

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendment and compilation of Chapter 109  
Hawaii Administrative Rules

May 10, 2024

SUMMARY

1. The title of Subchapter 3 is amended.
2. §§13-109-1 through 13-109-11 are amended.
3. Chapter 109 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

CHAPTER 109

RULES FOR ESTABLISHING FOREST STEWARDSHIP

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SUBCHAPTER 1

GENERAL PROVISIONS

**§13-109-1 Purpose and applicability.** The purpose of this section is to provide rules to implement chapter 195F, HRS, which authorizes the board of land and natural resources to establish a forest stewardship program to financially assist applicants to manage, protect, and restore important natural resources on private forest or formerly forested property. [Eff 1/8/99; am and comp JAN 09 2025 ] (Auth: HRS §195F-8) (Imp: HRS §195F-1)

**§13-109-2 Definitions.** As used in this chapter, unless the context requires otherwise:

"Administrator" means the administrator of the division of forestry and wildlife, department of land and natural resources.

"Agreement" means a written program forest stewardship management agreement between the board and applicant, in which the parties agree that the board will contribute funding to cover the cost of implementing the forest stewardship management plan.

"Applicant" means any private entity or person having an interest in or holding any encumbrance upon eligible property in the State, as set forth in section 13-109-4, including any private entity or person having a leasehold interest in the real property with an unexpired term of ten or more years.

"Board" means the board of land and natural resources.

"Chairperson" means the chairperson of the board of land and natural resources.

"Department" means the department of land and natural resources.

"Division" means the division of forestry and wildlife, department of land and natural resources.

"Forest stewardship advisory committee" means a group of people representing federal, state, and

county resource agencies, private landowners, forest industry, consulting foresters, native Hawaiian interests, and environmental and conservation organizations who advise the administrator. The forest stewardship advisory committee shall meet the requirements for a State Forest Stewardship Coordinating Committee, as set forth in the Cooperative Forestry Assistance Act of 1978, P.L. 91-313, § 19 (codified at 16 U.S.C. §2113 (2018)), as amended.

"Hold-down rate" means the maximum cost-share rate that the program will pay to an applicant to implement a practice.

"Landowner" means any person having an interest in or holding any encumbrance upon land in the State, including any person having a lease interest in the real property with an unexpired term of ten or more years.

"Management dedication term" means a period in which the applicant agrees to implement and maintain the project site as established under the agreement.

"Management plan" means a written document for the management of a specified area identifying forest stewardship management goals, objectives, and forestry practices necessary for the long-term management of forest resources, fire hazards, timber and wood products, soil and water resources, riparian areas, wetlands, fish and wildlife habitats, and outdoor recreation.

"Native vegetation" means trees, shrubs, and plants endemic or indigenous to Hawaii.

"Potential natural area reserve" means land or water areas within the protective subzone of the conservation district established pursuant to chapter 183C, HRS, intact native natural communities identified by the heritage program pursuant to section 195-2, HRS, and other lands or waters meeting criteria established by the natural area reserves system commission.

"Practice" means a management action that is eligible for program cost-share assistance.

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"Program" means the forest stewardship program established in section 195F-3, HRS.

"Program proposal" means a request from a landowner to the program for cost-share assistance for the development of a forest stewardship management plan. Eff 1/8/99; am and comp **JAN 09 2025** ] (Auth: HRS §195F-8) (Imp: HRS §195F-2)

**§13-109-3 Establishment and duties of the forest stewardship advisory committee.** (a) The chairperson shall establish a forest stewardship advisory committee to advise and assist the division to plan, coordinate, and implement the program. The chairperson or the chairperson's designee or the authorized representative shall appoint members to the forest stewardship advisory committee. Members shall be volunteers, serve part-time, and shall not be compensated by the program for duties performed.

(b) The forest stewardship advisory committee shall perform the following duties:

- (1) Review and recommend program proposals to the administrator for approval;
- (2) Review and recommend forest stewardship management plans to the administrator for approval;
- (3) Recommend approval of financial assistance for implementation of forest stewardship management plans to the administrator, prior to board submittal;
- (4) Establish and periodically review program practices and recommend hold-down rates for each program practice;
- (5) Advise the department on other relevant policies and guidelines, including but not limited to local and national initiatives; and
- (6) Review and make recommendations to the administrator regarding federal Forest Legacy Program proposals, grant requests, and projects pursuant to the Cooperative

Forestry Assistance Act of 1978, P.L. 91-313, §7 (codified at 16 U.S.C. §2103c (2012)), as amended.

