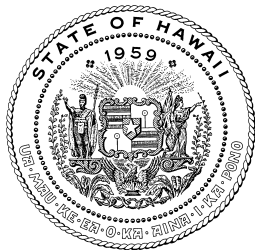


Small Business Regulatory Review Board Meeting

August 17, 2023

10:00 a.m.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813
Mailing Address: P.O. Box 2359, Honolulu, HI 96804
Email: dbedt.sbrb.info@hawaii.gov
Website: sbrb.hawaii.gov

Tel: 808 798-0737

AGENDA

Thursday, August 17, 2023, ★ 10:00 a.m.

**Leiopapa A Kamehameha Building – State Office Tower
235 S. Beretania Street, Conference Room 405
Honolulu, HI 96813**

As authorized under Act 220, Session Laws of Hawaii 2021 and Chapter 92-3.7 Hawaii Revised Statutes (HRS), the public can participate in the meeting either:

A. By attending the in-person meeting at:

**Leiopapa A Kamehameha Building – State Office Tower 235 S. Beretania
Street, Conference Room 405, Honolulu, HI 96813; or**

B. Via Video-audio livestream or via Telephone - to join the Video-audio livestream meeting, go to:

<https://us06web.zoom.us/j/88945374966?pwd=cDhqWEEZGZHYmJLM05tMHU5Mm5HQj09>

C. To Join via Telephone: Dial 1-669-900-6833 with Meeting ID 883 5814 0200 Passcode 066739

When the Chairperson asks for public testimony during the meeting, you may indicate that you want to provide oral testimony by using the raise hand function or, if calling in by telephone, entering * and 9 on your phone keypad. When recognized by the Chairperson, you will be unmuted. If calling in by phone, you can unmute and mute yourself by pressing * and 6 on your keypad.

Members of the public may also submit written testimony via e-mail to: DBEDT.sbrb.info@hawaii.gov or mailed to SBRRB, No. 1 Capitol District Building, 250 S. Hotel Street, Room 506A, Honolulu, HI 96813, or P.O. Box 2359, Honolulu, HI 96804. The Board requests that written testimony be received by Wednesday, August 16, 2023, so it may be distributed to Board members prior to the meeting. Testimony received after that time will be distributed to the Board members at the meeting.

Copies of the Board Packet will be available on-line for review at: [Agendas & Minutes – Small Business Regulatory Review Board \(hawaii.gov\)](#). An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

I. Call to Order

Josh Green, M.D.
Governor

Sylvia Luke
Lt. Governor

James K. Tokioka
DBEDT Director

Dane K. Wicker
DBEDT Deputy Director

Members

Mary Albitz
Chairperson
Maui

Robert Cundiff
Vice Chairperson
O'ahu

Jonathan Shick
2nd Vice Chairperson
O'ahu

Dr. Nancy Atmospera-Walch
O'ahu

William Lydgate
Kaua'i

James (Kimo) Lee
Hawai'i

Garth Yamanaka
Hawai'i

Sanford Morioka
O'ahu

Tessa Gomes
O'ahu

Mark Ritchie for
Director, DBEDT
Voting Ex Officio

II. Approval of July 20, 2023 Meeting Minutes

III. New Business

- A. Discussion and Action on Proposed Amendments to **BWS Rules and Regulations** Chapter I - V, Section 54 – 26 for the **Adoption of New Water Rates and Charges**, promulgated by the Board of Water Supply, City and County of Honolulu - *Exhibit 1*
- B. Discussion and Action on Proposed Amendments to Hawaii Administrative Rules (HAR) Chapter 13-31, **Molokini Shoal Marine Life Conservation District, Maui**, promulgated by Department of Land and Natural Resources (DLNR) – *Exhibit 2*
- C. Discussion and Action on Proposed Amendments to HAR Chapter 13-230, **General Provisions**, promulgated by DLNR - *Exhibit 3*
- D. Discussion and Action on Proposed Amendments to HAR Chapter 13-257, **Day-Use Mooring Rules**, promulgated by DLNR - *Exhibit 4*

IV. Administrative Matters

- A. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, Hawaii Revised Statutes (HRS)
 - 1. Discussion and Action on Proposed Changes to Section 201M-5 (a) Small business regulatory review board; powers, HRS
 - 2. Presentations to Industry Associations
 - 3. Staff’s Small Business Outreach
 - 4. Director Letters and Meetings with State Agencies and Counties

- V. **Next Meeting:** Thursday, September 21, 2023, at 10:00 a.m., held via Zoom and at Leiopapa A Kamehameha Building – State Office Tower, Conference Room 405, Honolulu, HI 96813

VI. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, contact Jet’aime Ariola at 808 587-0737 and jetaime.k.ariola@hawaii.gov as soon as possible, preferably at least three (3) working days prior to the meeting. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate/accessible formats.

II. Approval of July 20, 2023 Meeting Minutes

Small Business Regulatory Review Board

MEETING MINUTES - **DRAFT**

July 20, 2023

ZOOM RECORDING

- I. **CALL TO ORDER:** Chair Albitz called the meeting to order at 10:00 a.m., with a quorum present.

MEMBERS PRESENT:

- Mary Albitz, Chair
- Robert Cundiff, Vice Chair
- Jonathan Shick, 2nd Vice Chair
- Garth Yamanaka
- James (Kimo) Lee
- Sanford Morioka
- Mark Ritchie

ABSENT MEMBERS:

- Dr. Nancy Atmospera-Walsh
- William Lydgate
- Tessa Gomes

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF JUNE 15, 2023 MINUTES**

Second Vice Chair Shick motioned to accept the June 15, 2023 meeting minutes, as presented. Mr. Ritchie seconded the motion and the Board unanimously agreed.

III. **OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 11 Chapter 55, Water Pollution Control, as follows, promulgated by Department of Health (DOH)
- a. Appendix C – Discharges of Storm Water Associated with Construction Activities
 - b. Appendix J – Occasional or unintentional Discharges from Recycled Water Systems
 - c. Appendix L – Discharges of Circulation Water from Decorative Ponds or Tanks

Mr. Darryl Lum, Engineering Supervisor at DOH's Clean Water Branch, explained that the rule changes are for the National Pollutant Discharge Elimination System (NPDES) permits. These permits are required because the Clean Water Branch's mission is to protect the public's health for everyone who uses state waters and to protect and restore the state waters

for marine life and wildlife. The rule package includes the re-adoption of the three subject appendices - C, J, and L.

The public hearing was held on June 23, 2023 with seven people attending virtually. Prior to this, over 1,000 emails were sent announcing the day of the public hearing with the public hearing notices posted on the website and in the local newspapers.

Mr. Lum stated that the proposed rule changes would not adversely impact small businesses. Of the seven virtual attendees at the hearing, no one provided testimony; however, two sets of comments were received by the Department of Design and Construction at the City and County of Honolulu and the State Department of Transportation (SDOT); no comments were received by the general public. Mr. Lum summarized SDOT's 15 comments/suggestions relating to the subject Appendices noting that DOH agreed to amend 3 of these comments/suggestions.

Mr. Ritchie motioned to move the proposed rules to the Governor for adoption. Vice Chair Cundiff seconded the motion, and the Board members unanimously agreed.

IV. NEW BUSINESS

A. Discussion and Action on Proposed New HAR Title 19 Chapter 25, Rules and Regulations Governing Shore Water Events, promulgated by Department of Parks and Recreation – City and County of Honolulu

Upon introduction from discussion leader and Second Vice Chair Shick, Ms. Laura Thielen, Director at the City and County's Department of Parks and Recreation (DPR), explained that the reason for the proposed rules is due to the County of Honolulu's City Council passing a resolution that updates the shore water event rules for gender equity in North Shore surfing events and contests.

Simultaneously, DPR began receiving requests to limit the number of surf contests held on five beaches along the Waikiki and urban Honolulu South Shore during the summer surf season. The number of surf contests has grown to close out the breaks in these areas nearly every weekend; however, DPR does not have jurisdiction over the ocean, it only has jurisdiction over the parks. As a result, the proposed rules govern the use of the land when various events occur with general equity surfing as the one exception because there is a limited amount of water space.

Under the existing rules, most of the requirements are staying the same. However, the major changes that affect small businesses include: 1) requiring any person wanting a shore water event on the South Shore must now apply the year prior to the event; 2) changing the existing North Shore calendar so it is in-line with the surf season, and 3) establishing an after-event report for all shore water events on the North and South Shores.

Director Thielen noted that in order to improve on gender equity, DPR must increase the weight on the rankings; she then explained the existing weight system versus the proposed weight system, which is not mandatory as promoters can submit for certain events. A minor rule change involves the events calendar. Due to requests by the community to limit the

number of surf contests held on the South Shore, in addition to the number of complaints DPR received regarding the traffic when surf events are held on the North Shore, the rules establish a South Shore annual calendar while maintaining the North Shore Calendar. Director Thielen also noted that DPR formed the Shore Water Advisory Group (SWAG) in July 2021 to conduct a public process to evaluate the proposed rule changes. SWAG agreed that the South Shore was one area where there will likely be limitations on events. Thus, two events were proposed where there will be recreational surfing every other weekend.

Testifier Ms. Sabrina Brennan, who represents Surf Equity and is a co-founder of Equity in Women Surfing, and who also submitted written testimony, requested that the proposed rules be amended along with the event permit requirements to specifically prohibit gender discrimination and applying it to all professional surf competitions. She added that the point system currently in the rules is insufficient, inappropriate and not in-line with state law as it relates to civil rights.

Testifier Mr. Alan Lennard suggested the rules specifically define both internal and external diversity. Ms. Betty Depolito testified that she has been working on the “equity” issue for 20 to 30 years. However, the current draft rules do not address this issue very well; the point system is not working, as it stands, and it needs to be changed. Also, she believes that the draft rules are favoring a few people because of the grandfathering provision which is unfair and likely illegal. She would like to have the rules re-addressed before they go out to public hearing. Testifier, Ms. Carol Philips commented that women mostly make up the small businesses/entrepreneurs that compete.

Mr. Ritchie reminded the Board and attendees that while the members are interested in human and civil rights, its purview is to review small business impact of the administrative rules. For example, are there female promoters owning small businesses that are being disadvantaged or impacted. Ms. Brennan interjected that many of the subject surf organizers are small businesses.

Mr. Yamanaka commented that specific definitions seem to be lacking in the proposed rule amendments. Testifier Ms. Depolito, who thanked DPR for the hard work that has been made promulgating these rules, replied that the process needs to be reflected in the rules to change “equity” by having an equal amount of competition with men and women competing.

Executive Director Thielen explained that under the existing rules, there cannot be two big wave events because there can only be one with no overlapping. Because of the concerns over this provision, the two big wave competitions will be allowed along with overlapping, holding periods, and other equitable/diversity requirements not originally allowed. During the discussion, it was agreed that wording in section 19-25-13(k)(4) be amended to include “or.”

Testifier Ms. Carol Philips confirmed that most of the women that compete are small business owners/sole proprietors. Limiting the opportunities being offered affects their businesses and the ability to earn a living economically and causes a financial disadvantage to their businesses. Thus, gender equity is very important to these rules.

Director Thielen replied that the promulgation of the rules has been going on for about two years with much outreach and discussion of the proposal with community input. She recognizes that the proposed rules will not make 100% of the stakeholders happy, but she believes DPR has found the right balance and an improvement from the existing rules and also provides better clarity.

In regard to the small businesses operating in every event except surf quotas, there is zero impact as indicated by Director Thielen. For events outside of the North or South Shores, there is also zero impact. However, there is minor impact for the small businesses operating surf meets on the North Shore. For example: 1) it changes the calendar from the calendar year to the surf calendar, which is likely to be a positive impact; and 2) it improves the clarity as to how the applications are ranked. Additionally, a neutral change affecting small businesses is that now DPR is requiring an “after” event report; another change is that every applicant/application will be ranked.

Second Vice Chair Shick motioned to move the proposed rules to public hearing with the caveat that prudent outreach is performed with the impacted stakeholders. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 12 Chapter 46, Civil Rights Commission, promulgated by Department of Labor and Industrial (DLIR) Relations Civil Rights Commission

Ms. Robin Wurtzel, Chief Council at DLIR’s attached enforcement agency, Civil Rights Commission, explained that the Commission receives complaints primarily for alleged discrimination, public accommodations, and employment practices. Most of the Commission’s rules affect small business as it relates to employment issues.

A majority of the proposed changes to the rules are non-substantive in nature with the exception of two problematic definitions, employment and harassment. In regard to employment, which applies to this Board, the small businesses employing one or more persons must comply with non-discrimination statutes and rules in regard to the proposed changes of the definition of employment, which is defined by case law (*Santiago*).

The proposed definition is also in contrast to the definition of “independent contractor” and is consistent with similar rules enforced by DLIR such as in the Unemployment rules. Ms. Wurtzel believes this proposal is easier for small businesses to understand.

Vice Chair Cundiff commented that he would be interested in getting clarification from the Chamber of Commerce, due to its interaction and support of small businesses, for its reasoning to suggest a longer definition to “employment.” He is also interested in understanding what ways the Commission’s proposed definition would impact small business. Ms. Wurtzel responded that previously the Chamber of Commerce met in-person with the Commission and addressed every proposed amendment. She will keep in mind the Chamber’s concerns with the employment definition throughout rule review process.

Mr. Ritchie motioned to move the proposed rules to public hearing. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 39, Securities, promulgated by Department of Commerce and Consumer Affairs (DCCA)

Discussion leader Mr. Lee did not perceive the proposed rule changes to have a significant small business impact. Mr. Keola Fong, Securities Enforcement Attorney at DCCA's Commissioner of Securities of the State of Hawaii, explained that the only small businesses that will be required to comply with the rule proposal are those that are owned by or employ an individual registered or required to be registered with the Commissioner as investment adviser representatives in Hawaii.

While he believes that the rule's impact will be relatively low, any adverse effects will include an additional registration requirement, mandatory continuing education courses, and an individual's related time and costs to maintain his/her registration as an investment adviser representative in Hawaii.

While some of the courses offered by NASAA (North American Securities Administrators Association) are free, a small business' direct costs would include \$36.00 per year for annual reporting fees and the actual cost of the specific course selected by the investment adviser representative to satisfy the mandatory continuing education requirement. However, it was noted that the numerous benefits that will flow to Hawaii investors by the adoption of this newly proposed rule would significantly outweigh the time and costs associated with the additional registration requirement for investment advisor representatives.

Since NASAA implemented the proposed requirements back in 2020, ten states have adopted these practices; two are in the process, with Hawaii being the thirteenth state subject to these educational course requirements.

Several stakeholders were contacted to obtain preliminary feedback. Aside from one individual, who expressed his disagreement with the proposal but did not indicate whether he owned or worked for a small business nor did he provide any recommendations or suggestions, all of the stakeholders were in support of the proposal.

Vice Chair Cundiff motioned to move the proposed rules to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

D. Discussion and Action on Proposed New HAR Title 13 Chapter 60.11, Kipahulu Community-Based Subsistence Fishing Area, Maui, promulgated by Department of Land and Natural Resources (DLNR)

Discussion leader and Second Vice Chair Shick stated that DLNR's proposal appears very straight-forward and has an overall minor impact. Mr. David Sakoda, Fisheries Program Manager at DLNR's Division of Aquatic Resources (DAR), explained that this is a new rule to establish a marine-managed fishing area in Kipahulu, located in eastern Maui and is about 2.6 square miles of ocean area. DAR is not quite sure what all the potential impacts would be

to small businesses but opted to bring the rule to this Board for its input as a precautional measure.

Mr. Bryan Ishida, DAR Biologist, provided the members with a presentation on the potential impacts the proposed Kipahulu community-based subsistence fishing area would have on commercial fishing. Small businesses directly impacted would be commercial fishers who currently fish within the boundaries of the proposed Kipahulu Community-Based Subsistence Fishing Area (CBSFA). The rule package includes a collection of proposed restrictions: 1) bag limits that relate to the number of fish that can be caught per day, 2) size limits, 3) restrictions on the take of akule, 4) temporal restrictions, 5) area restrictions, and 6) gear restrictions.

The most restrictive of these is the take of akule, which essentially eliminates akule fishing in that area as the restrictions on bag limits are 10 fish per day, prohibitions on bag letting which relates to gear restrictions, and the elimination of night spear fishing which will decrease commercial activity drastically. The fishing will occur from the shore to 2 nautical miles but it is difficult to determine the actual fishing activity through the reported commercial fishing data. Offshore fisheries in the area, which include pelagic and deep bottom fish species, may see little impact from the proposed CBSFA.

Mr. Ishida explained that the rules were designed to achieve the specific conservation goals of the Kipahulu community residents that provided input to DAR. As such, the rules are the result of extensive community scoping efforts with incorporated feedback from small businesses, i.e., commercial fishers, commercial tours, etc.; the final product is intended to reduce the rule's business impact while ensuring the rules' efficacy.

In response to Mr. Yamanaka's inquiry into what positive economic results would come from the proposed CBSFA, Mr. Sakoda and Mr. Ishida responded that some small businesses may benefit from protecting the resources in addition to allowing other businesses to continue to sustain. Overall, there will be better rules to sustain resources for the general good of Hawaii and general good of its residents and visitors. It will also help with populating various fishes depending on the areas involved regarding the environment and the specific circumstances.

Mr. Yamanaka added that there is a positive impact with these rules regarding the whole process where the affected communities can offer educational benefits to the younger generation and an opportunity to learn, thereby, providing future job opportunities.

Mr. Yamanaka motioned to move the proposed rules to public hearing. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

V. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Discussion and Action on Proposed Changes to Section 201M-5 (a) Small business regulatory review board; powers, HRS

Vice Chair Cundiff explained that several small businesses approached this Board at the end of the legislative session requesting that the members review and provide testimony on House Bill 1090 Relating to Ocean Recreation Commercial Permits, which was purportedly causing financial impact on the business' operations.

In order to clarify the intent of the Board's authority to provide testimony on legislative bills regarding small business, and to prevent any potential conflicts with the Board's ability to provide testimony such testimony, Deputy Attorney General Kato offered two options for the members to review that would statutorily clarify the Board's legislative purview.

One option is a general comment for the Board to review legislation affecting small business. The other option has to do with requests from small businesses to provide testimony.

Mr. Ritchie motioned to have the two proposed bill options that were provided by Deputy Attorney General Kato drafted for discussion and action at the next board meeting. Vice Chair Cundiff seconded the motion, and the Board members unanimously agreed.

2. Presentations to Industry Associations

Deferred.

3. Staffs Small Business Outreach

Deferred.

4. Director Letters and Meetings with State Agencies and Counties

Deferred.

VI. NEXT MEETING - Thursday, August 17, 2023 at 10:00 a.m., in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 S. Beretania Street, Honolulu, HI 96813.

VII. ADJOURNMENT – The meeting adjourned at 12:57 p.m.

III. NEW BUSINESS

- A. Discussion and Action on Proposed Amendments to **BWS Rules and Regulations** Chapter I – V, Section 54 – 26 for the **Adoption of New Water Rates and Charges**, promulgated by the Board of Water Supply, City and County of Honolulu

**PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**
(Hawaii Revised Statutes §201M-2)

Date: _____

Department or Agency: _____

Administrative Rule Title and Chapter: _____

Chapter Name: _____

Contact Person/Title: _____

E-mail: _____ Phone: _____

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐

Yes

☐

No

If "Yes," provide details: _____

I. Rule Description:

☐

New

☐

Repeal

☐

Amendment

☐

Compilation

II. Will the proposed rule(s) affect small business?

☐

Yes

☐

No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐

Yes

☐

No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐

Yes

☐

No

(If "Yes" no need to submit this form.)

*

*

*

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.

 - b. Amount of the proposed fee or fine and the percentage increase.

 - c. Reason for the new or increased fee or fine.

 - d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).
-
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3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.
5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.
6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.
7. How the agency involved small business in the development of the proposed rules.
 - a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

* * *

Small Business Regulatory Review Board / DBEDT
Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>

BWS SUPPLEMENT TO PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

- 1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.*

Pursuant to Hawaii Revised Statutes, §54-26, Revised Charter of the City and County of Honolulu, Article VII, §7-109, BWS Rules and Regulations – Chapter I – V:

All customers' water rates will increase, including our small business customers. Small business customers fall into either our non-residential customer class or our agricultural customer class. Non-residential customers pay a uniform rate per 1,000 gallons of water used per month, regardless of how much water they use. Agricultural customers pay using a 3-tier rate structure. The agricultural customer class is subsidized and pays only 60% of the cost to serve them. No changes are proposed to either of these structures, only to the rates per 1,000 gallons of usage and to the monthly customer charge, which is based on water meter size.

- 2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.*

BWS is proposing rates for a 5 1/2-year period beginning January 1, 2024 through June 30, 2029. Increases in the dollar amounts of direct costs experienced by small business customers will vary depending on the size of their water meter and actual water use. The percentage increases are as follows: January 1, 2024, 10%; July 1, 2024, 10%; July 1, 2025, 9%; July 1, 2026, 8.5%; July 1, 2027, 8%; July 1, 2028, 8%. There are no indirect costs to any of our customers as a result of these proposed changes. See Attachment 1: Proposed Non-Residential, Agricultural, Non-Potable and Recycled Water Customer Water Rates.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.*

Current and proposed rates are provided in Attachment 2. The last time rates were increased was July 1, 2022.

- b. Amount of the proposed fee or fine and the percentage increase.*

Proposed rates and percentage increases are provided in Attachments 1, 2, and 3.

BWS SUPPLEMENT TO PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT

c. Reason for the new or increased fee or fine.

Pursuant to HRS § 54-26, the BWS may fix and adjust rates and charges for the furnishing of water and for water service provided to BWS consumers. A public notice shall be given not less than twenty days before the date of the public hearing and the notice shall set forth the time, place of the hearing, and the proposed rates and charges to be considered thereat. These increases are necessary to continue to fund the operations and capital improvement program of the BWS at a level necessary to continue to provide safe and dependable water to our customers. The BWS is a self-supporting, semi-autonomous agency that receives no tax revenues. Nearly all of our revenue is from water sales to our customers.

d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.)

The BWS's WMP assessed the condition of the water system; projected future water demands; and outlined projects to address wear, age, growth, and sustainability. The resulting Infrastructure Investment Plan is a multi-decade strategy that identifies specific infrastructure projects and when then should be implement, based on risk. The Long Range Financial Plan determined the anticipated revenue increase required to implement these plans. See Attachment 3: Water Master Plan Summary, Attachment 4; Infrastructure Investment Plan Summary, and Attachment 5: Long Range Financial Plan Update. Financial impacts from non-controllable events including the COVID global pandemic, rampant inflation, much-higher-than-anticipated increases in energy costs, the Red Hill contamination, and uncertain operating and capital cost increases from proposed new EPA to address emerging contaminants are necessitating revenue increases to be even greater, despite the extensive cost control measures we have implemented.

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimate total amount the agency expect to collect from any additionally imposed fees and the manner in which the monies will be uses.

Over the 5 and 1/2-year period, BWS expects to collect an additional \$550 million. This will be used to fund operations and infrastructure investments. The BWS will utilize bond financing and State Revolving Fund loans to leverage our ratepayer's money, reduce impacts to water rates, and share payment for these investments with both current and future customers. Planned investments in capital projects are summarized in Attachment 8.

BWS SUPPLEMENT TO PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT

4. *The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines, schedule, performance rather than design standards, exemption, or other mitigating techniques.*

BWS considered alternative rate structures for non-residential (including small business) customers and determined the uniform rate per 1,000 gallons, regardless of usage, to be the most equitable, easiest to understand, and least expensive to implement. It was also decided to continue to provide substantially discounted rates (60% of cost of service) to agricultural customers.

5. *The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.*

The proposed water rate adjustments do not impose changes in water use requirements or restrictions in water use.

6. *Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.*

Acting on the suggestions by our Stakeholder Advisory Group and Commercial Stakeholder Advisory Group, the relatively low proposed increases in the Essential Needs Tier 1 for residential and agricultural water customers have been achieved by greater increases in the highest water use tiers for our residential customers.

7. *How the agency involved small business in the development of the proposed rules.*

Please see Attachment 8, the BWS engaged a Stakeholder Advisory Group and Commercial Stakeholder Advisory Group, which suggests constituent-based ideas and values to the proposed water rates.

- a. *If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.*

Recommendations from small business were sought through the Stakeholder Advisory Group and Commercial Stakeholder Advisory Group. Recommendations made included retaining the uniform rate per 1,000 gallons of usage and retaining current subsidies and fee waivers. Regarding the residential and agricultural Essential Need Tier 1, they recommended lower increases for this tier and higher increase for water use

BWS SUPPLEMENT TO PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT

in tiers 3 and 4 to encourage water conservation. All of these recommendations were incorporated.

Question 8: No.

a through e: Not Applicable.

PROPOSED Non-Residential, Agricultural, Non-Potable and Recycled Water Customer Water Rates

The Honolulu Board of Water Supply is proposing rate adjustments for all of its customer classes – **Single-Family** and **Muli-Unit Residential, Non-Residential, Agricultural, Non-Potable, and Recycled Water**. These rate adjustments are part of a 5-year rate proposal. Community presentations and briefings on the rate proposal will be held in August 2023. Proposed rate changes would begin January 1, 2024.

Proposed Water Rates Effective Beginning January 1, 2024

Your Honolulu Board of Water Supply bill for water includes a charge for the amount of water you use and a monthly customer charge. The percentage increase by year and with proposed water rates are shown below.

Proposed Rates % Change for All Customer Classes, Effective Dates*					
Jan 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
10.0%	10.0%	9.0%	8.5%	8.0%	8.0%

* Changes may vary by tier, but are consistent across the class

Non-Residential – Proposed Rates for Water Use

(Proposed rates are shown in \$/thousand gallons/month.)

Current	Proposed Rates, Effective Dates					
	Jan 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
\$5.27	\$5.80	\$6.38	\$6.95	\$7.54	\$8.14	\$8.80

Agricultural – Proposed Rates for Water Use

(Proposed rates are shown in \$/thousand gallons/month.)

Tier	Gallons/du/month	Current	Proposed Rates, Effective Dates					
			Jan 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
EssN: 1	0 to 2,000	\$4.46	\$4.57	\$4.69	\$4.80	\$4.92	\$5.05	\$5.17
2	2,001 to 6,000	\$5.25	\$5.78	\$6.35	\$6.92	\$7.51	\$8.11	\$8.76
3	Over 6,000	\$2.12	\$2.33	\$2.57	\$2.81	\$3.05	\$3.29	\$3.56

Non-Potable and Recycled Water – Proposed Rates for Water Use


(Proposed rates are shown in \$/thousand gallons/month.)

Type	Current	Proposed Rates, Effective Dates					
		Jan 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
Non-Potable	\$2.90	\$3.19	\$3.51	\$3.82	\$4.15	\$4.48	\$4.84
R-1 Golf	\$0.65	\$0.72	\$0.79	\$0.86	\$0.93	\$1.00	\$1.08
R-1 Other	\$1.96	\$2.16	\$2.37	\$2.59	\$2.80	\$3.03	\$3.27
RO	\$6.36	\$7.00	\$7.70	\$8.39	\$9.10	\$9.83	\$10.62

Monthly Customer Charge

The Honolulu Board of Water Supply applies a customer charge based on the size of the meter. A monthly customer charge based on meter size distributes costs for service more fairly, with those with a larger meter paying more. The monthly customer charge covers the costs of servicing and replacing meters, reading meters, billing, and related customer and administration services.

