



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

July 16, 2014
Honolulu, Hawaii

Request for Authorization to Initiate Rule-Making Proceedings to Amend
Hawaii Administrative Rules §13-167-10(b), §13-168-3(a), and §13-169-3(a)
To Increase the Maximum Fine Amount from \$1,000 to \$5,000

SUMMARY OF REQUEST

The staff requests the Commission on Water Resource Management ("Commission") authorize the initiation of rule-making proceedings to amend the Commission's Hawaii Administrative Rules ("HAR"), including HAR §13-167-10(b), §13-168-3(a), and §13-169-3(a), to increase the maximum fine amount from \$1,000 to \$5,000 in conformance with Haw. Rev. Stat. §174C-15(b).

BACKGROUND

The Commission has the authority to enforce its rules and orders and may impose fines of up to \$5,000 for violation of any provision under Haw. Rev. Stat. §174C-15(b):

Any person who violates any provision of this chapter, or any rule adopted pursuant to this chapter, may be subject to a fine imposed by the commission. Such fine shall not exceed \$5,000. For a continuing offense, each day during which the offense is committed is a separate violation.

The fine amount was increased from \$1,000 to \$5,000 by the 2004 Legislature. However, HAR §13-167-10(b), §13-168-3(a), and §13-169-3(a), which were adopted in 1988, were never amended to conform to this higher \$5,000 fine amount.

DISCUSSION

The proposed new language for each of the administrative rules to be amended is as follows:

Hawaii Administrative Rule	Current Language	Proposed New Language ¹
§13-167-10(b)	<i>Any person who violates any provision of this title or any permit condition or limitation established pursuant to this title or who negligently or willfully fails to or refuses to comply with any final order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed \$1,000 per violation...</i>	<i>Any person who violates any provision of this title or any permit condition or limitation established pursuant to this title or who negligently or willfully fails to or refuses to comply with any final order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed <u>\$5,000</u> [\$1,000] per violation...</i>
§13-168-3(a)	<i>Any person who violates any provision of this chapter or any permit condition or who fails to comply with any order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed \$1,000 per violation....</i>	<i>Any person who violates any provision of this chapter or any permit condition or who fails to comply with any order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed <u>\$5,000</u> [\$1,000] per violation. ...</i>
§13-169-3(a)	<i>Any person who violates any provision of this chapter or any permit condition or who fails to comply with any order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed \$1,000 per violation...</i>	<i>Any person who violates any provision of this chapter or any permit condition or who fails to comply with any order of the commission may be subject to a fine imposed by the commission. Such fine shall not exceed <u>\$5,000</u> [\$1,000] per violation....</i>

¹ New language is underlined; language proposed for deletion is bracketed.

Staff recommends the Commission approve steps to amend its administrative rules to increase the fine amounts to conform to the fine amount provided under Haw. Rev. Stat. §174C-15(b).

ENVIRONMENTAL REVIEW (Haw. Rev. Stat. Chapter 343)

An amendment to an administrative rule is not considered an agency action for purposes of Hawaii Revised Statutes, Chapter 343. No environmental review is required.

RECOMMENDATIONS

Staff recommends that the Commission:

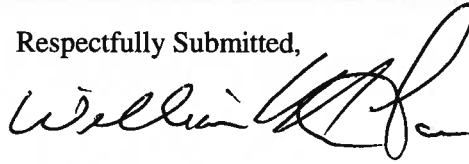
1. Authorize the initiation of rule-making proceedings to amend Hawaii Administrative Rules, HAR§13-167-10(b), §13-168-3(a), and §13-169-3(a) to increase the \$1,000 maximum fine to \$5,000.
2. Request approval from the Governor to conduct public hearings on the proposed rule amendments.

Rule-Making Proceedings to Amend CWRM Fines

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Respectfully Submitted,



WILLIAM M. TAM
Deputy Director

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson