

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUB-TITLE 7. WATER RESOURCES

CHAPTER 170

HAWAII WATER PLAN

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Subchapter 1

General Provisions

§13-170-1 Definitions. As used in this chapter, unless the context otherwise requires:

"Authorized planned use" means the use or projected use of water by a development that has received the proper state land use designation and county development plan/community plan approvals.

"Chairperson" means the chairperson of the commission on water resource management.

"Change in use" means any modification or change in water use from or to domestic, municipal, military, agriculture (including agricultural processing), or industrial use.

"Commission" means the commission on water resource management.

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

"Deputy" means the deputy to the chairperson of the commission on water resource management.

"Domestic use" means any use of water for individual personal needs and for household purposes such as drinking, bathing, heating, cooking, noncommercial gardening, and sanitation.

"Ground water" means any water found beneath the surface of the earth, whether or not in perched, dike-confined, or basal supply; in underground channels or streams; in standing, percolating, or flowing condition; or under artesian pressure.

"Hydrologic unit" means a surface drainage area or a ground water basin or a combination of the two.

"Instream use" means beneficial uses of stream water for significant purposes which are located in the stream and which are achieved by leaving the water in the stream. Instream uses include, but are not limited to:

- (1) Maintenance of aquatic life and wildlife habitats;
- (2) Outdoor recreational activities;
- (3) Maintenance of ecosystems such as estuaries, wetlands, and stream vegetation;
- (4) Aesthetic values such as waterfalls and scenic waterways;
- (5) Navigation;
- (6) Instream hydropower generation;
- (7) Maintenance of water quality;
- (8) The conveyance of irrigation and domestic water supplies to downstream points of diversion; and
- (9) The protection of traditional and customary Hawaiian rights.

"Interim instream flow standard" means a temporary instream flow standard of immediate applicability, adopted by the commission without the necessity of a public hearing, and terminating upon the establishment of an instream flow standard.

"Municipal use" means the domestic, industrial, and commercial use of water through public services available to persons of a county for the promotion and protection of their health, comfort, and safety, for the protection of property from fire, and for the purposes listed under the term "domestic use".

"Person" means any individual, firm, association, organization, partnership, estate, trust, corporation, company, or any governmental unit.

"Reasonable-beneficial use" means the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is not wasteful and is both reasonable and consistent with the state and county land use plans and the public interest.

"Surface water" means both contained surface water (that is, water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, and reservoirs) and diffused surface water (that is, water occurring upon the surface of the ground other than in contained waterbodies). Water from natural springs is surface water when it exits from the spring onto the earth's surface.

"Sustainable yield" means the maximum rate at which water may be withdrawn from a water source without impairing the utility or quality of the water source as determined by the commission.

"Water" or "waters of the state" means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

"Water source" means a place within or from which water is or may be developed, including but not limited to: (1) generally, an area such as a watershed defined by topographic boundaries, or a definitive ground water body; and (2) specifically, a particular stream, other surface water body, spring, tunnel, or well or related combination thereof. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-3, 174C-5, 174C-31)

§13-170-2 Formulation of the Hawaii water plan. (a) The commission shall formulate an integrated program for the protection, conservation, and management of the waters of the state. This program, with such amendments, supplements, and additions as may be necessary, shall be known as the Hawaii water plan. The Hawaii Water Plan shall serve as a continuing long-range guide for water resource management. The contents of the Hawaii water plan shall consist of the following elements:

- (1) Water resource protection;
- (2) Water use and development;
- (3) State water projects; and
- (4) Water quality.

(b) The Hawaii water plan shall be directed toward the achievement of the following objectives:

- (1) The attainment of maximum reasonable-beneficial use of water.
- (2) The proper conservation and development of the waters of the state;
- (3) The control of the waters of the state for such public purposes as navigation, drainage, sanitation, and flood control;
- (4) The attainment of adequate water quality as expressed in the state water resource protection and water quality plans; and
- (5) The implementation of the water resources policies expressed in chapter 174C, HRS.

(c) In preparing the Hawaii water plan each county shall be divided into sections which shall conform as closely as practicable to hydrologic units. The plan shall describe and inventory the following information within each designated hydrologic unit:

- (1) All water resources and water systems.
- (2) All present uses.
- (3) Sustainable yield. (The sustainable yield shall be determined using the best available information and shall be reviewed periodically. Where appropriate the sustainable yield may be determined to reflect seasonal variation.)

- (4) Potential threats to water resources.
- (5) Instream use and protection program for the surface watercourses in the area.

(d) Respective portions of the water resource protection plan, water quality plan, state water projects plan, and the water use and development plans of each county, shall be developed together to achieve maximum coordination and consistency. The development of the Hawaii water plan or any portion thereof shall proceed in coordination with and with attention to the Hawaii state plan described in chapter 226, HRS.

(e) The Hawaii water plan and its constituent parts, except for the water quality plan, shall be adopted by the commission not later than July 1, 1990. The commission shall receive the water quality plan from the department of health as soon as possible, and incorporate this part in the Hawaii water plan. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-32)

§13-170-3 General powers and duties. The general administration of this chapter shall rest with the commission. In addition to its other powers and duties, the commission:

- (1) Shall give careful consideration to the requirements of public recreation, the protection of the environment, and the procreation of aquatic life and wildlife. The commission may prohibit or restrict other future uses on certain designated streams which may be inconsistent with these objectives.
- (2) May designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the commission may deny a permit under the provisions of chapter 13-171.
- (3) May also designate certain uses in connection with a particular source of supply which, because of the nature of the activity or amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in any action pursuant to sections 13-171-14(g) and 13-171-16.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-4 Modification of water plan. (a) The commission may add to the Hawaii water plan any other

information, directions, or objectives it feels necessary or desirable for the guidance of the counties in the administration and enforcement of this chapter.

(b) The commission shall not adopt, approve, or modify any portion of the Hawaii water plan which affects a county or any portion thereof without first holding a public hearing on the matter on the island on which the water resources are located. At least ninety days in advance of such hearing, the commission shall notify the affected county and shall give notice of such hearing by publication within the affected region and statewide.

(c) Each county shall update and modify its water use and development plans as necessary to maintain consistency with its zoning and land use policies.

(d) In formulating or revising the plans, each county and the commission shall consult with and carefully evaluate the recommendations of concerned federal, state, and county agencies. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

Subchapter 2

Water Resource Protection Plan

§13-170-20 Contents of the plan. The contents of the water resource protection plan shall include, but not be limited to, the following:

- (1) Designation of hydrologic units statewide and their characteristics;
- (2) A master inventory describing the nature and location of water resources in the state by hydrologic units, current water uses statewide, and water quality data as provided by the department of health in the water quality plan;
- (3) Requirements for beneficial instream uses and environmental protection, desirable uses worthy of preservation by permit, and undesirable uses for which permits may be denied;
- (4) Programs to conserve, augment, and protect the water resource; and
- (5) Other elements as deemed necessary or desirable by the commission for inclusion in the plan.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-21 Guidelines for preparation of the plan. (a) In preparation of the inventories identified above and the designation of hydrologic units statewide, the commission shall consult with the appropriate county, state, and federal agencies.

(b) The commission shall study the means and methods of conserving and augmenting the state's water resources. The study shall include the effect on the environment, procreation of aquatic life and wildlife, and water quality; study the quantity and quality of water needed for existing and contemplated uses, including irrigation, power development, geothermal power, industrial, and municipal uses; and study such other related matters as drainage, reclamation, flood hazards, floodplain zoning, dam safety, and selection of reservoir sites, as they relate to the protection, conservation, quantity, and quality of water.

(c) The commission shall set forth programs to conserve, augment, and protect the water resource; and shall consider any other elements necessary or desirable for inclusion in the water resource protection plan. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

Subchapter 3

Water Use and Development Plan

§13-170-30 Responsibilities of counties. A water use and development plan shall be prepared by each separate county and adopted by ordinance, setting forth the allocation of water to land use in that county. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-31 Contents of the plan. Each county water use and development plan shall include, but not be limited to:

- (1) Status of county water and related land development including an inventory of existing water uses for domestic, municipal, and industrial users, agriculture, aquaculture, hydropower development, drainage, reuse, reclamation, recharge, and resulting problems and constraints;
- (2) Future land uses and related water needs; and
- (3) Regional plans for water developments including recommended and alternative plans, costs, adequacy

of plans, and relationship to the water resource protection plan and water quality plan.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-32 Guidelines for preparation of the plan. (a)

In preparing the water use and development plan and for purposes of consistency, the counties shall utilize information from the master water resource inventory identified within the water resource protection plan. The counties shall also utilize the hydrologic units designated statewide by the commission for the presentation of data and analyses.

(b) All water use and development plans shall be prepared in a manner consistent with the following conditions:

- (1) Each water use and development plan shall be consistent with the water resource protection plan and the water quality plan.
- (2) Each water use and development plan and the state water projects plan shall be consistent with the respective county land use plans and policies, including general plan and zoning as determined by each respective county.
- (3) Each water use and development plan shall consider a twenty-year projection period for analysis purposes.
- (4) The water use and development plan for each county shall also be consistent with the state land use classification and policies.
- (5) The cost of maintaining the water use and development plan shall be borne by the counties; state water capital improvement funds appropriated to the counties shall be deemed to satisfy Article VIII, section 5 of the State Constitution.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

Subchapter 4

State Water Projects Plan

§13-170-40 Preparation by agency. A state water projects plan shall be prepared by the agency which has jurisdiction over such projects in conjunction with other state agencies.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-41 Contents of the plan. The state water projects plan shall include, but not be limited to:

- (1) Status of state water and land developments and their existing water use requirements for domestic, industry, agriculture, aquaculture, hydropower, water reclamation, and recharge;
- (2) Future land uses and related water needs; and
- (3) Statewide plans for water developments including recommended and alternative plans, costs, adequacy of plans, and relationship to the water resource protection plan and the water quality plan.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-42 Guidelines for preparation of the plan. (a) In preparing the state water projects plan and for purposes of consistency, the agency shall utilize information from the master water inventory identified within the water resource protection plan. The plan shall also utilize the hydrologic units designated statewide by the commission for the presentation of data and analyses.