Monthly Customer Charge (per meter)

Meter Size	Current	Jan 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
 5/8"	12.09	13.30	14.63	15.95	17.30	18.68	20.18
3/4"	12.09	13.30	14.63	15.95	17.30	18.68	20.18
1"	15.28	16.81	18.49	20.15	21.87	23.62	25.50
* 1.5"	17.41	19.15	21.07	22.96	24.91	26.91	29.06
* 2"	43.45	47.80	52.57	57.31	62.18	67.15	72.52
3"	53.55	58.91	64.80	70.63	76.63	82.76	89.38
4"	101.92	112.11	123.32	134.42	145.85	157.52	170.12
6"	181.64	199.80	219.78	239.56	259.93	280.72	303.18
8"	276.78	304.46	334.90	365.05	396.07	427.76	461.98
12"	598.53	658.38	724.22	789.40	856.50	925.02	999.02

*Typical for single-family residential customer

POWER COST ADJUSTMENT: When total electricity costs to the Board of Water Supply exceed the amount used in calculating the annual Schedule of Rates and Charges, then the Quantity Charge may be increased \$0.01 per 1,000 gallons for every \$500,000 incremental overage, in the following fiscal year.

ENVIRONMENTAL REGULATIONS COMPLIANCE FEE ADJUSTMENT: The Quantity Charge may be increased \$0.01 per 1,000 gallons for each \$500,000 of additional costs that the Board of Water Supply is required to incur in order to comply with any Federal or State environmental law or regulation.

Community Meetings

The public is welcome to any and all of these meetings and to send comments to the Board of Water Supply by September 30, 2023, by letter or email.

All Meetings: 6:00 – 8:30 PM	
Kaneohe	Monday, August 14 <i>Benjamin Parker Elementary School Cafeteria</i> 45-259 Waikalua Road, Kaneohe 96744
Honolulu	Tuesday, August 15 <i>Japanese Cultural Center of Hawaii</i> 2454 S Beretania St., Honolulu 96826
Kapolei	Wednesday, August 16 <i>Kapolei Hale, Conference Rooms A/B/C</i> 1000 Uluohia Street, Kapolei 96707

Send a letter or an email to:

Board of Water Supply

Attn: Proposed Water Rates
630 South Beretania, Honolulu 96843
Email: bwsrates@hbws.org

Sept. 30, 2023

Questions?

Call: (808) 748-5041

BWS Website: www.boardofwatersupply.com

Twitter: [@BWSHonolulu](https://twitter.com/BWSHonolulu)

Facebook: <http://www.facebook.com/BWSHonolulu>

Revision to the Schedule of Rates and Charges for the Furnishing of Water and Water Service

Amended by Resolution No. [~~889, 2018, effective September 10, 2018~~]

[Schedule for September 10, 2018 – June 30, 2019]

[Billing Charge]

There is a billing charge each time a bill is issued effective as follows:

Sep. 10, 2018
\$9.26

Quantity Charge

In addition to the Billing Charge, there is a charge for all water used, rounded down to the nearest 1,000 gallons (k-gal), effective as follows:

Single-Family Residential (Monthly per dwelling unit)	Sep. 10, 2018
Tier 1 First 13,000 gallons	\$4.42
Tier 2 13,001 – 30,000 gallons	\$5.33
Tier 3 Over 30,000 gallons	\$7.94
Multi-Unit Residential (Monthly per dwelling unit)	Sep. 10, 2018
Tier 1 First 9,000 gallons	\$4.42
Tier 2 9,001 – 22,000 gallons	\$5.33
Tier 3 Over 22,000 gallons	\$7.94
Non-Residential	Sep. 10, 2018
All Usage	\$4.96
Agricultural (Monthly per account)	Sep. 10, 2018
Tier 1 First 13,000 gallons	\$4.42
Tier 2 Over 13,000 gallons	\$1.89
Non-Potable/Brackish	Sep. 10, 2018
All Usage	\$2.47

Customer Class Definitions

Potable Water means all water that meets State Department of Health Drinking Water Standards. For all customers, all potable water used for irrigation will be billed in accordance with the primary usage of the property. Potable water customers are divided into the following classes:

Residential

Single-family residential refers to single-family and duplex residences.

Multi-Unit refers to multi-unit residences including apartments, condominiums and townhouses. Low-rise constitutes up to three stories in height. High-rise refers to higher than three living stories.

Agricultural

Agricultural refers to a parcel devoted to agricultural activities. To qualify for Agricultural Quantity Charges, a customer must submit a written application to the Board of Water Supply and furnish satisfactory proof that they are engaged in agriculture on a commercial basis. Only one dwelling unit will be allowed on a meter qualifying for the agricultural quantity charges. To continue to qualify, the application must be renewed each fiscal year.

Non-Residential

Non-residential refers to any property not used for residential or agricultural purposes. To determine appropriate quantity charges, combinations of residential and non-residential may require separate meters for each use; e.g. separate residential and non-residential meters.

Non-Potable/Brackish

Non-Potable/Brackish refers to customers that receive non-potable/brackish water. This water does not meet State Department of Health Drinking Water Standards. The Non-Potable Quantity Charges shall not supersede existing or individually negotiated non-potable quantity charge agreements.

Standby Charge: A Standby Charge will be negotiated by the Manager and Chief Engineer with each private water system contracting for interconnection service. Such service shall be provided only during emergency or temporary service outages with the intent to protect against interrupted water service supporting normal private system requirements. Water used shall be charged at the applicable quantity rate for each thousand gallons. Approval of activation and duration is contingent upon impacts to BWS customers' level of service and BWS's ability to meet Water System Standards requirements. Activation of service will require a written request submitted to the Manager and Chief Engineer at least 48 hours before service is required, unless waived by the Manager and Chief Engineer.

Water service shall be provided in accordance with Board of Water Supply Rules and Regulations Section 1-101 Availability of Water which requires that "the Department have sufficient pressure and water supply available for domestic use and fire protection and can assume new or additional service without detriment to those presently being served."

Power Cost Adjustment: When total power, or electricity, costs to the Board of Water Supply exceed the amount used in calculating the annual Schedule of Rates and Charges, then the Quantity Charge may be increased \$0.01 per 1,000 gallons for every \$500,000 incremental power cost overage in the following fiscal year.

Environmental Regulations Compliance Fee Cost Adjustment: The Quantity Charge may be increased \$0.01 per 1,000 gallons for each \$500,000 of additional costs that the Board of Water Supply is required to incur in order to comply with any Federal or State environmental law or regulation.

~~Waiver of Water System Facilities Charge for Qualified Affordable and Homeless Dwelling Units~~

~~The Board of Water Supply may waive the Water Systems Facilities Charges and new meter cost for qualified on-site affordable and homeless dwelling units, up to 500 dwelling units per year. The waivers will be granted when the building permit is submitted for approval. To qualify, the dwelling units must be certified as either affordable or homeless dwelling units by the appropriate agency of the City and County of Honolulu. Waiver of the Water System Facilities Charge will apply only to fixture units associated with the certified dwelling units. The amount of the meter waiver shall be calculated as a percentage of the number of certified dwelling units to the total number of dwelling units in the project. If the annual cap of 500 dwelling units has not been reached and a project is proposed that would qualify for more than the remaining number of dwelling units in that year, the Manager and Chief Engineer has the discretion to increase that year's limit. This waiver provision shall expire on June 30, 2023.~~

~~Waiver of Meter Charges for Residential Fire Sprinkler Retrofits~~

~~The Board of Water Supply may waive the new meter charges for high rise multi-unit residential fire sprinkler retrofits. This waiver provision shall expire on June 30, 2023.]~~

Schedule for ~~July 1, 2019 – June 30, 2023~~ January 1, 2024 – June 30, 2029. Rates will remain in effect until superseded.

Customer Charge

There is a customer charge for each month service is provided based on the meter size effective as follows:

[Meter Size	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
5/8" or 3/4"	\$10.42	\$10.80	\$11.38	\$12.09
1"	\$13.31	\$13.79	\$14.45	\$15.28
1.5"	\$15.23	\$15.78	\$16.50	\$17.41
2"	\$38.81	\$40.18	\$41.61	\$43.45
3"	\$47.95	\$49.64	\$51.35	\$53.55
4"	\$91.74	\$94.95	\$97.98	\$101.92
6"	\$163.91	\$169.63	\$174.84	\$181.64
8"	\$250.03	\$258.76	\$266.57	\$276.78
12'	\$541.31	\$560.18	\$576.78	\$598.53]

Meter Size	January 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<u>5/8" or 3/4"</u>	<u>13.30</u>	<u>14.63</u>	<u>15.95</u>	<u>17.30</u>	<u>18.68</u>	<u>20.18</u>
<u>1"</u>	<u>16.81</u>	<u>18.49</u>	<u>20.15</u>	<u>21.87</u>	<u>23.62</u>	<u>25.50</u>
<u>1.5"</u>	<u>19.15</u>	<u>21.07</u>	<u>22.96</u>	<u>24.91</u>	<u>26.91</u>	<u>29.06</u>
<u>2"</u>	<u>47.80</u>	<u>52.57</u>	<u>57.31</u>	<u>62.18</u>	<u>67.15</u>	<u>72.52</u>
<u>3"</u>	<u>58.91</u>	<u>64.80</u>	<u>70.63</u>	<u>76.63</u>	<u>82.76</u>	<u>89.38</u>
<u>4"</u>	<u>112.11</u>	<u>123.32</u>	<u>134.42</u>	<u>145.85</u>	<u>157.52</u>	<u>170.12</u>
<u>6"</u>	<u>199.80</u>	<u>219.78</u>	<u>239.56</u>	<u>259.93</u>	<u>280.72</u>	<u>303.18</u>
<u>8"</u>	<u>304.46</u>	<u>334.90</u>	<u>365.05</u>	<u>396.07</u>	<u>427.76</u>	<u>461.98</u>
<u>12'</u>	<u>658.38</u>	<u>724.22</u>	<u>789.40</u>	<u>856.50</u>	<u>925.02</u>	<u>999.02</u>

Quantity Charge

In addition to the Customer Charge, there is a charge for all water used, rounded down to the nearest 1,000 gallons (k-gal), effective as follows:

[Single-Family Residential (Monthly per dwelling unit)]	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
Tier 1: Essential Needs First 2,000 gallons	\$3.79	\$3.91	\$4.17	\$4.46
Tier 2 2,001 – 6,000 gallons	\$4.46	\$4.60	\$4.90	\$5.25
Tier 3 6,001 – 30,000 gallons	\$5.06	\$5.20	\$5.50	\$5.85
Tier 4 Over 30,000 gallons	\$8.46	\$8.60	\$8.90	\$9.25
Multi-Unit Residential (Monthly per dwelling unit)]	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
Tier 1: Essential Needs First 2,000 gallons	\$3.70	\$3.71	\$3.72	\$3.77
Tier 2 2,001 – 4,000 gallons	\$4.35	\$4.36	\$4.38	\$4.43

Tier 3 4,001 – 10,000 gallons	\$4.95	\$4.96	\$4.98	\$5.03
Tier 4 Over 10,000 gallons	\$5.90	\$5.91	\$5.93	\$5.98
Non-Residential	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
All Usage	\$5.01	\$5.06	\$5.16	\$5.27
Agricultural (Monthly per account)	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
Tier 1: Essential Needs First 2,000 gallons	\$3.79	\$3.91	\$4.17	\$4.46
Tier 2 2,001 – 6,000 gallons	\$4.46	\$4.60	\$4.90	\$5.25
Tier 3 Over 6,000 gallons	\$1.95	\$1.98	\$2.05	\$2.12
Non-Potable/Brackish	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
All Usage	\$2.53	\$2.62	\$2.75	\$2.90
Recycled Water				
R-1 Golf	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
All Usage	\$0.57	\$0.59	\$0.62	\$0.65
R-1 Other	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
All Usage	\$1.84	\$1.88	\$1.92	\$1.96
Reverse Osmosis (RO)	July 1, 2019	July 1, 2020	July 1, 2021	July 1, 2022
All Usage	\$5.76	\$5.88	\$6.12	\$6.36]

Single-Family Residential (Monthly per dwelling unit)	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
<u>Tier 1: Essential Needs First 2,000 gallons</u>	<u>\$4.57</u>	<u>\$4.69</u>	<u>\$4.80</u>	<u>\$4.92</u>	<u>\$5.05</u>	<u>\$5.17</u>
<u>Tier 2 2,001 – 6,000 gallons</u>	<u>\$5.78</u>	<u>\$6.35</u>	<u>\$6.92</u>	<u>\$7.51</u>	<u>\$8.11</u>	<u>\$8.76</u>
<u>Tier 3 6,001 – 30,000 gallons</u>	<u>\$6.53</u>	<u>\$7.34</u>	<u>\$8.15</u>	<u>\$8.98</u>	<u>\$9.82</u>	<u>\$10.74</u>
<u>Tier 4 Over 30,000 gallons</u>	<u>\$10.95</u>	<u>\$12.32</u>	<u>\$13.67</u>	<u>\$15.06</u>	<u>\$16.48</u>	<u>\$18.02</u>
Multi-Unit Residential (Monthly per dwelling unit)	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
<u>Tier 1: Essential Needs First 2,000 gallons</u>	<u>\$3.86</u>	<u>\$3.96</u>	<u>\$4.06</u>	<u>\$4.16</u>	<u>\$4.27</u>	<u>\$4.37</u>
<u>Tier 2 2,001 – 4,000 gallons</u>	<u>\$4.87</u>	<u>\$5.36</u>	<u>\$5.84</u>	<u>\$6.34</u>	<u>\$6.85</u>	<u>\$7.39</u>
<u>Tier 3 4,001 – 10,000 gallons</u>	<u>\$5.70</u>	<u>\$6.52</u>	<u>\$7.33</u>	<u>\$8.16</u>	<u>\$9.01</u>	<u>\$9.93</u>

Tier 4 Over 10,000 gallons	<u>\$7.21</u>	<u>\$8.25</u>	<u>\$9.27</u>	<u>\$10.33</u>	<u>\$11.40</u>	<u>\$12.57</u>
Non-Residential	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
All Usage	<u>\$5.80</u>	<u>\$6.38</u>	<u>\$6.95</u>	<u>\$7.54</u>	<u>\$8.14</u>	<u>\$8.80</u>
Agricultural (Monthly per account)	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
Tier 1: Essential Needs First 2,000 gallons	<u>\$4.57</u>	<u>\$4.69</u>	<u>\$4.80</u>	<u>\$4.92</u>	<u>\$5.05</u>	<u>\$5.17</u>
Tier 2 2,001 – 6,000 gallons	<u>\$5.78</u>	<u>\$6.35</u>	<u>\$6.92</u>	<u>\$7.51</u>	<u>\$8.11</u>	<u>\$8.76</u>
Tier 3 Over 6,000 gallons	<u>\$2.33</u>	<u>\$2.57</u>	<u>\$2.81</u>	<u>\$3.05</u>	<u>\$3.29</u>	<u>\$3.56</u>
Non-Potable/Brackish	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
All Usage	<u>\$3.19</u>	<u>\$3.51</u>	<u>\$3.82</u>	<u>\$4.15</u>	<u>\$4.48</u>	<u>\$4.84</u>
Recycled Water						
R-1 Golf	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
All Usage	<u>\$0.72</u>	<u>\$0.79</u>	<u>\$0.86</u>	<u>\$0.93</u>	<u>\$1.00</u>	<u>\$1.08</u>
R-1 Other	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
All Usage	<u>\$2.16</u>	<u>\$2.37</u>	<u>\$2.59</u>	<u>\$2.80</u>	<u>\$3.03</u>	<u>\$3.27</u>
Reverse Osmosis (RO)	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
All Usage	<u>\$7.00</u>	<u>\$7.70</u>	<u>\$8.39</u>	<u>\$9.10</u>	<u>\$9.83</u>	<u>\$10.62</u>

Fire Meter Standby Charge

For those receiving private fire service, there is an additional fire meter standby charge billed monthly based on the size of the fire meter effective as follows:

[Fire Meter Size]	<u>July 1, 2019</u>	<u>July 1, 2020</u>	<u>July 1, 2021</u>	<u>July 1, 2022</u>
2" and smaller	<u>\$6.72</u>	<u>\$6.95</u>	<u>\$7.42</u>	<u>\$7.99</u>
3"	<u>\$8.82</u>	<u>\$9.08</u>	<u>\$9.64</u>	<u>\$10.29</u>
4"	<u>\$12.43</u>	<u>\$12.74</u>	<u>\$13.44</u>	<u>\$14.23</u>
6"	<u>\$25.42</u>	<u>\$25.94</u>	<u>\$27.13</u>	<u>\$28.44</u>
8"	<u>\$47.83</u>	<u>\$48.69</u>	<u>\$50.74</u>	<u>\$52.94</u>

Fire Meter Size	<u>January 1, 2024</u>	<u>July 1, 2024</u>	<u>July 1, 2025</u>	<u>July 1, 2026</u>	<u>July 1, 2027</u>	<u>July 1, 2028</u>
2" and smaller	<u>\$8.79</u>	<u>\$9.67</u>	<u>\$10.54</u>	<u>\$11.43</u>	<u>\$12.35</u>	<u>\$13.34</u>
3"	<u>\$11.32</u>	<u>\$12.45</u>	<u>\$13.57</u>	<u>\$14.73</u>	<u>\$15.90</u>	<u>\$17.18</u>
4"	<u>\$15.65</u>	<u>\$17.22</u>	<u>\$18.77</u>	<u>\$20.36</u>	<u>\$21.99</u>	<u>\$23.75</u>
6"	<u>\$31.28</u>	<u>\$34.41</u>	<u>\$37.51</u>	<u>\$40.70</u>	<u>\$43.95</u>	<u>\$47.47</u>
8"	<u>\$58.23</u>	<u>\$64.06</u>	<u>\$69.82</u>	<u>\$75.76</u>	<u>\$81.82</u>	<u>\$88.36</u>

Customer Class Definitions

Potable Water means all water that meets State Department of Health Drinking Water Standards. For all customers, all potable water used for irrigation will be billed in accordance with the primary usage of the property. Potable water customers are divided into the following classes:

Residential

Single-family residential refers to single-family and duplex residences.

Multi-Unit refers to multi-unit residences including apartments, condominiums and townhouses. Low-rise constitutes up to three stories in height. High-rise refers to higher than three living stories.

Agricultural

Agricultural refers to a parcel devoted to agricultural activities. To qualify for Agricultural Quantity Charges, a customer must submit a written application to the Board of Water Supply and furnish satisfactory proof that they are engaged in agriculture on a commercial basis. Only one dwelling unit will be allowed on a meter qualifying for the agricultural quantity charges. To continue to qualify, the application must be renewed each fiscal year.

Non-Residential

Non-residential refers to any property not used for residential or agricultural purposes. To determine appropriate quantity charges, combinations of residential and non-residential may require separate meters for each use; e.g. separate residential and non-residential meters.

Non-Potable Water means all water that does not meet State Department of Health Drinking Water Standards. It is divided into the following classes:

Non-Potable/ Brackish

Customers that receive non-potable/ brackish water.

R-1 Recycled Water

R-1 recycled water is recycled wastewater that meets State Department of Health Reuse Guidelines.

R-1 Golf are those customers that receive R-1 water used primarily for golf course irrigation.

R-1 Other are those customers that receive R-1 recycled water for uses other than golf course irrigation

Reverse Osmosis (RO) Demineralized Water

RO water is recycled wastewater that has been demineralized through reverse osmosis.

The R-1 Golf, R-1 Other and RO Customer and Quantity Charges shall not supersede existing or individually negotiated charges unless expressly identified in the contract.

Fire Meter Standby Charge

The Fire Meter Standby Charge, for readiness to serve, applies to services used exclusively for private fire protection purposes, including automatic fire sprinkler services connected to the alarm systems, fire hydrants, and wet standpipes. These must be protected against theft and leakage or waste of water. No connections or usage of water for other than fire-fighting and system testing purposes is allowed. In addition, for any misuse or non-fire protection related water use, such usage will be billed at twice the highest quantity charge in effect at that time. For any such misuse or leakage, the Customer shall be subject to penalty pursuant to Chapter 1, Article 3, Section 1-3.1 of the Revised Ordinances of Honolulu. Except for misuse and non-fire protection related use as described above, there are no quantity charges associated with these services.

Standby Charge: A Standby Charge will be negotiated by the Manager and Chief Engineer with each private water system contracting for interconnection service. Such service shall be provided only during emergency or temporary service outages with the intent to protect against interrupted water service supporting normal private system requirements. Water used shall be charged at the applicable quantity rate for each thousand gallons. Approval of activation and duration is contingent upon impacts to BWS customers' level of service and BWS's ability to meet Water System Standards requirements. Activation of service will require a written request submitted to the Manager and Chief Engineer at least 48 hours before service is required, unless waived by the Manager and Chief Engineer.

Water service shall be provided in accordance with Board of Water Supply Rules and Regulations Section 1-101 Availability of Water which requires that "the Department have sufficient pressure and water supply available for domestic use and fire protection and can assume new or additional service without detriment to those presently being served."

Power Cost Adjustment: When total power, or electricity, costs to the Board of Water Supply exceed the amount used in calculating the annual Schedule of Rates and Charges, then the Quantity Charge may be increased \$0.01 per 1,000 gallons for every \$500,000 incremental power cost overage in the following fiscal year.

Environmental Regulations Compliance Fee Cost Adjustment: The Quantity Charge may be increased \$0.01 per 1,000 gallons for each \$500,000 of additional costs that the Board of Water Supply is required to incur in order to comply with any Federal or State environmental law or regulation.

Waiver of Water System Facilities Charge for Qualified Affordable and Homeless Dwelling Units

The Board of Water Supply may waive the Water Systems Facilities Charges and new meter cost for qualified on-site affordable and homeless dwelling units, up to 500 dwelling units per year. The waivers will be granted when the building permit is submitted for approval. To qualify, the dwelling units must be certified as either affordable or homeless dwelling units by the appropriate agency of the City and County of Honolulu. Waiver of the Water System Facilities Charge will apply only to fixture units associated with the certified dwelling units. The amount of the meter waiver shall be calculated as a percentage of the number of certified dwelling units to the total number of dwelling units in the project. If the annual cap of 500 dwelling units has not been reached and a project is proposed that would qualify for more than the remaining number of dwelling units in that year, the Manager and Chief Engineer has the discretion to increase that year's limit. ~~[This waiver provision shall expire on June 30, 2023.]~~

Waiver of Meter Charges for Residential Fire Sprinkler Retrofits

The Board of Water Supply may waive the new meter charges for high rise multi-unit residential fire sprinkler retrofits. ~~[This waiver provision shall expire on June 30, 2023.]~~

FIRE METER STANDBY CHARGE

Meter Size	Current	Jan 1 FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
2" and smaller	\$7.99	\$8.79	\$9.67	\$10.54	\$11.43	\$12.35	\$13.34
3"	\$10.29	\$11.32	\$12.45	\$13.57	\$14.73	\$15.90	\$17.18
4"	\$14.23	\$15.65	\$17.22	\$18.77	\$20.36	\$21.99	\$23.75
6"	\$28.44	\$31.28	\$34.41	\$37.51	\$40.70	\$43.95	\$47.47
8"	\$52.94	\$58.23	\$64.06	\$69.82	\$75.76	\$81.82	\$88.36

- For READINESS TO SERVE, applies exclusively to services for private fire protection including automatic fire sprinklers connected to alarms, fire hydrants, and wet stand pipes. Water usage charges to fight an actual fire are waived.



Investing in Oahu's Water Future

The Board of Water Supply (BWS) is proposing rate adjustments necessary to continue to provide safe, reliable, and affordable water on Oahu, today and into the future.

BWS is reaching out across the island to share what is being proposed and why.



**THE COST OF
DELIVERING
WATER**
IS GOING TO GO **UP**

RESULTING BENEFITS INCLUDE ...

BWS is financially self-sufficient and depends on customer rates and fees to operate and maintain Oahu's extensive and complex water infrastructure.

- ◆ Reliability and resiliency of our water system will increase.
- ◆ The number of main breaks will go down within the coming decade.
- ◆ Increased investments in conservation will preserve existing supplies and delay the need for new ones.
- ◆ Targeted funding for watershed protection will help us adapt to a changing climate.



**OVER THE NEXT 30 YEARS
BWS WILL INVEST IN**

800+ INFRASTRUCTURE
PROJECTS
ISLAND-WIDE
**WITH TOTAL COSTS OVER
\$5.3 BILLION**

- In the coming decade, BWS will gradually ramp up pipeline replacement from 6 to 21 miles every year, working to significantly reduce main breaks.
- Projects will be launched to renew or replace higher risk pumps and reservoirs. Pumps are the "heart" of the water system and critical for reliable water delivery.
- Our water supply will be made more sustainable by expanding water recycling facilities, establishing new fresh-water wells, building the island's first seawater desalination plant, and developing a sharpened focus on conservation and watershed protection.
- Partnerships on-island and throughout the water industry will ensure we remain out front in research and development, as well as best practices.



**CUSTOMER RATES & FEES
ALSO SUPPORT OPERATIONS TO**



TO YOU EVERY DAY

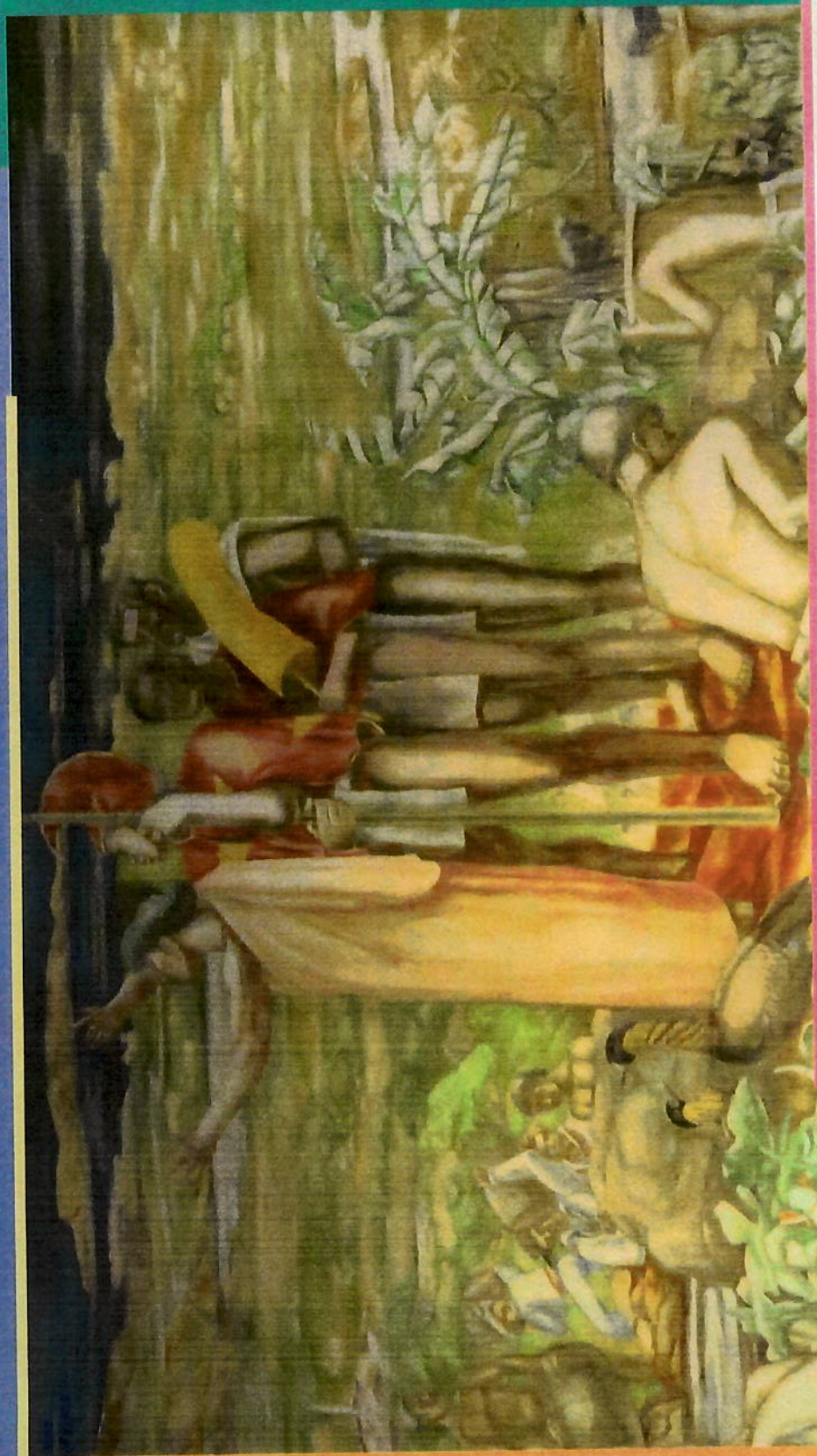
Your rate-payer dollars go to:

- replace and repair critical water infrastructure,
- continue to serve safe, dependable water to nearly 1 million residents and visitors on Oahu, every minute, of every hour, of every day,
- conduct nearly 30,000 tests annually for water quality at the source and in the system,
- protect watersheds, a key source for our water supplies,
- provide sufficient funding to prepare for disaster recovery,
- conduct studies with University of Hawaii (UH) to prepare for and address climate change,
- monitor and maintain 21,000 fire hydrants across the island,
- initiate and expand conservation programs, including piloting new technologies,
- educate children, to develop good water-use habits,
- sustain high-value partnerships, both within Hawaii and beyond, e.g. Hawaii Community Foundation, UH, Koolau and Waianae Mountains Watershed Partnerships, Oahu Invasive Species Council, American Water Works Association, Water Research Foundation, and more.



30-Year Infrastructure Investment Plan

SUMMARY



Board of Water Supply
City and County of Honolulu

Water for Life, Ka Wai Ola

MARCH 2018

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This is a summary of the 30-Year Infrastructure Investment Plan prepared by the City and County of Honolulu Board of Water Supply in March 2018. The full plan and its companion publications – a Water Master Plan and a Long Range Financial Plan – are available on the Board of Water Supply web site.

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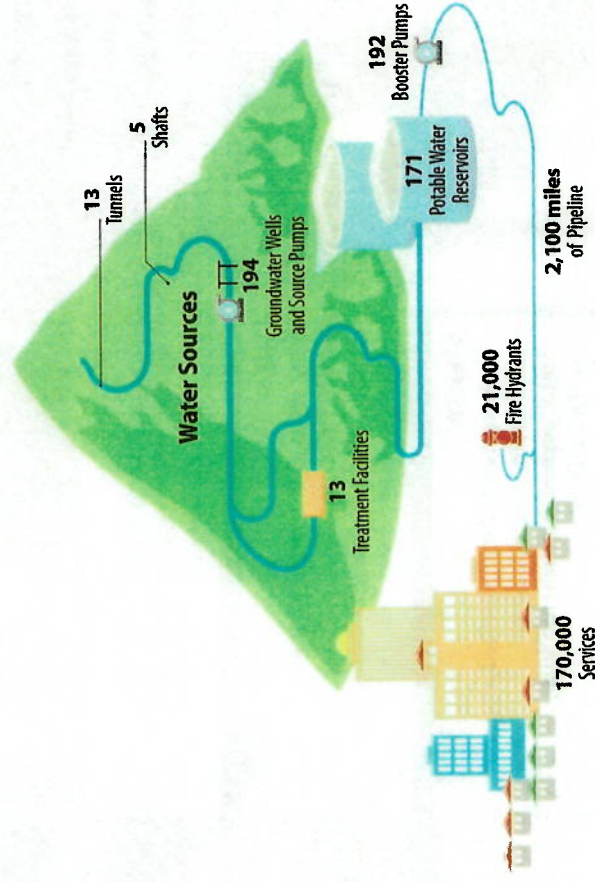
Facebook: <http://www.facebook.com/BWS.Honolulu>

Website: <http://www.boardofwatersupply.com>

The Value of an Infrastructure Investment Plan

The Board of Water Supply (BWS) water system is extensive and complex. It's one of the largest water systems in the nation. Each and every day, BWS delivers an average of 145 million gallons of high-quality water that supports the health, safety, and economic vitality of Oahu's communities. The potable (drinking) water system on Oahu has been built over the course of 100+ years with a current replacement value of \$16 billion.

As is typical of large municipal water systems, some of the pipes, pumps, reservoirs, wells, and other components of Oahu's water infrastructure are in need of attention. This leads to the questions of where and how to focus attention and resources. The answers have been developed through a trio of plans that BWS has prepared over the past several years.



“Honolulu has risen to these challenges (of water sustainability) by preparing a comprehensive Water Master Plan and a strategic plan, as well as eight regional watershed management plans providing greater detail for each land use district on the island. The Water Master Plan provides a comprehensive understanding of Oahu's water supplies and needs as well as the water storage and distribution systems, giving BWS a road map to meet future needs, establish priorities, and adopt sustainable financing strategies.”

American Water Works Association Journal, February 2018

The **Water Master Plan (WMP)**, adopted in 2016, provides a road map for decision-making to help sustain a healthy water system for Oahu. The plan assessed the condition of the water system's components, estimated future water demands, and outlined necessary actions to address wear, age, growth, and supply sustainability. The WMP sets a planning horizon at 30 years, a full generation longer than is typical for water master plans.

The **30-Year Infrastructure Investment Plan (IIP)** was developed to put the WMP into action. The IIP provides an analysis-based strategy for when specific water infrastructure projects should be implemented and prioritizes renewal and replacement of portions of the water system, based on risk.

The **Long Range Financial Plan (LRFP)** balances affordability with continuing stewardship of water system resources. It establishes financing strategies to effectively fund the IIP, with consideration to community values and affordability.

These intertwined plans establish a foundation for BWS policy makers, managers and technical staff to sustain Oahu's water system and assure ample, quality fresh water for generations into the future.



Components of Infrastructure Investment Planning

The 30-Year IIP represents BWS's best look into the future using currently available information coupled with educated projections based on trends and knowledge. There's no doubt that conditions will change as time passes. Recognizing this inherent uncertainty, BWS has adopted a multi-layered approach to infrastructure investment planning. As illustrated to the right, each layer references a different timeframe and feeds into the tier below.

The process begins with development of the 30-year IIP, a prioritized schedule of projects designed to meet the water system's needs as identified in the WMP. Placeholders are used in instances where, due to the long planning horizon, a need has been identified but a specific solution has not. From the 30-year IIP, shorter horizon plans are developed, each with greater detail as the project moves from conceptualization into the planning and design process.

When a project enters the 10-year IIP, it is further defined and scored for risk. In this application, risk is defined as the likelihood of failure multiplied by the consequence of failure. Risk ratings consider impacts on the public, findings of the WMP condition assessments, historic performance, resource sustainability, and engineering judgement. Risk prioritization provides for the highest degree of overall system reliability at the most affordable cost.

At 6 years, a complete scope and cost estimate are developed and the project is prepared for planning and design. The 1-year IIP has projects expected to be contracted in the coming fiscal year.

A Snapshot of BWS's Infrastructure

Infrastructure Type	Current Value (in 2016 \$)	Anticipated Lifespan (years)	Percent of Total
Sources	\$1,333,000,000	150	8%
Pumps	\$387,000,000	40	2%
Treatment	\$293,000,000	40	2%
Storage	\$1,250,000	100	0%
Pipelines	\$12,298,000,000	100	75%
Nonpotable*	\$387,000,000	50	2%
Facilities	\$517,000,000	60	3%
TOTAL	\$16,465,000,000	-	100%**

* Potable is drinking water. Nonpotable is recycled or brackish water.

** Does not add up to 100% due to rounding.

30-Year IIP

- Long range; updated every 10 years
- Timeframe considers facilities' end of service life
- Place holders for emerging projects

10-Year IIP

- Medium range; updated every 3 to 5 years
- Details added to projects
- Place holders for emerging projects
- Basis for the 6-year IIP

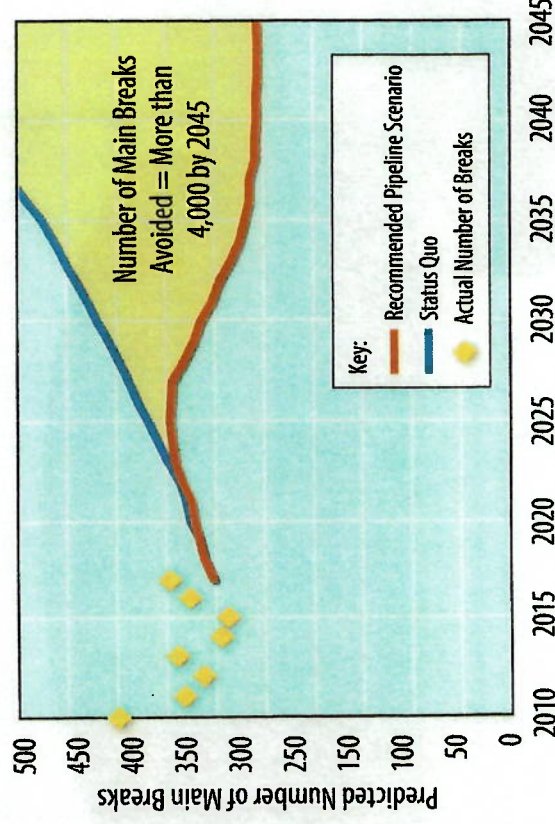
6-Year IIP

- Short range; updated annually for budget forecast
- Complete project scope developed
- Projects prepared for planning and design
- Used for rate setting

1-Year IIP

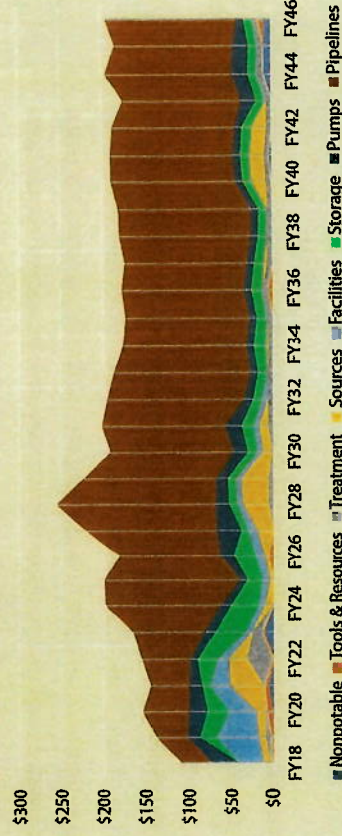
- Current; developed annually for budgeting
- Anticipates contracting in the coming fiscal year (FY)
- Planning and design for projects starts in the coming FY

Risk is a key component in developing the 30-Year IIP. Affordability and level of service are other strong drivers for BWS's investment and prioritization decisions. A compelling example relates to replacing pipelines to reduce the number of main breaks. The multiple options for the speed of pipeline replacement takes costs and benefits in vastly different directions. BWS could slowly ramp up to the desired 21 miles of pipeline replaced per year. While costs would be lower, the number of water main breaks would continue to rise. Alternatively, BWS could more rapidly ramp up pipeline replacement. Near-term costs would be higher, but thousands of water main breaks could be prevented. An extensive analysis was conducted to assess customer tolerances for an increased number of main breaks balanced with the added cost for more aggressive pipeline renewal and replacement. The results led to BWS's decision to significantly ramp up pipeline replacement, increasing from 6 miles per year in 2017 to 21 miles per year over a 10-year period.



This investment in replacing high-risk, aging pipelines can potentially reduce main breaks to less than 300 per year, and prevent 4,000 water main breaks by 2045.

Over the next 30 years, BWS will invest in more than 800 infrastructure projects island-wide, with total costs over \$5.3 billion. These are 2017 dollars and are not adjusted for inflation.



Funding Level by Asset - This graph visually lays out BWS's 30-year strategy for infrastructure investment, distributed by type of facility. This graph includes all three project types and it clearly illustrates that pipeline replacement is by far the primary component.

30-Year Infrastructure Investment Plan by Project Type

Asset Type	Renewal & Replacement	Capacity Expansion	Research & Development
Number of Projects	736	69	35
Total Cost of Projects (in 2016 \$)	\$4,286,000,000	\$931,000,000	\$80,000,000

To facilitate Infrastructure Investment Plan management and tracking, projects are grouped into three categories, shown above.

These categories are detailed in the following pages, including example projects that are part of the 30-Year Infrastructure Investment Plan.

Renewal and Replacement Projects

Renewal and Replacement Projects (R&R) restore or change out worn or aging infrastructure.

A few examples are: repairs on an existing well, improvements to an existing pump station, structural repairs or upgrades to reservoirs, and replacing aged pipelines.

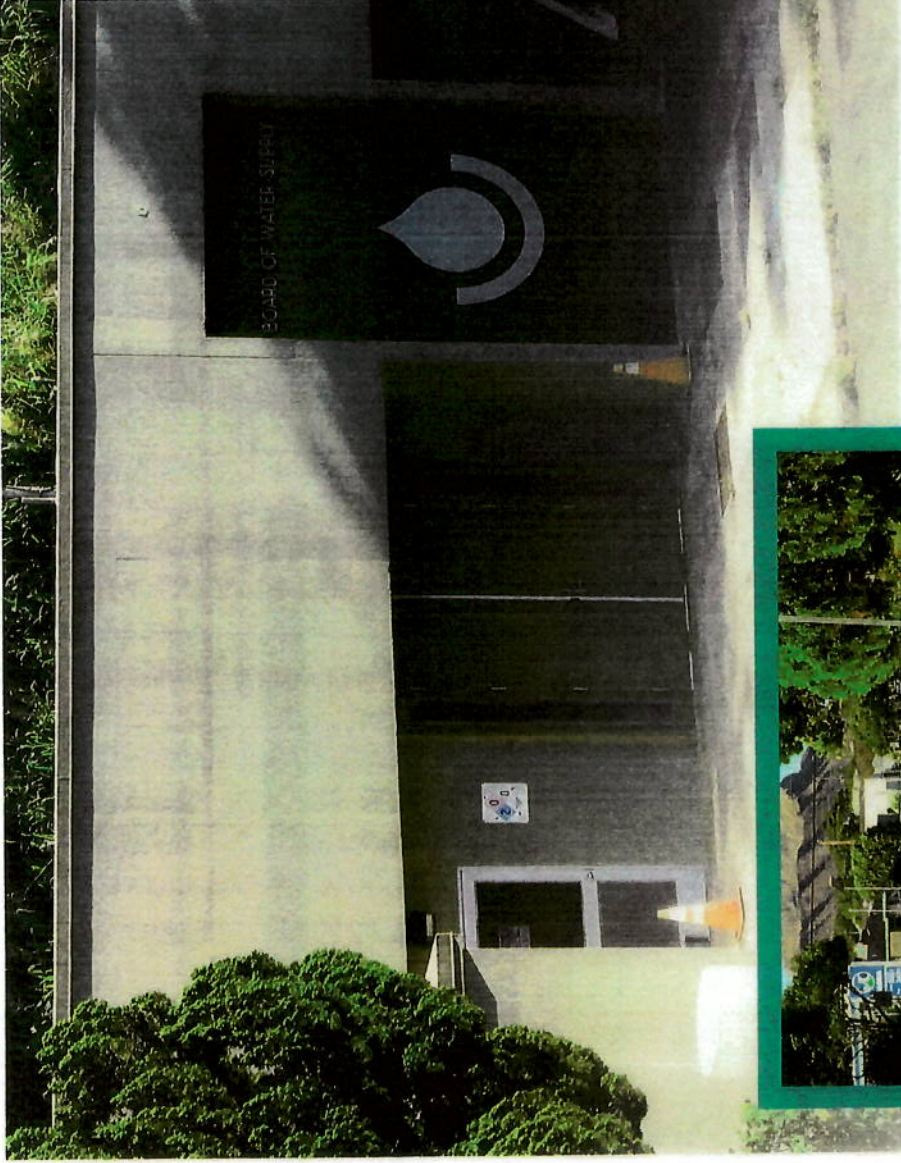
Multiple methods were applied through the WMP to identify projects, among them: condition assessment, statistical analysis, capacity analysis, and management decisions. While risk is assessed for all R&R projects, further accuracy and consideration of special conditions may be necessary to properly prioritize individual projects. For example, only a small percentage of pump stations can be out of service at a given time, which limits the scheduling of pump station repairs and replacements. The number of reservoirs that can be out of service concurrently for maintenance or upgrades is similarly limited. In short, management and engineering factors must be carefully applied to keep the water system balanced and operational as facilities are renewed or replaced.

30-Year Infrastructure Investment Plan RENEWAL and REPLACEMENT Projects by Asset

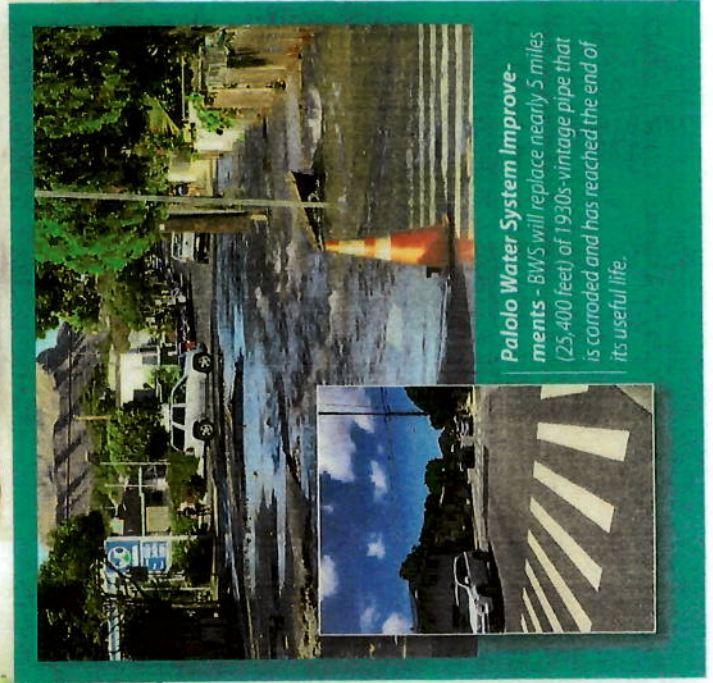
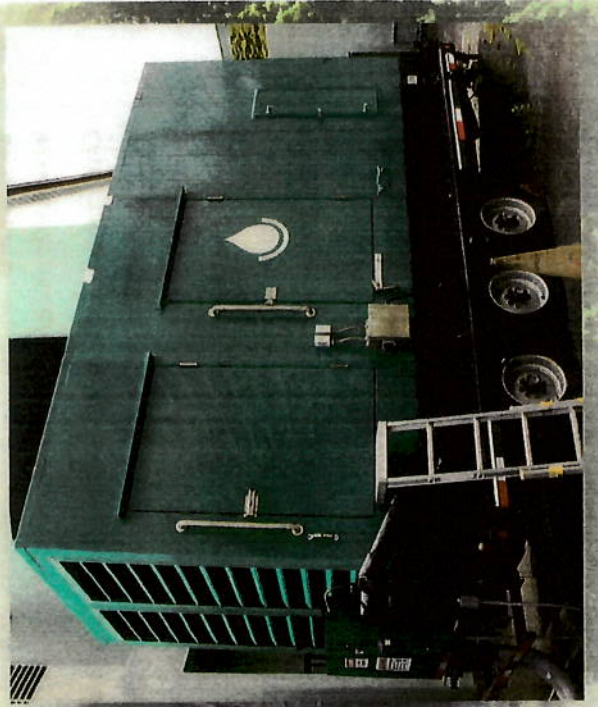
Asset Type	Number of Projects	Total Cost (in 2016 \$)
Pumps	89	\$263,000,000
Reservoirs	48	\$233,000,000
Pipelines	522	\$3,382,000,000
Treatment	44	\$162,000,000
Facilities	33	\$246,000,000
TOTAL	736	\$4,286,000,000



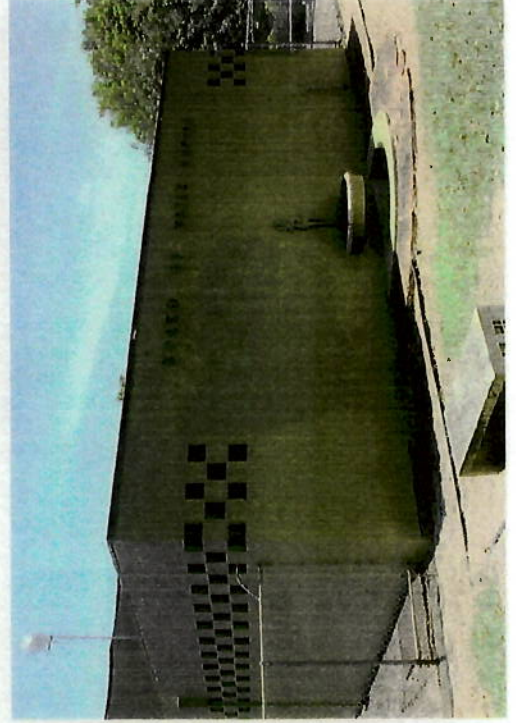
Kapa'a Reservoir Improvements - Leaks have been discovered in the wall of this reservoir, built in 1957. To simplify installation and provide additional options for water system operation, this 2-million gallon reservoir will be replaced with two, 1-million gallon reservoirs.



**Emergency Generator Installation-
Kalihi Yard and Shaft; Hālawā
Shaft, Kunia Wells** - Strategically placed
throughout the island, these new generators
will work toward BWS's goal to supply total
indoor water demands independent of
central power in the event of a major natural
disaster by 2030. Emergency generators will be
installed in future projects at eight additional
sites to meet this goal.



**Palolo Water System Improve-
ments** - BWS will replace nearly 5 miles
(25,400 feet) of 1930s-vintage pipe that
is corroded and has reached the end of
its useful life.



Wai'alae Iki Booster - To secure
two major facilities away from a
tsunami zone, BWS will abandon an
existing booster pump and relocate
another booster up a hill to the
Wai'alae Iki Reservoir site.

Capacity **Expansion** Projects

Capacity Expansion Projects (CapEx) are undertaken to meet growing water service demand resulting from shifting population distribution, population growth, or increased fire-flow requirements. These projects most often are associated with large infrastructure including wells, tunnels, treatment facilities, pipelines, pump stations, and reservoirs. CapEx projects also increase the reliability of the water system.

CapEx projects were developed as part of a Water System Evaluation in the WMP. Evaluation techniques included hydraulic models of the entire BWS water system to determine future capacity needs. The table (at the right) shows the number and costs of different types of CapEx projects included in the 30-year IIP.

CapEx projects are prioritized so they are planned, designed, constructed, tested, and operational by the time they are needed. Growth projections are uncertain over decades. BWS regularly monitors actual conditions, then updates and refines its plans as needed thorough out the multi-year IIP process.

**30-Year Infrastructure Investment Plan
CAPACITY EXPANSION
Projects by Asset**

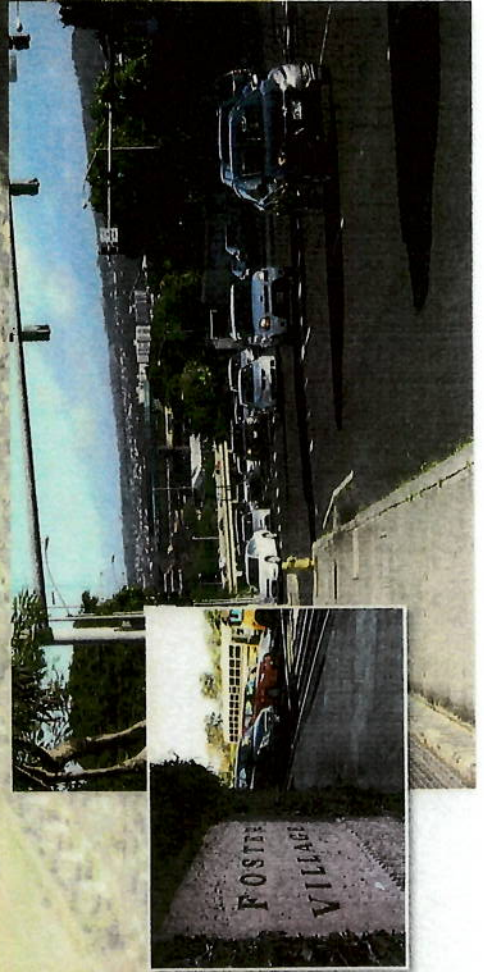
Asset Type	Number of Projects	Total Cost (in 2016 \$)
Pumps	22	\$293,000,000
Reservoirs	12	\$164,000,000
Pipelines	22	\$303,000,000
Treatment	2	\$40,000,000
Facilities	11	\$131,000,000
TOTAL	69	\$931,000,000

Newtown Ridge and Royal Summit Reliability - These two communities are served by a single reservoir and two high pressure water mains that stretch cross-country. Addition of a booster and reservoir on each ridge will make it possible to abandon the cross-country pipeline, providing improved reliability and reduced risk.



Kahuku Wells Capacity Expansion - To enable BWS to meet its water commitments and sustain system reliability, a 1-million gallon-per-day pump will be added to augment capacity of the existing Kahuku Wells Station, in addition to an emergency generator and building improvements.

New Reservoir in Kuwale - A 4-million gallon reservoir will be built to complement the nearby Waianae reservoir, enhancing water system operations and increasing emergency storage.



Salt Lake Boulevard 36-inch Main, Foster Village to Āliamanu - Coordinated with the city Department of Design and Construction's Salt Lake Boulevard Improvements, this project will install 0.7 miles (13,700 feet) of 36-inch pipeline for additional water supply capacity and reliability into Honolulu.

Research and Development (R&D) Projects

Research and Development Projects (R&D) are diverse in nature. They explore new technologies and pilot their impact and adaptability on Oahu, for example: a recent review of advanced water conservation mechanisms for households and businesses. This R&D project resulted in a new Board of Water Supply program that offers rebates for rain barrels, low water-use clothes washers, and weather based irrigation controls. R&D also includes feasibility studies, exploratory and monitoring wells, condition assessments, planning, and updates.

In addition, R&D projects assure that the BWS remains out in front in its capabilities and practices. BWS is respected for its many high-value relationships both within Hawaii and beyond, for example, with the University of Hawaii, Hawaii Community Foundation, Koolau Mountains Watershed Partnership, Waianae Mountains Watershed Partnership, Oahu Invasive Species Council, American Water Works Association, Water Research Foundation, and more. BWS joins these partners in activities and studies that test, improve, or implement infrastructure, procedures and practices. These activities are most often supported through R&D funding.

Watershed protection sustains our local freshwater supplies and helps us adapt to a changing climate.



Key components of the Water Master Plan were supported with R&D funds.

**30-Year Infrastructure Investment Plan
RESEARCH and DEVELOPMENT
Projects by Asset**

Asset Type	Number of Projects	Total Cost (in 2016 \$)
Pumps	10	\$27,000,000
Reservoirs	5	\$3,000,000
Pipelines	5	\$14,000,000
Treatment	2	\$2,000,000
Facilities	13	\$34,000,000
TOTAL	35	\$80,000,000



Nuuanu Hydro-Electric and Managed Aquifer Recharge Study and Environmental Assessment -

Climate change is expected to decrease rainfall and increase temperatures, diminishing groundwater availability on Oahu. This project will explore the potential to generate electricity and supplement groundwater supplies by injecting stormwater captured in two historic reservoirs in the Nuuanu Valley: one constructed in 1889 and the other in 1910.



Ala Wai Membrane Bioreactor Facility - This collaborative project between the Board of Water Supply and Department of Environment Services will explore feasibility to develop an alternative water source at this site. If successful, this would advance water conservation and provide a protective measure against climate change.

Energy Savings Performance Contracting - This project explores best options to reduce energy demand and costs, including photo-voltaic installations on reservoir roofs, replacing motors and motor starters with newer technologies, and upgrading lighting and HVAC (heating, ventilation and air conditioning) systems.



About the Cover

Pure Water – Man's Greatest Need, 1958 - Juliette May Frasier

A large, richly colored mural spans the walls behind the customer service counter in the lobby of the Board of Water Supply (BWS) Public Service Building. According to a pamphlet describing architectural and artistic features on the BWS Beretania campus, the mural depicts agricultural activities on Oahu, from pre-contact to the 20th century. A section of the mural was selected to adorn the cover of this Infrastructure Investment Plan.

Juliette May Frasier was born in Honolulu in 1887. After graduating from Wellesley College with an arts degree, she returned to Hawaii to teach art.



Board of Water Supply
City and County of Honolulu

FINAL

**Long Range Financial Plan
Update 2021**

Honolulu Board of Water
Supply

February 2021



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Appendices

Appendix A Delinquency Recovery Model

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Abbreviations and Acronyms

Board	BWS Board of Directors
BWS	Board of Water Supply
City	City and County of Honolulu
COVID-19	Novel coronavirus
DSCR	Debt Service Coverage Ratio
FY	Fiscal Year
M	Million
LRFP	Long Range Financial Plan
mg	Million gallons
mgd	million gallons per day
SRF	State Revolving Fund
WHO	World Health Organization
WMP	Water Master Plan
WSFC	Water System Facilities Charges

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Section 1

Impetus for Update

The City and County of Honolulu Board of Water Supply (BWS) for the City and County of Honolulu (City) provides an average of 145 million gallons per day (mgd) of potable water and 10 mgd of non-potable water to nearly one million people on O‘ahu. The BWS has about 170,000 potable water service customer accounts. The municipal potable water system provides dependable service through a complex system of 2,100 miles of pipe, 386 source and booster pumps, 212 water sources (wells, tunnels, and shafts), and 172 water storage reservoirs. The BWS provides non-potable water for irrigation and industrial uses through a water recycling facility and several separate brackish sources. Groundwater is the only source for the BWS potable water supply, coming from naturally filtered aquifers that can withstand periods of drought. The BWS water system delivers high quality water at quantities to provide for the health and safety of the community and has built-in redundancies and resiliency; but, as is typical with water systems of this size, some of the infrastructure is aging and needs attention. In October of 2016, the Board of Directors (Board) adopted the Water Master Plan, giving the BWS a roadmap to meet future needs, establish priorities, and adopt sustainable financing strategies. In March 2018, the Board adopted the Long Range Financial Plan as the policy document that establishes financing strategies, helping the BWS to effectively implement its Water Master Plan. In August 2018, the Board adopted revisions to its Schedule of Water Rates and Charges for the Furnishing of Water and Water Service for fiscal years (FY) 2019 through 2023 to support the implementation of the Long Range Financial Plan and Water Master Plan.

In addition to identifying the revenue requirement for an initial 10-year period (FY 2019 through FY 2028), the Long Range Financial Plan considered longer-term financial trends for a 30-year planning horizon. As part of this evaluation, the plan evaluated the potential impacts of uncertainties in water demands, water quality, economic factors, regulatory requirements, and climate change by considering six different scenarios, as shown in Table 1-1.

Table 1-1. Scenarios

Scenario	Uncertainties Considered
Aggressive conservation	Water demands
Aggressive growth	Water demands, water quality
Major natural disaster	Water demands, water quality, economic factors
Major source water contamination	Regulatory requirements, water quality
Climate change	Climate change, water demands, water quality, economic factors
Economic cycle	Economic factors

On March 11, 2020, the World Health Organization (WHO) declared the novel coronavirus (COVID-19) outbreak a global pandemic. Recognizing that a global pandemic was not among the six scenarios previously evaluated, the BWS decided to proactively review their financial position and planned operations and maintenance and capital expenditures given the resulting economic impacts. In particular, like other water and wastewater utilities, the BWS was concerned about impacts to water demands, delinquency rates, and unrecoverable revenues and if adjustments to budgeted expenditures would need to be made in case of reduced revenues. The BWS also wanted to update the long range model based on its financial position at the end of FY 2020 and in light of potential impacts from the pandemic.

Section 2

Review Current Status vs Long Range Financial Plan

2.1 Comparison of Actuals vs Plan

The update started with comparing actual operations and maintenance and capital expenditures versus those forecasted in the Long Range Financial Plan that was adopted in 2018. This comparison was used to determine if any course-correction was needed before addressing any pandemic-related issues.

Table 2-1 compares adopted budgets, actual historical operations and maintenance expenditures, and the modeled operations and maintenance expenditures in the Long Range Financial Plan through fiscal year (FY) 2021. As is common among its peer agencies, the BWS typically does not expend its full budgeted amount of operations and maintenance. However, over the period FY 2018 through FY 2020, the BWS increasingly spent larger amounts than projected in the Long Range Financial Plan. These additional expenditures contributed to reductions in the days cash on hand (working capital), which lowered from 257 days in FY 2018 to 111 days in FY 2020. While this FY 2020 value is within the stated financial policies of maintaining 60 to 180 days of working capital, continuing this trend could bring the BWS close to or below the minimum of 60 days working capital as stated in its Board-adopted financial policies.

Table 2-1. Operations and Maintenance Comparison

	FY 2018	FY 2019	FY 2020	FY 2021
Adopted Budget	\$159,820,692	\$164,633,099	\$182,008,638	\$183,634,937 (1)
Actual Expenditures	\$139,706,497	\$147,091,259	\$164,751,000	NA (3)
Long Range Model	\$136,853,600	\$138,374,800	\$142,913,300	\$148,362,000
Difference (2)	\$2,852,897	\$8,716,459	\$21,837,700	

(1) Initially adopted budget as of May 26, 2020.

(2) Actual less Long Range model.

(3) Since FY 2021 is not complete, actual expenditures are not available.

Figure 2-1 shows the adopted annual budgets, actual expenditures, the 10-year budget developed as part of the Long Range Financial Planning process, and the modeled operations and maintenance expense from FY 2013 through FY 2027. From FY 2013 through FY 2017, actual operations and maintenance expenditures averaged 78 percent of adopted budgets. Prior to considering updates to its water rates, in 2018, the BWS implemented procedures to tighten this gap through a more rigorous budgeting process. This was reflected in the Long Range model, which presumed 85 percent of budget would be spent. Actual expenditures in FY 2018 and FY 2019 were 88 percent of budget. In the short-term, the modeled gap may have been reasonable, but over the long-term it appears to be too big and suggests the need for a revised baseline. Additionally, by FY 2020 and FY 2021, adopted budgets started deviating from the initial 10-year budget considered in the Long Range Financial Plan. The drivers for the FY 2020 operations and maintenance budget increases occurred in each major category except salary-related. Almost \$9 million was due to materials, supplies and expenses for items such as replacing

the reverse osmosis line for the recycled water system, an advanced treatment study, and the risk resiliency assessment required by the federal America's Water Infrastructure Act of 2018. Fixed charges related to the employee retirement system and electricity added \$4 million to the budget. Therefore, a new baseline for operations and maintenance costs was developed reflecting 1) the tighter gap between budget and actual and 2) that the BWS downward revised its adopted FY 2021 operating budget to be closer to the original 10-year budget.

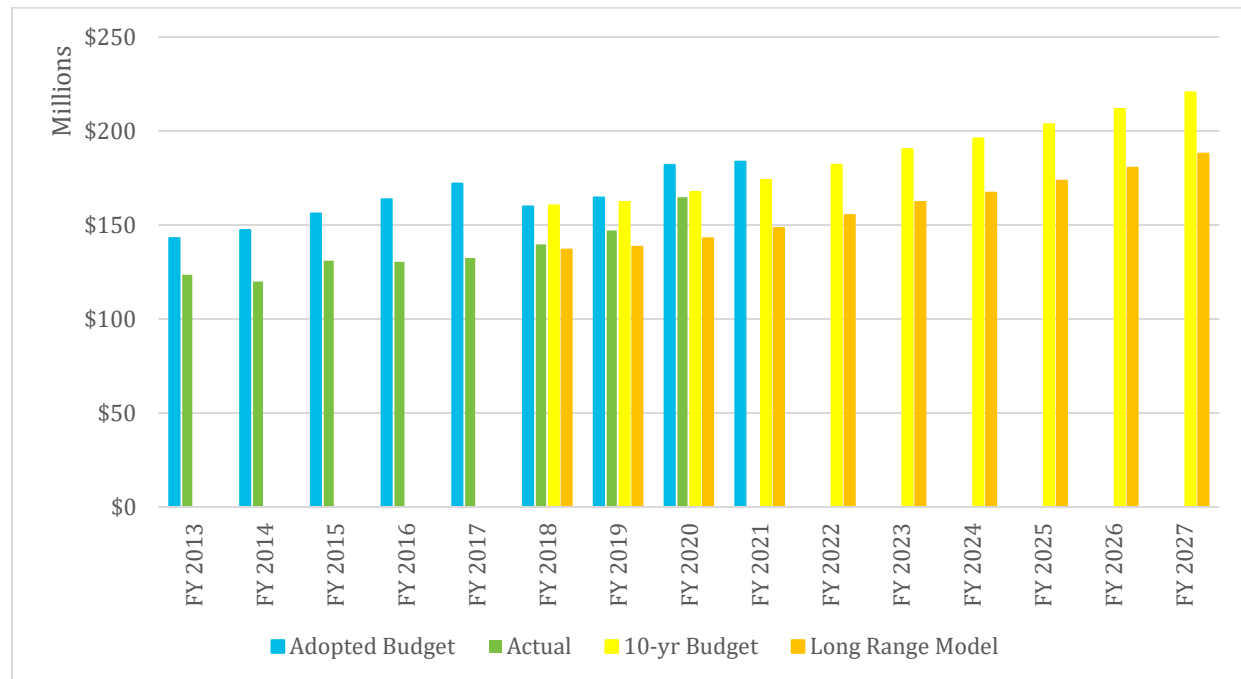


Figure 2-1. Annual Operations and Maintenance Expense Comparison, near-term

The other key expenditure category is capital improvements. Table 2-2 compares the adopted capital improvement budgets, the actual amounts encumbered, and the modeled encumbrances for FY 2018 through FY 2021. In two of the three years of historical data shown, the Long Range model was more conservative than actual, forecasting an additional \$15.8 million in encumbrances than was realized over the period. Modeling is typically conservative in this manner to reduce the risk of revenues not being sufficient to cover revenue requirements. Additionally, this amount is overshadowed by the potential overage in FY 2021. The FY 2021 budget includes \$21.3 million for the Kalawahine 180 Reservoir project.

Table 2-2. Capital Improvement Comparison – Historical and Budget Year

	FY 2018	FY 2019	FY 2020	FY 2021
Adopted Capital Budget	\$144,340,200	\$138,461,000	\$166,305,000	\$200,937,500 (1)
Encumbered Capital	\$121,674,415	\$108,604,775	\$135,772,180	NA
Long Range Model	\$118,358,800	\$119,965,600	\$143,553,500	\$129,731,700
Difference (2)	\$3,315,615	-\$11,360,825	-\$7,781,320	NA

(1) Capital budget as of July 2020.

(2) Encumbered less Long Range model.

Based on this initial review, the BWS revised the 6-Year capital improvement plan in October, which is shown in Table 2-3. Over the timeframe shown, the full capital planning is within \$5 million of the Water Master Plan. However, when compared to the amounts presumed to be encumbered based on the historical encumbrance rate of 82 percent (calculated over FY 2006 – FY 2016), the capital projection is \$95.5 million more than projected in the Long Range model. Note that the plan value for FY 2021 is lower than in the approved Budget Amendment No. 1 from September 28, 2020 of \$201.6 million.

Table 2-3. Capital Improvement Comparison –6-Year Forecast (10/1/2020)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
6-Year (10/1/2020), 2020\$(1)	\$197,738,000	\$154,691,000	\$188,648,000	\$202,367,000	\$176,460,000	\$221,567,000
6-Year (10/1/2020), inflated	\$203,670,140	\$164,111,682	\$206,140,763	\$227,765,841	\$204,565,503	\$264,562,585
WMP, inflated	\$158,209,400	\$211,947,400	\$190,247,100	\$230,290,100	\$250,094,600	\$234,764,800
6-Year less WMP	\$45,460,740	-\$47,835,718	\$15,893,663	-\$2,524,259	-\$45,529,097	\$29,797,785
Long Range Model	\$129,731,700	\$173,796,900	\$156,002,600	\$188,837,900	\$205,077,600	\$192,507,100
Difference (2)	\$68,006,300	-\$19,105,900	\$32,645,400	\$13,529,100	-\$28,617,600	\$29,059,900

(1) 6-Year capital budget October 1, 2020

(2) Capital projection less Long Range model

Based on these comparisons, a further revision and re-baselining of capital expenditures was also deemed appropriate.

Table 2-4 compares the dollar amount of capital projects that were anticipated to be funded with cash in the Long Range Financial Plan to the actual amount of cash spent on capital projects in FY 2018 – FY 2020. The model had forecast more use of cash than actually occurred because the BWS took advantage of favorable interest terms to use bonds to finance part of the capital program and the encumbered CIP over these three years was lower than forecast in the model (Table 2-2).

Table 2-4. Capital Improvement Historical Cash Comparison

	FY 2018	FY 2019	FY 2020
Actual Capital Cash Expenditures	\$44,672,987	\$70,795,088	\$86,060,702
Long Range Model	\$106,126,000	\$105,731,100	\$138,553,500
Difference (1)	-\$61,453,013	-\$34,936,012	-\$52,492,798

(1) Actual less Long Range model.

A check of billed water volume and rate-based revenue between the Long Range model and historical was also performed. That comparison is presented in Table 2-5 and Table 2-6, respectively. Forecasted water volumes are within 2 percent of actual billed volumes. Forecasted revenues are within 3 percent. Both of these percentages represent normal variability, especially given that changes in the BWS's water sales are strongly influenced by changes in weather. The lower revenue, without a corresponding reduction in expenses, also contributed to lowering the days cash on hand.

Table 2-5. Comparison of Forecast and Actual Billed Water, mg

	FY 2018	FY 2019	FY 2020
Actual	130.1	130.2	126.7
Actual Adjusted	128.3	128.0	124.4
Long Range Model	130.5	130.0	129.5
Difference (1)	-0.4	0.2	-2.8

(1) Actual less Long Range model.

Table 2-6. Comparison of Forecast and Actual Rate-Based Revenue, \$M

	FY 2018	FY 2019	FY 2020
Actual (1)	\$229.5	\$226.3	\$228.5
Long Range Model	\$232.7	\$231.9	\$235.7
Difference (2)	-\$3.2	-\$5.6	-\$7.2

(1) Financial Statements and Supplementary Information with Independent Auditor's Report Fiscal Years Ended June 30, 2019 and 2018. Financial Statements and Supplementary Information with Independent Auditor's Report Fiscal Years Ended June 30, 2020 and 2019.

(2) Actual less Long Range model.

2.2 Revised Baseline

The major revisions to the baseline were to the operations and maintenance assumptions and to the capital improvement assumptions. The discussion starts with operations and maintenance as it represents a larger portion of the BWS' annual cash expenditures and has less flexibility in shifting costs. In contrast, the capital improvement program can adjust financing strategies and defer some projects to help stay within budget and meet financial policies, if needed.

2.2.1 Operations & Maintenance

Two major assumptions had to be re-evaluated regarding the operations and maintenance expenditures: 1) dollar amounts for the current fiscal year plus 6 years and 2) whether to use budgeted values scaled to estimated expenditures based on historical actual vs budget expenditures or to directly forecast actual expenditures. Based on discussions with the BWS staff, the model continues to use budgeted values, which were updated on October 23, 2020. However, the percent of budget expended was increased to 92 percent based on the near-term expenditure rate of 88 percent. This higher rate applies a more conservative forecast for operations and maintenance expenses and recognizes that the latest revised budget represents even further reductions from what the BWS initially planned. Annual percentage increases for FY 2022 – FY 2027 range from 1.2 percent to 2.7 percent. After FY 2027, the modeled expenditures escalate at 3.5 percent per year, consistent with the long-term annual average escalation used in the Long Range Financial Plan. Table 2-7 shows a BWS operations and maintenance forecast as of October 23, 2020 and the revised baseline for modeled expenditures based on 92 percent of budget.

Table 2-7. Operations and Maintenance Forecast through FY 2027, \$M

Fiscal Year	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Personnel Services	\$51.1	\$52.8	\$53.4	\$53.9	\$54.4	\$55.5	\$56.6
Materials & Supplies	\$72.1	\$72.8	\$73.5	\$74.3	\$75.8	\$78.0	\$80.8
Equipment	\$6.6	\$6.6	\$6.7	\$6.8	\$6.9	\$7.1	\$7.4
Fixed Costs	\$53.9	\$54.4	\$55.3	\$56.2	\$57.2	\$58.4	\$59.6
Total	\$183.6	\$186.7	\$188.9	\$191.2	\$194.3	\$199.1	\$204.4
Annual Increase		1.7%	1.2%	1.2%	1.6%	2.4%	2.7%
Revised Baseline	\$168.9	\$171.8	\$173.8	\$175.9	\$178.8	\$183.1	\$188.1

2.2.2 Capital Improvement 6-Year Plan

The BWS has considered revisions to its 6-Year capital improvement budget, as provided on November 25, 2020. Table 2-8 shows this version and the inflated values used in the modeling of budgeted capital. The inflation assumption of 3 percent per year remains unchanged from the Long Range Financial Plan.

Table 2-8. Revised 6-Year Capital Budget, 11/25/2020

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
6-Year Capital, 2020\$ (1)	\$197,738,000	\$167,841,000	\$168,194,000	\$193,002,000	\$189,000,000	\$195,126,000
6-Year Capital, Inflated	\$203,670,100	\$178,062,500	\$183,790,100	\$217,225,500	\$219,102,800	\$232,990,600

(1) November 25, 2020

In reviewing historical encumbrances against the capital budgets and against the capital budgets without adjustments for construction cost index and contract adjustment account, it was observed that the total encumbered amount over the period is close to the budget without adjustments. Additionally, the encumbrance rate versus the budget including adjustments has increased from the average 82 percent used in the Long Range Financial Plan, which looked at data from FY 2006 to FY 2016. The more recent data indicate that a higher encumbrance rate may be warranted in the near-term modeling.

Table 2-9. Historical Encumbrances

Fiscal Year	Budgeted	Budgeted w/o Adjustments	Encumbered	% Encumbered vs Budget	% Encumbered vs Budget w/o Adjustments
2014	\$87,578,800	\$74,312,000	\$82,683,020	94.4%	111.3%
2015	\$75,511,300	\$68,100,500	\$69,307,781	91.8%	101.8%
2016	\$118,667,500	\$104,680,000	\$112,888,438	95.1%	107.8%
2017	\$80,790,500	\$67,435,000	\$75,670,740	93.7%	112.2%
2018	\$144,340,200	\$112,768,000	\$121,674,415	84.3%	107.9%
2019	\$138,461,000	\$119,855,000	\$108,604,775	78.4%	90.6%
2020	\$166,305,000	\$143,950,000	\$135,772,180	81.6%	94.3%
Total	\$811,654,300	\$691,100,500	\$706,601,349	87.1%	102.2%

(1) November 25, 2020

FY 2027 through FY 2047 uses the projected capital from the original Long Range Financial Plan modeling. FY 2048 – FY 2050 is based on an average of the three prior years.

2.2.3 Revised Baseline Cashflow Forecast

Based on the revisions to the baseline operations and maintenance and capital improvement budgets described in Sections 2.2.1 and 2.2.2, respectively, a revised baseline cashflow was developed. In addition to the revised operations and maintenance and 6-Year capital budgets, the revised baseline keeps the revenue adjustments the same as the Long Range Financial Plan through FY 2031, maintains the debt service coverage ratio above 1.6, and maintains the days of working capital above 60. This is done by adjusting the amount of 6-Year capital budget to be encumbered and adjusting the mix of debt and cash used each year to see how much capital the BWS can afford to encumber each year. Debt options for financing the capital budget include revenue bonds and State Revolving Fund low cost loans.

Figure 2-2 compares the operations and maintenance expense from the original Long Range Financial Plan with the revised expense used in this update. Between FY 2021-FY 2031, expenses in the revised baseline are forecast to be \$63.5 million higher, reflecting the narrowing of the gap between budget and actual expenditures. In the long-term, the two forecasts converge, reflecting an anticipated long-term trend of aligning the budgeting process with the Long Range Financial Plan.

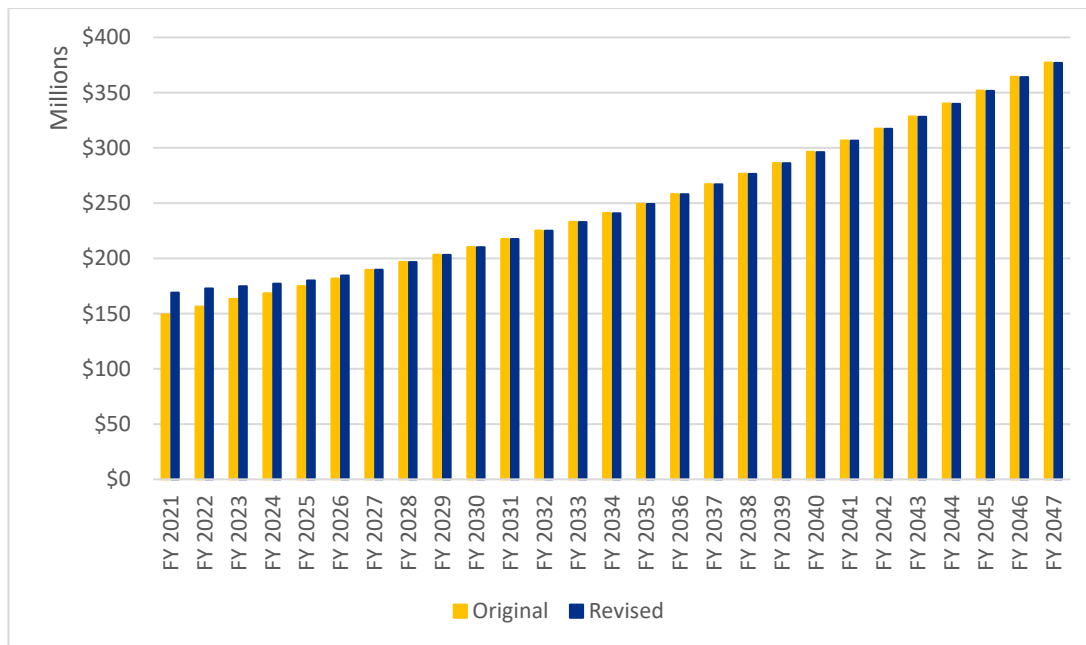


Figure 2-2. Annual Operations and Maintenance Expense Comparison, Coincident Years

Figure 2-3 compares the forecasted capital to be funded from the original plan with the revised baseline. To keep the revenue adjustments the same through FY 2031, the amount of capital encumbered is projected to be slightly lower between FY 2026 and FY 2031. From FY 2032 through FY 2047, the capital encumbered remains the same.

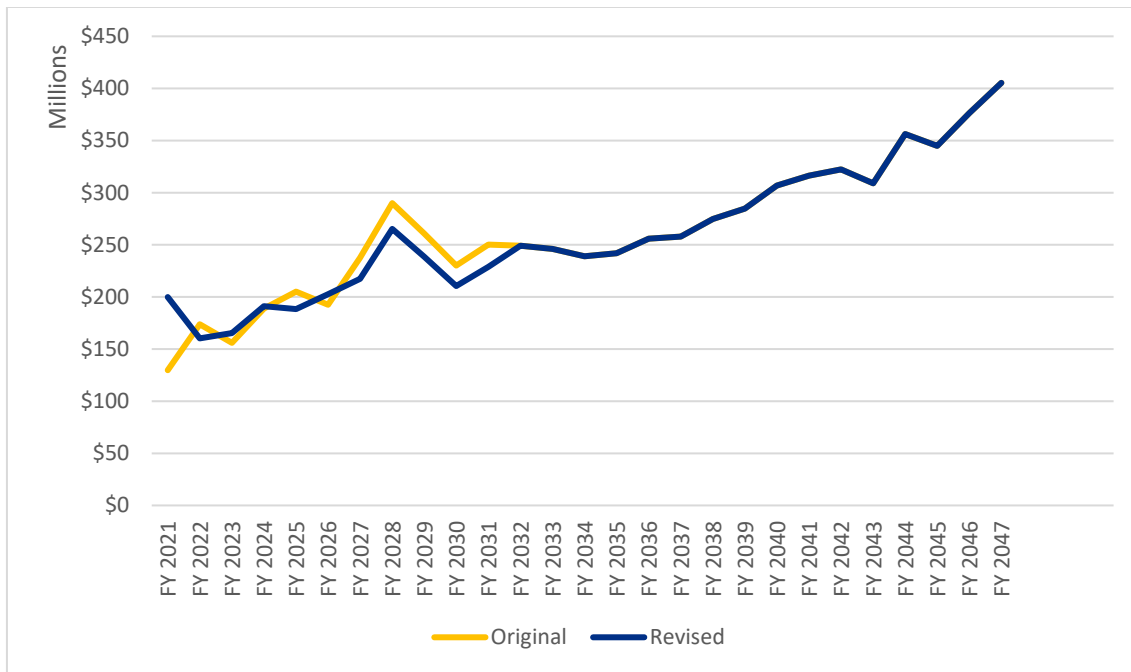


Figure 2-3. Capital Encumbered Projection Comparison, Coincident Years

Table 2-10 shows the annual projected capital encumbrances for FY 2021 through FY 2031 for the original Long Range model and the revised baseline. The new forecast anticipates \$46 million (or 2 percent) less capital encumbrances over these coincident years.

Table 2-10. Projected Capital to be Funded, FY 2021 – FY 2031, \$M

Fiscal Year	Original	Revised
2021	\$129,731,700	\$199,902,200
2022	\$173,796,900	\$160,256,300
2023	\$156,002,600	\$165,411,100
2024	\$188,837,900	\$191,158,400
2025	\$205,077,600	\$188,428,400
2026	\$192,507,100	\$202,701,800
2027	\$237,684,900	\$217,394,900
2028	\$289,942,300	\$265,191,400
2029	\$260,792,800	\$238,530,200
2030	\$230,121,700	\$210,477,200
2031	\$250,179,100	\$228,822,400
Total	\$2,314,674,600	\$2,268,274,300

The BWS has several mechanisms for funding the capital program including cash, bonds, State Revolving Fund loans, and water system facilities charges (WSFC) funds. Table 2-11 shows the projected sources and uses of funds for capital projects through FY 2031. WSFC funds are conservatively based on historical annual average funds received as new charges have not yet been adopted. If new charges are adopted and the pace of development stays similar to historical, then additional funds would be available to fund deferred growth projects.

Table 2-11. Projected Capital Sources and Uses of Funds, \$M

Item	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Carryover of Prior Year	\$16	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sources											
Cash	\$52.4	\$54.2	\$56.1	\$48.7	\$46.1	\$60.3	\$43.2	\$73.1	\$46.4	\$63.1	\$84.4
Bond Issue	\$65.0	\$65.0	\$70.0	\$115.4	\$125.0	\$125.0	\$155.0	\$175.0	\$175.0	\$130.0	\$125.0
State Revolving Loan	\$12.0	\$9.0	\$19.0	\$19.6	\$10.0	\$10.0	\$12.0	\$10.0	\$10.0	\$10.0	\$12.0
WSFC Funds	\$54.9	\$32.4	\$20.6	\$8.0	\$8.0	\$8.0	\$8.0	\$8.0	\$8.0	\$8.0	\$8.0
Total Sources	\$184.2	\$160.6	\$165.8	\$191.7	\$189.1	\$203.3	\$218.2	\$266.1	\$239.4	\$211.1	\$229.4
Uses											
Capital Encumbered	\$199.9	\$160.3	\$165.4	\$191.2	\$188.4	\$202.7	\$217.4	\$265.2	\$238.5	\$210.5	\$228.8
Bond Cost of Issuance	\$0.3	\$0.3	\$0.4	\$0.6	\$0.6	\$0.6	\$0.8	\$0.9	\$0.9	\$0.7	\$0.6
Total Uses	\$200.2	\$160.6	\$165.8	\$191.7	\$189.1	\$203.3	\$218.2	\$266.1	\$239.4	\$211.1	\$229.4
Unused Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

An estimated \$1,325 million in bonds and \$134 million in State Revolving Fund loans are projected to be issued during the next 11 fiscal years. While the initial period shown above relies more on bonds, over the 30-year period cash and WSFC funds are projected to fund 52 percent of capital needs consistent with the long-term goal of funding the capital program with not more than a 50:50 ratio of bonds to cash. Figure 2-4 graphically displays the sources and uses of funds including any annual carryover.

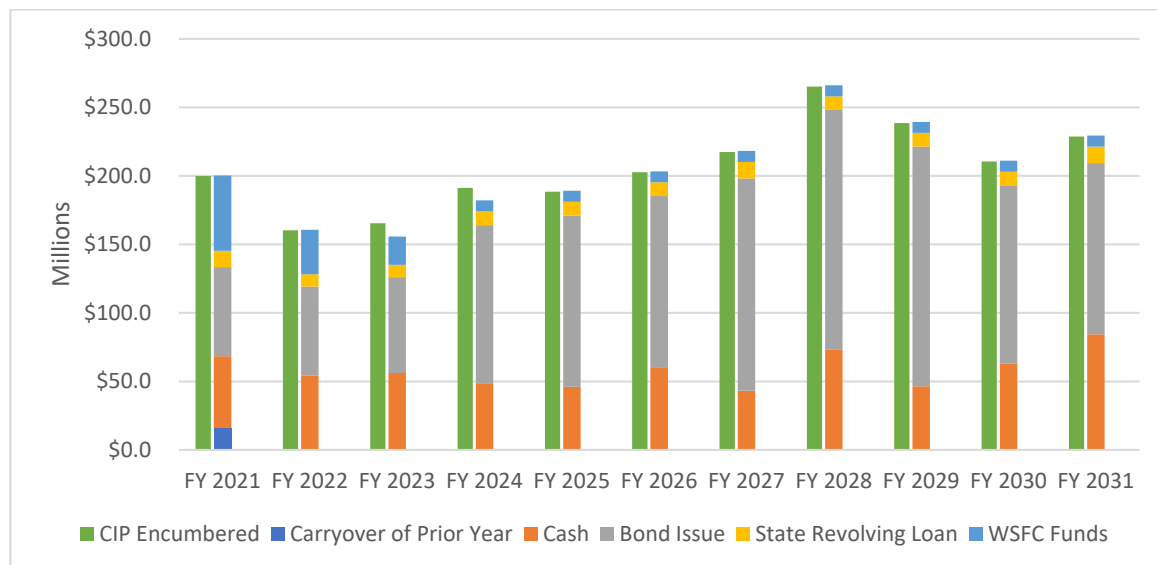
**Figure 2-4. Capital Encumbered and Sources of Funding**

Figure 2-5 shows the operating fund balance for the revised baseline as well as the annual projected revenue and expenditures. The operating fund balance is projected to stay within the equivalent of 60 to 180 days of cash, which complies with the Board’s financial policy.

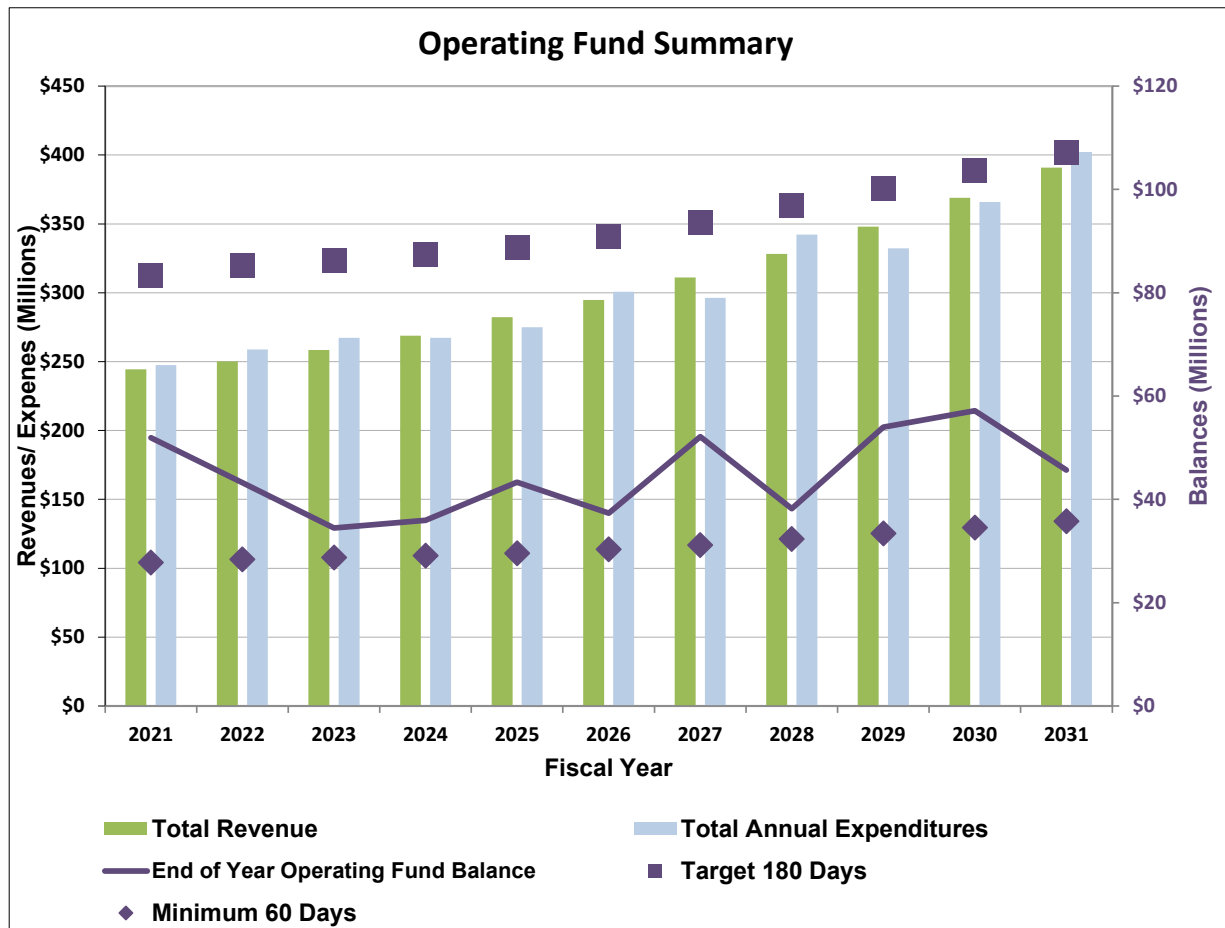


Figure 2-5. Revised Baseline Operating Fund Balance

Table 2-12 presents the detailed cashflow for FY 2021 through FY 2031. The revenue adjustments in FY 2021-FY 2023 show as zero because the modeling already uses the Board-approved rates (August 2018) for estimating rate-based revenue in those fiscal years. The FY 2023 approved rate is used to project the “Billed Wtr User Charges Under Approved Rates” for FY 2024 through FY 2031. While this revision shows a possible path forward for future rate adjustments, a 5-year rate study should be conducted that focuses on the near-term as well as costs of service and affordability.

Table 2-12. Revised Cashflow, FY 2021-FY 2031, \$M

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Billed Wtr User Charges Under Approved Rates [1]											
Single-family	\$99	\$104	\$110	\$110	\$110	\$110	\$110	\$110	\$110	\$111	\$111
Multi-unit	\$46	\$46	\$46	\$46	\$46	\$46	\$46	\$47	\$47	\$47	\$47
Non-Residential	\$82	\$83	\$85	\$85	\$85	\$85	\$85	\$85	\$85	\$85	\$85
Agricultural	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2
Non-Potable	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2
R-1 Golf	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1
R-1 Other	\$3	\$3	\$3	\$3	\$3	\$3	\$3	\$3	\$3	\$3	\$3
RO (Subject to Published Rates)	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2	\$2
Private Fire Service	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1
Total Water Billed Charges	\$236	\$243	\$252	\$251	\$251	\$252	\$252	\$252	\$252	\$253	\$253
User Charge Revenue Adjustment First Year											
Year	Adjustment	Effective Months									
2021	0.0%	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2022	0.0%	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2023	0.0%	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2024	4.5%	12		\$11	\$11	\$11	\$11	\$11	\$11	\$11	\$11
2025	5.0%	12			\$13	\$13	\$13	\$13	\$13	\$13	\$13
2026	5.0%	12				\$14	\$14	\$14	\$14	\$14	\$14
2027	5.5%	12					\$16	\$16	\$16	\$16	\$16
2028	5.5%	12						\$17	\$17	\$17	\$17
2029	6.0%	12							\$19	\$19	\$19
2030	6.0%	12								\$21	\$21
2031	6.0%	12									\$22
Water User Charge Revenue Adjustment	\$0	\$0	\$0	\$11	\$24	\$38	\$54	\$71	\$91	\$111	\$133
Total Billed Water User Charge Revenue	\$236	\$243	\$252	\$262	\$276	\$290	\$306	\$323	\$343	\$364	\$386
Contractual Water Revenue	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1
Miscellaneous Income [2]	\$6	\$6	\$6	\$6	\$6	\$4	\$4	\$4	\$4	\$4	\$4
Uncollected Revenues	(\$0)	(\$0)	(\$1)	(\$1)	(\$1)	(\$1)	(\$1)	(\$1)	(\$1)	(\$1)	(\$1)
Interest Income	\$2	\$1	\$1	\$0	\$0	\$0	\$0	\$0	\$0	\$1	\$1
Total Revenue	\$244	\$250	\$259	\$269	\$282	\$295	\$311	\$328	\$348	\$369	\$391
Annual Expenditures											
Operation and Maintenance Expense	\$169	\$173	\$175	\$177	\$180	\$184	\$190	\$197	\$203	\$210	\$217
Debt Service											
Existing Debt - Bonds	\$19	\$20	\$21	\$21	\$21	\$21	\$21	\$21	\$21	\$21	\$21
Existing Debt - SRF & JABSOM	\$6	\$6	\$6	\$6	\$6	\$6	\$6	\$6	\$6	\$6	\$6
SRF Fees - Existing Loans	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$0	\$0
Proposed Debt - Bonds	\$0	\$4	\$7	\$11	\$17	\$24	\$31	\$39	\$49	\$58	\$65
Proposed Debt - SRF	\$0	\$1	\$1	\$2	\$3	\$4	\$4	\$5	\$5	\$6	\$6
SRF Fees - Proposed Loans	\$0	\$0	\$0	\$1	\$1	\$1	\$1	\$1	\$1	\$1	\$1
Subtotal Debt Service	\$26	\$32	\$36	\$42	\$49	\$56	\$63	\$73	\$83	\$93	\$100
Transfers to:											
Cash Funded Capital	\$52	\$54	\$56	\$49	\$46	\$60	\$43	\$73	\$46	\$63	\$84
Total Annual Expenditures	\$247	\$259	\$267	\$267	\$275	\$301	\$296	\$342	\$332	\$366	\$402
Beginning of Year Balance	\$55	\$52	\$43	\$34	\$36	\$43	\$37	\$52	\$38	\$54	\$57
Annual Increase (Decrease)	(\$3)	(\$9)	(\$9)	\$1	\$7	(\$6)	\$15	(\$14)	\$16	\$3	(\$11)
End of Year Operating Fund Balance	\$52	\$43	\$34	\$36	\$43	\$37	\$52	\$38	\$54	\$57	\$46
Target 180 Days of O&M [3]	\$83	\$85	\$86	\$87	\$89	\$91	\$94	\$97	\$100	\$104	\$107
Minimum 60 Days of O&M [3]	\$28	\$28	\$29	\$29	\$30	\$30	\$31	\$32	\$33	\$35	\$36
Estimated Days of Working Capital	112	91	72	74	88	74	100	71	97	99	77
DSCR - Bonds	4.00	3.24	3.03	2.90	2.70	2.47	2.36	2.20	2.08	2.01	2.01
DSCR - Aggregate	2.88	2.42	2.30	2.21	2.09	1.97	1.91	1.82	1.75	1.72	1.73

[1] Calculated using the approved water rates.

[2] Includes system facilities charges, fire protection installations, billing services for ENV and other misc income.

[3] 180 Days of O&M within 10 years of FY2018, minimum of 60 days.

Section 3

Trends and Sensitivity Analysis Update

Since the degree of uncertainty grows with time over the duration of the study period, a trend analysis, rather than detailed modeling, was performed in the Long Range Financial Plan. The trend analysis looks at possible financial changes from the revised baseline based on identified scenarios.

3.1 Update of Scenarios based on Revised Baseline

Figure 3-1 shows the revised baseline revenue requirements over the near and long terms and compares the revenues under approved (or existing) rates between the Long Range Financial Plan (identified on graphs as LRFP) and the revised baseline. Years 1 – 11 are shown as solid lines and Years 12 – 30 are the trend analysis and are shown as dashed lines. The long-term revenue requirements trend upward is due to an increased capital program, an increase in staffing to support that program, and escalation. However, due to the adjustments discussed in the prior section, revenue requirements are expected to be lower under the revised baseline due to tighter operations and maintenance budgets and lower initial capital program. Over the forecast period, the revised baseline revenues under existing rates are expectedly higher than those projected in the Long Range Financial Plan because they reflect the subsequently adopted rates that are effective through FY 2023.

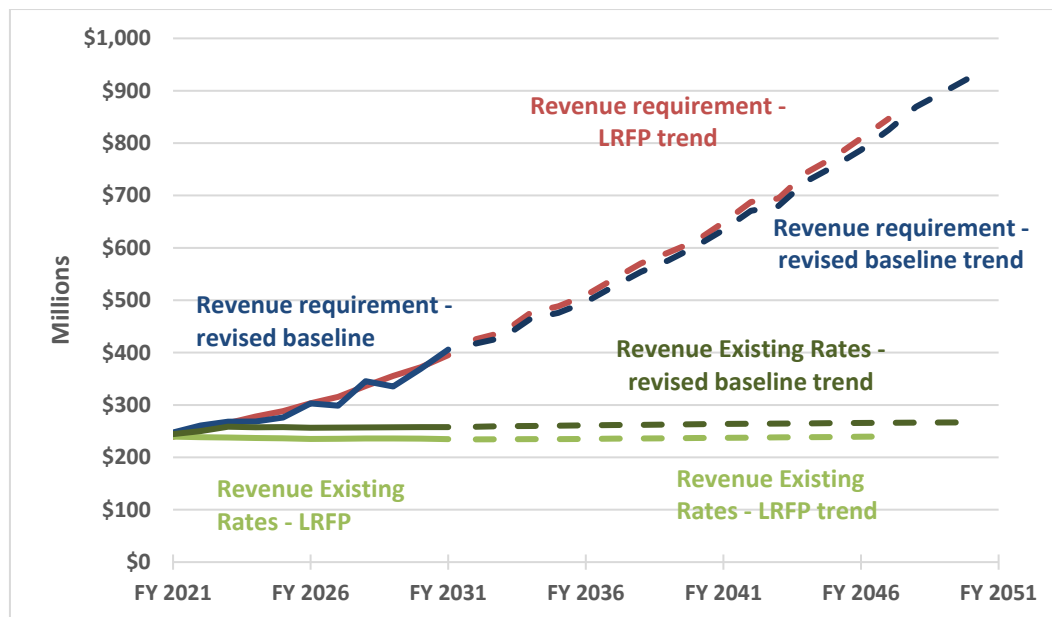


Figure 3-1. Long-Term Revenue and Revenue Requirements Trends Under Approved Rates

Figure 3-2 presents the projected additional revenue needs (beyond FY 2023) expressed as a percent of rate-based revenue. The revised baseline shows a trend that stays a little higher than the Long Range Financial Plan in the middle years and then drops lower in the later years. The

two lines overlap each other in Years 1 – 11 as the revenue adjustments deliberately remain the same between the two.

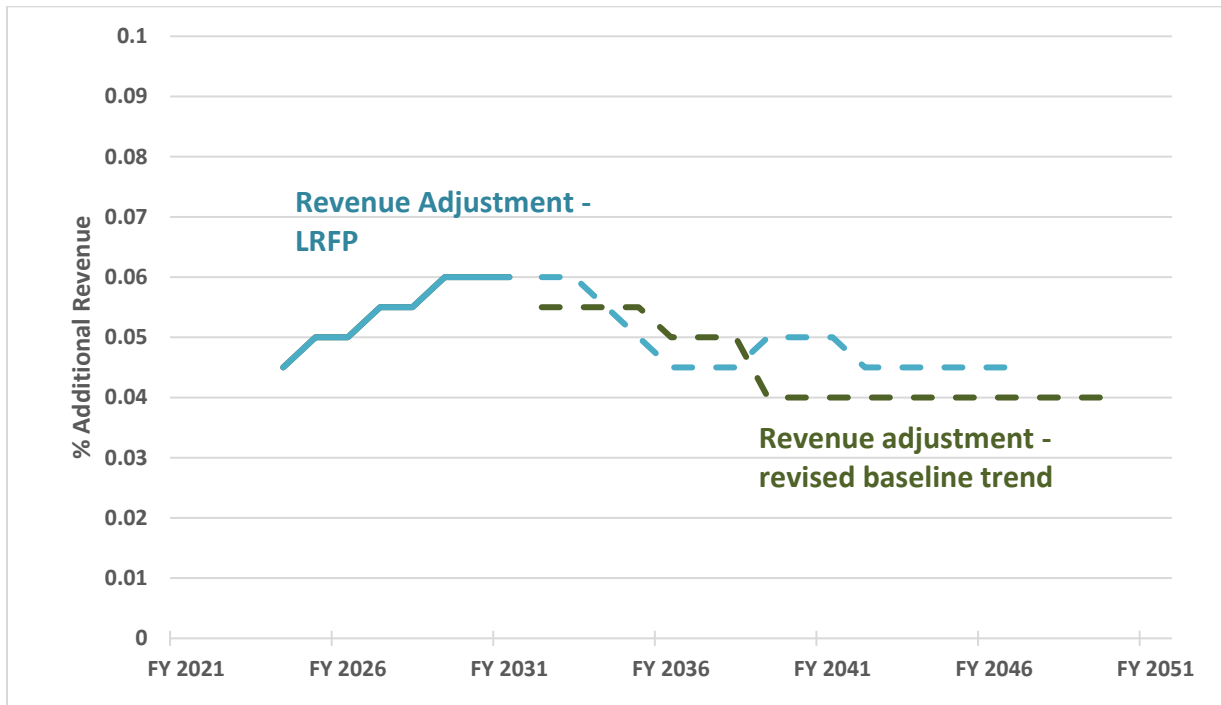


Figure 3-2. Additional Revenue Needs Trend as a Percent of Existing Rate-Based Revenue

Three scenarios evaluated in the Long Range Financial Plan model have been updated based on the revised baseline: aggressive conservation, aggressive growth, and climate change. The remaining three scenarios, major natural disaster, major source water contamination, and economic cycle, were evaluated as events as opposed to long-term trends. Accordingly, those analyses do not warrant updating at this time.

3.1.1 Aggressive Conservation

The assumption in the Long Range Financial Plan is that demand will decrease ~0.25 percent per year due to conservation. To evaluate the potential impacts of more aggressive conservation, this analysis considers the following scenario:

Aggressive Conservation – Assume that demand decreases 1 percent per year. In this scenario, it is assumed that the percentage of usage within the existing tiers remains the same, or an across the board drop, with no expectation that only high users conserve.

Figure 3-3 shows that the aggressive conservation scenario will have the impact of reducing revenues from water sales. In 30-years' time, this reduction could be about 24 percent. This will then increase the revenue shortfall throughout the 30-year planning horizon, which may be partially or wholly offset by deferral of growth-related projects, depending on timing and location. To be conservative, potential decreases in costs due to lower demand have not been analyzed. For example, aggressive conservation could result in lower power usage that may or may not decrease costs for the BWS due to Hawaiian Electric's Energy Cost Recovery Factor or

energy cost increases, or possibly delay the need for additional growth-related infrastructure. Project deferral is, however, recognized as a mitigation strategy. Since the impact of these on revenue requirements is highly uncertain, a trend analysis on the revenue requirements was not performed for this scenario.

Figure 3-4 shows the anticipated trends in additional revenue needs under this scenario. The impacts of lower demand due to aggressive conservation begin immediately and compound throughout the planning period. Annual increases as a percentage of existing rate-based revenues are generally 1 to 2 percent higher per year than with the revised baseline. However, this should not be interpreted to mean that either customers or the BWS should not actively pursue conservation objectives, particularly given the potential impacts of climate change.

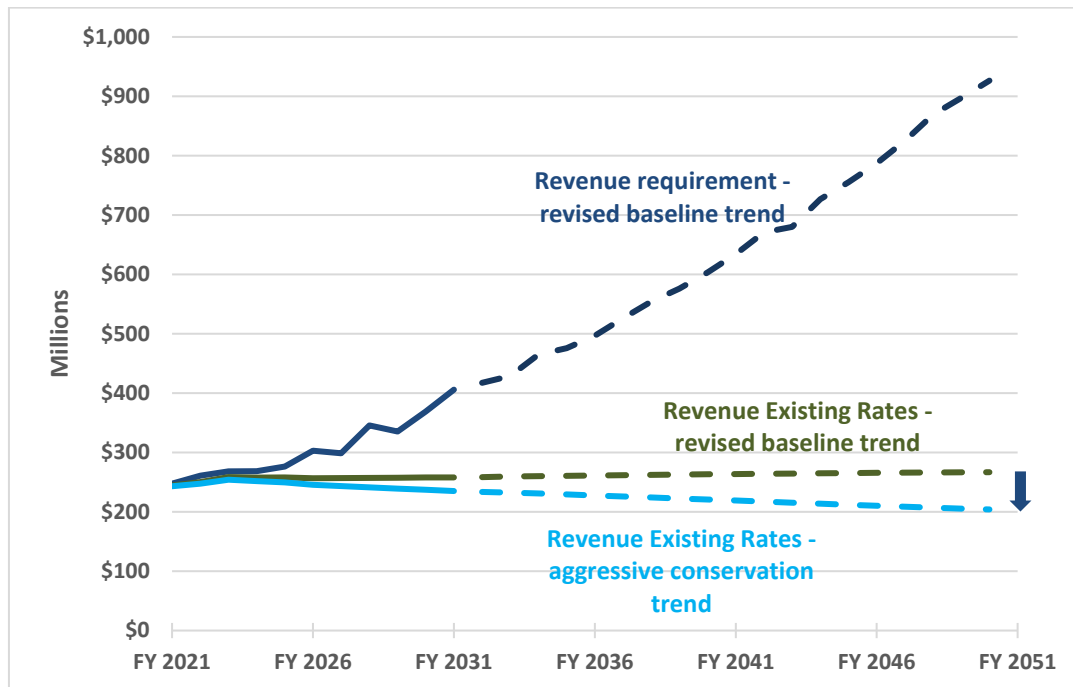


Figure 3-3. Revenue Impact due to Aggressive Conservation

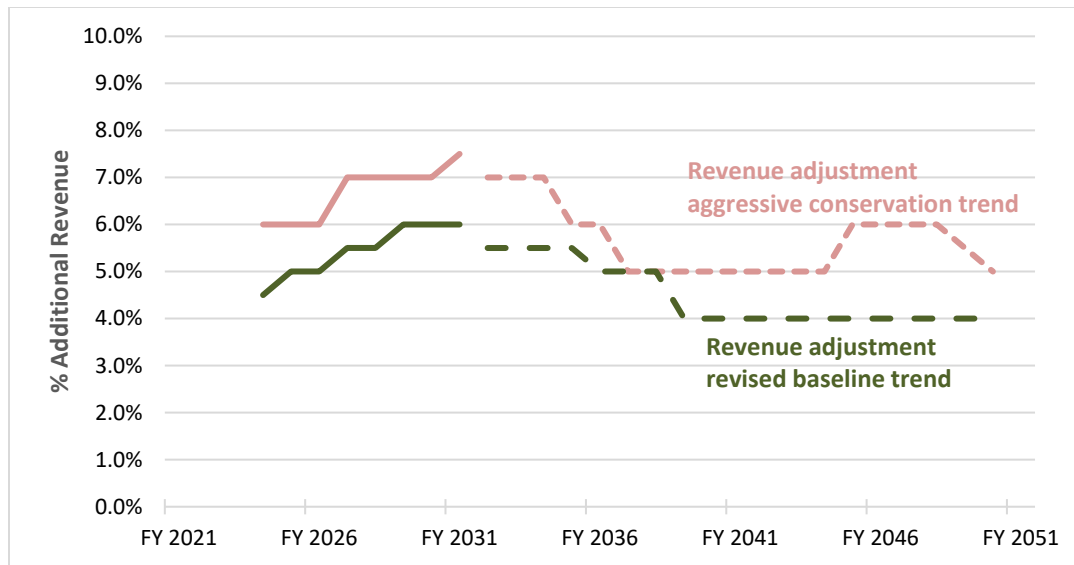


Figure 3-4. Additional Revenue Needs Trend as a Percent of Existing Rate-Based Revenue, Aggressive Conservation

3.1.2 Aggressive Growth

The Long Range Financial Plan evaluated two sub-scenarios: growth per Water Master Plan assumptions and even greater growth.

Water Master Plan High Range Demand Projection Assumptions – Assume 0.6 percent per year growth in usage through FY 2025, then 0.4 percent per year through FY 2040, then 0.5 percent per year through FY 2050. (no change in percent usage within existing tiers)

Aggressive Growth above Water Master Plan Assumptions – Assume 1 percent per year growth in usage (no change in percent usage within existing tiers)

Both sub-scenarios would have increases in O&M costs; however, these costs are anticipated to be offset by additional rate-based revenue generated under existing rates due to the increased demand.

Figure 3-5 and Figure 3-6 show that under the aggressive growth assumptions revenues from water sales will increase. By year 30, that shift is in the 12 – 30 percent range. This increase in water sales revenue will then decrease the revenue shortfall throughout the 30-year planning horizon.

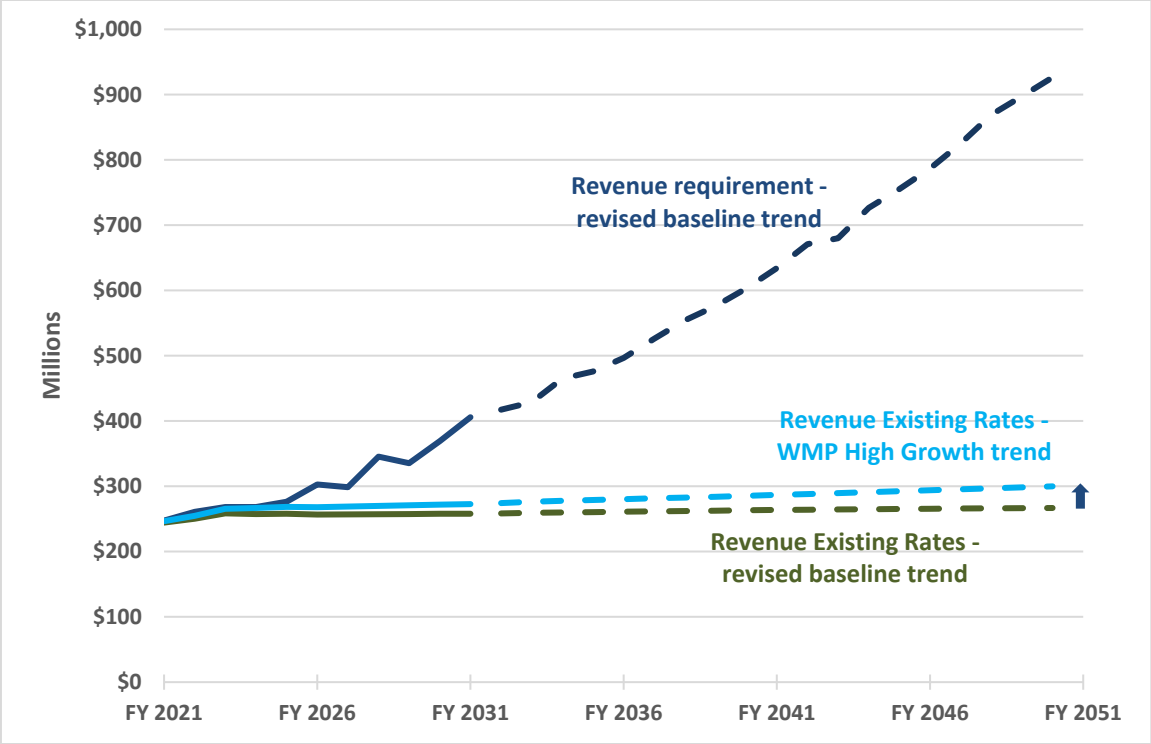


Figure 3-5. Revenue Impact due to Water Master Plan High Range Demand Growth

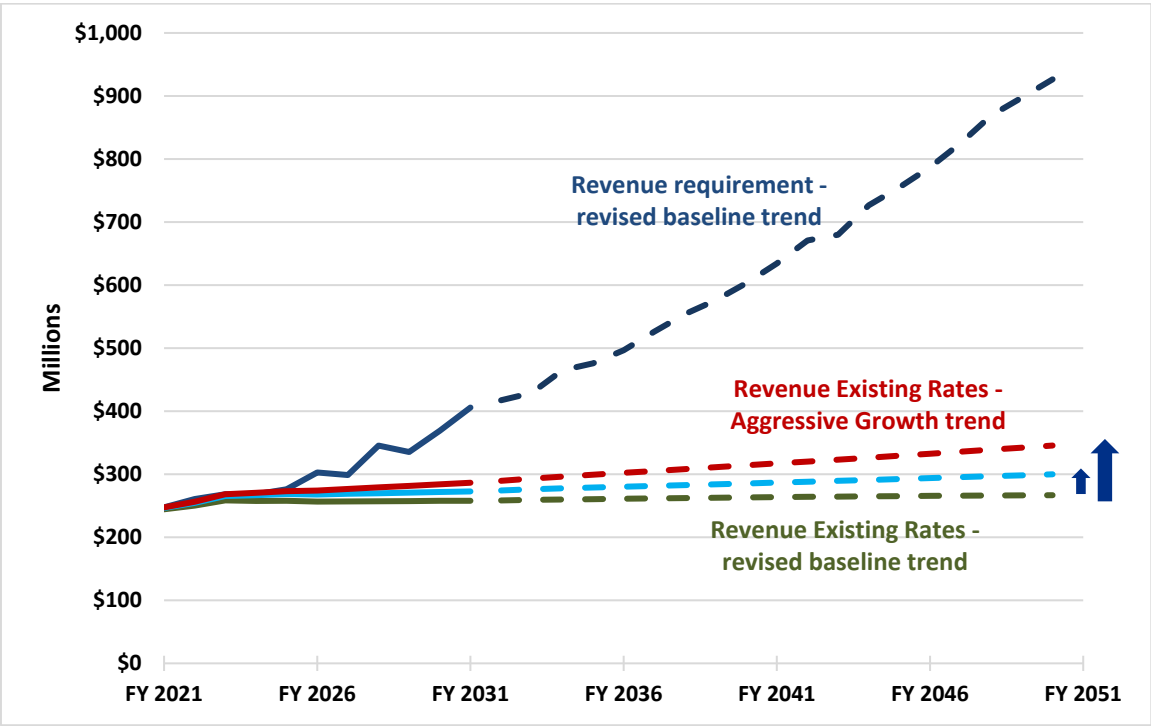


Figure 3-6. Revenue Impact due to Water Master Plan High Demand and Aggressive Growth

Figure 3-7 and Figure 3-8 show the anticipated trends in additional revenue needs under the high demand and aggressive growth scenarios, respectively. Projections show additional revenue needs as generally lower than in the revised baseline. A small upward adjustment is needed just after Year 11 to keep the days working capital above the minimum and then the trend continues to be lower than the baseline. It is assumed that costs for growth-related facilities (e.g., new wells, additional storage) are either a) provided for by developers or b) fully recovered from the Water System Facilities Charge.

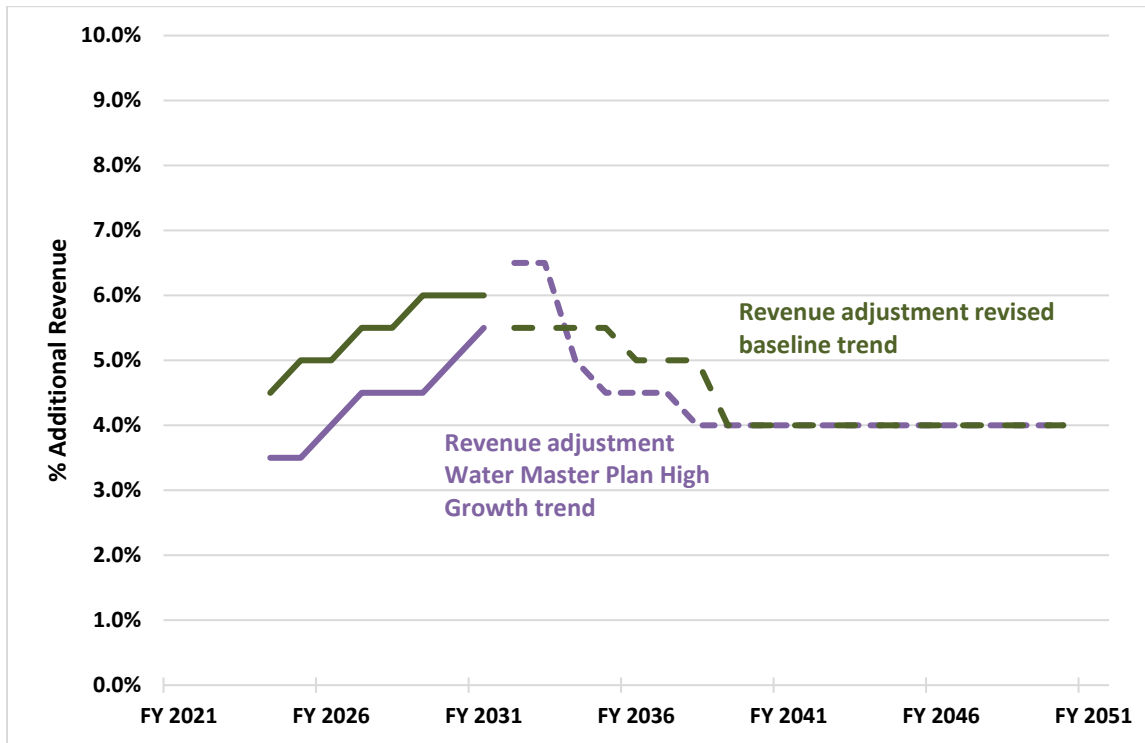


Figure 3-7. Additional Revenue Needs Trend as a Percent of Existing Rate-Based Revenue, Water Master Plan High Demand Case

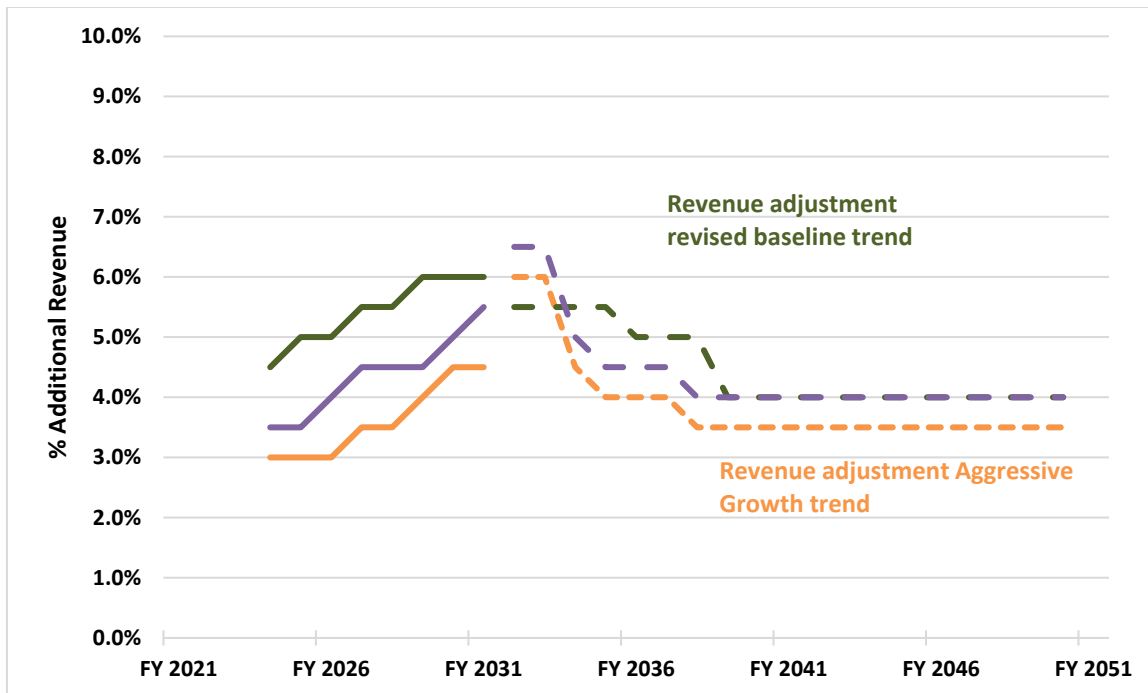


Figure 3-8. Additional Revenue Needs Trend as a Percent of Existing Rate-Based Revenue, Aggressive Growth

3.1.3 Climate Change

The Long Range Financial Plan defined the climate change scenario as follows:

Climate Change – Assume that higher capital replacement is needed due to increased groundwater salinity (resulting in loss of source yields) and that additional sources are needed to replace failing groundwater sources. Assume 25 percent of infrastructure is low enough and close enough to the coast to be impacted and that the impact will halve the useful life.

Assume that demand decreases 1 percent per year. In this scenario, it is assumed that the percentage of usage within the existing tiers remains the same, or an across the board drop, with no expectation that only high users conserve.

The assumptions of aggressive conservation and sea level rise in this scenario are aligned with both the Primary Urban Center Watershed Management Plan (BWS, in progress) and the Water Research Foundation's Impacts of Climate Change on Honolulu Water Supplies and Planning Strategies for Mitigation (Water Research Foundation, 2019). These envision reductions in aquifer sustainable yield during low rainfall conditions and significant sea level rise. By mid-century, nuisance flooding associated with sea level rise will commonly occur and as it worsens, tourism in Waikiki could decrease. At 3 feet and more of sea level rise, much of Waikiki will experience flooding during high tide and much of the beach is expected to disappear. This could be expected to affect tourism as well as potentially increasing outmigration due to limited inland

area and/or economic impacts. Consequently, capital expenditures would be expected to increase to address infrastructure that could be impacted by regular flooding, and water demands could decrease due to reductions in sustainable yield and/or lower tourism and increased net outmigration.

As seen in Figure 3-9, in the near term, no appreciable difference in revenue requirements is seen. However, over the long term, revenue requirements would begin to increase as assets had to be replaced sooner than originally planned, possibly by 6 percent over the revised baseline by the 30th year. Figure 3-9 also shows a potential decrease in revenue due to the associated conservation assumptions in this scenario. By year 30, revenues could be about 23 percent lower than the revised baseline. Figure 3-10 shows the anticipated trends in additional revenue needs under the climate change scenario. Projections show additional revenue needs varying between 5 and 8 percent per year, or 0.5 to 2 percent per year above the revised baseline.

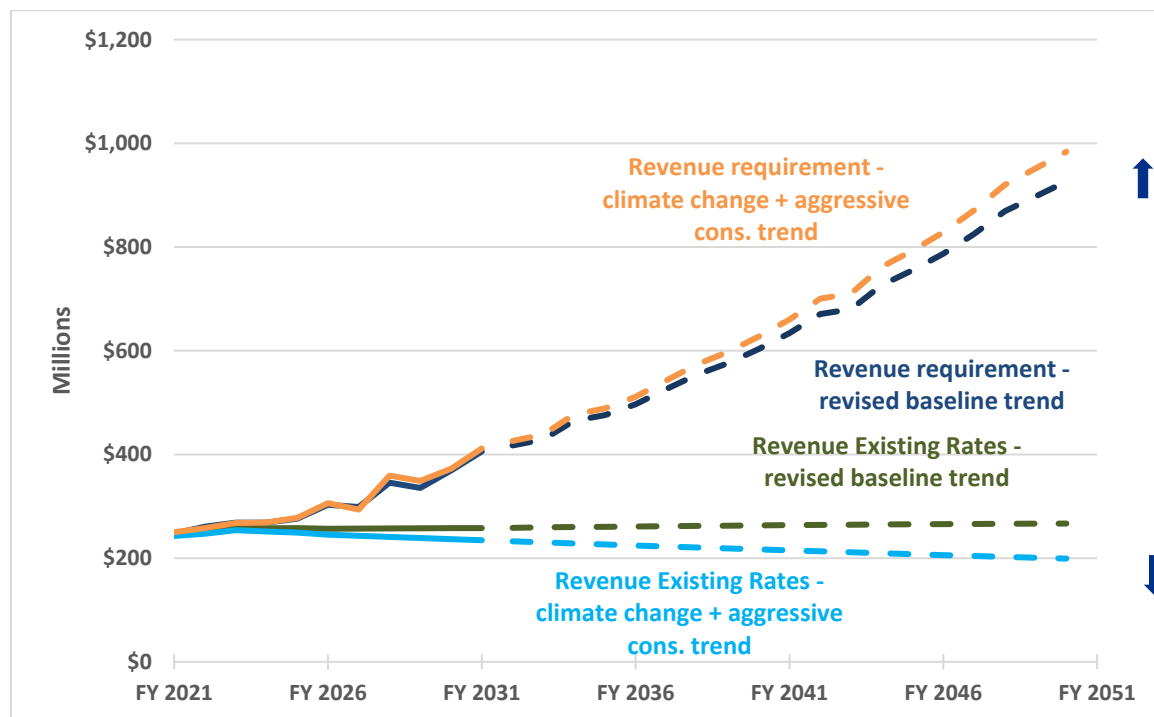


Figure 3-9. Revenue Requirements Impact due to Climate Change and Aggressive Conservation

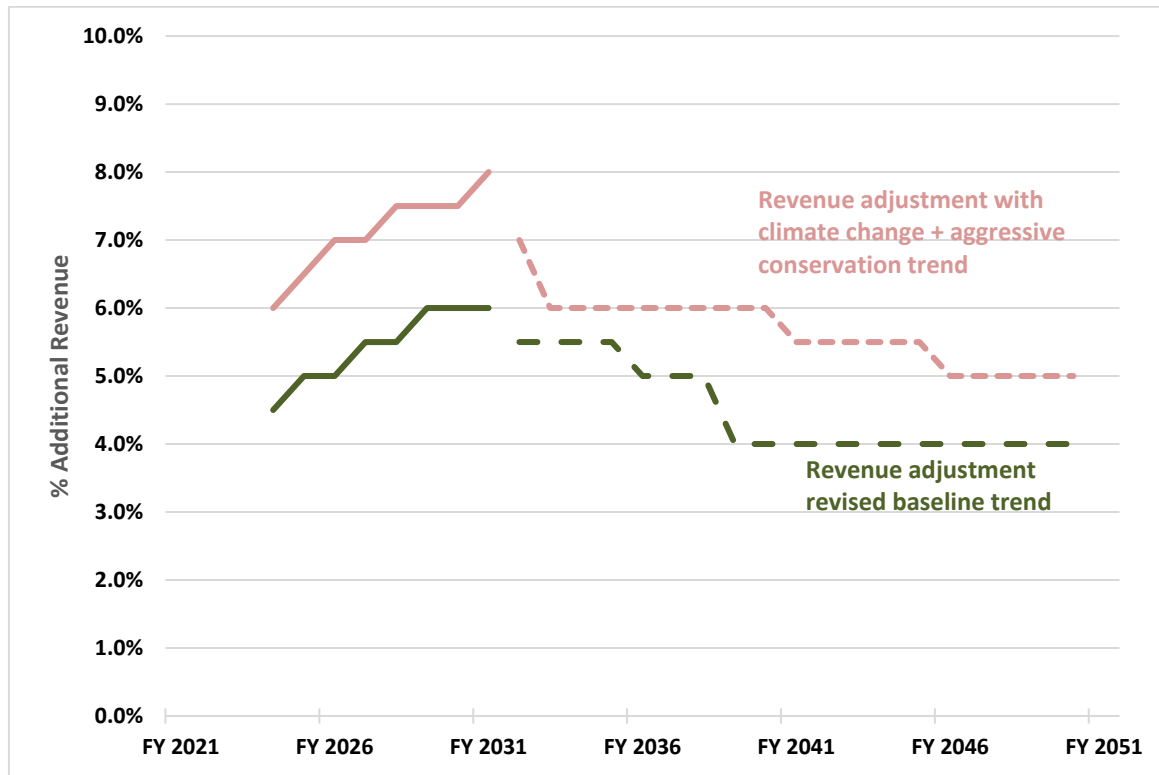


Figure 3-10. Additional Revenue Needs Trend as a Percent of Existing Rate-Based Revenue, Climate Change + Aggressive Conservation

3.2 Pandemic Scenario

The Long Range Financial Plan did not include a pandemic scenario. However, on March 11, 2020, the WHO declared COVID-19 a global pandemic. Discussions within the water industry regarding the potential impacts of the COVID-19 pandemic on a utility's ability to meet its mission have centered around concerns over reduced revenues and increased expenses. Indications are that these impacts vary widely from utility to utility. The pandemic scenario evaluates these impacts resulting from the current COVID-19 pandemic specific to the BWS. The intent is to provide guidance in support of current decision-making, in addition to documenting impacts to help guide future response in the event of another pandemic. Key areas of investigation were water demands and delinquencies.

While the long range modeling and trend analyses evaluate annual impacts, for this pandemic scenario, we have analyzed monthly data as far back as January 2016 to provide context to current conditions and to identify trends. Variables to consider in a pandemic scenario include water sales; delinquencies, duration to repay, and uncollectable debt; stimulus funding; changes in operations and maintenance expenses; and changes to the capital improvement program.

3.2.1 Water Demand and Sales

Figure 3-11 shows the BWS's daily potable water production and 30-day moving average for the island between March 1 and December 31, 2020 against the 5-year monthly average. Throughout

the pandemic, the BWS has continually monitored water production because it serves as an early indicator of revenues, which lag by at least a month due to the meter reading and billing cycle. Immediately following the WHO's March 11 pandemic declaration and the stay-at home orders and tourism restrictions that followed, daily water production dropped precipitously, from about 130 million gallons per day (mgd) to less than 115 mgd.

Due to COVID-19 restrictions and the resulting dramatic impact to Hawaii's tourism-driven economy, by May 2020, the unemployment rate in Hawaii soared to 22.6 percent, the second highest in the nation following Nevada. At the same time, daily water production rose steeply from its March decline and was exceeding the 5-year monthly average due to a drought from April 2020 through December 2020 impacting Windward and East Honolulu, along with unusually high temperatures (90F and higher). With the return of a hot, dry summer, and with the notable exception on July 26 when Hurricane Douglas came within 30 miles of Oahu, water production increased over the five-year monthly average and generally remained there until mid-October.

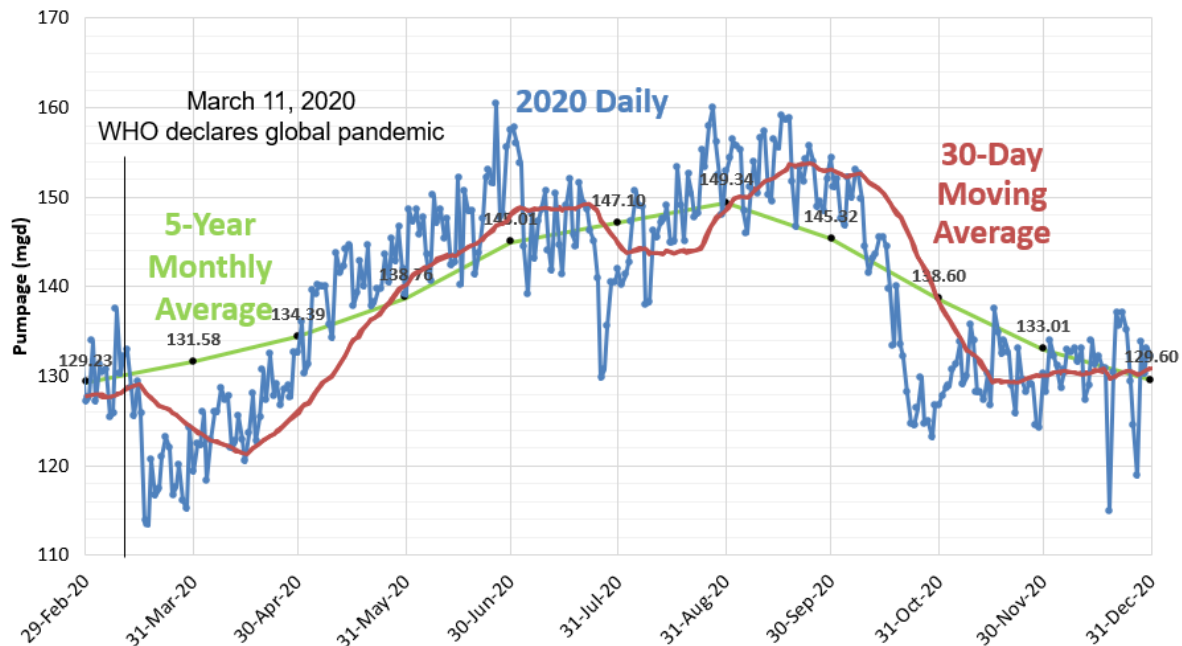


Figure 3-11. Total Island Potable Water Production since March 1, 2020

While the BWS's high water demands throughout the summer may seem surprising when considering the near-total shuttering of tourism and the resulting economic impacts, changes in the BWS's water demands were strongly driven by the drought and high temperatures mentioned above. Figure 3-12 shows the rainfall index for the Honolulu Watershed Area. An index of 100 is normal (average) for any given month and shown with the red line. March was much wetter than normal, with an index of 139, and April was dramatically drier, with an index of only 35. The very dry trend continued throughout the summer and into fall, excepting Hurricane Douglas in July, and is inversely correlated to water demands. In fact, a multivariate statistical analysis completed by the BWS in 2018 documented that weather alone accounts for about half of the variability in the BWS's water demands, more than any other factor.

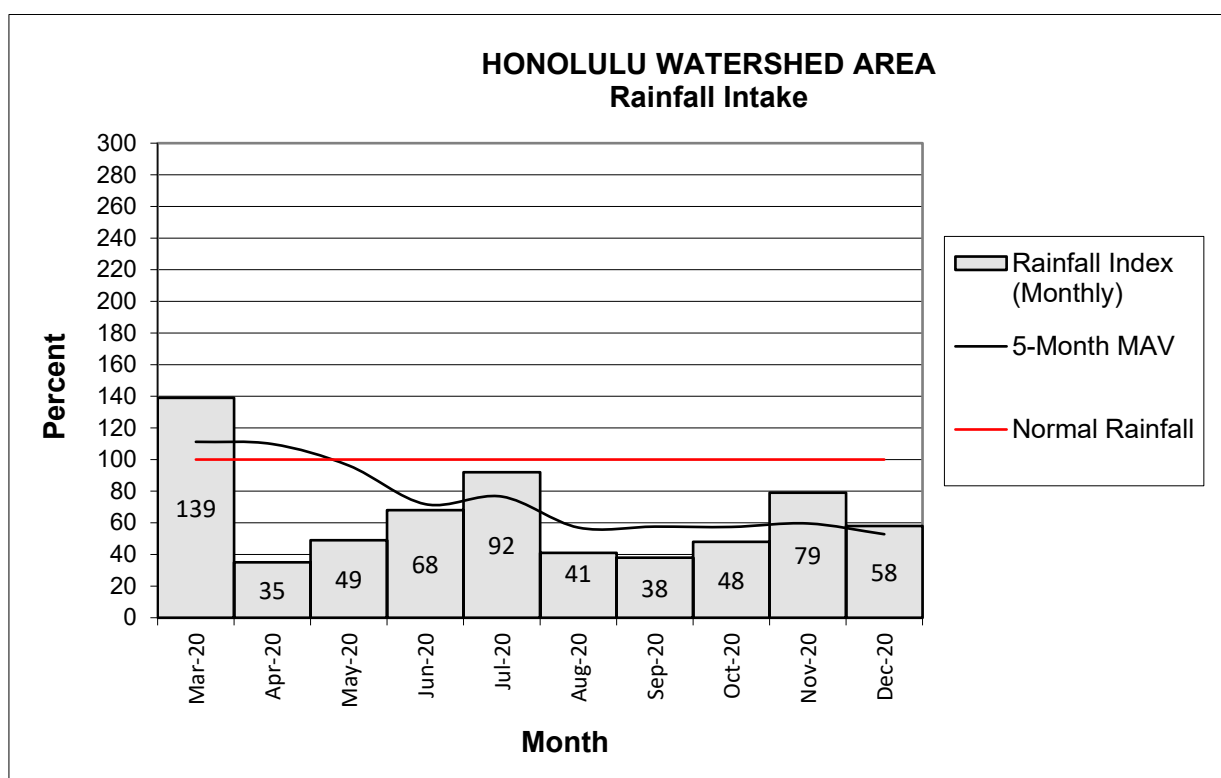


Figure 3-12. Rainfall Index for the Honolulu Watershed Area

The water production data discussed above provide an aggregated view of island-wide water demands. It is observed that, despite the closure of restaurants and hotels associated with the near-total shutdown of tourism, overall water demands appear virtually unimpacted by the pandemic. To better understand this, monthly billing data were analyzed to evaluate changes in water usage across various customer segments: single-family residential, multi-unit residential, and non-residential.

The following figures present the monthly water demand from January 2016 through December 2020 for the three major customer groups: single-family residential, multi-unit residential, and non-residential. Calendar years were chosen for the presentation of these data to better illustrate the seasonal changes in water demands. Because changes in the BWS's water demands are so dependent upon changes in weather, point comparisons such as one month to the previous month or the previous year are of limited value. To illustrate, Figure 3-13 shows monthly single-family residential water demand for the most recent 5-year period.

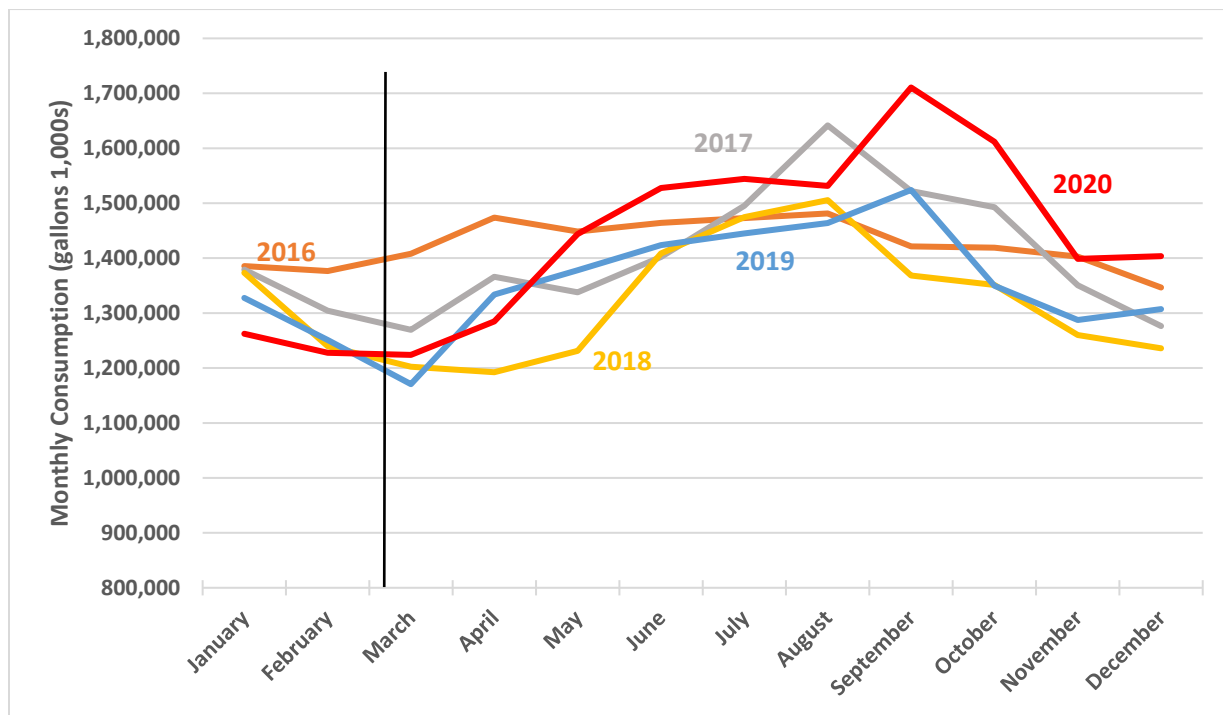


Figure 3-13. Single-Family Residential Monthly Demand

As a result, it was decided to compare 2020 monthly water demands to the 5-year average water demands. The results for single-family residential, multi-unit residential, and non-residential are shown in Figure 3-14, Figure 3-15 and Figure 3-16, respectively. Both residential customer classes (shown in Figure 3-14 and Figure 3-15) reflect increased demand, due in part to the stay at home requests and due in part to warmer weather, which lead to increased discretionary water demand. As seen in the non-residential chart (Figure 3-16), demand decreased sharply between March and May. However, as businesses were allowed to re-open with precautions (e.g., take out service only), the demand rebounded into the low end of the range. These graphs indicate that the pandemic had little overall impact to total water demand; that weather is still the single-most important driver for water demand.

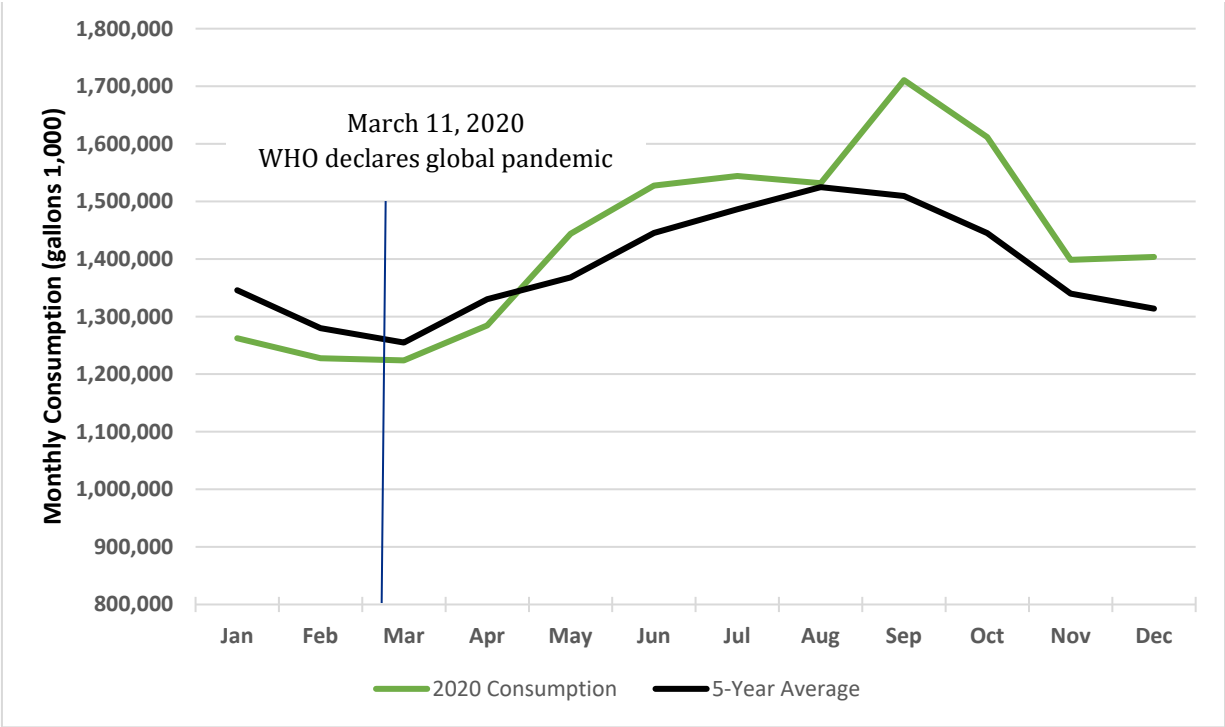


Figure 3-14. Single-Family Residential Monthly Demand vs 5-Year Average

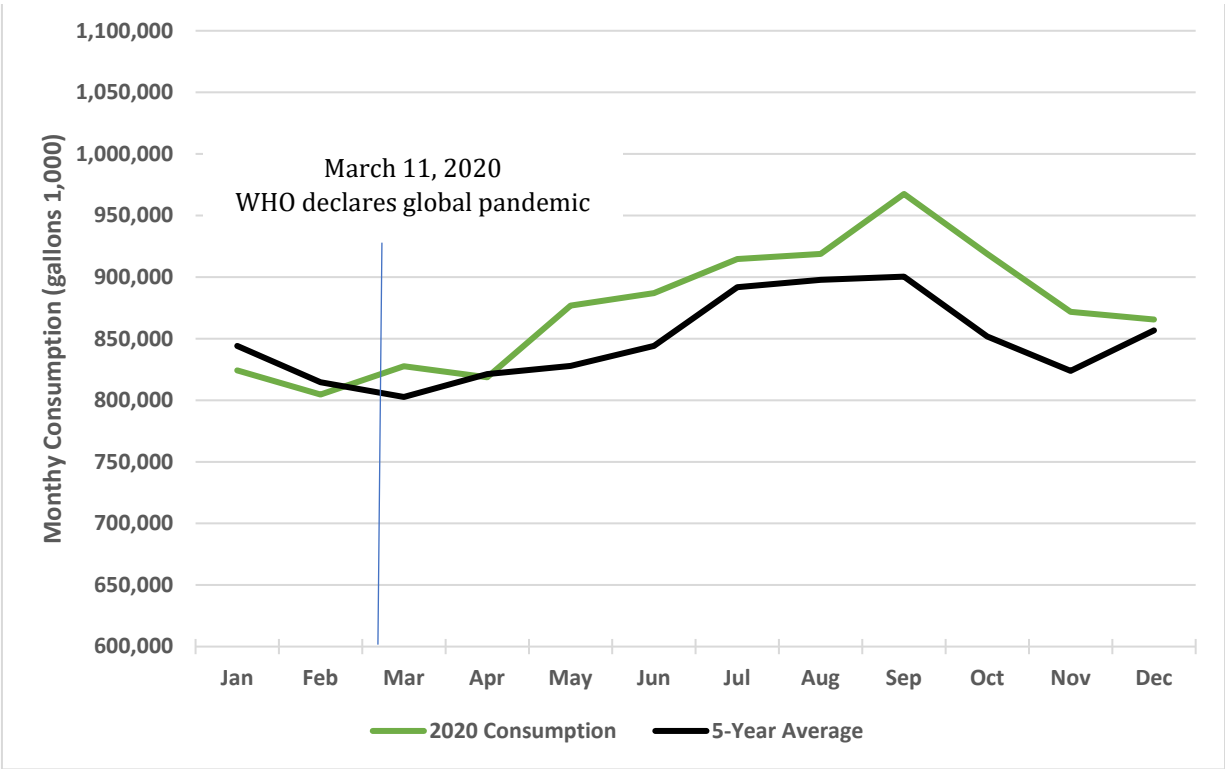


Figure 3-15. Multi-Unit Residential Monthly Demand vs 5-Year Average

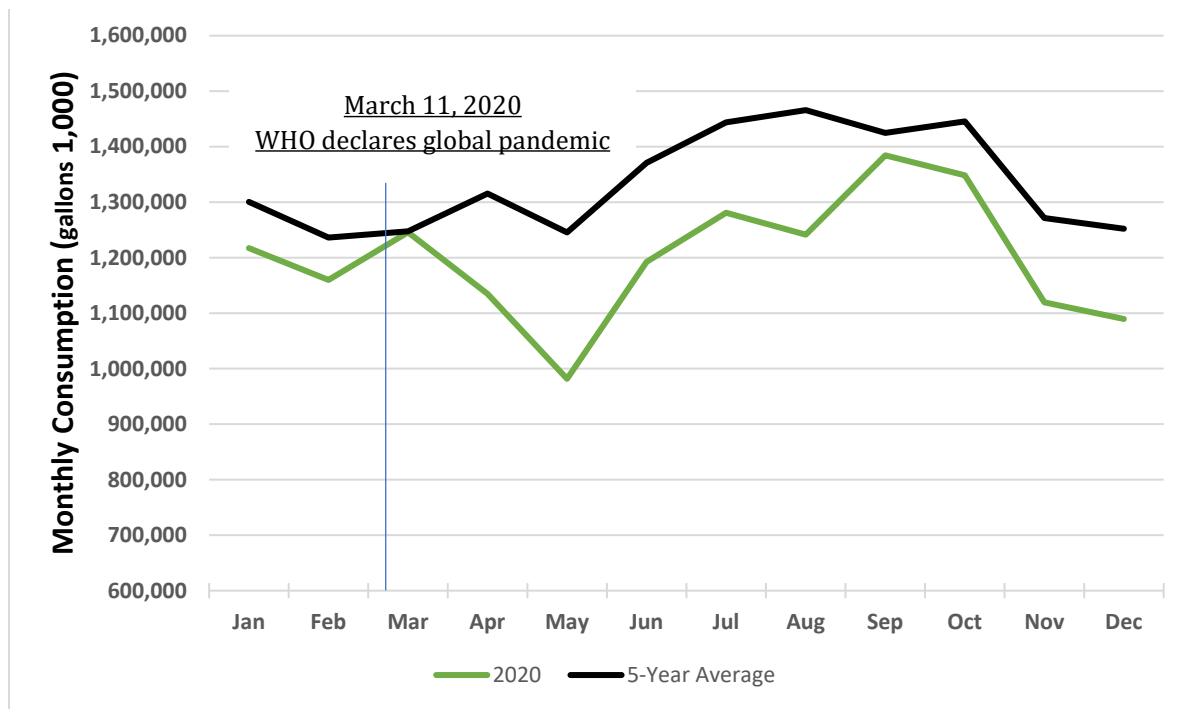


Figure 3-16. Non-Residential Monthly Demand vs 5-Year Average

Figure 3-17 presents a timeline series of water consumption for each of the four customer classes from January 2016 through December 2020. After March 2020, a noticeable dip in non-residential is seen along with a corresponding increase in single-family residential water sales. While non-residential sales have somewhat rebounded since then, single-family residential consumption continues to be higher than previous because people are spending more time at home (working from home or temporarily unemployed due to decreased tourism and restaurant closures/scaling-back). Multi-unit residential water sales have also increased since the global pandemic was declared.

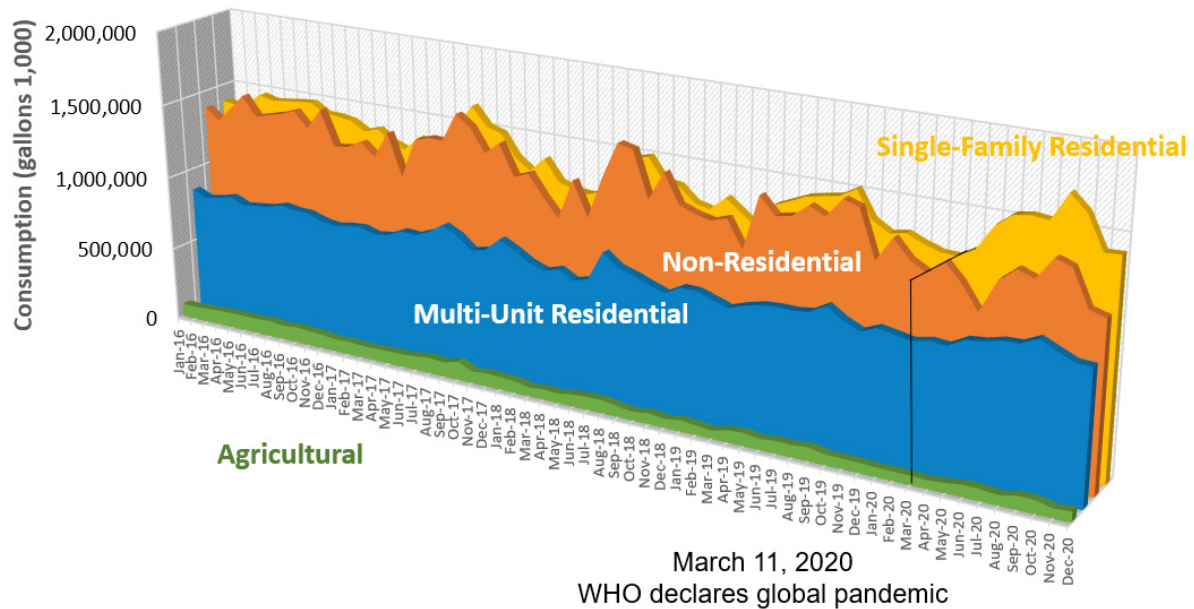


Figure 3-17. Water Sales by Customer Class since January 2016, gallons 1,000s

3.2.2 Delinquencies

While water demand remained high, customers' ability to pay their bills may have been impacted by pandemic-related restrictions. Between 2015 and 2019, the amount of uncollected revenue averaged 0.2 percent of rate-based revenue (or less than \$500,000 per year). Uncollected revenue are those delinquent accounts for which the BWS has determined they will be unable to collect. If more accounts are delinquent, then it's possible that uncollected revenues will also increase. Figure 3-18 shows the percentage of water accounts that are 30 days or more past due since January 2017. While the number of delinquent accounts in April and May 2020 appears a little higher than historical, by June the number of accounts has dropped to the lower end of the range.

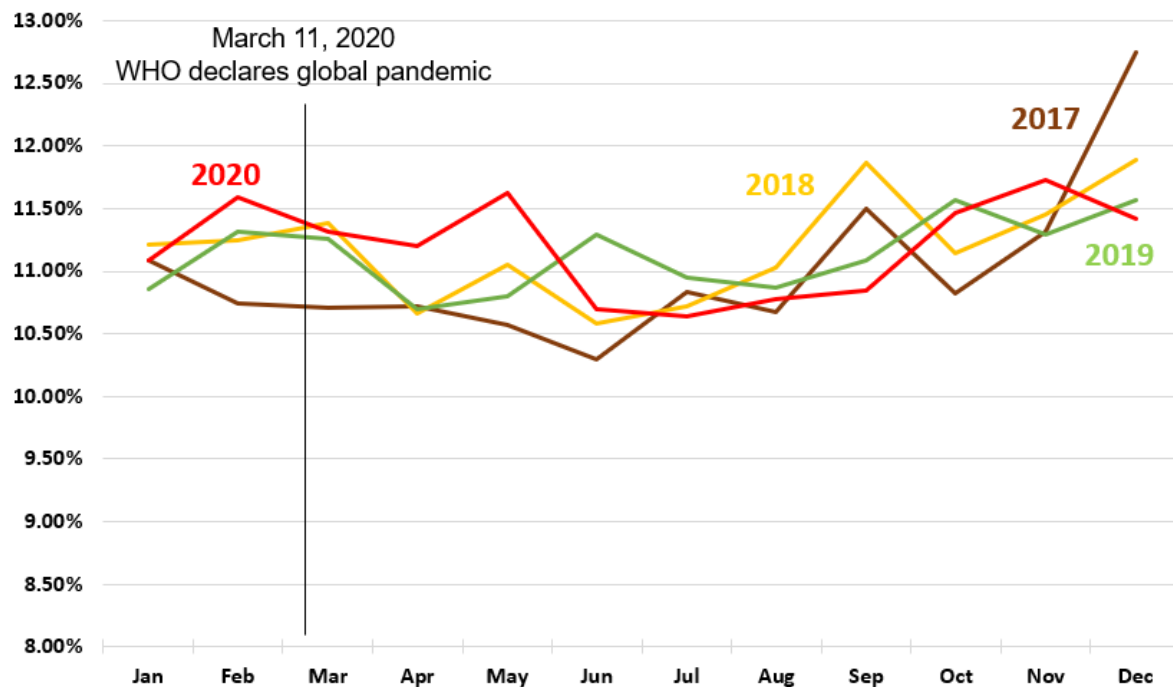


Figure 3-18. Percentage of Water Accounts 30 days Past Due, 2017 to 2020

The focus then turned to the residential and commercial accounts. As shown in Figure 3-19, for the first five months of 2020, the number of residential delinquencies was at the high end of the range. However, in June through September 2020, the number of delinquent accounts dropped to the lower end of the range. The number of delinquent accounts has stayed in the middle range through the rest of 2020. Figure 3-20 shows the dollar amount of delinquencies in residential accounts. The general trend is that the dollar amount of delinquencies increases each year, in part due to rate increases. After March 2020, the amount of delinquent revenue starts to trend higher than historical. Given that the number of delinquent accounts has leveled off, this seems to indicate that the same accounts may be getting further and further behind.

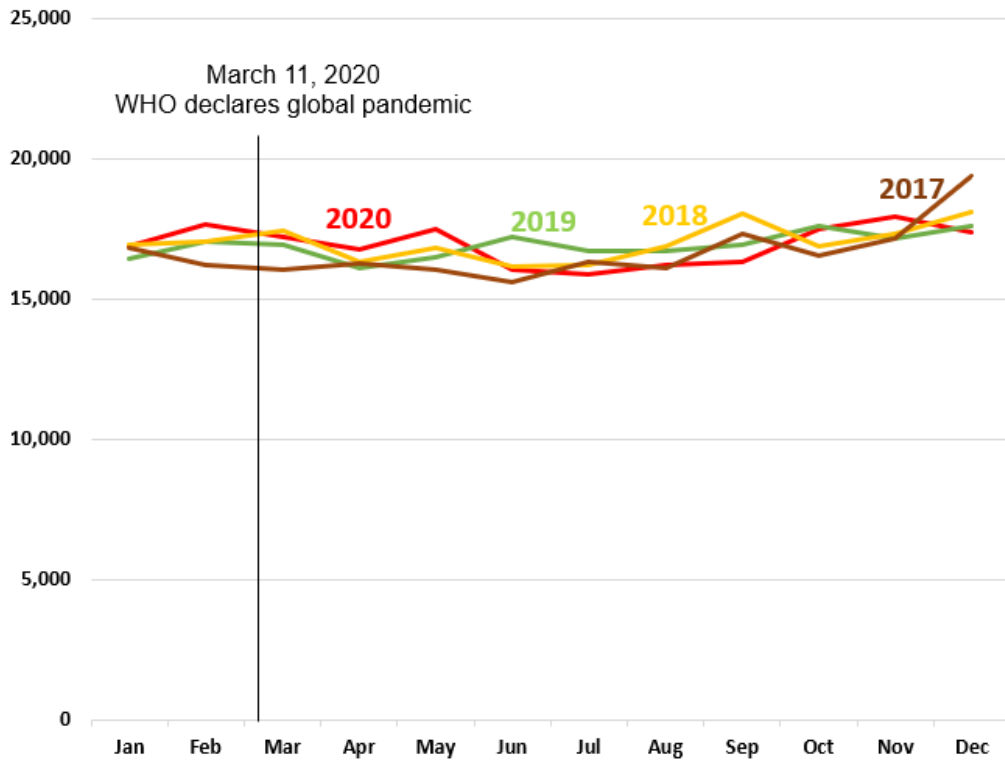


Figure 3-19. Monthly Residential Water Customer Delinquency, 2017 to 2020, Accounts

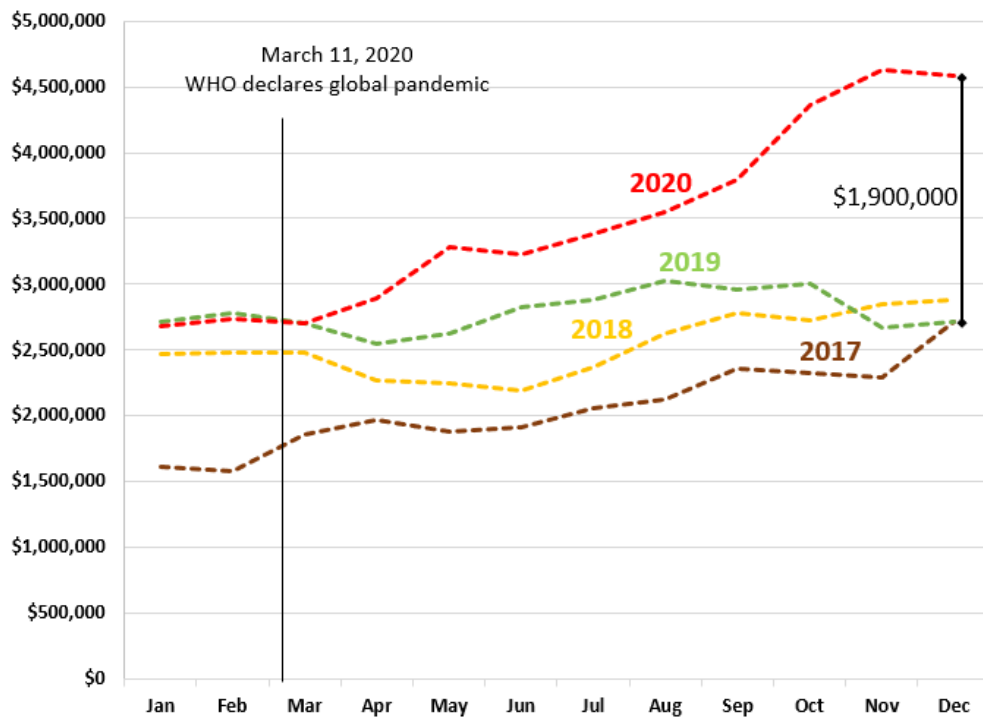


Figure 3-20. Monthly Residential Water Customer Delinquency, 2017 to 2020, \$

Figure 3-21 shows that the number of delinquent commercial accounts spiked shortly after the World Health Organization declared the global pandemic. That number dropped some in June, possibly due to use of stimulus payments to pay past-due amounts, but not all the way back to historical levels. The number of delinquent commercial accounts also appears to have started declining since October 2020. Figure 3-22 shows the dollar amount of delinquencies in commercial accounts. It shows a similar trend to residential except that it appears to be decreasing since September 2020.

