

NOTICE OF APPROVAL
CHANGES TO THE HAWAII COASTAL ZONE MANAGEMENT PROGRAM

February 1, 2023

Pursuant to 15 CFR Part 923, the Hawaii Coastal Zone Management (CZM) Program hereby gives notice that the National Oceanic and Atmospheric Administration's Office for Coastal Management (OCM) has issued its approval, dated January 31, 2023, on the request, which is subject to the qualifications, clarifications and exceptions, for the following changes to the Hawaii CZM Program.

As of **January 31, 2023**, the enforceable policies identified in the **Table of Approved Changes** below shall be applicable in reviewing federal actions pursuant to the federal consistency requirements of the CZMA and its implementing regulations found at 15 CFR Part 930.

The NOAA OCM's concurrence and the notice of approval are available at the NOAA Program Change Website at <https://coast.noaa.gov/czmprogramchange/#/public/home>, and the Hawaii CZM Program Website at <https://planning.hawaii.gov/czm/federal-consistency/>

For further information, please contact the Hawaii CZM Program at (808) 587-2846.

Attachment: Table of Approved Changes HI-2022-1

Table of Approved Changes to the Hawai'i Coastal Management Program (HI-2022-1)

See the January 31, 2023 decision letter from the NOAA Office for Coastal Management for clarifications, qualifications and exceptions to these approved changes.

| Legal citation | Title of policy, section, or other descriptor | Is the change new, revised, or deleted | Date effective in state | Enforceable policy <i>Yes or No</i> | Enforceable mechanism citation |
|--|--|---|--------------------------------|---|---|
| Act 43, SLH 2021, Relating to the Taking of Marine Life | | | | | |
| HRS § 189-2 | Requirement for commercial marine and commercial marine vessel license | Revised | 6/8/2021 | Yes | § 189-4 Penalties |
| Act 162, SLH 2021, Relating to Water Quality | | | | | |
| HRS § 342D-6 | Waiver of CWA 401 certification for small beach restoration projects | Revised | 07/01/2022 | Yes | § 342D-9 Enforcement § 342D-30 Civil penalties |
| Act 209, SLH 2022, Relating to Permits | | | | | |
| HRS § 171-55 | Permit condition for identifying information on sandbags | Revised | 07/01/2022 | Yes | § 171-6.4 General administrative penalties § 171-31.6 Criminal penalties |
| Act 223, Session Laws of Hawaii (SLH) 2022 Relating to Development Rights | | | | | |
| Hawaii Revised Statutes (HRS) § 46- 161 | Findings and purpose | Revised | 06/27/2022 | No | NA |

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| HRS § 46-163 | Conditions for the transfer of development rights | Revised | 06/27/2022 | No | NA |
| Nonpoint Source Pollution Control | | | | | |
| HAR Chapter 11-56 | Nonpoint Source Pollution Control | New | 6/25/2021 | Yes (only as to the substantive standards within Ch. 11-56; the procedural requirements of Ch. 11-56 may not be applied for CZMA review purposes) | HAR § 11-56-12 Enforcement and penalties HAR § 11-56-16 Field citations; noncompliance with nonpoint source pollution control requirements |
| Underground Storage Tanks (UST) | | | | | |
| HAR 11-280.1 | § 11-280.1-10 Applicability; § 11-280.1-21 Upgrading of UST systems; § 11-280.1-25 Under-dispenser containment; § 11-280.1-34 Notification, reporting and recordkeeping; § 11-280.1-37 Periodic inspection and maintenance of under-dispenser | Revised | 07/08/2021 | Yes | § 11-280.1-323 Permit required § 11-280.1-330 Revocation or suspension of permit |

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| | <p>containment; § 11-280.1-41 Requirements for petroleum UST systems; § 11-280.1-52 Release investigation and confirmation steps; § 11-280.1-53 Reporting and cleanup of spills and overfills; § 11-280.1-61 Immediate response actions; § 11-280.1-71 Permanent closure and changes-in- service; § 11-280.1-110 Reporting by owner or operator; § 11-280.1-244 Retraining § 11-280.1-324 Application for a permit; § 11-280.1-331 Change in owner or operator for a</p> | | | | |
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| | permit | | | | |
| Pupukea Marine Life Conservation District, Oahu | | | | | |
| HAR § 13-34 | Boundaries, Prohibited activities, Penalty, Asset forfeiture | Revised | 08/27/2021 | Yes | § 13-34-4 Exceptions; permits § 13-34-5 Penalty |
| Marine Fisheries Management Areas, Kiholo Bay, Hawaii | | | | | |
| HAR Chapter 13-60.10 | Miloli'i Community-Based Subsistence Fishing Area, Hawai'i | New | 08/13/2022 | Yes | HAR § 13-60.10-4 Permitted and prohibited activities HAR § 13-60.10-7 Penalty |
| Rules Regulating Activities within Forest Reserves | | | | | |
| HAR Chapter 13-104, Subchapter 1, General Provisions | | | | | |
| § 13-104-2 | Definitions | Revised | 01/16/2021 | Yes | § 13-104-3 Penalty |
| § 13-104-3 | Penalty | Revised | 01/16/2021 | No (enforceable mechanism) | NA |
| HAR Chapter 13-104, Subchapter 2, Public Use | | | | | |
| § 13-104-5.5 | Abandoned and unattended property | New | 01/16/2021 | Yes | § 13-104-3 Penalty § 13-104-17 Compliance with laws § 13-104-18 General provisions for permits |
| § 13-104-7.5 | Closing of areas | New | 01/16/2021 | No | NA |
| § 13-104-11 | Vehicles and transportation | Revised | 01/16/2021 | Yes | § 13-104-3 Penalty § 13-104-17 Compliance with laws § 13-104-18 General provisions for permits |

