

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-106
Hawaii Administrative Rules

October 14, 1993

Chapter 13-106, Hawaii Administrative Rules, entitled " Rules for Establishing
Tree Farms", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5, FORESTRY AND WILDLIFE

PART 1 FORESTRY

CHAPTER 106

RULES FOR ESTABLISHING TREE FARMS

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Subchapter 1. General Provisions

§13-106-1 Purpose and applicability. The purpose of this chapter is to provide rules to enact Chapter 186, Hawaii Revised Statutes, which authorizes the board of land and natural resources to classify lands as tree farms, if it is suited for the sustained production of forest products in quantity sufficient to establish a business in the sale thereof. [Eff. JAN 03 1994] (Auth: HRS §186-4)

§13-106-2 Definitions. As used in this title, unless the context requires otherwise:

- (1) "Administrator" means the administrator of the division of forestry and wildlife;

- (2) "Authorized representative" means the administrator, foresters, and other persons authorized by the department to act for the board;
 - (3) "Board" means the Board of land and natural resources;
 - (4) "Commercial tree species" means trees of any species maintained for eventual harvest and for a realization of profit in the business thereof;
 - (5) "Department" means the department of land and natural resources;
 - (6) "Division" means the division of forestry and wildlife;
 - (7) "Forest" means forest land occupied by forest trees and associated wildlife species, and timber thereon;
 - (8) "Forest landowner" means the legal owner(s) of the property or lessee(s) of the property;
 - (9) "Forest management plan" means a written document for the management of a specified area for the establishment, growth and harvesting of timber. It identifies forest management goals and objectives and forestry prescriptions necessary for the growing and harvesting of a commercial tree species;
 - (10) "Forest product" means any saleable item made from wood that is taken and/or harvested from forest trees;
 - (11) "Monoculture" means a predominant representation of non-native forest trees that are of the same species;
 - (12) "Native forest" means a forest containing a range of plant species which are endemic or indigenous to Hawaii and represents natural plant communities appropriate to the area;
 - (13) "Prescription" means prescribed treatments used in forest management;
 - (14) "Same vicinity" means areas with similar soil type, forest or vegetative cover, and annual rainfall distribution;
 - (15) "Sustained production" means forestry practices that do not reduce the capacity of the land to support successive or continuous yields;
 - (16) "Tree farm" means any public land or privately owned forest land that is capable of sustaining commercial tree species;
 - (17) "Wood" means woody tissue growth of any tree species living or dead.
- [Eff. JAN 03 1994] (Auth: HRS §186-4)

§13-106-3 Eligibility. (a) Any property of not less than ten acres: (1) Included within the agricultural district pursuant to section 205-2, Hawaii Revised Statutes; or (2) Included within the conservation district and zoned for commercial forest use; is eligible for classification as tree farm property if it is suited for the sustained production of forest products in quantity sufficient to establish a business in the sale thereof; and

(b) Property on which the owner is already growing commercial tree species under approved forest management prescriptions and which the owner agrees to manage the property according to a management plan approved by the board is eligible for classification as tree farm property. Additional noncontiguous property of five acres or more, under the same ownership and in the same vicinity, is also eligible for classification along with the main acreage sought to be classified. Individual property owners joining to form a partnership of not less than ten contiguous acres may be eligible for classification, if all applicants having a legal interest in the partnership agree to the terms

of the tree farm classification.

(c) No real property under a lease having an unexpired term of less than twenty years is eligible for classification as tree farm property, unless the lessee and lessor agree by written notice to the Division that the property will be maintained as a tree farm.
[Eff. JAN 03 1994] (Auth: HRS §186-2)

Subchapter 2. Forest Management Plan

§13-106-4 Application procedures. The owner of any property which complies with the requirements specified in section 186-2, Hawaii Revised Statutes, may apply to the board for classification of the owner's property as tree farm property. The application shall include:

- (1) A description of the property;
- (2) A forest management plan approved by the Division which addresses the establishment, maintenance, and harvest of forest products in a sustained manner while exercising sound conservation prescriptions;
- (3) The board may require that the application be signed by all persons having a legal interest in or holding any legal encumbrance upon the property, and shall state that all of them will comply with the management plan upon its approval; and
- (4) All public hearings, environmental assessments and conservation district use permits required by statute or rules of the department shall be completed before any management plan is approved; and
- (5) A non-refundable fee of \$50 payable to the department must accompany the application. [Eff. JAN 03 1994] (Auth: HRS §186-3)

§13-106-5 Management plan format. The minimum management plan standards shall include:

- (1) Cover Sheet - Lists the forest landowner's name and address; location of the property described in the management plan; the name, address, title and phone number of the person completing the plan; and the date the plan was completed.
- (2) Signature Page - Signatures of the forest landowner, person who writes the plan, and the division are required.
- (3) Introduction - Describes the landowner's goals and objectives.
- (4) General Property Description - Covers the description of the property. The description shall include: Tax Map Key description, acres designated as tree farm property, location to nearest town, general aspect, slope, elevation, annual rainfall, access roads, forest composition, size and crown class, soil classes, threatened and endangered species information and conservation district use classification.
- (5) Area map - Outlines the property considered for tree farm classification. It should detail the major highways, access roads, streams, and elevations including a scale and north arrow. A topographic map is preferred.

