



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**Office for Coastal Management**  
Silver Spring Metro Center, Building 4  
1305 East-West Highway  
Silver Spring, Maryland 20910

September 26, 2025

Mr. Christopher Liu  
Hawaii Coastal Zone Management Program  
Office of Planning and Sustainable Development  
P.O. Box 2359  
Honolulu, HI 96804

Dear Mr. Liu,

Thank you for the January 14, 2025, request for approval of changes to the Hawaii Coastal Management Program. NOAA's Office for Coastal Management approves the request subject to the qualification below.

NOAA's regulations require that the state post this decision by the Office for Coastal Management for public notice.<sup>1</sup> The public notice should state that as of the date of this decision letter the enforceable policies identified in the attached Table of Approved Changes 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.<sup>2</sup> Please send a copy of the public notice to the Office for Coastal Management for our records to close out this file.

#### **PUBLIC AND FEDERAL AGENCY COMMENTS**

The Office for Coastal Management received two (2) comments on this program change submission. No comments in opposition were received.

#### **CHANGES APPROVED**

See the attached Table of Approved Changes to the Hawaii Coastal Management Program.

The NOAA Office for Coastal Management is not approving HRS §266-31 for inclusion within the Hawaii Coastal Management program. That section states:

§266-31 Restriction of use of facilities. The department of transportation may delay or deny approval for port entry or departure for any vessel for which the department has received notice from a federal agency or other agency that the vessel or its crew has engaged in activity that has violated any federal, state, or county law or rule pertaining to environmental protection, maritime transportation, trafficking of illegal contraband, or the collection or extraction of undersea minerals unlicensed or unpermitted by the State;

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<sup>1</sup> 15 CFR § 923.81(e)(5).

<sup>2</sup> 15 CFR § 923.81(f).

provided that the department may grant approvals for use of any commercial harbor facility by that vessel in coordination with the federal agency or other agency. [L 2023, c 59, §2]

This section has been designated by the state as an enforceable policy to be used in the review of federal actions for consistency as provided in Section 307 of the CZMA. The section is not approved as an enforceable policy, or for incorporation into the Hawaii Coastal Management Program for the following reasons.

First, the section incorporates by reference “any federal, state, or county law or rule pertaining environmental protection, maritime transportation, trafficking of illegal contraband, or the collection or extraction of undersea minerals” without specifying the applicable laws or rules. As noted in the standard qualification below, laws and rules that are incorporated by reference cannot be used for CZMA review purposes unless those laws or rules have been previously approved as enforceable policies of the program.

Second, the specific restriction on the use of ports by vessels found to be engaged in prohibited activities pertaining seabed mineral extraction unlicensed or unpermitted by the state discriminates against a particular activity that is critical to the economic and national security of the United States<sup>3</sup>.

And finally, this section raises substantial federal law preemption concerns regarding the supremacy of the federal government in regards to regulation of interstate commerce.

### **QUALIFICATION**

As a standard qualification applying to all program changes, states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document, the referenced policy must be submitted to and approved by the Office for Coastal Management as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. No referenced policy may be applied for CZMA federal consistency review purposes unless that policy has been separately reviewed and approved as an enforceable policy by the Office for Coastal Management.

Thank you for your cooperation in this review. Please contact Justine Nihipali at 808-470-3297, if you have any questions. For future correspondence regarding these program changes, please refer to the file number assigned to this action, HI-2025-1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joelle', with a stylized flourish at the end.

Joelle Gore, Chief  
Stewardship Division

Attachment: Table of Approved Changes HI-2025-1

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<sup>3</sup> 15 CFR 923.84(b)(7).

## TABLE OF APPROVED CHANGES TO THE HAWAII COASTAL ZONE MANAGEMENT PROGRAM (HI-2025-1)

Please reference the Office of Coastal Management September 26, 2025 decision letter for clarifications, exceptions and qualifications pertaining to this approval.

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
<b>Act 35, Session Laws of Hawai'i (SLH) 2022, Relating to Aquatic Resources</b>					
Hawai'i Revised Statutes (HRS) § 187A-12.5	General administrative penalties for violations of aquatic resources	Revised	7/1/2022	No	Not Applicable (NA)
HRS § 187A-13	General penalty; community service for violations of aquatic resources	Revised	7/1/2022	No	NA
HRS § 188-70	Penalties for violations of fishing rights and regulations	Revised	7/1/2022	No	NA
HRS § 189-4	Penalties for violations of commercial fishing	Revised	7/1/2022	No	NA
HRS § 190-5	Penalty for violations of marine life conservation program	Revised	7/1/2022	No	NA
<b>Act 59, SLH 2023, Relating to Transportation</b>					
HRS § 266-31	Restriction of use of facilities	New	6/5/2023	No	HRS § 266-30 General administrative penalties
<b>Act 73, SLH 2020, Relating to Waste Management</b>					
HRS § 183C-4	Zoning; amendments	Revised	9/15/2020	Yes	§ 183C-7 Penalty for violation
HRS § 342H-52	Prohibitions; buffer zones	Revised	9/15/2020	Yes	§ 342H-9 Penalties
<b>Act 112, SLH 2008, Relating to Federal Fisheries Regulations</b>					
HRS § 187A-5.5	Consistency of state and federal fisheries regulations	New	5/27/2008	No	NA

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<b>Act 157, SLH 2022, Relating to Underground Storage Tanks</b>					
HRS § 342L-4.2	Large capacity underground tank systems; prohibited	New	6/27/2022	Yes	HRS § 342L-8 Enforcement HRS § 342L-10 Penalties
<b>Act 179, SLH 2016, Relating to Underground Storage Tanks</b>					
HRS § 342L-4.5	Permits near shoreline prohibited; exception	New	7/1/2016	Yes	HRS § 342L-8 Enforcement HRS § 342L-10 Penalties
<b>Act 212, SLH 2022, Relating to Historic Preservation</b>					
HRS § 6E-11	Civil and administrative violations	Revised	6/27/2022	No	NA
HRS § 6E-11.5	Civil penalties	Revised	6/27/2022	No	NA
HRS § 6E-12	Reproductions, forgeries, and illegal sales	Revised	6/27/2022	Yes	HRS § 6E-11.5 Civil penalties
<b>Act 213, SLH 2022, Relating to Abandoned Wells</b>					
HRS § 174C-81	Definition of “Abandoned wells”	Revised	6/27/2022	Yes	§ 174C-15 Penalties and common law remedies HRS § 174C-87 Sealing of abandoned wells
HRS § 174C-87	Sealing of abandoned wells	Revised	6/27/2022	Yes	§ 174C-15 Penalties and common law remedies

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<b>Marine Fisheries Management Areas, Kīpahulu, Maui</b>					
Hawai'i Administrative Rules (HAR) Chapter 13-60.11	Kīpahulu Community-Based Subsistence Fishing Area, Maui	New	03/25/2024	Yes	HAR § 13-60.11-4 Permitted and prohibited activities HAR § 13-60.11-6 Penalty
<b>HAR Chapter 13-74 License and Permit Provisions and Fees for Fishing, Fish, and Fish Products</b>					
HAR Chapter 13-74, Subchapter 1, General Provisions					
§ 13-74-1	Definitions	Revised	05/02/2024	Yes	§ 13-74-4 Penalties, generally
§ 13-74-4	Penalties, generally	Revised	05/02/2024	Yes	§ 13-74-4 Penalties, generally
HAR Chapter 13-74, Subchapter 3, Commercial Fishing					
§ 13-74-20	Commercial marine license	Revised	05/02/2024	Yes	§ 13-74-3 Suspension, revocation, and non-issuance of licenses and permits § 13-74-4 Penalties, generally
§ 13-74-22	Bait license	Revised	05/02/2024	Yes	§ 13-74-3 Suspension, revocation, and non-issuance of licenses and permits § 13-74-4 Penalties, generally

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§ 13-74-23	Commercial marine vessel license	New	05/02/2024	Yes	§ 13-74-3 Suspension, revocation, and non-issuance of licenses and permits § 13-74-4 Penalties, generally
HAR Chapter 13-74, Subchapter 4, Other Licenses and Permits					
§ 13-74-43	Aquaculture license	Revised	05/02/2024	Yes	§ 13-74-3 Suspension, revocation, and non-issuance of licenses and permits § 13-74-4 Penalties, generally
§ 13-74-45	Commercial marine dealer license	New	05/02/2024	Yes	§ 13-74-3 Suspension, revocation, and non-issuance of licenses and permits § 13-74-4 Penalties, generally
<b>Ordinance No. 1134 (2022), An Ordinance to Amend Chapter 8, Article 12, Kauai County Code 1987, Relating to Constraint Districts</b>					
Sec. 8-12.5	Sea Level Rise District (S-SLR)	Revised	10/14/2022	Yes	§ 8-12.5(b) General Provisions § 8-12.5(d) Design Standards
<b>City and County of Honolulu, Ordinance No. 23-3 Relating to Shoreline Setbacks</b>					
Revised Ordinances of Honolulu (ROH) Chapter 26	Shoreline Setbacks	Revised	07/01/2024	Yes	§ 26-1.13 Civil fines § 26-1.14 Enforcement
<b>City and County of Honolulu, Ordinance No. 23-4 Relating to Special Management Area</b>					

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ROH Chapter 25	Special Management Areas	Revised	03/09/2023	Yes	§ 25-2.3 Permits required for development § 25-8.1 Civil fine § 25-9.6 Involuntary renovation or modification of permits
County of Hawaii Rule 8. Shoreline Setback Variance Rules					
§ 8-3	Definitions	Revised	7/2/2023	Yes	§ 8-4 Variance Application and Content
§ 8-10	Waiver of Public Hearing and Action				
§ 8-11	Criteria for Approval of a Variance				
County of Hawaii Rule 9. Special Management Area Rules					
§ 9-4	Definitions	Revised	7/2/2023	Yes	§ 9-8 Permits Required for Development § 9-17 Penalties
§ 9-11	Special Management Area Use Permit Procedures				
County of Maui Planning Commission MC-12, Chapter 203, Shoreline Rules					
MC-12 Chapter 203, Subchapter 1 General Provisions					

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§ 12-203-4	Definitions	Revised	8/25/2024	Yes	§ 12-203-11 Prohibited activities within the shoreline area § 12-203-14 Variance application § 12-203-16 Enforcement
MC-12 Chapter 203, Subchapter 2 Shoreline Setback Lines; Shoreline Area					
§ 12-203-6	Establishment of shoreline setback lines	Revised	8/25/2024	Yes	§ 12-203-11 Prohibited activities within the shoreline area § 12-203-14 Variance application § 12-203-16 Enforcement
§ 12-203-7	Request for an amendment to a shoreline setback line established by the erosion hazard line or the approximate shoreline mapped by the department				
§ 12-203-8	Determination of the shoreline				
§ 12-203-9	Development plans				
§ 12-203-11	Prohibited activities within the shoreline area				
§ 12-203-12	Allowable structures and activities within the shoreline area				
§ 12-203-12.1	Abandoned structures or structures imminently threatened by erosion				
§ 12-203-13	Request for approval of structures and activities in the shoreline area				



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MC-12 Chapter 203, Subchapter 3 Variances					
§ 12-203-14	Variance application	Revised	8/25/2024	Yes	§ 12-203-11 Prohibited activities within the shoreline area § 12-203-14 Variance application § 12-203-16 Enforcement
§ 12-203-15	Criteria for approval of a variance				
MC-12 Chapter 203, Subchapter 4 Enforcement; Penalties					
§ 12-203-16	Enforcement	Revised	8/25/2024	Yes	§ 12-203-11 Prohibited activities within the shoreline area § 12-203-14 Variance application § 12-203-16 Enforcement
MC-12 Chapter 203, Subchapter 5 Appeals					
§ 12-203-18	Appeal of director’s decision; filing the notice of appeal	Revised	8/25/2024	Yes	§ 12-203-11 Prohibited activities within the shoreline area § 12-203-14 Variance application § 12-203-16 Enforcement
Floodplain Management Ordinances					
City and County of Honolulu, Ordinance No. 14-9 Relating to Flood Hazard Areas					

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ROH Chapter 21A	Flood Hazard Areas	New	5/22/2014	Yes	§ 21A-1.3 Administration § 21A-1.7 Floodway area § 21A-1.12 Flood variance
<b>Ordinance No. 07-169 Amending Chapter 27, Flood Control, Hawai'i County Code 1983, As Amended, Relating to Stormwater Management; Ordinance No. 17-56 Amending Chapter 27, Flood Control, Hawai'i County Code 1983, As Amended, to Comply with National Flood Insurance Program Regulations</b>					
Chapter 27	Floodplain Management	New	11/30/2007; amended 8/14/2017	Yes	§ 27-14 Director of public works approval § 27-28 Application for variance § 27-33 Notice of violation § 27-34 Administrative order § 27-36 Criminal enforcement
<b>Ordinance No. 1091, A Bill for An Ordinance to Amend Chapter 15, Article 1, Kaua'i County Code 1987, As Amended, Relating to Floodplain Management</b>					
Chapter 15	General Provisions Relating to Building and Construction Regulations Article 1. Floodplain Management	New	2/10/2021	Yes	§ 15-1.4 Administration § 15-1.7 Variance § 15-1.9 Penalties and Enforcement
<b>Ordinance No. 5603, 2023, An Ordinance to Replace Chapter 19.62, Maui County Code, and Create a New Chapter 16.29, Maui County Code, Relating to Flood Hazard Areas</b>					
Chapter 16.29	Flood Hazard Areas	New	9/1/2024	Yes	§ 16.29.050 Administration § 16.29.130 Enforcement § 16.29.140 Variances and appeals