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| § 13-104-16 | Camping | Revised | 01/16/2021 | Yes | § 13-104-3 Penalty § 13-104-17 Compliance with laws § 13-104-18 General provisions for permits |
| HAR Chapter 13-104, Subchapter 3, Permits | | | | | |
| § 13-104-18 | General provisions for permits | Revised | 01/16/2021 | No | NA |
| § 13-104-19 | Camping permits | Revised | 01/16/2021 | No | NA |
| § 13-104-20 | Special use permits | Revised | 01/16/2021 | No | NA |
| § 13-104-21 | Collecting permits | Revised | 01/16/2021 | Yes | |
| § 13-104-22 | Commercial permits | Revised | 01/16/2021 | Yes | |
| § 13-104-23 | Access permits | Revised | 01/16/2021 | Yes | |
| HAR Chapter 13-104, Subchapter 4, Fees and Charges | | | | | |
| § 13-104-25 | General statement | New | 01/16/2021 | No | NA |
| § 13-104-26 | Payment | New | 01/16/2021 | No | NA |
| § 13-104-27 | Camping and cabin rental fees | New | 01/16/2021 | No | NA |
| § 13-104-28 | Commercial use permit fees | New | 01/16/2021 | No | NA |
| § 13-104-29 | Kiln fees | New | 01/16/2021 | No | NA |
| § 13-104-30 | Permit processing fees | New | 01/16/2021 | No | NA |
| § 13-104-31 | Parking and entrance fees | New | 01/16/2021 | No | NA |
| Marine Fisheries Management Areas, Kahului Harbor, Maui | | | | | |
| HAR Chapter 13- | Definitions | Revised | 11/27/2021 | Yes | § 13-51-4 Penalty HRS § 187A-12.5 |

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| 51-1 | | | | | General administrative penalties HRS § 188-70 Penalties HRS § Chapter 199D Civil Natural Resource Violations Act |
| HAR § 13-51-1 | Definitions | Revised | 11/27/2021 | Yes | § 13-51-4 Penalty HRS § 187A-12.5 General administrative penalties HRS § 188-70 Penalties HRS § Chapter 199D Civil Natural Resource Violations Act |
| HAR § 13-51-2 | Regulated activities | Revised | 11/27/2021 | Yes | § 13-51-4 Penalty HRS § 187A-12.5 General administrative penalties HRS § 188-70 Penalties HRS § Chapter 199D Civil Natural Resource Violations Act |
| HAR § 13-51-3 Repealed. | Fisher check station requirements | Deleted | 11/27/2021 | No | Not Applicable (NA) |
| Marine Fisheries Management Areas, Kiholo Bay, Hawaii | | | | | |
| HAR Chapter 13-60.10 | Miloli'i Community- | New | 08/13/2022 | Yes | HAR § 13-60.10-4 Permitted and |

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| | Based Subsistence Fishing Area, Hawai'i | | | | prohibited activities HAR § 13-60.10-7 Penalty |
| Island-Based Fisheries | | | | | |
| HAR § 13-95.1 | Definitions, Scope, Exceptions | Revised | 11/27/2021 | Yes | § 13-95.1-2 Penalty |
| Ocean Recreation Management Rules and Areas, Kaneohe Bay Ocean Waters | | | | | |
| HAR Chapter 13- 256-73 | Kaneohe Bay Ocean Waters | Revised | 07/08/2021 | Yes | § 13-256-73.1, Kaneohe Bay ocean waters commercial use permits § 13-256-73.2, Large full service permit restrictions § 13-256-73.3, Small full service permit restrictions § 13-256-73.4, Small full service permit restrictions without thrill craft, water sledding, and high speed towing activities § 13-256-73.12, Kaneohe Bay ocean waters commercial use permit revocation |
| Ordinance No. 1085, An Ordinance to amend Chapter 8, Kauai County Code 1987, Article 11 Special Treatment Districts | | | | | |
| Ch. § 8-11 | Special Treatment | Revised | 01/04/1988; | Yes | § 8-11.3 General |

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| | Districts | | Amended 12/03/2020 | | permitted uses, structures and development § 8-11.4 Uses, structures and development requiring a Use Permit § 8-11.5 Applications for use permits |
| Ordinance No. 1088, An Ordinance to Amend Chapter 8, Kauai County Code 1987, Article 27 Shoreline Setback and Coastal Protection | | | | | |
| Ch. § 8-27 | Shoreline Setback and Coastal Protection | Revised | 02/04/2021 | Yes | § 8-27.11 Enforcement § 8-27.12 Civil fines |
| Ordinance No. 21-27 Relating to Special Management Area Use Permits | | | | | |
| Revised Ordinances of Honolulu (ROH) § 25-5.1 | Notice to adjoining owners | Revised | 08/25/2021 | No | § 25-8.1 Civil fine § 25-9.4 Judicial enforcement of chapter |