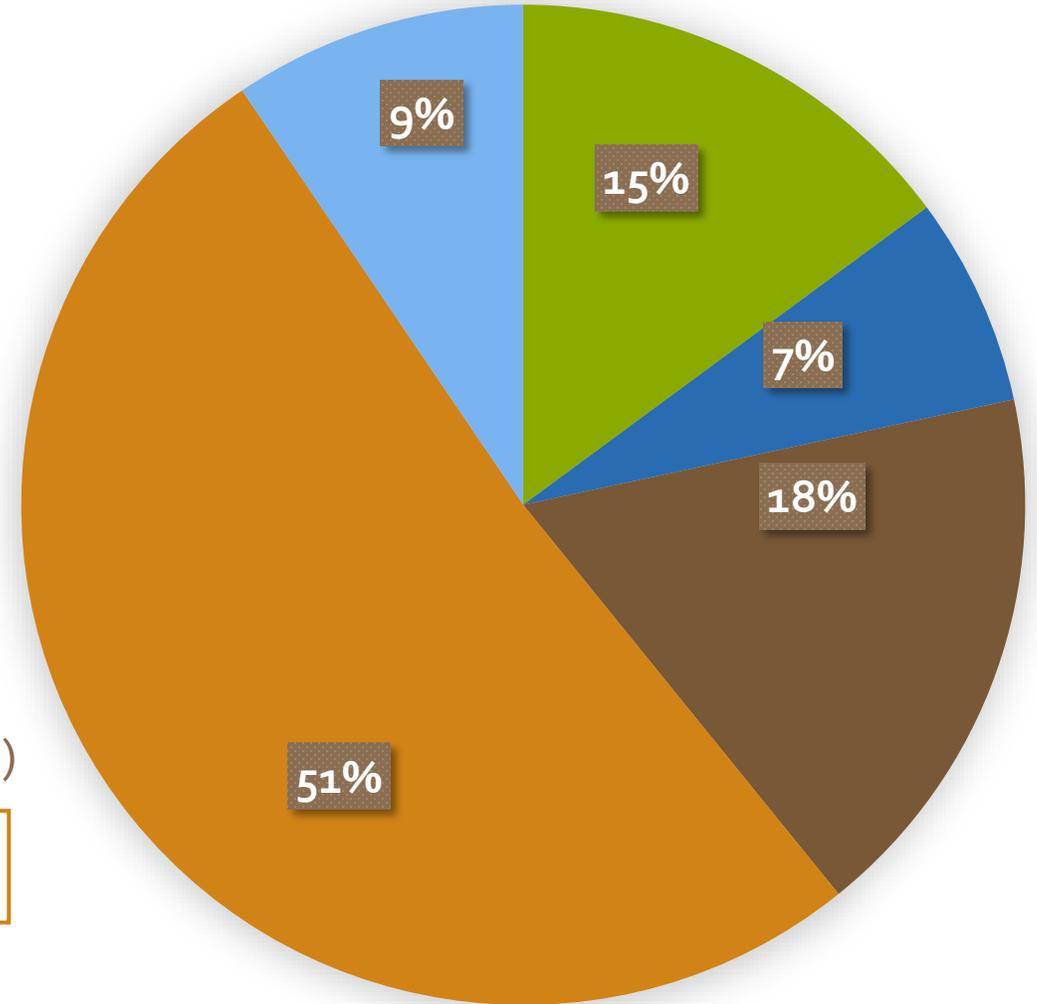
- Monitor compliance, see how permit holders are doing
- Resolve issues
- Keep regulated industry moving forward
- Level the playing field

# Compliance Monitoring – Construction Storm Water

- 10 % of permit universe each year\*
- But less – not all permits are active
  - The Notice of Start and Notice of Cessation matter!
- Priorities: Maui, Hawaii Island, Kauai
  - MS<sub>4</sub> presence oh Oahu and Maui



# 2022 Inspections



■ Individual Majors (11)

■ Individual Non-Major (5)

■ Industrial SW (13)

■ Construction SW (38)

■ Other (7)



# Types of Enforcement

- Transmittal Letter
- Field Citation
  - (most common for construction storm water)
- Notice of Violation and Order
- Consent Decree
  - (very unlikely)
- Administrative Order on Consent
  - (not really applicable for construction storm water)

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
NOTICE OF VIOLATION AND ORDER

<b>TO:</b> Construction Storm Water Violator 123 Smith Street Honolulu, HI 96814	<b>NOVO No. 2020-CW-EO-30</b> <i>Please write this NOVO number on all correspondence</i>  Re: Violation of Hawaii Water Pollution Rules and Regulations
Respondent	Property Facility: Construction Site Kamehameha Highway, Honolulu

The Department of Health (DOH) issues this Notice of Violation and Order (NOVO) under Hawaii Revised Statutes (HRS) Chapters 91 and 342D, based on complaints and self-disclosure of unauthorized discharges from Construction Site.

Attached as exhibits are:

- Notice of Apparent Violation, Request for Information (NAV/RFI) dated July 31, 2020 (Exhibit A);

**Hawaii Department of Health cites, fines developers \$14,000 for several violations at Kailua construction site**

By Kathryn Doorey Oct 12, 2022 Updated Oct 12, 2022

HONOLULU (KITV4) -- Arizona-based Arcus Secured Loan Fund III LLC received a Notice of Violation Order (NOVO), including a \$14,000 penalty, from the Hawaii Department of Health, for failing to obtain a water pollution control permit and discharging storm water runoff from an unpermitted construction site.

cases for other  
party.

# Penalties are Proportionate to Harm

- 40 acres, with BMPs, discharge with minimal impacts  
= \$10,000 / day
- 40 acres, without BMPs, discharge causing harm  
= \$25,000 / day

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
NOTICE OF VIOLATION AND ORDER

<b>TO:</b> Construction Storm Water Violator 123 Smith Street Honolulu, HI 96814  Respondent	<b>NOVO No. 2020-CW-EO-30</b> <i>Please write this NOVO number on all correspondence</i>  Re: Violation of Hawaii Water Pollution Rules and Regulations  Property Facility: Construction Site Kamehameha Highway, Honolulu
--	---

The Department of Health (DOH) issues this Notice of Violation and Order (NOVO) under Hawaii Revised Statutes (HRS) Chapters 91 and 342D, based on complaints and self-disclosure of unauthorized discharges from Construction Site.

Attached as exhibits are:

- Notice of Apparent Violation, Request for Information (NAV/RFI) dated July 31, 2020 (Exhibit A);
- Response to NAV/RFI dated November 30, 2020 (Exhibit B).

This case deals only with violations alleged below. The DOH may bring other cases for other violations. This case does not limit cases by any other public agency or private party.



- Disturbance Area
- Harm
- Compliance Efforts Avoided



Penalty

# Field Citations

- Established in HAR 11-55
- Set violations with set penalties
  - Higher penalty for second offense
- Quick offer to settle violations
- Reject or Accept
  - Rejection allows for contesting alleged violations
  - Rejection will very likely lead to NOVO

**§11-55-40 Field citations; non-compliance with NPDES requirements.** This section authorizes citations to effectively and quickly settle easily verifiable violations of chapter 342D, HRS, and this chapter. Settlements under this section are an additional remedy and do not supplant the director's authority to issue orders under section 342D-9, HRS.

(1) Offer to settle.

(A) A field citation is an offer to settle an administrative case against a specific violation on a specific day. Instead of issuing a formal notice and finding of violation and order, the director may, in the director's sole discretion, through any authorized employee, issue a field citation by personal service or certified mail to:

(i) Any person who discharges or causes or allows a discharge of

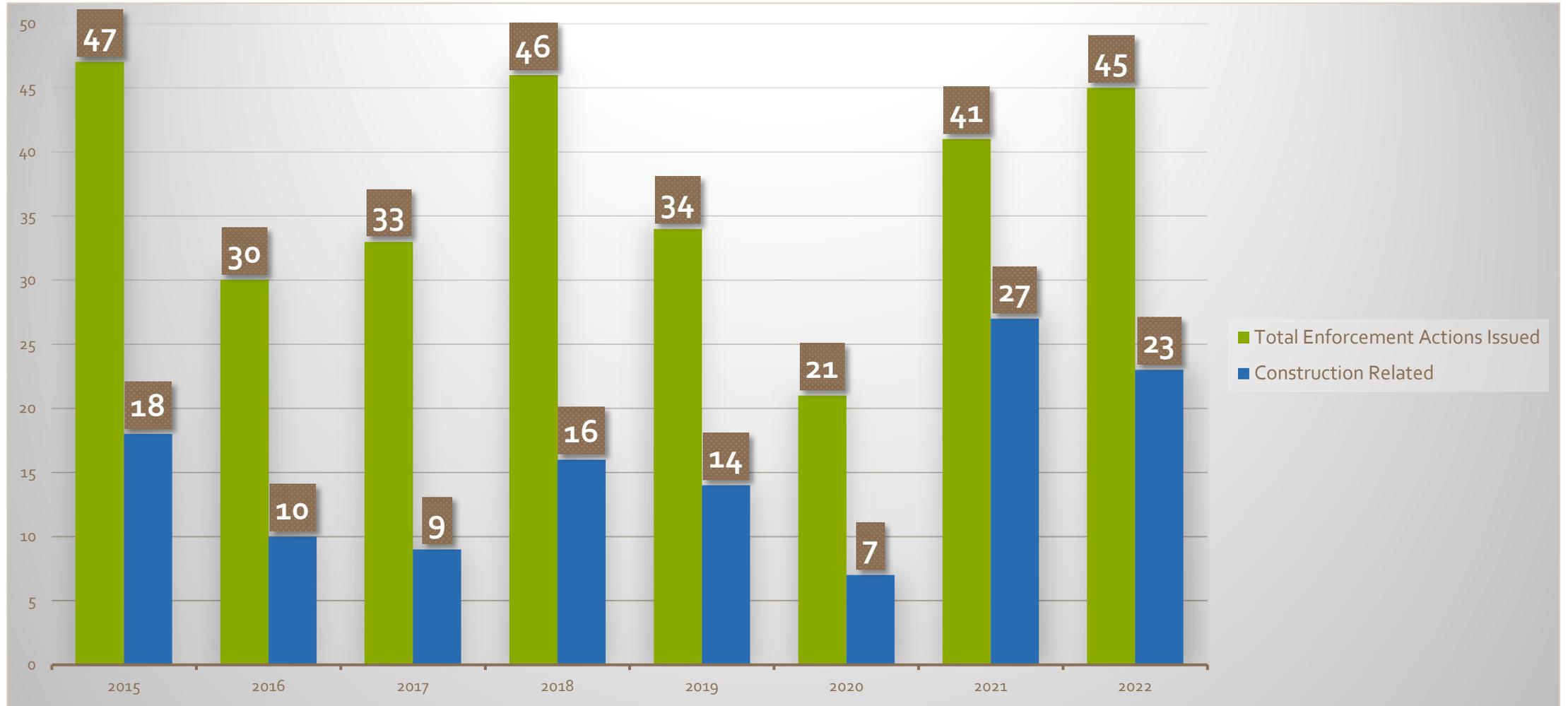
55-101

# Field Citation Violations (HAR 11-55-40)

HAR 11-55-40 (1)(A)	Violation*	Penalty 1 <sup>st</sup> Time	Penalty 2 <sup>nd</sup> Time
(i)	Cause or allow discharge of pollutants into State waters or MS4s w/o an NPDES permit	\$500	\$2,000
(ii)	No NPDES Permit or NGPC when required	\$500	\$2,000
(iii)	Fails to correctly install, implement, or maintain BMPs as required	\$500	\$2,000
(iv)	Fails to monitor as required	\$500	\$2,000
(v)	Fails to retain on-site or with easy access: NOI, NGPC, SWPPP, DMRs	\$100	\$200
(vi)	Fails to submit required documents, reports, submittals, etc.	\$500	\$1,000

\*Paraphrased from HAR; see HAR for actual wording

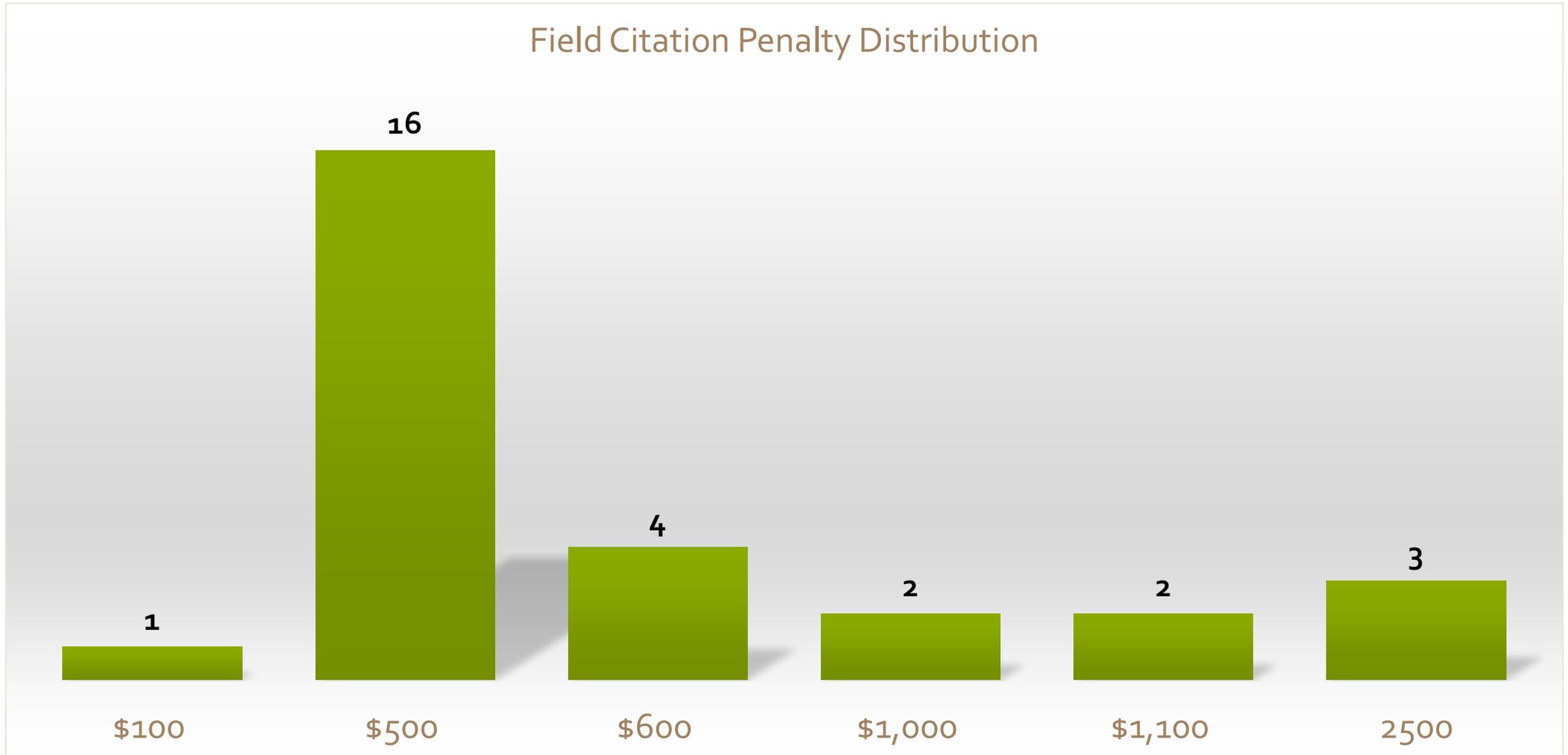
# Enforcement Action Counts: Total vs. Construction Related



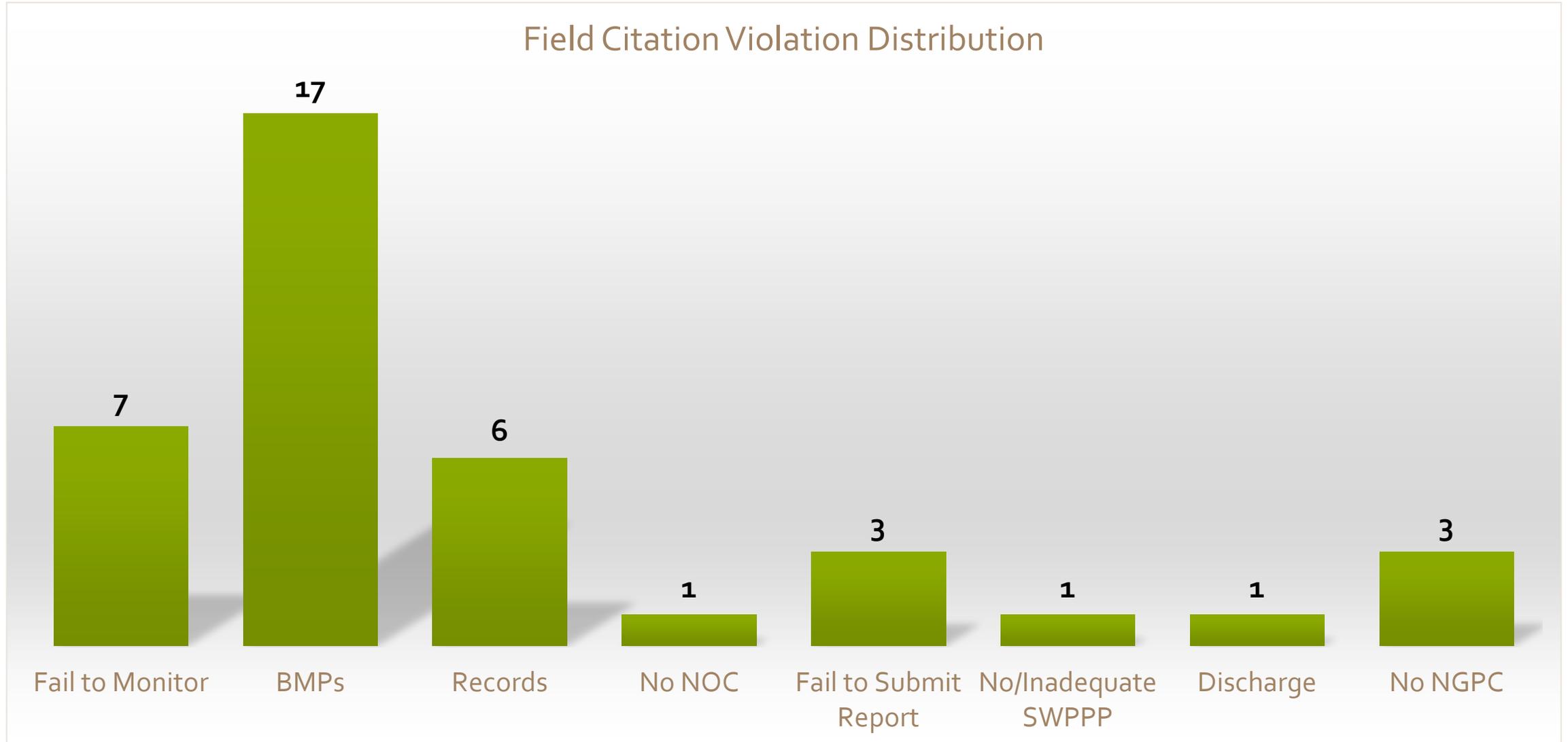
# Enforcement Actions Issued



# 2022 Field Citations – Construction Storm Water Penalties



# 2022 Field Citations – Construction Storm Water Violations



# Tips to Get a Transmittal Letter!

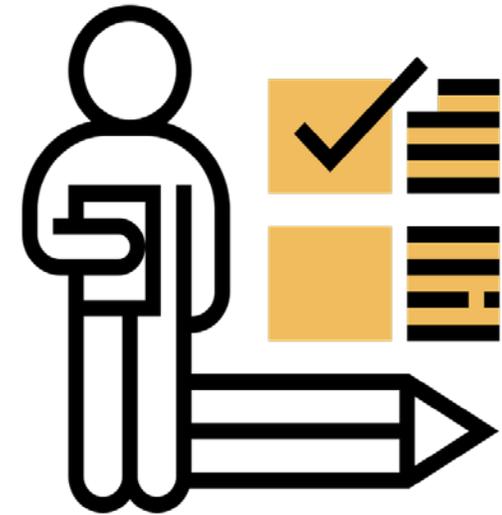
## Show Your Intent to Comply: Documentation

- Get your paperwork in order and AVAILABLE
  - NOI
  - NGPC
  - SWPPP
- Create space for future paperwork:
  - Inspections + Corrections
  - Training Logs
  - Non-Compliance Reports (hopefully stays empty)

# Tips to Get a Transmittal Letter!

## Create a System: Tasks

- What to Do
- When to Do it
- Who will Do It
- Tasks and their Paperwork
  - SWPPP + BMP Plan Updates: Weekly?
  - SWPPP Certification: Quarterly?
  - Inspections + Corrections: Weekly
  - Training Logs: As Needed (but not too long!)



