



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

STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

November 17, 2020
Honolulu, Hawai'i

Delegation from the Commission on Water Resource Management to the Chairperson
To Approve 10-day Filing Extension of Requests for Hearings Pursuant to HAR §13-167-52

BACKGROUND:

Hawaii Administrative Rules §13-167-52 establishes the deadlines for requests for contested case hearings.

§13-167-52 Request for hearing. (a) A hearing on a contested matter may be requested by the commission on its own motion or upon the written petition of any government agency or interested person. An oral or written request for a contested case hearing must be made by the close of the public hearing (if one is required) or the commission meeting at which the matter is scheduled for disposition (if no public hearing is required). In either situation, the person or agency requesting the contested case hearing must file (or mail and postmark) a written petition with the commission not later than ten days after the close of the public hearing or the commission meeting, whichever is applicable. *The commission may extend the time for submitting a written petition for an additional ten days if necessary.*

DISCUSSION:

There have been recent instances where a party has made an oral request for a contested case hearing and intends to file a written petition, but would like an extension of the 10-day requirement set forth in the rule. Although the party can ask for an extension, under the rule, the extension may only be granted by the Commission. Because the Commission only meets once per month, there are situations where the 10-day requirement to file a written petition and any extension period would expire prior to the next Commission meeting. The Commission could hold a special meeting to grant the extension, but to meet current sunshine requirements of 6 day public notice prior to holding a meeting, the party would still be limited to four days to file a written petition, assuming the public notice is published the same day the request is filed.

Delegating authority from the Commission to the Chairperson to approve 10-day extensions for the filing a written petition would resolve this issue. The Chairperson would be able to determine, on behalf of the Commission, if the 10-day extension is "necessary" as set forth in the rule.

RECOMMENDATIONS:

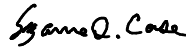
Staff recommends that the Commission authorize delegation of the authority to approve 10-day extensions for the filing of written petitions under HAR § 13-167-52 to the Chairperson.

Ola i ka wai,



M. KALEO MANUEL
Deputy Director

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson