

**Routine Program Changes
to
State of Hawaii Coastal Zone Management Program**

Request for Concurrence

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HAWAII COASTAL ZONE MANAGEMENT NETWORK

In 1977, the Hawaii State Legislature enacted Hawaii Revised Statutes (HRS) Chapter 205A as the legal foundation of the Hawaii Coastal Zone Management (CZM) Program. The Legislature designed the Hawaii CZM law to build upon the existing functions of agencies that comprise Hawaii's CZM network. HRS Chapter 205A requires the state and county agencies, within the scope of their authorities, to assure that their statutes, ordinances, rules and actions comply with the CZM objectives and policies. The Hawaii CZM Program is the State's policy umbrella for coastal resource management which focuses on land and water uses.

From time to time, statutory and regulatory changes to the legal mechanisms for the Hawaii CZM network agencies are necessary to address new challenges, strengthen the management regime, clarify provisions, or otherwise modify management of activities affecting coastal resources. In order for these statutory and regulatory changes to be incorporated into the State's federally approved CZM Program, they must be submitted for federal review and concurrence in accordance with 15 Code of Federal Regulations (CFR) Part 923 for approval. The State of Hawaii is submitting this request for the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management (OCRM) to concur in the incorporation of these changes as routine program changes (RPC) into the Hawaii CZM Program.

In accordance with requirements for RPCs as set forth in 15 CFR §923.84 and the guidelines for routine program changes contained in OCRM's Program Change Guidance (July 1996), the Hawaii CZM Program has prepared the following analysis of program changes, with the description of statutory and regulatory changes to:

- Explain why the proffered changes to the Hawaii CZM Program are routine program changes and are not amendments as described in 15 CFR §923.80(d);
- Identify the enforceable policies to be added to the CZM Program; and
- Examine the effect the changes have on the existing management program.

ANALYSIS

The submitted routine program changes to the Hawaii CZM Program to request for OCRM's concurrence at this time include:

- (1) Increasing penalty fine amounts for violations on public lands as an effective means of enforcement;
- (2) Adopt administrative rules of the State Building Code by adopting the 2006 International Building Code as reference to minimize losses from coastal hazards;
- (3) Based upon a routine program change previously approved by OCRM, adopt new administrative rules to conserve and protect indigenous wildlife and their habitats in sanctuaries;
- (4) Amend administrative rules to prevent water pollution, and clarify water quality standards;
- (5) Amend the CZM statutory law to increase the threshold cost between the Special Management Area Use Permit and Special Management Area Minor Permit, and amend county rules to increase shoreline setbacks to protect shoreline process and beach resources; and
- (6) Modify federal consistency procedures with the following changes: (a) modifications of the list for the highway planning and construction grant program; (b) submittal of federal assistance applications and review timeframe; (c) discontinuance of intergovernmental review process under Presidential Executive Order 12372; and (d) required necessary data and information for consistency reviews of activities requiring a federal license or permit.

The following analysis responds to the five (5) program areas identified in Subpart B-F of 15 CFR Part 923. The submittal then provides the description of changes in adoption, amendments and deletion of statutes and administrative rules, and their effects. These statutory and regulatory changes are summarized in a Summary Table, which was followed by a List of Changes. The copies of session laws, ordinances, and administrative rules for request for incorporation of routine program changes were submitted to OCRM in PDF format in the order of appearance in the list of changes.

§923.80(d)(1) Uses Subject to Management – The Hawaii CZM Program, built upon existing agencies, provides criteria under the CZM objectives and policies, and special management area guidelines for managing land uses and water uses within the coastal zone which have a significant impact on coastal water. These criteria and the Hawaii CZM network management will not change with the approval of the proposed routine program changes.

Hawaii Administrative Rules (HAR) Chapter 13-126, Rules Regulating Wildlife Sanctuaries, is based substantially upon HAR Chapter 13-125, Rules Regulating Wildlife Sanctuaries. HAR Chapter 13-125 was approved by NOAA OCRM on July 18, 1990. HAR

Chapter 13-125 was repealed and HAR Chapter 13-126 was adopted to provide a much higher level of protection for wildlife sanctuaries.

The adopted HAR §19-42-126, relating to littering or polluting land areas, and HAR §19-42-127 relating to littering or polluting of water, are enforceable policies that protect marine resources and coastal ecosystems. Both HAR §§19-42-126 and 19-42-127 were added pursuant to authority in HRS §266-3. HRS Chapter 266 was approved by NOAA OCRM on July 18, 1990.

§923.80(d)(2) Special Management Areas – The Hawaii CZM Program provides criteria for designating and managing areas of particular concern (e.g. special management areas) in Part II of HRS Chapter 205A. The criteria for managing developments within special management areas will not change with the approval of the proposed routine program changes. The County of Kauai's Shoreline Setback Rules and Regulations, and Chapter 8 Comprehensive Zoning Ordinance, were previously approved as routine program changes in 1990 by NOAA OCRM. Increase in shoreline setbacks, under Article 27 which was added to Chapter 8, Kauai County Code, protects the shoreline and reduces the risks to life and property from coastal hazards, but does not change the criteria for special management areas.

§923.80(d)(3) Boundaries – Requirements for defining Hawaii's coastal zone boundary are provided in HRS Chapter 205A of Hawaii CZM Program. As defined in HRS §205A-1, "Coastal zone management area" means all lands of the state and the area extending seaward from the shoreline to the limit of the state's police power and management authority, including the United States territorial sea. The Hawaii CZM Program boundary will not change with the approval of the proposed routine program changes.

§923.80(d)(4) Authorities and Organizations – The state retains techniques for control of land uses and water uses within the coastal zone and is organized to achieve this through the networked agency framework of the Hawaii CZM Program. No changes come from this submittal, nor will the submittal affect or change State's overall management authorities, organizations, and responsibilities through the Hawaii CZM Program.

§923.80(d)(5) Coordination, Public Involvement and National Interest – The Hawaii CZM Program provides opportunities for involvement and participation from federal and state agencies, local governments, interested parties, and the public in permitting processes, consistency determinations, and other similar decisions. The four routine program changes involving federal consistency procedures are being submitted under §923.80(d)(5). The State's management and process in coordination, public involvement and national interest will not change with the approval of the proposed routine program changes.

ADDED

1) HRS §171-6(19)

Reference: Act 153, Session Laws of Hawaii (SLH) 2011
Relating to: Special Management Areas (SMA)

Effective: 07/01/2011

Description of change: A new subsection (19) was added to HRS §171-6, exempting the Division of Boating & Ocean Recreation (DOBOR), Department of Land and Natural Resources, from SMA permit requirements. DOBOR had this exemption while the division was with the Department of Transportation pursuant to HRS Chapter 266-2, but lost the exemption when DOBOR was transferred to the Department of Land and Natural Resources. The Board of Land and Natural Resources has the powers and functions granted to the heads of departments and the Board of Land and Natural Resources under HRS Chapter 26, for enforcement. HRS Chapter 171 Public Land Management, and HRS Chapter 266 Harbors were previously approved by OCRM on July 18, 1990.

Effect of change: Planning, designing, constructing, operating, and maintaining any lands or facilities under DOBOR's jurisdiction continue the previously approved exemption from SMA permit requirements.

2) HRS §188-22.8

Reference: Act 293, SLH 2006

Relating to: Limu Management Area

Effective: 12/31/2006

Description of change: A new section was added to HRS Chapter 188, titled "Limu management area." This added section limits the taking of limu in the limu management area extending one hundred fifty feet seaward in Ewa Beach from the gunnery range to the boat ramp on Muumuu Street, Oahu. Beginning no sooner than January 1, 2010, a person, including a person with a commercial fishing license, may hand-pick limu in the limu management area from 6:00 a.m. to 6:00 p.m., only during the months of July, November, and December of each year. A maximum of one pound for all types of limu combined may be hand-picked per day by any person, including any person possessing a commercial fishing license. The policy for limu management area is administered and enforced by the state Department of Land and Natural Resources. HRS Chapter 188 was previously approved by OCRM only July 18, 1990.

Effect of change: This enforceable policy limits the amount, method and time period to take limu by any person including a person with a commercial fishing license, and protects the limu resources in the established and extended limu management area.

3) HRS §205A-22(16)

Reference: Act 76, SLH 2004

Relating to: Civil Defense Sirens

Effective: 05/17/2004

Description of change: HRS §205A-22(16) was added to exempt the SMA permit requirements for construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens.

Effect of change: The added list of excluded development by HRS §205A-22(16) exempts the SMA permit requirements for construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens located with the SMAs. This addition to the exemption list speeds up the SMA assessments relating to civil defense sirens. The county SMA rules and ordinances need to be amended in accordance with amendments to HRS §205A-22(16).

4) Hawaii Administrative Rules (HAR) Chapter 3-180

Relating to: State Building Code

Effective date: 04/16/2010

Description of change: New administrative rules adopted the 2006 International Building Code with local amendments as the building code of the State of Hawaii. The 2006 International Building Code introduced a new topographic factor and wind directionality factor which will not give accurate results in Hawaii and lead to a high probability of incorrect design. This was corrected by development of a unique methodology to calculate wind loads and wind-borne debris throughout the State of Hawaii. These customized wind design standards and maps were developed and adopted by the State of Hawaii as a local amendment to the 2006 International Building Code. These standards also are recognized by the American Society of Civil Engineers in its wind design standards.

Effect of change: These rules strengthen the CZM objective of reducing the risks to life and property from coastal hazards by implementing state-of-the-art design requirements in all future building construction. This will lead to reductions in building damage, costs of reconstruction and recovery, business interruption, human injury and loss of life, and community and social damage. The State will be more resilient and all sectors of the economy will bounce back faster. Adoption of the 2006 International Building Code with the customized wind design standards is also critical in maximizing federal disaster public assistance aid in future disasters. §406(e) of the Stafford Act allows Federal Emergency Management Agency (FEMA) to provide post-disaster aid funding only to the level of the code in place at the time of the disaster. These administrative rules enhance the amount of federal aid available after a disaster, allowing the state to rebuild in conformance to the latest disaster-resistant code.

Appendix W of the State Building Code consists of the Hawaii-specific wind design standards developed through OCRM and FEMA funds.

OCRM in 2006 approved the section 309 wind design project and supported the goal of adoption of state-of-the-art building codes, including Hawaii-wind design standards and the program change of “changes to state statutes, county ordinances, and administrative rules and policies,” all of which has been accomplished. Adding HAR Chapter 3-180 as a program change is an objective of Hawaii CZM Program’s section 309 Strategy (See *Hawaii CZM Program: section 309 Enhancement Area Grants Program FY 2006-2010 Assessment and Strategy*, p. 56.) and is a necessary performance step under the Strategy.

OCRM approved as a routine program change the City and County of Honolulu’s original adoption of the IBC and IRC: The City and County of Honolulu, City Ordinance 07-022 relating

to the building code was previously approved as the routine program change in March 12, 2009 by NOAA OCRM. This law updated the City and County of Honolulu Building Code by adoption of the 2003 International Building Code and the 2003 International Residential Code. It also added Oahu-specific wind speed-up maps and wind provisions to the building code.

5) HAR Chapter 13-60.7

Relating to: Kahekili Herbivore Fisheries Management Area, Maui

Effective date: 07/25/2009

Description of change: This measure adds a new fisheries management area (FMA) “Kahekili Herbivore Fisheries Management Area, Maui.” This FMA means the marine managed area of north Kā`anapali, Maui from Keka`a Point to Honokowai Park, and includes that portion of submerged lands and overlying waters of the north Kaanapali area. The policy for Kahekili Herbivore FMA, Maui, is administered and enforced by the state Department of Land and Natural Resources.

Effect of change: A new FMA was established to control the overabundance of marine algae on and about coral reefs within this area by increasing the local abundance of certain herbivorous fishes and sea urchins by fisheries management methods. With a few exceptions, no person is allowed to engage in activities within this FMA that would injure, kill, possess, or remove any fish of the families Kyphosidae, Scaridae or Acanthuridae, and any sea urchins, feed or introduce any food material, substance, or attractant, directly to or in the vicinity of any aquatic organism. By natural controls of marine algae, the marine ecosystem in this area is expected to return to a healthy balance.

6) HAR Chapter 13-126

Relating to: Rules Regulating Wildlife Sanctuaries

Effective date: 01/22/2010

Description of change: HAR Chapter 13-126, Rules Regulating Wildlife Sanctuaries, is based substantially upon HAR Chapter 13-125, Rules Regulating Wildlife Sanctuaries. HAR Chapter 13-125 was previously approved by NOAA OCRM on July 18, 1990. HAR Chapter 13-125 was repealed and HAR Chapter 13-126 was adopted to conserve and protect indigenous wildlife and their habitats in sanctuaries. The regulatory approach in HAR 13-125 is to provide general rules regulating human activities in most sanctuaries, and prohibit all entry to five select sanctuaries, all of which are offshore islets. The revisions proposed here address a number of issues with the current rules, which are now approximately 30 years old. These are:

- Wildlife sanctuaries are characterized by some of the most sensitive habitats where human access can have devastating effects. However, some sanctuaries can support certain levels of public access and recreational use in some areas without risk to the natural resources. The current rules do not recognize this, designating five particular sanctuaries as closed in all areas, and all others as open in all areas. The Division of Forestry and Wildlife proposes a new approach to the rules that will allow for restricted

access to some sanctuaries when conditions can be specified that will allow access without risk to the native resources. Examples include some offshore islets in which activities on the beach or below the waterline will not impact native resources, seasonal restrictions to protect nesting birds during the breeding season, and restrictions on the number of visitors at any given time.

- The revision adds new sanctuaries to the system. Five new wildlife sanctuaries have been added to the system by executive order since 1981. Under HRS Chapter 183D-3, subject to HRS Chapter 91, the department shall adopt, amend, and repeal rules for the protection of wildlife sanctuaries. The additions are Pauwalu Point, Maui (EO# 3307, 1985), Hamakua Marsh, Oahu (EO# 3712, 1997), Puu Waawaa Forest Bird Sanctuary, Hawaii (EO# 3937, 2002), Pouhala Marsh, Oahu (EO# 4146, 2006), and Kawainui Marsh, Oahu (EO# 4201, 2007).
- The revision adds new protections for natural resources by recognizing that the purpose of the rules is to protect wildlife and their habitats. The revision provides explicit protection for all flora, fauna, geological, and cultural resources.
- The revision incorporates a number of new rules modeled after other department rules, including provision for native Hawaiian practice, access permits, regulation and fees for commercial activities, and additional measures to protect resources and public safety by allowing for the establishment of visiting hours and for temporary closure of up to two years, subject to approval by the board. Also added are regulations for a number of common activities that have potentially negative effects in wildlife sanctuaries, such as boating and vehicle use, litter, explosives, and use of motors and model craft.
- The revision identifies fees for commercial recreational activities consistent with those of the Forest Reserves and Na Ala Hele trails, with revenues to be deposited into the Endangered Species Trust Fund pursuant to HRS §195D-31.

Effect of change: The new rules provide a much higher level of protection for wildlife sanctuaries by imposing stricter regulation of entry into and activities within wildlife sanctuaries. The adopted rules provide enforceable policies for conservation, management, and protection of indigenous wildlife and their habitats in sanctuaries. Pursuant to the adopted rules, the Board of Land and Natural Resources may declare and establish wildlife sanctuaries for the conservation and protection of indigenous wildlife and their habitats. The adopted rules as enforceable policies have protected indigenous wildlife and their habitats in the established wildlife sanctuaries across the Hawaiian Islands.

7) HAR §19-42-126

Relating to: Littering or Polluting Land Areas Prohibited

Effective date: 05/20/1982

Description of change: New HAR §19-42-126, was added for vessel and harbor controls. Pursuant to this added section, no person shall throw, place, leave, deposit or abandon, or cause

or permit to be thrown, placed, left, deposited or abandoned any litter within a state harbor, except in receptacles designated by the department for the disposal of such materials. No person shall deposit oil, oily refuse, sludge, chemicals or other hydrocarbons on state property except in specially designated collection points. These items may not be left in or near standard refuse containers or anywhere else on harbors property. Penalties, including but not limited to the revocation of mooring permits and the right to use the facilities, may be invoked. The policy to prohibit littering or polluting land areas is administered and enforced by the state Department of Transportation.

Effect of change: By establishing rules for prohibiting any persons from littering or polluting land areas, this measure assures harbors and land areas within a state harbor, and shore waters are not littered or polluted by individual behavior. This enforceable policy enforces the CZM Program objectives and policies in protection of marine resources and coastal ecosystems as a result of connection between land and sea. HAR §19-42-126 was added under the authority of HRS §266-3. HRS Chapter 266 was approved by NOAA OCRM on July 18, 1990.

8) HAR § 19-42-127

Relating to: Littering or Polluting of Water Prohibited

Effective date: 05/20/1982

Description of change: New HAR §19-42-127, was added for vessel and harbor controls. Pursuant to this added section, no person shall place, throw, deposit, or discharge, or cause to be placed, thrown, deposited, or discharged into the waters of any harbor, river or shore waters of the state any litter, or other gaseous, liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health and welfare or a navigational hazard. No person shall discharge oil sludge, oil refuse, fuel oil or molasses, or pump bilges or ballast tanks containing other than clean water into the waters of any harbor, river or into any shore waters in the state. The policy to prohibit littering or polluting of water is administered and enforced by the state Department of Transportation.

Effect of change: By establishing rules for prohibiting any persons from littering or polluting harbor, river or shore waters, this measure assures harbors, rivers and shore waters are not littered or polluted by individual behavior. This enforceable policy enforces the CZM Program objectives and policies in protection of marine resources and coastal ecosystems. HAR 19-42-127 was added under the authority of HRS §266-3. HRS Chapter 266 was approved by NOAA OCRM on July 18, 1990.

9) Kauai County Ordinance 863, Article 27, Chapter 8, Kauai County Code (KCC) 1987

Relating to: Shoreline Setback and Coastal Protection

Effective date: 02/25/2008

Description of change: Chapter 8 of the KCC was amended by adding a new Article 27, Shoreline Setback and Coastal Protection. The County of Kauai's Shoreline Setback Rules and Regulations and Chapter 8, Comprehensive Zoning, of the KCC were approved as routine

program changes on July 18, 1990, by OCRM. HRS §46-11.5, Maintenance of channels, streambeds, streambanks, and drainages, amended by Act 121, SLH 1986, was previously approved by OCRM on October 20, 1986. Act 356, SLH 1989, which amended HRS §205A-44 Prohibitions, and §205A-46 Variances, was previously approved by OCRM on October 18, 1989.

KCC Article 27 provides a procedure for establishing building setbacks from the shoreline based on scientifically documented rates of shoreline change and the history of coastal hazards in a specific place. For lots with an average depth of more than 160 feet, the shoreline setback line must be established based on a coastal erosion study with 40 feet plus 70 or 100 times, dependent upon building footprint, the annual coastal erosion rate. In addition, this measure imposes stiff penalties for structures illegally built or illegally repaired within the shoreline setback area from the effective date of this ordinance.

KCC Article 27.7(b)(1) requires that “All new structure shall be constructed in accordance with the standards for development in KCC Chapter 15, Article 1, Flood Plain Management, relating to coastal high hazard districts and FEMA guidelines regarding FIRM maps.” Chapter 15, Article 1, Kauai County Code, was enacted pursuant to the U.S. National Flood Insurance Act of 1968 (Public Laws 90-418 and 91-152), as amended, and the U.S. Disaster Flood Protection of 1973 (Public Law 93-234). HRS §46-11 Federal flood insurance, authorized the various counties to participate in the National Flood Insurance Program.

Effect of change: This ordinance is known as the “Shoreline Setback and Coastal Protection Ordinance.” Based on a precautionary approach, the ordinance promotes proper siting of structures and reduced use of the shoreline setback area for structures and ensures the longevity and integrity of Kauai’s coastal and beach resources. The phenomenon of distorting the natural shoreline environment, beach loss, and reduced public access by structures such as seawalls and revetments could be avoided and prohibited. Therefore, the protection of life and property, the mitigation of coastal hazards, and the preservation of coastal resources will be achieved in the long term.

MODIFIED

10) Kauai County Ordinance 887, §§8-27.1, 8-27.3, 8-27.7, 8-27.8, and 8-27.10, Chapter 8, KCC 1987

Relating to: Shoreline Setback and Coastal Protection

Effective date: 01/1/2010

Description of change: KCC §8-27.1 was amended to make the applicability of KCC Article 27 clear. KCC §8-27.3 was amended by adding subsections (f) and (g) to clarify the shoreline setback determinations from the planning director, and the conditions for director’s determination. KCC §8-27.7 was amended by adding (10), (11) and (12) to subsection (a) to clarify permitted structures and activities within the shoreline setback area, which include civil defense facilities, scientific studies and surveys, and emergency declared by the governor, the mayor or any other public official authorized by law. In addition, KCC §8-27.7 was amended by

adding (4) and (5) to subsection (b) to clarify the conditions related to shoreline process and public access to any new structure or activity permitted in the shoreline setback area. KCC §8-27.8 was amended through subsections (c)(2), (c)(3) and (c)(4), and (d) to clarify the valuation threshold of private and public improvements, and the criteria of shoreline setback determination set forth in KCC Article 27. KCC §8-27.10 was amended by including public improvements under approval of shoreline setback variance.

Effect of change: The amendments to KCC Article 27, Chapter 8 clarify the requirements of shoreline setback determination, criteria and timeline for shoreline setback determination. The amendments streamline the shoreline setback procedures while ensure the compliance with the coastal zone management objectives and policies set forth in HRS Chapter 205A.

11) HRS §171-6(12) and 171-6(15)

Reference: Act 215, SLH 2008

Relating to: Civil Penalties for Violations on Public Lands

Effective: 07/07/2008

Description of change: The amendments to HRS §171-6, increased penalty fine amounts for civil violations on public lands, and clarified penalties for encroachment on public lands. The Board of Land and Natural Resources has the powers and functions granted to the heads of departments and the Board of Land and Natural Resources under HRS Chapter 26, for enforcement.

Effect of change: The existing civil penalties for most violations of state natural resources laws are nominal and do not appear to deter violation behavior effectively. The approach of increasing penalties for civil violations of the state's natural resources laws by the amendments has provided an effective means to deter unlawful behavior by imposing serious consequences for such violations. The state can avoid a considerable strain in fulfilling the obligation of state natural resources laws, due to ineffective means of enforcement from nominal civil penalties.

12) HRS §183C-7(b)

Reference: Act 217, SLH 2008

Relating to: Penalties for Violations within the Conservation District

Effective: 07/07/2008

Description of change: HRS §183C-7(b) was amended by increasing the penalty fine amounts for violations within the conservation district. The Board of Land and Natural Resources may charge the fine based on the value of the natural resource that is damaged, the market value of the natural resource damaged, and any other factor it deems appropriate, such as the loss of the natural resource to its natural habitat and environment and the cost of restoration and replacement.

Effect of change: There has been an increase in violations of and blatant disregard for state natural resources laws within the Conservation District because the existing penalties for violations are nominal. Increased penalties for violations within the Conservation District by the

amendments provide an effective means and enforceable policies to deter unlawful behavior by imposing serious consequences for such violations. The natural resources, habitat, and environment are more effectively protected and preserved by this enforceable policy.

13) HRS §205A-22

Reference: Act 153, SLH 2011

Relating to: Special Management Areas (SMA)

Effective: 07/01/2011

Description of change: HRS §205A-22 was amended by including single-family residences with greater than 7,500 square feet of floor area as “development,” which requires the SMA permit. “Final subdivision approval” was added to the list of excluded “development,” set forth in HRS §205A-22. Further, the cost threshold for the SMA use permit was raised from \$125,000 to \$500,000.