- (7) Review applications for membership on the forest stewardship advisory committee and make recommendations to the chairperson or her designee or the authorized representative for approval.

(c) The forest stewardship advisory committee shall meet quarterly each year, with each member serving three-year staggered terms. The chairperson or the chairperson's designee or the authorized representative may appoint members to consecutive terms.

(d) The forest stewardship advisory committee shall maintain a record of its activities and actions.

(e) Any action taken by the forest stewardship advisory committee shall be by a simple majority of its members.

(f) The forest stewardship advisory committee shall consist of thirteen members. Seven members of the forest stewardship advisory committee shall constitute a quorum to do business. [Eff 1/8/99; am and comp JAN 09 2025 ] (Auth: HRS §195F-8) (Imp: HRS §195F-3)

**§13-109-4 Applicant eligibility.** (a) To qualify under this program, an applicant shall be a landowner, as set forth in section 13-109-2.

(b) Applicants are eligible to receive program assistance if property is:

- (1) Managed by applying approved practices, as defined by section 195F-5(b), HRS;
- (2) Managed so as not to degrade native vegetation, as defined by section 195F-2, HRS, while applicant is implementing approved forest stewardship management plan as set forth in section 195F-5, HRS; and
- (3) A minimum of five contiguous acres that will be dedicated to the program.

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(c) Applicants are ineligible to receive program assistance, if otherwise eligible property is:

- (1) Leasehold for a period of less than ten years following program approval; or
- (2) A potential natural area reserve.

(d) Private lands managed under existing federal, county, or private sector financial and/or technical assistance programs in conjunction with the forest stewardship program are not eligible to receive more than ninety per cent of the total cost of the forest management practices from all financial and technical assistance programs. [Eff 1/8/99; am and comp JAN 09 2025 ] (Auth: HRS §195F-8) (Imp: HRS §195F-6)

**§13-109-5 Applicant enrollment.** (a) Applicants eligible under section 13-109-4 shall follow these steps for program enrollment:

- (1) Applicants shall submit a program proposal to the forest stewardship advisory committee for consideration. The proposal shall describe the applicant's forest management objectives, including proposed practices and the nature of the forest resources to be managed. The forest stewardship advisory committee shall recommend for approval to the administrator, eligible proposals that adequately address current program priorities. Program priorities include, but are not limited to:
  - (A) Enhancement and protection of key watershed areas in the public interest;
  - (B) Development or adaptation of new forestry and conservation techniques for Hawaii;
  - (C) Provisions for economic diversification and rural employment; and
  - (D) Preservation or restoration of especially valuable natural resources,

including native plants, animals, and ecosystems.

(2) Applicants whose program proposals are recommended for approval by the forest stewardship advisory committee and approved by the administrator, may prepare and submit a forest stewardship management plan pursuant to section 195F-5(a), HRS, for consideration to the forest stewardship advisory committee as provided in section 13-109-7(a). Applicants are eligible to receive reimbursement payments from the division in an amount not to exceed the limits set forth in section 195F-6(a), HRS, for the development of a forest stewardship management plan after the forest stewardship management plan is recommended for approval by the forest stewardship advisory committee and approved by the administrator.

(3) Reimbursement for the development of a forest stewardship plan shall be subject to approval of the forest stewardship management plan by the board, or the board's designee.

(b) Upon approval of the forest stewardship management plan by the forest stewardship advisory committee and administrator, the administrator may recommend to the board, approval of financial assistance for implementation of all or selected portions of the forest stewardship management plan, subject to availability of funding. The division shall also prepare an agreement pursuant to section 195F-6(c)(3), HRS, between the applicant and board, as provided in section 13-109-8(a), for approval by the board. The forest stewardship management plan shall be attached as an exhibit to the agreement.

