



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2020-0673; FRL-10019-78-OW]

Applying the Supreme Court's *County of Maui v. Hawaii Wildlife Fund* Decision in the Clean Water Act Section 402 National Pollutant Discharge Elimination System Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of guidance.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is issuing a memorandum to provide guidance to the regulated community and permitting authorities on applying the recent decision of the United States Supreme Court in *County of Maui v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020), in the Clean Water Act Section 402 National Pollutant Discharge Elimination System (NPDES) permit program for point source discharges that travel through groundwater before reaching a water of the United States. Consistent with *EPA Guidance; Administrative Procedures for Issuance and Public Petitions*, published in the **Federal Register** on October 19, 2020, EPA solicited public comments on the draft guidance for thirty days, beginning on December 10, 2020. EPA has developed a responsiveness summary to address major concerns and comments, and it is available in the docket for this action. This guidance does not have the force and effect of law and it does not bind the public in any way. By issuing this guidance, the Agency intends only to provide clarity to the public regarding existing requirements under the law or Agency policies.

FOR FURTHER INFORMATION CONTACT: Scott Wilson, Office of Wastewater Management, Water Permits Division (MC4203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-6087; email address: wilson.js@epa.gov.

A. How Can I Get Copies of This Document and Other Related Information?

You may access this document electronically at <https://www.epa.gov/npdes/releases-point-source-groundwater> or at <https://www.federalregister.gov>. EPA established an official public docket under

Docket ID No. EPA-HQ-OW-2020-0673 which is accessible electronically at <http://www.regulations.gov> that will also contain copies of this **Federal Register** notice. The public docket does not include CBI or other information whose disclosure is restricted by statute. The telephone number for the Water Docket is (202) 566-2426.

Dated: January 13, 2021.

Anna Wildeman,

Acting Assistant Administrator, Office of Water.

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