Effect of change: A development whose valuation is not in excess of \$500,000 and has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects, does not require a SMA use permit. Increase in the cost threshold for the SMA use permit reduces the number of SMA use permit applications, and streamlines permit procedures. Single-family residences with greater than 7,500 square feet of floor area require a SMA permit. However, there is no actual effect by adding “Final Subdivision Approval” to the SMA permit exemption list, as the SMA permit is required before a preliminary subdivision approval for the trigger of “development” in infrastructure improvement. The county SMA rules and ordinances need to be amended in accordance with amendments to HRS §205A-22.

14) HAR §§11-54-4(b)(3) and 11-54-8(b)

Relating to: Water Quality Standards

Effective date: 06/15/2009

Description of change: HAR §11-54-4(b)(3) was amended by correcting a typographical error in a chlordane standard. The limit for pollutant chlordane for fish consumption category was corrected from 0.000016 micrograms (ug) per liter (l) to 0.00016 ug/l. HAR §11-54-8(b) was amended by conforming to the federal bacteria indicator organism criteria. As recommended in Environmental Protection Agency (EPA) Federal Guidelines, the state standard for enterococcus in marine recreational waters was revised to a geometric mean of 35 colony forming units (CFU) per 100 milliliters (ml) of water in not less than five samples, and no single sample shall exceed the single sample maximum of 104 CFU/100 ml.

Effect of change: The correction and revisions allow for the application of the state standard in a manner that is consistent with other states and the EPA, until new indicators can be promulgated by EPA.

15) HAR §§13-5-6, 13-5-22, 13-5-24, 13-5-39 and 13-5-41

Relating to: Conservation District
Effective date: December 5, 2011

Description of change: HAR Chapter 13-5 was previously approved by NOAA OCRM on October 17, 1997. New subsections were added to HAR §13-5-6 to clarify that no land uses shall be conducted in the conservation district without first obtaining a permit or authorization from the Department of Land and Natural Resources. Five new identified land uses under the protective subzone were added to HAR §13-5-22. They are: 1) power generation from renewable sources; 2) land and resource management; 3) telecommunications; 4) shoreline erosion control; and 5) beach restoration. “Shoreline Erosion Control” was moved to HAR §13-5-22 from HAR §13-5-23 and modified to include a variety of erosion alternatives including sand placement. HAR §13-5-24 was amended to clarify that the application for such uses as “aquaculture,” “astronomy facilities,” “commercial forestry,” or “mining and extraction” requires a management plan, approved simultaneously with the permit, not a management plan that has already been approved. A subsection was added to HAR §13-5-39 to allow the department or board of land and natural resources to require the preparation of a Comprehensive Management Plan, and clarify that a management plan must be approved simultaneously with the permit, e.g., conservation district use permit. HAR §13-5-41 was amended to prohibit the construction of a single family residence (SFR) in the conservation district where the same lot provides for residential development under a different land use district, and to provide for minor deviations from SFR standards such as maximum square footage and height, but limits the deviation to 15 percent. The amendments in Exhibit 4 “Single Family Residential Standards” added new requirements of shoreline setbacks, taking into account annual coastal erosion rate, based on the defined coastal erosion study.

Effect of change: The amended rules provide enforceable policies to regulate land-use in the conservation district for the purpose of conserving, protecting, and preserving the important natural and cultural resources of the state, and to promote long-term sustainability of these resources, including shoreline erosion control and beach restoration, and the public health, safety, and welfare. These amendments benefit conservation district owners and agencies alike by streamlining administrative permitting for more routine, non-intrusive, and beneficial uses. The amended rules are housekeeping measures and are implemented by the Department of Land and Natural Resources.

16) Revised Ordinance of Honolulu (ROH) 11-28, §§25-1.3 and 25-3.3(e)

Relating to: Special Management Areas (SMA)
Effective date: 10/20/2011

Description of change: In accordance to Act 153, SLH 2011, which amended to HRS Chapter 205A, ROH §25-1.3 was amended to include single-family residences with greater than 7,500 square feet of floor area as “development,” which requires the SMA permit. “Final subdivision approval” was added to the list of excluded “development,” as set forth in HRS §205A-22. Further, §§25-1.3 and 25-3.3(e) were amended to raise the cost threshold for the SMA use permit from \$125,000 to \$500,000.

Effect of change: A development whose valuation is not in excess of \$500,000 and has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects, does not require a SMA use permit. Increasing the cost threshold for the SMA use permit reduces the number of SMA use permit applications, and streamlines permit procedures. Single-family residences with greater than 7,500 square feet of floor area require an SMA permit. However, there is no actual effect by adding “Final Subdivision Approval” to the SMA permit exemption list as the SMA permit is required before a preliminary subdivision approval for the trigger of “development” in infrastructure improvement. The county SMA rules and ordinances need to be amended in accordance with amendments to HRS §205A-22. The City and County of Honolulu administers and enforces the policies of the special management areas.

17) Hawaii County Ordinance 07-56, Hawaii County Code (HCC) §§23-92 and 25-2-71(e), 25-2-72(3)

Relating to: Storm Water Management

Effective date: 04/12/2007

Description of change: This ordinance amends the subdivision control code under HCC §23-92, and the zoning code under HCC §§25-2-71(e) and 25-2-72(3), by requiring that new subdivisions and new buildings which need plan approval, discharge their storm water up to specified limit, into drywells or infiltration basins, or use other methods that will filter out suspended solids from storm water. §25-2-71(e) was amended by adding that plan approval shall be required for major agricultural products processing facility, as determined by the director of the department of public works. These requirements will be enforced at the time of subdivision approval for new subdivisions, and at plan approval for new buildings. Chapter 23, Subdivision Code, County of Hawaii was previously approved as routine program change by NOAA OCRM on July 18, 1990.

Both §§23-92 and 25-2-72(3) have incorporated by reference the storm drainage standards entitled “Department of Public Works, County of Hawaii, Storm Drainage Standards dated October 1970, or any approved revisions, unless those standards specify a greater recurrence interval.” These storm drainage standards have been used for discharge of development generated runoff to reduce potential water pollution, in compliance with “New Development Management Measures” required by section 6217 of the Coastal Zone Act Reauthorization Amendments. NOAA (Coastal Programs Division) and the EPA (Water Division) have recognized that the County of Hawaii, in April 2007, adopted Ordinance 07-56 consistent with Coastal Zone Act Reauthorization Amendments section 6127 for the New Development Management Measure.

Effect of change: The ordinance enforces storm water runoff management and reduces the potential pollution on state waters from storm water runoff by new development. This enforceable policy helps the state to comply with section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

18) Special Management Area Rules and Regulations of the County of Kauai §§1.4(F), (U) and (V)

Relating to: Special Management Areas (SMA)
Effective date: 11/05/2011

Description of change: In accordance to Act 153, SLH 2011, which amended HRS Chapter 205A, the Special Management Area Rules and Regulations of the County of Kauai were amended to include single-family residences with greater than 7,500 square feet of floor area as “development,” which requires the SMA permit. “Final subdivision approval” was added to the list of excluded “development,” set forth in HRS §205A-22. Further, the cost threshold for the SMA use permit was raised from \$125,000 elevated in 1991 to \$500,000.

Effect of change: A development whose valuation is not in excess of \$500,000 and has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects, does not require an SMA use permit. Increase in the cost threshold for the SMA use permit reduces the number of SMA use permit applications, and streamlines permit procedures. Single-family residences with greater than 7,500 square feet of floor area require the SMA permit. However, there is no actual effect by adding “Final Subdivision Approval” to the SMA permit exemption list as the SMA permit is required before a preliminary subdivision approval for the trigger of “development” in infrastructure improvement. The county SMA rules and ordinances need to be amended in accordance with amendments to HRS §205A-22. The County of Kauai administers and enforces the policies of the special management areas.