(b) The plan shall review current and future state water programs and projects to insure orderly authorization and development of the state's water resources. Study shall be made for all existing and contemplated water projects and shall be based upon, but not be limited to, the following information:

- (1) Type of project;
- (2) Source of water;
- (3) Existing uses;
- (4) Contemplated uses; and
- (5) System capacity.

(c) The state water projects plan shall consider a twenty-year projection period for analysis purposes. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

Subchapter 5

Water Quality Plan

§13-170-50 Jurisdiction over water quality. (a) The department of health shall formulate a state water quality plan for all existing and potential sources of drinking water.

Requirements for the plan shall be governed by chapters 340E and 342, Hawaii Revised Statutes.

(b) The department of health shall exercise the powers and duties vested in it for the administration of the state's water quality control program as provided by law.

(c) The department of health may ban the importation of any substance which it reasonably believes may present a danger to the water quality of this state. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-66)

§13-170-51 Exchange of information. (a) The department of health shall submit to the commission such information as the commission shall require as prescribed in its rules, provided it does not jeopardize any pending or ongoing enforcement action.

(b) The commission shall submit to the department of health such information as the department shall require, for the performance of its water quality functions. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-67)

§13-170-52 Initiation by department of health. The department of health shall formulate a state water quality plan for all existing and potential sources of drinking water and that plan shall become part of the Hawaii water plan as described in this chapter. Requirements for the plan shall be governed by chapters 340E and 342, Hawaii Revised Statutes. The state water quality plan shall set forth water quality criteria to be used in designation of water management areas. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-68)

§13-170-53 Review period. The state water quality plan shall be periodically reviewed and revised by the department of health as needed. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-68)

§13-170-54 Coordination with federal, state and county agencies. (a) In formulating or revising the state water quality plan, the department of health shall consult with and carefully evaluate the recommendations of concerned federal, state, and local agencies, particularly county water supply agencies.

(b) In preparation of the plan, the department of health shall utilize the hydrologic units and the master water resource inventory identified within the water resource protection plan.

[Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31)

§13-170-55 Incorporation of water quality plan. The water quality plan upon its completion shall be submitted to the commission by the department of health for incorporation into the Hawaii water plan. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-32, 174C-68)

Subchapter 6

Integration of Plan Elements

§13-170-60 Implementing priorities and structure of the Hawaii water plan.

(a) Integration of the Hawaii water plan is dependent on the creation of a master water resource inventory, designation of hydrologic units as identified in section 13-170-20, and formulation of water quality criteria as described in section 13-170-52.

(b) The water resource protection plan and the water quality plan shall be created as soon as practicable in order that the state and county may use the information in preparing their respective plans.

(c) The water resource protection plan shall incorporate, where applicable, data contained within the water quality plan for the purpose of protecting, conserving and augmenting the state's water resources.

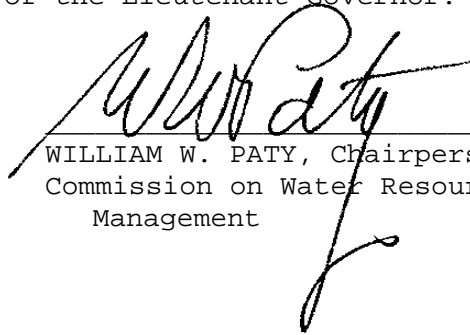
(d) Both the state water projects plan and each county water use and development plan shall be subject to the water resource protection plan.

(e) The Hawaii water plan shall guide the commission in the designation of water management areas and in the issuance of permits as set forth in chapter 174C, HRS. [Eff. MAY 27, 1988] (Auth: HRS §174C-8) (Imp: HRS §§174C-5, 174C-31, 174C-32, 174C-68)

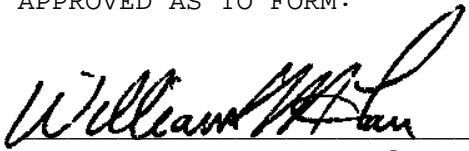
DEPARTMENT OF LAND AND NATURAL RESOURCES

Chapter 13-170, Hawaii Administrative Rules, on the Summary page dated April 20, 1988 was adopted on April 20, 1988; following public hearings held on Oahu on March 22, 1988; on Maui on March 17, 1988; on Molokai on March 21, 1988; on Kauai on March 23, 1988; and on Hawaii on March 15, 16, 1988; after public notice was given in the Honolulu Star Bulletin, Hawaii Tribune Herald, Maui News and the Garden Island on February 24, 1988 and March 8, 1988.

The adoption of chapter 13-170 shall take effect ten days after filing with the Office of the Lieutenant Governor.



WILLIAM W. PATY, Chairperson
Commission on Water Resource
Management

APPROVED AS TO FORM:


Deputy Attorney General

Dated: 5/3/88

APPROVED: **MAY 16 1988**


JOHN WAIHEE, Governor
State of Hawaii

Date Filed