(c) Upon board approval of the agreement, the applicant is responsible for implementing the practices described in the agreement for the duration of the management dedication term. [Eff 1/8/99; am



§13-109-5

and comp JAN 09 2025 ] (Auth: HRS §195F-8) (Imp:  
HRS §§195F-5, 195F-6)

**§13-109-6 Establishment of approved forest stewardship practices.** (a) A list of forest stewardship management practices shall be eligible for cost-share assistance as provided in section 195F-5(b), HRS. The eligible categories of forest stewardship practices include, but are not limited to:

- (1) Applicant forest stewardship management plan development to define the forest management objectives and the specific management practices that will be employed to achieve these objectives;
- (2) Reforestation and afforestation to establish or reestablish forest stands through natural regeneration, planting, or direct seeding for conservation purposes, windbreaks, and sustained production of forest products;
- (3) Forest and agroforest management to improve forest stand productivity, stand vigor, forest health, aesthetic quality, fire prevention, and the value and quality of forest products;
- (4) Soil and water protection and improvement to maintain or improve water quality and soil productivity on forested land and along waterways;
- (5) Riparian and wetland protection to protect, restore, and improve wetlands and riparian areas to maintain water quality and enhance habitat;
- (6) Native fish and wildlife habitat improvement and management to restore, improve, maintain, or establish permanent upland and/or wetland habitat for native fish and wildlife species; and

- (7) Forest recreation enhancement to establish and enhance forest recreation opportunities; and
  - (8) Invasive species management to control and manage incipient or established invasive species.
- (b) The forest stewardship advisory committee shall recommend to the board eligible practices for use under the program.
- (c) Practices involving orchard production are not eligible for program cost-share assistance. [Eff 1/8/99; am and comp **JAN 09 2025** ] (Auth: HRS §195F-8) (Imp: HRS §195F-5)

## SUBCHAPTER 2

### MANAGEMENT PLAN

#### **§13-109-7 Forest stewardship management plan.**

- (a) The forest stewardship management plan shall include:
- (1) Cover sheet. This page lists the applicant's name and address; location of property described in the plan; the name, address, title, and phone number of the person completing the plan; and the date the plan is completed.
  - (2) Signature page. This page shall be signed by the applicant, person preparing the plan, and by the administrator certifying that the plan meets the criteria established for the program.
  - (3) Executive summary. This section summarizes the property description, past and current land uses, current forest conditions (e.g., forest type, vegetation, wildlife, forest health, threats, and other resource concerns), landowner vision and goals, and management objectives.

- (4) Introduction. This section briefly describes the property being dedicated to the program, current and historic land uses, including any commercial uses, elevation, rainfall, topography, the applicant's overall vision and goals, and a concise summary of the applicant's specific forest management objectives.
- (5) Land and resource description. This section describes the physical and ecological characteristics of the property being dedicated to the program, including existing vegetation, existing infrastructure, access, soil and watershed conditions, fish and wildlife habitats, threats to forest health and function, forest products, recreational and aesthetic values, historic or cultural resources, and threatened and endangered species pursuant to chapter 195D, HRS.
- (6) Management objectives and recommended practices. This section describes the specific forest management objectives and one or more forest stewardship practices as recommended by the person writing the applicant's program management plan as provided in section 13-109-6(a)(1) to (8).
- (7) Practice implementation schedule. This section summarizes the annual practices and estimates corresponding annual costs for the duration of the approved project implementation period in a table format. The schedule shall outline the program practices, approved program reimbursements, and the applicant's costs.
- (8) Budget summary. This section estimates the annual total costs contributed by the program, any other contributing financial assistance program, and applicant for the duration of the approved project implementation period.
- (9) Project maps. Maps, such as a location map, project attribute map, and soil map, shall

be attached to the forest stewardship management plan. The maps shall delineate the area which the applicant is dedicating to the program. [Eff 1/8/99; am and comp **JAN 09 2025** ] (Auth: HRS §195F-8) (Imp: HRS §195F-5)

SUBCHAPTER 3

AGREEMENT WITH APPLICANT

**§13-109-8 Agreement and conditions.** (a) The division may recommend an agreement, as set forth in section 13-109-2, for the applicant's implementation for all or portions of a forest stewardship management plan, pursuant to section 13-109-5(b).

(b) The division may develop, process, and administer an agreement with the applicant for board approval that shall include:

- (1) The scope of work and time of performance to implement program practices;
- (2) The applicant's compensation for implementing approved program practices;
- (3) Amendment procedures to the applicant's forest stewardship management plan;
- (4) Procedures to inspect completed program practices;
- (5) Applicant's program management plan; and
- (6) Other terms and conditions as determined by the board.

(c) The agreement, as set forth section 13-109-2, shall be for a minimum of ten years. Depending upon the management objectives, goals, and schedule, the applicant division may agree to a longer program management dedication term. An agreement, as set forth in section 13-109-2, that includes management practices associated with timber production shall require a management dedication term of a minimum of twenty years.

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(d) Applicants with a board approved forest stewardship management plan and agreement, as set forth in section 13-109-2, subject to availability of funds, shall:

- (1) Receive reimbursement payments from the division in an amount not to exceed the limits set forth in section 195F-6(a), HRS, to implement practices in the applicant's approved forest stewardship management plan not to exceed a total amount per year per applicant as approved by the board;
- (2) Be required to expend the applicant's funds before seeking reimbursement payments from the division. The applicant may use funds provided by federal, county, or private sector financial and technical assistance programs to fulfill the applicant's cost-share requirement; provided that the funds supplied from all financial and technical assistance programs do not cover more than ninety per cent of the actual cost of forest management practices;
- (3) Receive reimbursement payments within the hold-down rates that were established for each program practice based on recommendation of the forest stewardship advisory committee;
- (4) Receive reimbursement payments only for work identified in the forest stewardship management plan; and
- (5) Receive reimbursement payments for program practices implemented subsequent to the board approving the agreement. [Eff 1/8/99; am and comp JAN 09 2025 ] (Auth: HRS §195F-8) (Imp: HRS §195F-6)

**§13-109-9 Reports.** (a) The applicant shall submit semi-annual progress reports every six months to the division for each year in which the applicant receives program funding. The reports shall detail

program accomplishments, areas requiring technical advice, and any proposed modifications to the program management plan and other conditions deemed necessary by the board to implement the purposes of chapter 195F, HRS.

(b) Before making any reimbursement payments, the division shall have the right to inspect and approve the work on the property after prior notice has been given to the applicant.

(c) In the event that the applicant determines in good faith that it is unable to implement the agreement, the chairperson or the chairperson's designee or the authorized representative may renegotiate the terms of the agreement with the applicant. Terms of the agreement shall include:

- (1) Reestablishment of management priorities;
- (2) Deferral or discontinuation of the specified work; or
- (3) An extension of time to accomplish the specified work, [Eff 1/8/99; am and comp JAN 09 2025 ] (Auth: HRS §195F-8)  
(Imp: HRS §1925F-6)

**§13-109-10 Penalty payback provisions. (a)**

Failure by the applicant to comply with the agreement terms may result in the cancellation of the agreement by the board.

(b) In the event that the agreement is cancelled, the applicant shall promptly pay the State the following payback and penalty moneys:

- (1) If cancelled in the first three years following the initial date of the agreement, the applicant shall pay back all matching funds to the State;
- (2) If cancelled after the first three years following the initial date of the agreement, the applicant shall pay back matching funds received for the immediately preceding three years to the State; and

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- (3) A penalty provision consisting of an interest payment as determined in the agreement between the board and applicant shall be added to the payment due to the State. [Eff 1/8/99; am and comp **JAN 09 2025** ] (Auth: HRS §195F-8) (Imp: HRS §195F-7)

**§13-109-11 Payback provision for commercial production of timber or other forest products.** If an applicant's primary management objective is commercial production of timber or other forest products, the board may require as a condition to receiving state matching funds a payback provision that a certain percentage of all matching state funds be paid back to the State upon each commercial harvest as set forth in the agreement between the board and the applicant. [Eff 1/8/99; am and comp **JAN 09 2025** ] (Auth: HRS §195F-8) (Imp: HRS §195F-4)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapter 13-109, Hawaii Administrative Rules, on the Summary Page dated May 10, 2024, was adopted on May 10, 2024, following one hybrid public hearing held on March 13, 2024.

This amendment and compilation of chapter 13-109 shall take effect ten days after filing with the Office of the Lieutenant Governor.



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DAWN N. S. CHANG  
Chairperson,  
Department of Land and  
Natural Resources

APPROVED:



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JOSH GREEN, M.D.  
Governor,  
State of Hawaii

Dated: December 30, 2024

APPROVED AS TO FORM:



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MELISSA, D. GOLDMAN  
Deputy Attorney General

DEC 30 2024

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Filed

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