19) Hawaii List of Federal Assistance Programs Subject to Federal Consistency Review

20.205 Highway Planning and Construction, DOT

Current Hawaii CZM Program listing:

20.205 Highway Planning and Construction, DOT

Activities not subject to federal consistency review by CZM Hawaii:

- Non-construction activities related to highway planning and construction
- Acquisition of real property and rights-of-way
- Feasibility, alternative analysis, technical studies and data collection

Proposed modification:

New material is underscored and deleted material is bracketed with strike through.

20.205 Highway Planning and Construction, [~~DOT~~]

U.S. Department of Transportation, Federal Highway Administration (FHWA)

The following types of activities funded under this program are not subject to federal consistency review:

[~~Activities not subject to federal consistency review by CZM Hawaii:~~]

- Non-construction activities related to highway planning and construction
- Acquisition of real property and rights-of-way

- Feasibility, alternative analysis, technical studies and data collection
- Road maintenance and repairs including removal of existing pavement, resurfacing, pavement preventive maintenance, striping and markings, replacing signage, and repairs to sidewalks and curbs.
- Reconstruction, rehabilitation and widening of roadways within established rights-of-way.
- Installation of sidewalks within established rights-of-way, e.g., Safe Routes to School.
- Installation of ADA curbs and ramps.
- Roadway improvements including installation of lighting, traffic signals, signage, pedestrian signals and crosswalks, and traffic management devices.
- Installation of drainage improvements for existing roadways within established rights-of-way.
- Repairs and improvements to existing bridges, including seismic retrofitting of bridges.
Note: Construction of new bridges and widening of existing bridges requires federal consistency review.

Justification for modification:

1. The Hawaii CZM Program has determined that the excluded activities do not have reasonably foreseeable coastal effects. This determination is based on our experience in reviewing FHWA 20.205 grants. From January 2000 through June 2012, reviews of 103 FHWA 20.205 funded projects were conducted and all of our decisions were either consistency concurrences or that consistency review was not required. Most of these reviews were unnecessary because it was determined that the FHWA funded activities did not have reasonably foreseeable coastal effects.
2. Federal consistency reviews will continue to be required for all non-excluded 20.205 funded activities, which have reasonably foreseeable coastal effects.
3. Federal consistency procedures and requirements will continue to be in effect whenever a listed federal license or permit is required, such as the Department of Army Permit administered by the U.S. Army Corps of Engineers.
4. This routine program change meets the objectives of OCRM Program Approvability Area Number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

20) Submittal of Federal Assistance Applications and Review Time Frame

Procedures for submitting applications for federal assistance by State and local government agencies and the time frame for federal consistency reviews needs to be specified in the Hawaii CZM Program due to the State's discontinuance of participation in the intergovernmental review process established by Presidential Executive Order 12372.

The State of Hawaii does not participate in the intergovernmental review process authorized by Presidential Executive Order 12372. Therefore, applicant agencies shall submit applications for

federal assistance from programs identified on the Hawaii list of federal assistance programs to the Hawaii CZM Program for federal consistency review pursuant to 15 CFR §930.94(b). In addition to the federal assistance application, an evaluation of the relationship of the proposed activity and any reasonably foreseeable coastal effects to the enforceable policies of the Hawaii CZM Program shall be provided pursuant to 15 CFR §930.94(c). The Hawaii CZM Program will issue its concurrence with or objection to the application for federal assistance within 60 days from receipt of the applicant agency's federal assistance application and consistency evaluation; unless an extension period of 15 days or less is added to the review time by notification to the applicant agency. The review time may be extended for longer periods by agreement between the applicant agency and the Hawaii CZM Program.

Justification for modification:

1. The State of Hawaii discontinued participation in the intergovernmental review process, authorized by E.O. 12372, on July 1, 1993 by letter from the Governor to the Director of the Office of Management and Budget, Executive Office of the President. A copy of the letter is attached. In lieu of the intergovernmental review process, applicant agencies currently submit applications for federal assistance directly to the Hawaii CZM Program for federal consistency review. The routine program change establishes this procedure in the Hawaii CZM Program.
2. The proposed time frame is similar to the review period established in 15 CFR Part 930, Subpart C, for federal agency activities.
3. The time frame allows sufficient time to publish public notice and provide an adequate public review and comment period.
4. This routine program change meets the objectives of OCRM Program Approvability Area Number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

21) Discontinuance of Intergovernmental Review Process under Presidential Executive Order 12372

The State of Hawaii discontinued participation in the intergovernmental review process, authorized by Presidential Executive Order 12372 on July 1, 1993 by letter from the Governor to the Director of the Office of Management and Budget, Executive Office of the President. A copy of the letter is attached. This measure is being submitted as a routine program change under OCRM Program Approvability Area Number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

22) Required Necessary Data and Information for Consistency Reviews of Activities Requiring a Federal License or Permit

For consistency reviews of activities requiring a federal license or permit, the Hawaii CZM Program is clarifying that required necessary data and information includes completed State or local government permit applications which are required for the proposed activity, pursuant to 15 CFR §930.58(a)(2).

Necessary data and information includes completed State or local government permit applications which are required for the proposed activity.

Justification for inclusion in management program:

1. According to 15 CFR §930.58(a)(2), state management programs “may describe data and information necessary to assess the consistency of federal license and permit activities.” The subsection further iterates that, “[n]ecessary data and information may include completed State or local government permit applications which are required for the proposed activity.” Completed State and county permit applications that are required for activities requiring a federal license or permit are essential in our evaluation of whether an activity is consistent with Hawaii CZM Program enforceable policies. The applications for required State and county permits provide the necessary information and assurance that there will be compliance with Hawaii CZM Program enforceable policies.
2. This routine program change meets the objectives of OCRM Program Approvability Area Number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

DELETED

23) HAR §§11-55-38, 11-55-04(f) and 11-55-34.08(n)

Relating to: Historical and Burial Sites Review

Effective date: 06/15/2009

Description of change: HAR §11-55-38 for historical and burial sites review was repealed. The requirements of HAR §11-55-38 were repealed regarding the demonstration to the satisfaction of the state department of health that the project, activity or site covered by the application or notice of intent has been or is being reviewed by state historic preservation division of the department of land and natural resources. The revisions to HAR §§11-55-04(f) and 11-55-34.08(n) accordingly conform to the repeal of HAR §11-55-38.

Effect of change: HAR §11-55-38 has led developers to file applications with the state Historic Preservation Division (SHPD) at the Department of Land and Natural Resources (DLNR) as a method of proving to the satisfaction of the Department of Health (DOH) that the developer is in compliance with state law regarding historic preservation. However, state law only requires that DLNR-SHPD be given notice from a permitting agency when the agency has reason to believe that a project “may affect historic property” (HRS §6E-42). Historic property that may be affected is already protected because projects which disturb an acre or more of land already require county grading or grubbing permits. Those permits are subject to DLNR-SHPD review

when required by HRS §6E-42. Accordingly, repeal of HAR §11-55-38 eliminates duplicative regulatory enforcement processes and allows DLNR-SHPD to process more quickly applications from developers that involve substantive issues of historic preservation. This repeal also results in a monetary benefit to developers.

24) HAR Chapter 13-125

Relating to: Rules Regulating Wildlife Sanctuaries

Effective date: 01/22/2010

Description of change: HAR Chapter 13-125, Rules Regulating Wildlife Sanctuaries, was repealed and HAR Chapter 13-126, Rules Regulating Wildlife Sanctuaries, was adopted to conserve and protect indigenous wildlife and their habitats in sanctuaries. HAR Chapter 13-125 was approved by NOAA OCRM on July 18, 1990.

Effect of change: The new HAR Chapter 13-126 provides a higher level of protection for wildlife sanctuaries by imposing stricter regulations addressing entry into and activities within wildlife sanctuaries. The adopted rules provide enforceable policies for conservation, management, and protection of indigenous wildlife and their habitats in sanctuaries.

CONCLUSION

The OCRM's Program Change Guidance of July 1996 states that a substantial change is a high threshold based on a case-by-case determination. Such determination is made by reviewing indicators of substantial change, such as whether new or revised enforceable policies address coastal uses or resources not previously managed, or major changes in the way a state CZM Program manages coastal uses or resources. Pursuant to Coastal Zone Management Act §306(e) and 15 C.F.R. §923.80, the Hawaii CZM Program finds that the statutory and regulatory changes submitted will not substantially change the enforceable authorities of Hawaii CZM Program, uses subject to management under the Hawaii CZM Program, or national interests in the state's coastal zone. The submitted changes increase the ability of the state to manage, preserve, and sustain the coastal resources of the state of Hawaii.

According to the standards set forth by 15 CFR §923.80(d), procedures set forth by 15 C.F.R. §923.84, and the OCRM's Program Change Guidance (July 1996), the Hawaii CZM Program submits these program changes as routine program changes, and requests concurrence from OCRM with this action.

SUMMARY TABLE: CHANGES TO THE HAWAII CZM PROGRAM

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
ADDED:					
1) The amendments to HRS §171-6 by adding 171-6(19) exempt the Division of Boating & Ocean Recreation (DOBOR), Department of Land and Natural Resources, from special management area (SMA) permit requirements.	HRS §171-6(19) (Act 153, SLH 2011)	The board of land and natural resources has the powers and functions granted to the heads of departments and the board of land and natural resources under HRS Chapter 26.	06/23/2011	07/01/2011	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Planning, designing, constructing, operating, and maintaining any lands or facilities under DOBOR’s jurisdiction continue the exemption from SMA permit requirements.
2) The new section was added to HRS Chapter 188, restricts taking limu from the established limu management area and extending one hundred fifty feet seaward in Ewa Beach from the gunnery range to the boat ramp on Muumuu Street, Oahu.	HRS §188-22.8 (Act 293, SLH 2006)	The policies for limu management area are administered and enforced by the Department of Land and Natural Resources (DLNR) through regulated activities and penalties.	07/10/2006	12/31/2006	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Limits the amount, method and time period to take limu. ▪ Protects the limu resources in the established and extended limu management area.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>3) HRS §205A-22(16) was added to exempt the SMA permit requirements for construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens.</p>	<p>HRS §205A-22(16) (Act 76, SLH 2004)</p>	<p>Special management area rules from the County of Hawaii, County of Kauai, County of Maui, and City and County of Honolulu</p>	<p>05/17/2004</p>	<p>05/17/2004</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ This addition to the exemption list speeds up the SMA assessments relating to civil defense sirens. ▪ The county SMA rules and ordinances need to be amended in accordance with amendments to HRS §205A-22(16).
<p>4) The rules of state building code set forth minimum requirements for the construction, alternation, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to buildings or structures. The adopted rules require wind speed-up effects caused by topography to be included in the calculation of wind loads. The rules further provide information for determining the wind directionality factor for Maui County, Hawaii County, and Oahu.</p>	<p>Hawaii Administrative Rules (HAR) Chapter 3-180</p>	<p>The statewide building code is enforced by the state and counties through building permits.</p>	<p>10/13/2009</p>	<p>04/16/2010</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Strengthens the CZM Program objective of reducing the risks to life and property from coastal hazards by providing enforceable policies that will minimize losses from coastal hazards. ▪ The International Codes include performance standards and requirements for construction and construction materials consistent with currently accepted standards of engineering, fire, and life safety. ▪ Meets the goal of adoption of the International Building Code and customized wind speed standards by the state and counties.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>5) This measure added a new fisheries management area (FMA) named the “Kahekili Herbivore Fisheries Management Area, Maui”</p>	<p>HAR Chapter 13-60.7</p>	<p>The policies for Kahekili Herbivore FMA in Maui are administered and enforced by the DLNR through regulated activities & penalties.</p>	<p>04/29/2009</p>	<p>07/25/2009</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Establishes a new FMA to control the overabundance of marine algae on and about coral reefs within this area. ▪ Returns marine ecosystem in the area to a healthy balance by natural controls of marine algae.
<p>6) HAR Chapter 13-126, Rules Regulating Wildlife Sanctuaries, is based substantially upon HAR Chapter 13-125, Rules Regulating Wildlife Sanctuaries. HAR Chapter 13-125 was approved by NOAA OCRM on July 18, 1990. HAR Chapter 13-125 was repealed and HAR Chapter 13-126 was adopted.</p>	<p>HAR Chapter 13-126</p>	<p>The policies are administered and enforced by the DLNR by using permits.</p>	<p>12/11/2009</p>	<p>01/22/2010</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ The new rules provide a much higher level of protection for wildlife sanctuaries by imposing stricter regulation of entry into and activities within wildlife sanctuaries. ▪ Prohibits any person to land upon, enter or attempt to enter, or remain in any wildlife sanctuaries identified in Exhibit 1, “List of CLOSED wildlife sanctuaries”, and in Exhibit 2, “List of RESTRICTED wildlife sanctuaries”, except as authorized by permit. ▪ The adopted rules as enforceable policies have protected indigenous wildlife and their habitats in the established wildlife sanctuaries across the Hawaiian Islands.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
7) The added section of safety cleanliness and use of facilities requires that no person shall throw, place, leave, deposit or abandon, or cause or permit to be thrown, placed, left, deposited or abandoned any litter within a state harbor.	HAR §19-42-126	The policies for prohibition of littering or polluting land areas are administered and enforced by the DLNR by regulating individual activities.	05/20/1982	05/20/1982	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Assures harbors, land areas and shore waters are not littered or polluted by individual persons.
8) The added section of safety cleanliness and use of facilities requires that no person shall place, throw, deposit, or discharge, or cause to be placed, thrown, deposited, or discharged into the waters of any harbor, river or shore waters of the state.	HAR §19-42-127	The policies for prohibition of littering or polluting of water are administered and enforced by the DLNR by regulating individual activities.	05/20/1982	05/20/1982	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Assures harbors, rivers and shore waters are not littered or polluted by individual persons.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>9) Kauai County Code Chapter 8 was amended by adding a new Article 27 Shoreline Setback and Coastal Protection. This new Article sets forth a procedure for establishing building setbacks from the shoreline based on scientifically documented rates of shoreline change and the history of coastal hazards in a specific place.</p>	<p>Kauai County Ordinance 863, Article 27, Chapter 8, Kauai County Code 1987</p>	<p>The policies for shoreline setback and coastal protection are administrated and enforced by the Kauai Planning Commission and Kauai County Planning Department through special management area permit and shoreline setback variances.</p>	<p>01/25/2008</p>	<p>02/25/2008</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Promotes proper sitting of structures and reduced use of the shoreline setback area for structures. ▪ Prohibits the distortion on natural shoreline environment with beach loss and reduced public access by structures such as seawalls and revetments. ▪ Ensures the longevity and integrity of Kauai’s coastal and beach resources.
MODIFIED:					
<p>10) The Article 27, Chapter 8, Kauai County Code, was amended by amending §8-27.1, amending §8-27.3 by adding subsections 8-27.3(f) and 27.3(g), amending § 8-27.7 by adding subsections 8-27.7(a)(10), (11) and (12), and 8-27.7 (b)(4) and (5), amending 8-27.8 through subsections 27.8(c)(2), (3) and (4) and (d), and amending 8-27.10.</p>	<p>Kauai County Ordinance 887, §§8-27.1, 8-27.3, 8-27.7, 8-27.8 and 8-27.10</p>	<p>The policies for shoreline setback and coastal protection are administrated and enforced by the Kauai Planning Commission and Kauai County Planning Department through special management area permit and shoreline setback variances.</p>	<p>12/02/2009</p>	<p>01/01/2010</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Clarify the requirements of shoreline setback determination, and criteria and timeline of the determination. ▪ Streamline the shoreline setback procedures. ▪ Ensures the compliance with the coastal zone management objectives and policies set forth in HRS Chapter 205A.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>11) The amendments to HRS §171-6 by amending 171-6(12) and 171-6(15) increased penalty fine amounts for civil violations on public lands and clarified penalties for encroachment on public lands.</p>	<p>HRS §171-6(12) & 171-6(15) (Act 215, SLH 2008)</p>	<p>The board of land and natural resources has the powers and functions granted to the heads of departments and the board of land and natural resources under HRS Chapter 26.</p>	<p>07/07/2008</p>	<p>07/07/2008</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Provides an effective means and enforceable policies to deter unlawful behavior by increasing penalties for civil violations of the state’s natural resources laws.
<p>12) The amendments to HRS §183C-7 by amending 183C-7(b) increased the penalty fine amounts for violations within the Conservation District.</p>	<p>HRS §183C-7(b) (Act 217, SLH 2008)</p>	<p>The board of land and natural resources may charge the fine based on the value of the natural resource that is damaged, the market value of the natural resource damaged, and any other factor it deems appropriate.</p>	<p>07/07/2008</p>	<p>07/07/2008</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Provides an effective means and enforceable policies to deter unlawful behavior by increasing penalties for violations within the Conservation District.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>13) HRS §205A-22 was amended by including single-family residences with greater than 7,500 square feet of floor area as “development”. Final subdivision approval was added to the list of excluded “development”. The cost threshold for the SMA major permit was raised from \$125,000 to \$500,000.</p>	<p>HRS §205A-22 (Act 153, SLH 2011)</p>	<p>Special management area rules from the County of Hawaii, County of Kauai, County of Maui, and City and County of Honolulu</p>	<p>06/23/2011</p>	<p>07/01/2011</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ The increase in the cost threshold in the SMA permit reduces the number of SMA major permit applications, and streamlines the permit procedures. ▪ Single-family residences with greater than 7,500 square feet of floor area need the SMA permit. ▪ Final subdivision approval does not require the SMA permit since the tentative or primary subdivision of land must meet the requirements of the SMA permit.
<p>14) HAR §11-54-4(b)(3) was amended by correcting a typographical error in a chlordane standard, and HAR §11-54-8(b) was amended by conforming to the federal bacteria indicator organism criteria.</p>	<p>HAR §§11-54-4(b)(3) and 11-54-8(b)</p>	<p>The policies are enforced by the department of health via the coastal water monitoring program.</p>	<p>05/27/2009</p>	<p>06/15/2009</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Allows for the application of the state standard in a manner that is consistent with standards of other states and the EPA.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>15) §13-5-6 was amended by adding new subsections to clarify that no land uses shall be conducted in the conservation district without first obtaining a permit or authorization from the department of land and natural resources. §13-5-22 was amended by adding five new identified land uses under the protective subzones. §13-5-24 was amended to clarify that the application requires a management plan, approved simultaneously with the permit. A subsection was added to §13-5-39 to allow the department or board of land and natural resources to require the preparation of a comprehensive management plan. §13-5-41 was amended to prohibit the construction of a single family residence in the conservation district where the same lot provides for residential development under a different land use district.</p>	<p>HAR §§13-5-6, 13-5-22, 13-5-24, 13-5-39, and 13-5-41</p>	<p>The policies are administrated and enforced by the DLNR by permits, and by penalty fines for violations.</p>	<p>8/12/2011</p>	<p>12/5/2011</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Provides enforceable policies to regulate land-use in the conservation district for the conservation, protection, and preservation of important natural and cultural resources, including shoreline erosion control and beach restoration. ▪ Benefits conservation district owners and agencies alike by streamlining administrative permitting for more routine, non-intrusive, and beneficial uses. ▪ Promotes long-term sustainability and protects public health, safety and welfare.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>16) Revised Ordinances of Honolulu (ROH) §25-1.3 was amended by including single-family residences with greater than 7,500 square feet of floor area as “development”, which requires the SMA permit. The cost threshold for the SMA major permit was raised from \$125,000 to \$500,000 by amending §§25-1.3 and 25-3.3(e).</p>	<p>Revised Ordinance of Honolulu 11-28, §§25-1.3, 25-3.3(e)</p>	<p>The policies are administrated and enforced by the City and County of Honolulu through special management permits.</p>	<p>10/20/2011</p>	<p>10/20/2011</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ The increase in the cost threshold in the SMA permit reduces the number of SMA use permit applications, and streamlines the permit procedures. ▪ Single-family residences with greater than 7,500 square feet of floor area need the SMA permit.
<p>17) The amendments to Hawaii County Code §§23-92 and 25-2-72(3) require that new subdivisions, and new buildings which need plan approval, discharge their storm water, up to specified limit, into drywells or infiltration basins, or use other methods that will filter out suspended solids from storm water. §25-2-71(e) was amended by adding that plan approval shall be required for major agricultural products processing facility, which shall be determined by the director of the department of public works.</p>	<p>Hawaii County Ordinance 07-56, Hawaii County Code §§23-92 and 25-2-71(e), 25-2-72(3)</p>	<p>The requirements of amended rules will be enforced at the time of subdivision approval for new subdivisions, and at plan approval for new buildings.</p>	<p>04/12/2007</p>	<p>04/12/2009</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Enforces storm water runoff management and reduces the potential pollution on state waters from storm water runoff by new development. ▪ Complies with section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990. section 6217 requires the states and territories with approved CZM Programs to develop Coastal Nonpoint Pollution Control Programs.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>18) Special management area rules and regulations were amended by including single-family residences with greater than 7,500 square feet of floor area as “development”, which requires the SMA permit. The cost threshold for the SMA major permit was raised from \$125,000 to \$500,000.</p>	<p>Special Management Area Rules and Regulations of the County of Kauai §§1.4(F), (U) and (V)</p>	<p>The policies are administrated and enforced by the County of Kauai through special management permits.</p>	<p>11/05/2011</p>	<p>11/05/2011</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ The increase in the cost threshold in the SMA permit reduces the number of SMA use permit applications, and streamlines the permit procedures. ▪ Single-family residences with greater than 7,500 square feet of floor area need the SMA permit.
<p>19) Hawaii List of Federal Assistance Programs Subject to Federal Consistency Review, 20.205 Highway Planning and Construction, DOT Activities not subject to federal consistency review by CZM Hawaii were modified.</p>	<p>Hawaii List of Federal Assistance Programs Subject to Federal Consistency Review, 20.205 Highway Planning and Construction, U.S. Department of Transportation, Federal Highway Administration, Types of activities under this program not subject to federal consistency review</p>	<p>The federal consistency review is performed by the Office of Planning, State of Hawaii</p>	<p>Upon OCRM approval</p>	<p>Upon OCRM approval</p>	<ul style="list-style-type: none"> ▪ The excluded activities do not have reasonably foreseeable coastal effects. ▪ Federal consistency reviews will continue to be required for all non-excluded 20.205 funded activities because they have reasonably foreseeable coastal effects. ▪ Federal consistency procedures and requirements will continue to be in effect whenever a listed federal license or permit is required. ▪ This routine program change meets the objectives of OCRM program approvability area number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>20) Procedures for submitting applications for federal assistance by State and local government agencies and the time frame for federal consistency reviews needs to be specified in the Hawaii CZM Program due to the State's discontinuance of participation in the intergovernmental review process established by Presidential Executive Order 12372.</p>	<p>Submittal of Federal Assistance Applications and Review Time Frame</p>	<p>The federal consistency review is performed by the Office of Planning, State of Hawaii</p>	<p>Upon OCRM approval</p>	<p>Upon OCRM approval</p>	<ul style="list-style-type: none"> ▪ Applicant agencies need to submit applications for federal assistance from programs identified on the Hawaii list of federal assistance programs to the Hawaii CZM Program for federal consistency review pursuant to 15 CFR §930.94(b). ▪ The proposed time frame similar to the review period established in 15 CFR Part 930, Subpart C, allows sufficient time to publish public notice and provide an adequate public review and comment period. ▪ This routine program change meets the objectives of OCRM Program Approvability Area Number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>21) The State of Hawaii discontinued participation in the intergovernmental review process, authorized by Presidential Executive Order 12372 on July 1, 1993 by letter from the Governor to the Director of the Office of Management and Budget, Executive Office of the President.</p>	<p>Discontinuance of Intergovernmental Review Process under Presidential Executive Order 12372</p>	<p>The federal consistency review is performed by the Office of Planning, State of Hawaii</p>	<p>July 1, 1993</p>	<p>July 1, 1993</p>	<ul style="list-style-type: none"> ▪ Since July 1, 1993, the use of Single Point of Contact and the Presidential Executive Order 12372 for the State of Hawaii has been discontinued. ▪ When the proposal or direct development project falls within a local government's jurisdiction, funding agency direct applicant or federal agency to directly inform the local government planning agencies of these proposals and projects. ▪ These new procedures do not modify the need to comply with the requirements of 15 CFR Part 930, Coastal Zone Management Federal Consistency Regulations.
<p>22) For consistency reviews of activities requiring a federal license or permit, the Hawaii CZM Program is clarifying that required necessary data and information includes completed State or local government permit applications which are required for the proposed activity, pursuant to 15 CFR §930.58(a)(2).</p>	<p>Required Necessary Data and Information for Consistency Reviews of Activities Requiring a Federal License or Permit</p>	<p>The federal consistency review is performed by the Office of Planning, State of Hawaii</p>	<p>Upon OCRM approval</p>	<p>Upon OCRM approval</p>	<ul style="list-style-type: none"> ▪ The applications for required State and county permits provide the necessary information and assurance that there will be compliance with Hawaii CZM Program enforceable policies. ▪ This routine program change meets the objectives of OCRM Program Approvability Area Number 5 - Coordination, Public Involvement and National Interest (15 CFR Part 923, Subpart F) for federal consistency procedures.