- (6) Brief history of forest management and use - Covers the property's history pertaining to forest age, structure, composition and condition.
- (7) Definitions and symbols - Technical terms used in the management plan should be defined. For example, "board foot" is a measure of wood volume having 144 cubic inches of wood i.e. 1" x 12" x 12".
- (8) Soils classification and suitability - Each soil type shall be identified along with the acres involved. Information can be obtained from the United States Department of Agriculture, Soil Conservation Service's Soil Survey handbook.
- (9) Forest landowner's plan of action - The management plan must identify forest management prescriptions that the forest landowner has agreed to follow. The following items must be considered and addressed in the management plan: site preparation, planting, replanting, weeding, fertilizing, thinning, pruning, fire protection, harvesting, soil erosion, aesthetics, wildlife, watershed, recreation and marketing.
- (10) Regulations - Compliance to all federal, state, and county laws, rules and ordinances to include mitigation of threatened and endangered species should be addressed here.
- (11) Summary of forest management concerns and recommendations - This section lists and summarizes the forest prescriptions necessary to qualify this property as a tree farm. A time table of the forest management prescriptions is required. [Eff. JAN 03 1994] (Auth: HRS §186-3)

§13-106-6 Classification by board. If the board finds that the property identified in the application is suited for the sustained production of forest products in quantity sufficient to establish a business in the sale thereof, the property shall be classified by the board as tree farm property. [Eff. JAN 03 1994] (Auth: HRS §186-4)

Subchapter 3. Agreement with Owner

§13-106-7 Agreement. Upon classification, the board shall be responsible for preparing, executing, and administering an agreement with the applicant and others having a legal interest in or encumbrance upon the tree farm property. The agreement shall contain other terms and conditions prescribed by the board and shall be for a period of not less than twenty years but shall contain, as a minimum, the following conditions:

- (1) Cancellation and termination. (a) The agreement shall be canceled and terminated and the tree farm property shall thereby be declassified if, upon investigation, the board determines that the owner of the property is not complying with this chapter or the management plan. (b) The Administrator will duly notify the respective county of this action;
- (2) Withdrawal. (a) Any owner of tree farm property desiring to withdraw all or part of the property from the operations of this chapter may at any time

make written application to the board. (b) The Administrator will duly notify the respective county of this action;

- (3) Amendment. Any owner of tree farm property with the approval by the division may propose to amend the management plan to adapt the plan to current conditions;
- (4) Forest landowner responsibilities. The owner shall develop and maintain timber tree species as specified in the management plan.
[Eff. JAN 03 1994] (Auth: HRS §186-5)

§13-106-8 Penalties. Failure by the forest landowner to comply with the plan and agreement terms may result in the cancellation of the Tree Farm designation by the board. [Eff. JAN 03 1994] (Auth: HRS §186-4)

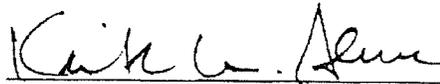
§13-106-9 Periodic review of tree farm property by board or authorized representative. Upon written notification to the landowner, the tree farm property may be reviewed at least every two years by the board or its authorized representatives. The review shall determine whether the owner is in compliance with the management plan.
[Eff. JAN 03 1994] (Auth: HRS §186-3)

§13-106-10 Additional land inclusion. A landowner may at any time apply to the board to have more acreage classified as tree farm property subject either to a new agreement or to amend the original agreement. [Eff. JAN 03 1994]
(Auth: HRS §186-11)

DEPARTMENT OF LAND AND NATURAL RESOURCES

The addition of Chapter 106, Rules for Establishing Tree Farms, Hawaii Administrative Rules was adopted on October 8, 1993 following public hearings held at Kahului, Maui on April 7, 1993; Honolulu, Oahu on April 12, 1993; Hilo, Hawaii on April 14, 1993; Kona, Hawaii on April 15, 1993 and Lihue, Kauai on April 16, 1993. Public notice of the hearings was given in the Garden Island Newspaper on March 7, 1993; and Honolulu Advertiser, Hawaii Tribune Herald, West Hawaii Today, and the Maui News on March 8, 1993.

The addition of Chapter 106, Rules for Establishing Tree Farms shall take effect ten days after filing with the Office of the Lieutenant Governor.



KEITH W. AHUE, Chairperson
Board of Land and Natural Resources



Member
Board of Land and Natural Resources

APPROVED:



JOHN WAIHEE
Governor, State of Hawaii

Dated: DEC 22 1993

APPROVED AS TO FORM:



Deputy Attorney General

DEC 22 1993

Filed

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RECORDED