# Tips to Get a Transmittal Letter!

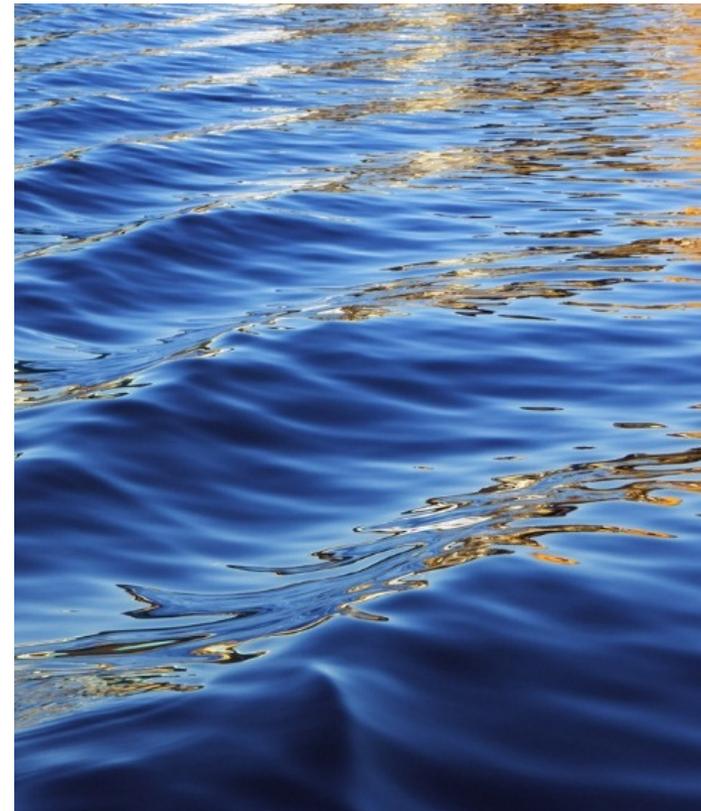
## BMPs – Install and Maintain

- Install BMPs per SWPPP
- But make sure they make sense
- Think about them, be able to explain them
- Maintain your BMPs
  - Mulch socks...always needing maintenance 😬
  - Concrete washout – enough space, no leaks or spills
  - Cover your stockpiles
  - Secure your porta-potties



# Electronic Signatures

No more CDs!



# NPDES Requires Signatures

- NPDES is built on self-monitoring and data integrity
- When a person with responsibility signs with the certification statement, they are attesting to that integrity
- Wet signatures were needed for certification
- Now that DOH has CROMERR approval from EPA, we can roll out electronic signatures with the same assurance of integrity

Not so fun fact  
Auwe! NPDES is the  
second largest generator  
of paper in US  
government. The first is  
the US Tax system.



A red starburst graphic with a blue outline, containing the text "E-Signatures!".

## E-Signatures!

- No more CDs or USB drives!
- No mailing or dropping off!
- Less steps to submit!

# E-Signatures...Get Started Early!

- Sign up to get an e-signature (may take one month to get approval)
- CWB is switching over to e-signatures **ONLY by January 31, 2023**
- Working backwards...submit your e-signature application by end of 2022



# Getting the E-Signature

Download  
Electronic  
Signature Form

- <https://eha-cloud.doh.hawaii.gov/epermit/>

Fill out form,  
have it notarized

- Be prepared for the notarization step

Send in the form  
and wait for  
approval

- Expect 1 month processing time



Department of Health  
Environmental Health Administration  
1250 Punchbowl Street  
Honolulu, Hawaii 96813

## Electronic Subscriber Agreement

This agreement will allow you to electronically submit forms and reports using the EHA ePermitting Portal System using the account identified by your email address. To receive the necessary authorization, you must fill out both pages of this form completely, sign and have notarized, and send it to:

**Department of Health  
Environmental Health Administration  
Attn: ERO-CROMERR  
1250 Punchbowl Street  
Honolulu, Hawaii 96813**

The original signed and notarized form must be sent to the address above. Faxes, photocopies, or other facsimiles will not be accepted. Questions can be mailed to the above address, or emailed to: [epwebadmin@doh.hawaii.gov](mailto:epwebadmin@doh.hawaii.gov)

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

### Notes:

- (1) The address must be a street address. Post Office boxes are not allowed
- (2) The email address is the address used for the ePermitting Portal System account

# Using Your Electronic Signature

## Organizations

Select the organization from which you would like to submit a form.

Select Organization ▾

## Forms

To locate a specific form please use our form finder.

Form Finder

## Frequently Asked Questions

FAQ 1

## Forms to Report NPDES Individual and General Permit Compliance Data

Compliance with your NPDES Individual or General Permit may require use of the following forms:

- CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs - Used to submit compliance requirements for all Individual NPDES Permits and NGPCs.
- Discharge Monitoring Report (DMR) Form - Used to report the test results of any water quality monitoring/sampling event.

### Contact Information

<b>Address:</b> Hale Ola, Room 225 2827 Waimano Home Road Pearl City, Oahu, Hawaii 96782	<b>Contacts:</b> Phone: 808-586-4309 Fax: 808-586-4352 Email: <a href="mailto:CleanWaterBranch@doh.hawaii.gov">CleanWaterBranch@doh.hawaii.gov</a>
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### Additional Links

- [CWB Homepage](#)
- [CWB Forms](#)

### Forms

- CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs**  
This form is for the submission of compliance requirements for all Individual NPDES Permits and NGPCs.
- Electronic Signature CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs**  
This form is for the submission of compliance requirements for all Individual NPDES Permits and NGPCs.
- Solid Waste Disclosure Form**  
Solid Waste Disclosure Form

Can't find a specific form? Please use our [Form Finder](#)

✓ Use the forms specifically for electronic signatures

- Processing Info
- Permit or File Number
- Submission Type(s)
- Notification of Start
- Review
- Certify & Submit**

PREVIOUS SECTION  
Review

### Certify & Submit

This step allows you to submit the form to HI DOH.

FINALIZE SUBMISSION  
Submit Form

FINISH LATER  
Save and Exit

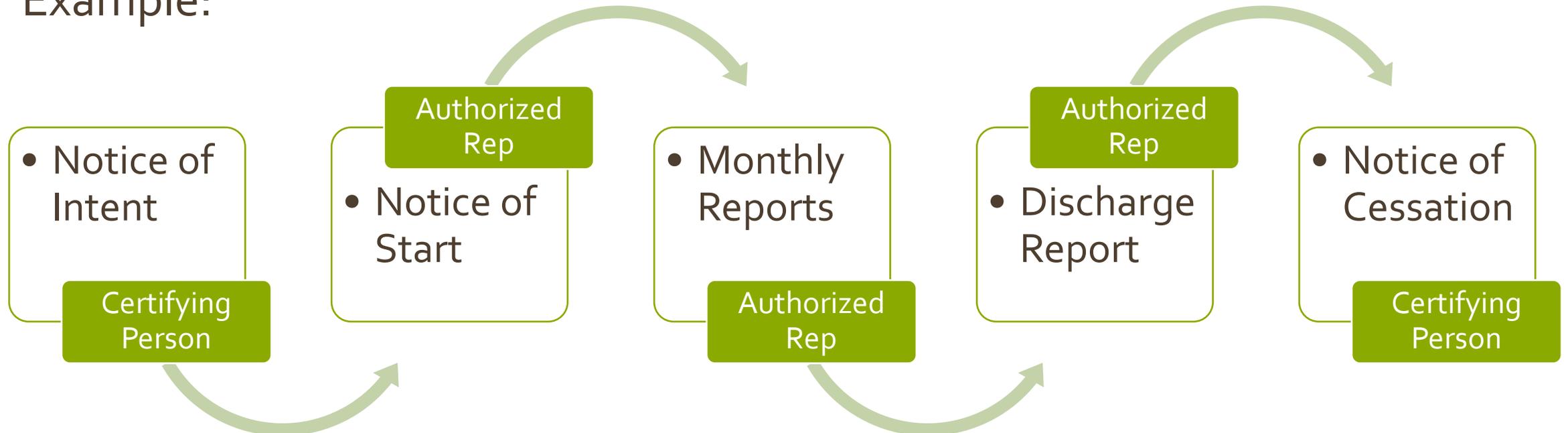
Shorter Form!

One Click to Submit!

# The Tricky Parts

- Organizations need to design a workflow
  - Who will be the Certifying Person and the Authorized Rep
  - What will be signed by who
  - What happens when someone is out? Can a TA sign?