DELETED:

Summary of Changes	Legal Citation (reference)	Enforcement Mechanism(s)	Date Adopted by State	Date Effective by State	Significance of Changes
<p>23) HAR §11-55-38 was repealed for historical and burial sites review. HAR §§11-55-04(f) and 11-55-34.08(n) were deleted accordingly to conform to the repeal of HAR §11-55-38.</p>	<p>HAR §11-55-38, and 11-55-04(f), 11-55-34.08(n)</p>	<p>The policies are enforced by the Department of Health through National Pollutant Discharge Elimination (NPDES) permit or Notice of Intent (NOI).</p>	<p>05/27/2009</p>	<p>06/15/2009</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ Eliminates duplicative regulatory enforcement processes. ▪ Allows the state Historic Preservation Division to process more quickly applications from developers that involve substantive issues of historic preservation.
<p>24) HAR Chapter 13-125 was approved by NOAA OCRM on July 18, 1990. HAR Chapter 13-125 was repealed and HAR Chapter 13-126 was adopted to conserve and protect indigenous wildlife and their habitats in sanctuaries.</p>	<p>HAR Chapter 13-125</p>	<p>The policies are administered and enforced by the DLNR.</p>	<p>12/11/2009</p>	<p>01/22/2010</p>	<ul style="list-style-type: none"> ▪ Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. ▪ The new rules HAR 13-126 replace HAR Chapter 13-125 and provide a much higher level of protection for wildlife sanctuaries by imposing stricter regulation of entry into and activities within wildlife sanctuaries. ▪ The adopted rules HAR Chapter 13-126 as enforceable policies have protected indigenous wildlife and their habitats in the established wildlife sanctuaries across the Hawaiian Islands.

LIST OF INCORPORATION OF CHANGES

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
ADDED:			
1 Act 153, SLH 2011, relating to Special Management Area	HRS §171-6(19)	06/23/2011	07/01/2011
2 Act 293, SLH 2006, Limu Management Area	HRS §188-22.8	07/10/2006	12/31/2006
3 Act 76, SLH 2004, relating to Civil Defense Sirens	HRS §205A-2(16)	05/17/2004	05/17/2004
4 Rules Regulating state Building Code	HAR Chapter 3-180	10/13/2009	04/16/2010
5 Rules Regulating Kahekili Herbivore Fisheries Management Area, Maui	HAR Chapter 13-60.7	04/29/2009	07/25/2009
6 Rules Regulating Wildlife Sanctuaries	HAR Chapter 13-126	12/11/2009	01/22/2010
7 Rules Relating to Littering or Polluting Land Areas Prohibited	HAR §19-42-126	05/20/1982	05/20/1982
8 Rules Relating to Littering or Polluting of Water Prohibited	HAR §19-42-127	05/20/1982	05/20/1982
9 Ordinance Relating to Shoreline Setback Shoreline Setback and Coastal Protection	Kauai County Ordinance 863, Article 27, Chapter 8, Kauai County Code 1987	01/25/2008	02/25/2008
MODIFIED:			
10 Ordinance Relating to Shoreline Setback Shoreline Setback and Coastal Protection	Kauai County Ordinance 887, §§8-27.1, 8-27.3, 8-27.7, 8-27.8 and 8-27.10, Chapter 8, Kauai County Code 1987	12/02/2009	01/01/2010
11 Act 215, SLH 2008, Civil Penalties for Violations on Public Lands	HRS §§171-6(12) and 171-6(15)	07/07/2008	07/07/2008
12 Act 217, SLH 2008, Penalties for Violations Within the Conservation District	HRS §183C-7(b)	07/07/2008	07/07/2008
13 Act 153, SLH 2011, relating to Special Management Area	HRS §205A-22	06/23/2011	7/01/2011
14 Rules regarding Water Quality Standards	HAR §§11-54-4(b)(3) and 11-54-8(b)	05/27/2009	06/15/2009
15 Rules Regulating Conservation District	HAR §§13-5-6, 13-5-22, 13-5-24, 13-5-39, and 13-5-41	8/12/2011	12/5/2011
16 Ordinance Relating to the Special Management Area	Revised Ordinance of Honolulu 11-28, §§25-1.3 and 25-3.3(e)	10/20/2011	10/20/2011

Name/Description of State or Local Law/Regulation/Policy/Program Authority		State/Local Legal Citation	Date Adopted by State	Date Effective in State
17	Subdivision Code and Zoning Code regarding Storm Water Management	Hawaii County Ordinance 07-56, Hawaii County Code §§23-92 and 25-2-71(e), 25-2-72(3)	04/12/2007	04/12/2007
18	Rules Regulating Special Management Areas for the County of Kauai	Special Management Area Rules and Regulations of the County of Kauai §§1.4(F), (U) and (V)	11/05/2011	11/05/2011
19	Hawaii List of Federal Assistance Programs Subject to Federal Consistency Review	Hawaii List of Federal Assistance Programs Subject to Federal Consistency Review, 20.205 Highway Planning and Construction, U.S. Department of Transportation, Federal Highway Administration, Types of activities not subject to federal consistency review	Upon OCRM approval	Upon OCRM approval
20	The State of Hawaii does not participate in the intergovernmental review process authorized by Presidential Executive Order 12372.	Submittal of Federal Assistance Applications and Review Time Frame	Upon OCRM approval	Upon OCRM approval
21	The State of Hawaii discontinued participation in the intergovernmental review process, authorized by E.O. 12372, on July 1, 1993 by letter from the Governor to the Director of the Office of Management and Budget, Executive Office of the President.	Discontinuance of Intergovernmental Review Process under Presidential Executive Order 12372	July 1, 1993	July 1, 1993
22	Completed State and county permit applications for activities requiring a federal license or permit are essential in evaluation of whether an activity is consistent with Hawaii CZM Program enforceable policies.	Required Necessary Data and Information for Consistency Reviews of Activities Requiring a Federal License or Permit	Upon OCRM approval	Upon OCRM approval
DELETED:				
23	Department of Health amends the rules regarding Water Pollution Control	HAR §§11-55-38, and 11-55-04(f), 11-55-34.08(n)	05/27/2009	06/15/2009
24	Rules Regulating Wildlife Sanctuaries	HAR Chapter 13-125	12/11/2009	01/22/2010