Example:



Not policy, but here's a bit of advice:

- Create redundancy – name an authorized rep.
- Consider naming a Position for your authorized rep, not a single person.
- Even though there is only one person who is the Certifying Person, and only one Authorized Rep can be named, anyone can have an electronic signature

# Resources

Website: <https://health.hawaii.gov/cwb/permitting-faqs/#E-Permitting-Portal-Electronic-Signatures>

The screenshot shows the website [health.hawaii.gov/cwb/permitting-faqs/#E-Permitting-Portal-Electronic-Signatures](https://health.hawaii.gov/cwb/permitting-faqs/#E-Permitting-Portal-Electronic-Signatures). The main heading is "E-Permitting Portal Electronic Signatures". The text explains that the Department of Health (DOH), Environmental Health Administration (EHA) e-Permitting Portal received Cross-Media Electronic Reporting (CROMERR) certification by the Environmental Protection Agency (EPA) for Electronic Signature. This allows applicants to submit electronically through the [EHA e-Permitting Portal](#) without the need to physically send in an ink signature and CD/DVD. EHA Electronic Signature Forms may only be submitted by an account with electronic signature rights. For more information see:

- [e-Permitting Electronic Signature Instructions for Application Preparer and Submitter](#)
- [Electronic Signature FAQ](#)
- [Electronic Signature Tutorial Video \(Youtube\)](#)

NPDES and Section 401 WQC applicants and permittees may utilize 1) the existing e-Permitting forms that require an ink signature and a CD/DVD or 2) electronic signature e-Permitting forms. In the future, the DOH will only utilize electronic signature e-Permitting forms and discontinue the hard copy forms. Below is a list of electronic signature e-Permitting forms that are available:

- Electronic Signature CWB Individual NPDES Form
- Electronic Signature CWB NOI Form
- Electronic Signature CWB NOI Form M
- Electronic Signature "No Exposure" Certification Form
- Electronic Signature CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs
- Electronic Signature CWB Individual Section 401 WQC Form
- Electronic Signature CWB Compliance Submittal Form for Section 401 WQCs
- Electronic Signature VGP DOH Notification Form

Navigation links include [Back to Top](#). A sidebar menu contains the following items:

- Current Water Quality Advisories
- Current Public Notices and Updates
- About CWB
- History and Mission Statement
- Contact Us
- References and Public Records
  - CWB Standard Comments
  - Water Quality References
  - Workshop Presentations
  - Water Pollution Control (WPC) Viewer for Public Access to Government Documents
  - Post-2018 Final Individual NPDES Permits
  - Request to Access a Government Record Form
- NPDES Permitting
  - NPDES Permits and How to Apply
  - Permitting FAQs
  - Forms
  - e-Permitting Portal
  - NPDES General Permits
  - Standard Individual NPDES Permit

You Tube Tutorial:  
<https://www.youtube.com/watch?v=lqfZwT1SGQ8>

The screenshot shows a YouTube video player for the video "e-Permitting Portal Electronic Signature Tutorial". The video title is "January 2021 CWB e-Permitting Electronic Signature Tutorial". The channel is "Doh Cwb" with 6 subscribers. The video has 144 views and was uploaded 1 year ago. The video description states: "This video provides information on how to use Electronic Signature forms on the State of Hawaii, Environmental Health Administration, e-Permitting Portal. Show more". The video player shows a progress bar at 0:05 / 16:22. The video content features a blue oval with the text: "e-Permitting Portal Electronic Signature Tutorial. Welcome to the Hawaii Department of Health (DOH), Clean Water Branch (CWB) e-Permitting Portal Electronic Signature Tutorial Video. This video will provide instructions on how to submit forms electronically through the Environmental Health Administration (EHA) e-Permitting Portal." Logos for the State of Hawaii, Department of Health, and Clean Water Branch are visible in the background.

Link to the E-Signature Form:  
[file:///C:/Users/jamie.tanimoto/Downloads/EHA%20Electronic%20Signature%20Subscriber%20Agreement%20\(1\).pdf](file:///C:/Users/jamie.tanimoto/Downloads/EHA%20Electronic%20Signature%20Subscriber%20Agreement%20(1).pdf)

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.



(808) 586-4309



Department of Health  
Clean Water Branch  
2827 Waimano Home Rd, Rm 225  
Pearl City, Hawaii 96782

<https://health.hawaii.gov/cwb/>