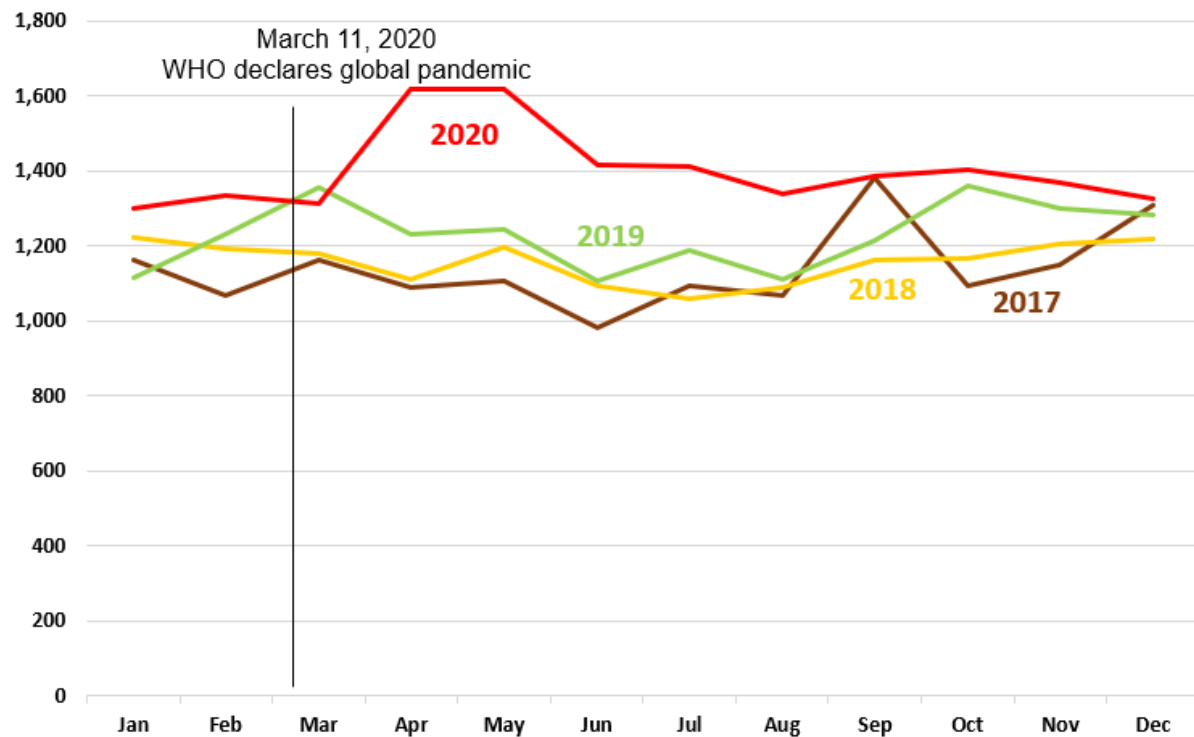


Figure 3-21. Monthly Commercial Water Customer Delinquency, 2017 to 2020, Accounts

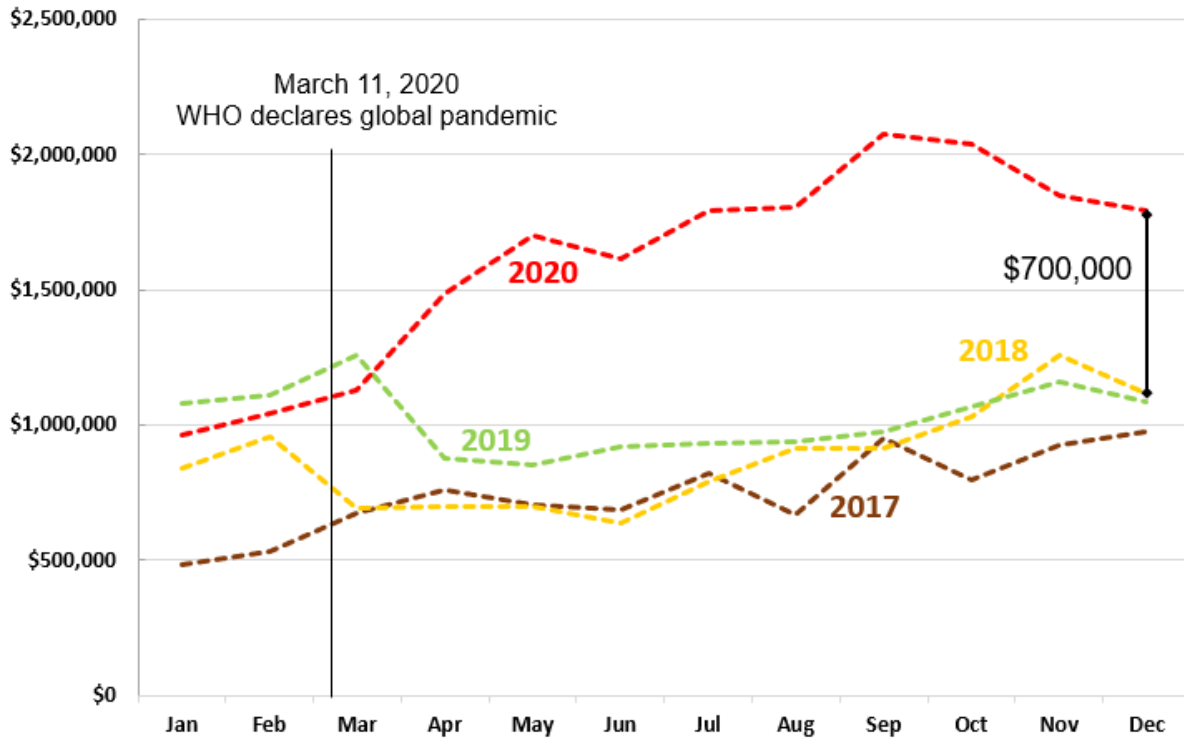


Figure 3-22. Monthly Commercial Water Customer Delinquency, 2017 to 2020, \$

3.2.3 Uncollectable Revenue

A separate spreadsheet model included in Appendix A was built to test the magnitude of month-to-month delinquencies and estimate overall additional uncollectable revenue under three variations of the pandemic scenario tied to “reopening” tourism. These three scenarios were informed by the University of Hawaii Economic Research Organization’s Annual Hawaii Forecast with Global Outlook (December 11, 2020). The forecast uses test-based reopening and access to a vaccine as predominant factors in reopening tourism. We identify rapid testing and effective contact tracing to also be important. The forecast does not use masking, physical distancing, minimizing social gatherings and good hygiene as differentiators in any of its three scenarios.

- A. Optimistic timeframe for test-based reopening, optimistic timeframe for rapid testing and effective contract tracing, no third wave, and independent of a vaccine due to extensive testing and contract tracing.
- B. Moderate timeframe for test-based reopening, no third wave, and vaccine is widely available Summer 2021.
- C. Pessimistic timeframe for test-based reopening, no rapid testing and effective contract tracing, third wave occurs, and vaccine is widely available late 2021.

Calendar year 2019 monthly delinquency amounts were used as the baseline. Monthly percentages are estimated for each of the scenarios representing a larger percentage of baseline delinquency dollars. Under Scenario A, delinquency amounts would return to normal by the end

of calendar year 2021. Under Scenarios B and C, delinquency amounts would return to normal by the end of calendar year 2022.

The BWS's typical uncollectable percent is 0.2 percent of revenues. For the pandemic scenarios, we presumed 5 percent of delinquencies for Scenario A, 10 percent of delinquencies for Scenario B, and 15 percent of delinquencies for Scenario C. Figure 3-23 shows the monthly projected residential delinquent billed revenue for the three scenarios. Uncollected revenue is projected to increase between \$136,000 to \$466,000 over normal levels.

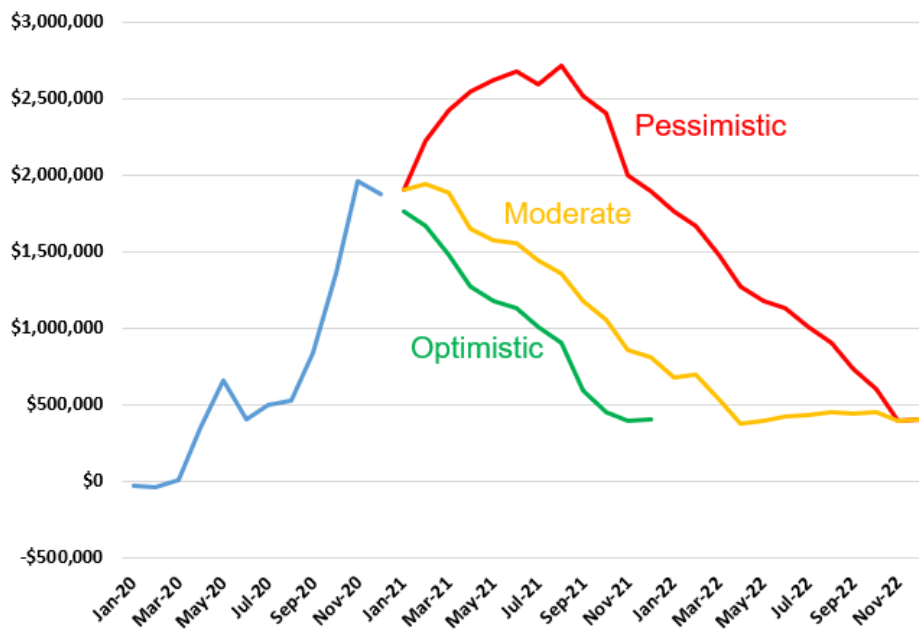


Figure 3-23. Residential Delinquency Scenarios

Figure 3-24 shows the monthly projected commercial delinquent billed revenue for the three scenarios. Uncollected revenue is projected to increase between \$22,000 to \$133,000 over normal levels.

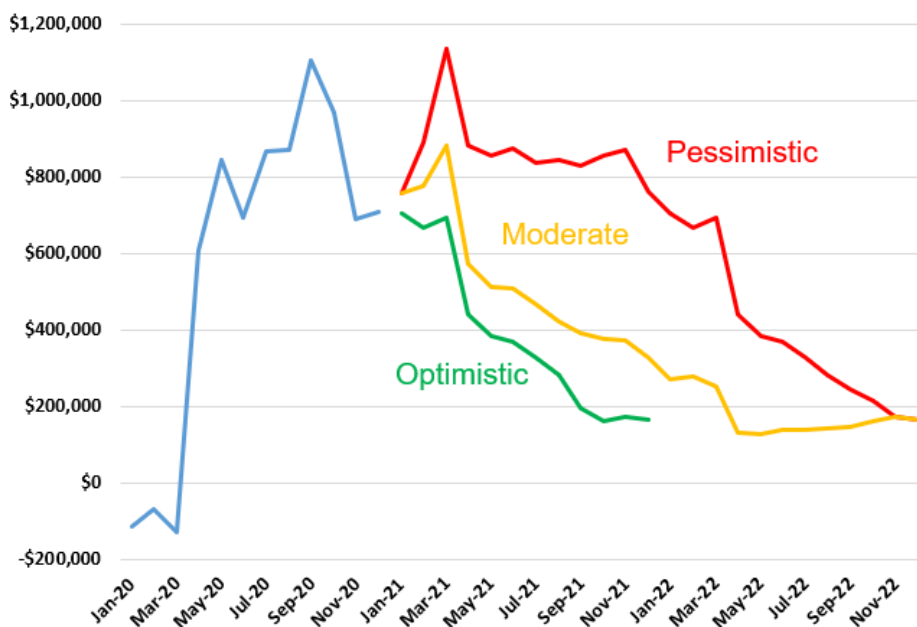


Figure 3-24. Commercial Delinquency Scenarios

The worst of these scenarios, C, was modeled at the annual level. Delinquencies were modeled to be about \$3.8 million in FY 2021 and \$2 million in FY 2022. All but 15 percent of these delinquency amounts were then paid back over FY 2023 through FY 2025. Delinquencies are normally paid back sooner, but to be conservative, we have made this assumption.

As seen in Figure 3-25, the revenue lines between the revised baseline and the pandemic scenario overlay each other. This indicates that these monthly cashflow issues, at the annual level, do not impact the long term trending.

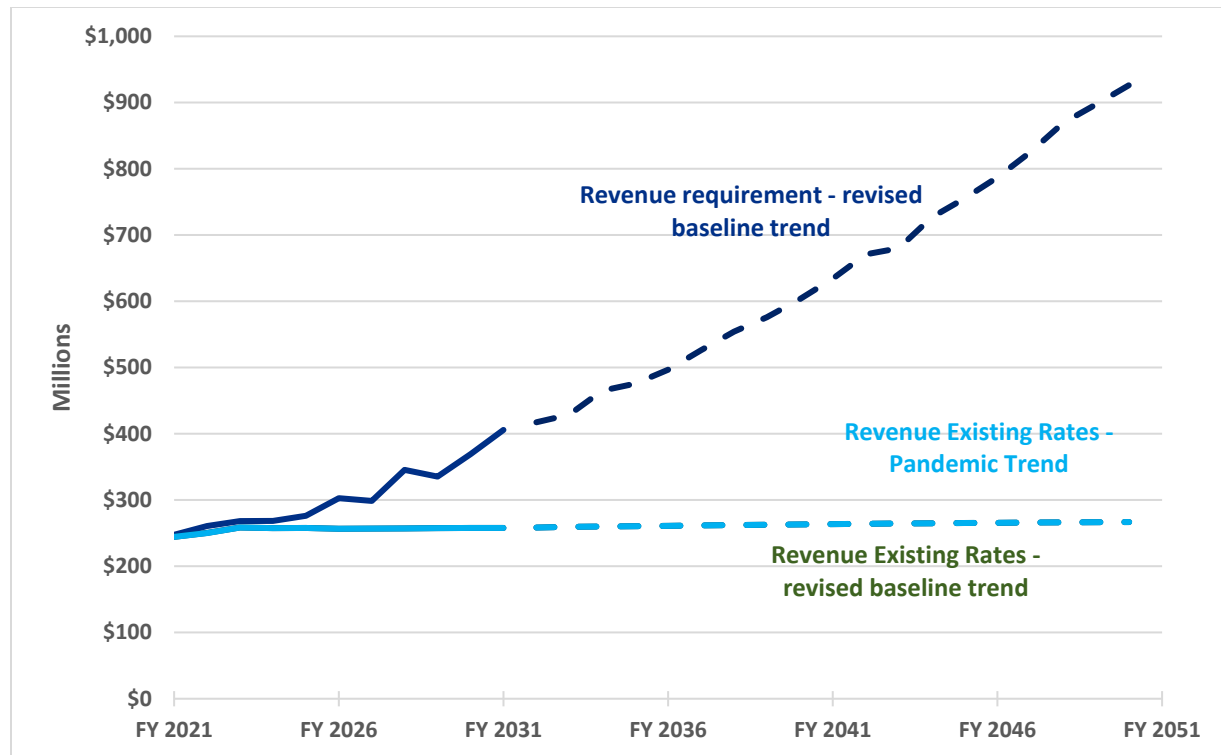


Figure 3-25. Revenue Requirements Impact due to Pandemic

Consistent with Figure 3-25, Figure 3-26 shows that projected revenue adjustments for the pandemic scenario do not change from the revised baseline. Therefore, at an annual level, currently-projected impacts appear to be relatively minor and may be mitigated to some extent in the future by COVID-19 stimulus funds that may be made available. However, it is imperative to recognize that, as of this report date, the COVID-19 global pandemic is not over and the conditions necessary for comprehensive economic recovery have not been met. Moreover, there continues to be high uncertainty in the timing of when these conditions will be met. Additionally, multiple COVID-19 variants that are 70 percent¹ more contagious are circulating globally with scientists working to learn more about how easily they might spread, whether they could cause more severe illness, and whether currently authorized vaccines will protect people against them.

¹UC Davis Health, Public Affairs and Marketing. "New, More Contagious Strains of COVID-19 May Be Spreading Quickly." *UC Davis Health*, 13 Jan. 2021, health.ucdavis.edu/health-news/newsroom/new-more-contagious-strains-of-covid-19-may-be-spreading-quickly/2021/01.

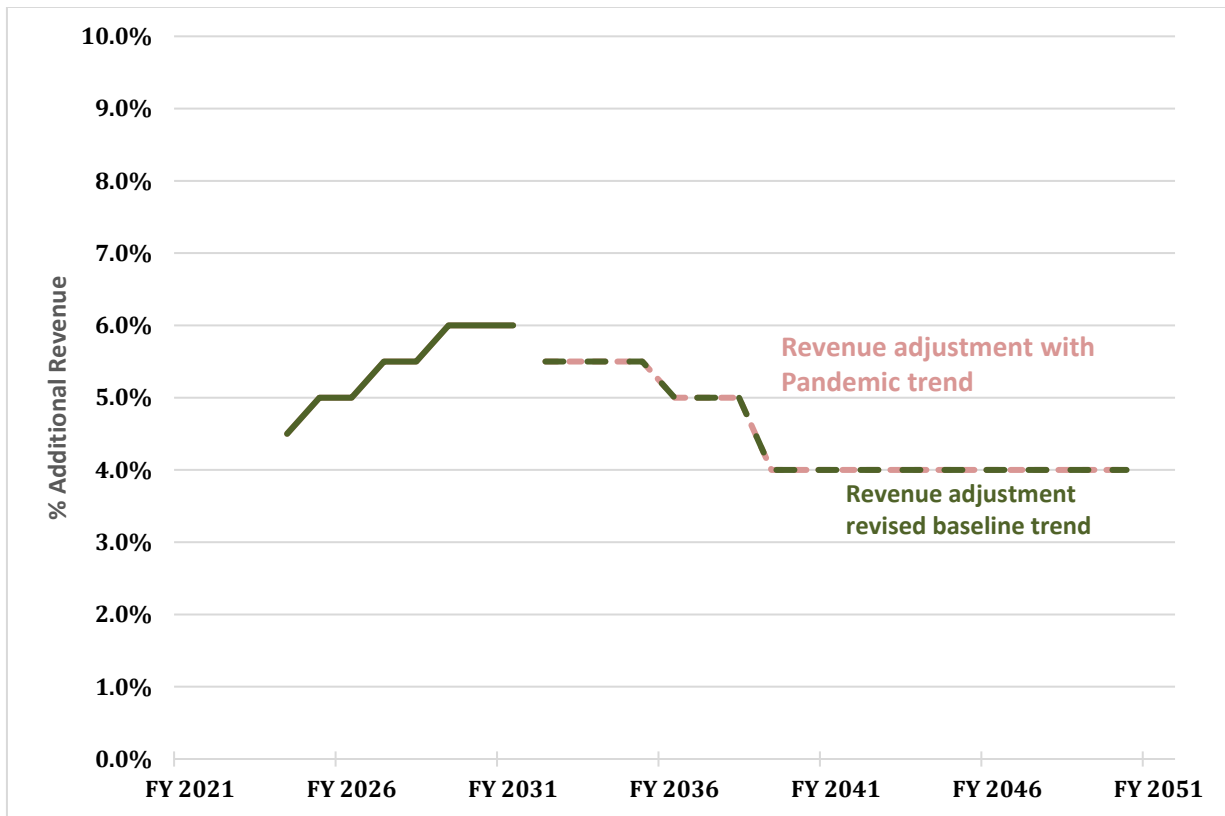


Figure 3-26. Additional Revenue Needs Trend as a Percent of Existing Rate-Based Revenue, Pandemic

3.2.4 Expense Impacts

The BWS has incurred additional expenses due to COVID-19 and is seeking reimbursement with the Coronavirus Aid, Relief, and Economic Security (CARES) Act funds. Expense types include installing touchless faucets, cleaning supplies, personal protective equipment, air filters, thermometers, COVID-19 impact study, and lobby renovations. Additional expenses are estimated to be about \$1.5 million. About \$900,000 of that has been reimbursed with CARES funds and another \$350,000, approximately, has been approved for funding. The remaining is either pending approval or is yet to be submitted for approval. Additional expenses continue to be evaluated for potential CARES fund reimbursement.

3.3 Concurrent Pandemic and Hurricane Scenario

The Long Range Financial Plan qualitatively discussed the impact of a major natural disaster (such as a hurricane or earthquake), which was defined as:

Major Natural Disaster – Assume damage to infrastructure causing capital needs and revenue loss as water service is interrupted or rate collection is reduced. Sampled disaster events caused capital damage ranging from 1.3 to 4.8 percent of net assets and revenue loss of 1.9 to 24 percent over the first year following the event.

From a planning perspective, it is instructive to consider the concurrent events of a major natural disaster and a global pandemic. It must be realized, however, that such consideration is speculative and should not be used or relied upon to guide either the implementation or avoidance of any current or future actions. Rather, decisions regarding specific financial actions should be made in the context of conditions at the time, were such an unfortunate combination of events could actually occur.

In the Long Range Financial Plan, the potential financial impacts to the BWS resulting from a major natural disaster were determined to be much more severe than what has been realized to date as a result of the COVID-19 global pandemic. For example, with the pandemic to date, there has been no apparent change to total water sales nor has there been any physical damage to facilities, and customers are largely able to pay their bills on time.

On September 11, 1992, Hurricane Iniki, the strongest hurricane to hit the Hawaiian Islands in recorded history, struck the island of Kauai. In 2008 US\$, it caused an estimated \$7.4 billion in damage. Coffman and Noy (June 2009)² estimated that it took 7-8 years for Kauai's economy to return to pre-Iniki levels, and that even after 17 years, it had not recovered in terms of population and labor force. Their work documents that Kauai experienced an outmigration of about 10 percent that was still persistent in 2009. In contrast, based upon a review of the County of Kauai, Department of Water Financial Statements as of June 30, 1994 and 1993, water sales for FY 1993 and FY 1994 were \$200,000 (3.4 percent) lower and \$369,000 (6.4 percent) higher, respectively, than the year preceding the hurricane. Therefore, even with a long, slow economic recovery, the water utility appeared to rebound quickly based on a review of water sales. This indicates that the water demands are relatively inelastic.

Given these uncertainties in the potential financial impacts associated with a concurrent global pandemic and natural disaster, appropriate planning actions that should be taken include an assessment of the potential risks and vulnerabilities to the BWS water system and utility personnel that would result from these events and the development of appropriate emergency response plans to be implemented as a result. In 2020, in accordance with the requirements of America's Water Infrastructure Act of 2018 the BWS completed both of these major activities and certified their completion to the United States Environmental Protection Agency.

² Coffman, Makena and Ilan Noy. "A Hurricane's Long-Term Economic Impact: the Case of Hawaii's Iniki." *ResearchGate*, July 2009, https://www.researchgate.net/publication/228613232_A_Hurricane%27s_Long-Term_Economic_Impact_The_Case_of_Hawaii%27s_Iniki. Accessed January 2021.

Section 4

Conclusions

In response to the financial uncertainties posed by the COVID-19 global pandemic, the BWS has taken proactive steps to review both its operations and maintenance budget and capital budget, closely monitor water sales and revenues, analyze water production and rainfall trends, and track delinquencies. Reviews conducted to check financial conditions at the end of FY 2020 compared to the Long Range Financial Plan indicated that budgets needed to be reviewed to facilitate the BWS staying on course and within its financial policies. Accordingly, adjustments were made to the projected expenses, particularly in the near-term (through FY 2031), resulting in a revised baseline. Overall, near-term expenses are projected to be \$17 million more than in the Long Range Financial Plan. However, by imposing some austerity to increases in the operations and maintenance budget through the global pandemic and ensuing economic recovery, adjusting the timing of some capital expenditures, and adjusting the mix of bonds and cash to fund the capital improvement program, the revised baseline provides a roadmap for the BWS to meet its goals within the currently approved rate schedule and near-term revenue adjustments anticipated in the Long Range Financial Plan. Additionally, while estimated revenues were within 3 percent of actual, representing normal variability, the lower amount of revenues also contributed to the erosion of days of working capital. Of note, revenues from the Water System Facilities Charge, which has not been updated since the 1990's, are insufficient to cover the costs of all growth-related projects. Updating this charge is recommended. The charges are currently being reviewed and planned for Board consideration in FY2022.

Through the use of both debt and cash and strategic timing of projects, long-term projected revenue adjustments are expected to be similar to those projected in the Long Range Financial Plan. However, as seen already since the plan was created, actual conditions have resulted in deviations from the plan, requiring adjustments to budgeting processes as well as model assumptions. Accordingly, a rate study should be conducted to evaluate both actual and anticipated near-term conditions for the subsequent rate setting period that begins with FY 2024. This study should also consider updates to costs of service and affordability.

Under the revised baseline, impacts from different scenarios modeled in the Long Range Financial Plan yield similar results. This demonstrates the benefits of the BWS's active management of its financial conditions, which continue to be robust and flexible enough to address near-term realities.

With the shutdown of Hawaii's tourism-dependent economy due to the pandemic, coupled with stay at home orders, the BWS has predictably observed decreases in non-residential water demands. However, those decreases have been offset by increases in residential water usage, with no discernable impact to overall water use. Consequently, the BWS's water sales have been sustained throughout the pandemic. Close examination of delinquencies has shown that the stress on some individual customers is significant. The BWS has worked diligently with these customers to help them establish payment plans; thus, helping to limit the overall amount of delinquencies. The total amount of delinquencies at the end of December 2020 was

approximately \$2.6 million, or about 1.1 percent of the BWS's annual revenue. Consequently, the impact to the BWS's revenues seems limited to managing cashflow at the month-to-month level, with little-to-no impact on annual and long range modeling.

Potential long-term impacts from the pandemic are uncertain, depending on both the speed and vigor of the economic recovery, which is dependent on the virus and the actions taken to respond to it. However, coupled with the potential for a major natural disaster during a pandemic, the uncertainty only increases. Because there are no modern examples of this occurring, the evaluation of this scenario is speculative. One potential manifestation could be a decrease in Oahu's population if the tourism industry does not rebound quickly and robustly from a pandemic event, in combination with the sustained damage to tourism infrastructure that would be anticipated from a concurrent hurricane. If customers migrate to areas less economically impacted, then water consumption could decline commensurately, mimicking the water conservation scenario. Conversely, water demands could rebound relatively quickly, as occurred on Kauai after the extensive damage of Hurricane Iniki even with the sustained 10 percent decrease in population that followed.

In addressing potential future scenarios, the BWS still has access to the full range of mitigation strategies discussed in the Long Range Financial Plan. The trend analysis indicates that with diligent implementation of the Water Master Plan, on-going monitoring using the Water Master Plan scorecard and other available metrics, adherence to the financial policies, and proactive management and mitigation, any single year's revenue adjustment could remain below 10 percent. The possible exception is the scenario of a concurrent pandemic and major natural disaster that was not analyzed quantitatively due to its speculative nature. To avoid double-digit rate increases in this scenario, when customers will be least able to pay, the magnitude of mitigation adjustments could be much more significant than in other scenarios. These mitigations provide valuable tools to the BWS that will help it navigate successfully through the potential uncertainties of such an event.

Despite the relatively minor financial impacts to BWS documented thus far, it is imperative to recognize that, as of this report's date, the COVID-19 global pandemic is not over and the conditions necessary for comprehensive economic recovery have not been met. Moreover, high uncertainty in the timing of when these conditions will be met continues. Additionally, multiple COVID-19 variants are circulating globally with scientists working to learn more about how easily they might spread, whether they could cause more severe illness, and whether currently authorized vaccines will protect people against them.

Appendix A

Delinquency Recovery Model

A spreadsheet model was developed to project month-to-month delinquent amounts for the residential and commercial customer classes and to project the possible increase in uncollectable revenue due to more delinquencies.

Three variations of the pandemic scenario were created based on UHERO scenarios from its quarterly reports that are tied to “reopening” tourism. These three scenarios were informed by the University of Hawaii Economic Research Organization’s Annual Hawaii Forecast with Global Outlook (December 11, 2020). The forecast uses test-based reopening and access to a vaccine as predominant factors in reopening tourism. We identify rapid testing and effective contact tracing to also be important. The forecast does not use masking, physical distancing, minimizing social gatherings and good hygiene as differentiators in any of its three scenarios.

- A. Optimistic timeframe for test-based reopening, optimistic timeframe for rapid testing and effective contract tracing, no third wave, and independent of a vaccine due to extensive testing and contract tracing.
- B. Moderate timeframe for test-based reopening, no third wave, and vaccine is widely available Summer 2021.
- C. Pessimistic timeframe for test-based reopening, no rapid testing and effective contract tracing, third wave occurs, and vaccine is widely available late 2021.

The model uses calendar year 2019 monthly delinquency amounts as the baseline. Monthly delinquencies in 2019 ranged from \$2.5 million to \$3.0 million. Monthly delinquencies in 2020 ranged from \$2.7 million to \$4.6 million. The difference between these two years shows an increasing amount of delinquent revenues, up to 69 percent of the baseline. Analysis of historical delinquencies in 2018 and 2019 showed an approximate 15 percent increase in the dollar amount of annual average delinquencies. This 15 percent increase is considered the “return to normal” level in the model.

Informed by this comparison, the model projects monthly delinquencies for 2021 and 2022 for the three scenarios. Under Scenario A, delinquency amounts would return to normal by the end of calendar year 2021. Under Scenarios B and C, delinquency amounts would return to normal by the end of calendar year 2022.

The model also estimates the amount of delinquent revenue that will be uncollectable. The BWS’s typical uncollectable percent is 0.2 percent of revenues. For the pandemic scenarios, we presumed 5 percent of the maximum monthly delinquent amount for Scenario A, 10 percent for Scenario B, and 15 percent for Scenario C. This uncollectable amount would be in addition to the BWS’s historical uncollectable revenue.

The model works by having the user enter in the forecasted percent of the baseline delinquent amount for the month due to the pandemic scenario. For Scenario A, the additional delinquent amount starts at 65 percent and lowers to the baseline amount of 15 percent by the end of 2021. For Scenario B, the additional delinquent amount starts at 70 percent and steps down to 15 percent by the end of 2022. For Scenario C, the delinquent amount climbs from 70 percent to 100 percent over the first five months of 2021, then begins to decrease to 15 percent by the end of 2022.

The residential and commercial models, respectively, are shown on the following pages. Additional uncollectable residential revenue is projected to range from \$88,300 to \$408,000. Additional uncollectable commercial revenue is projected to range from \$35,200 to \$170,000.

Residential Scenarios

						Scenario A		Scenario B		Scenario C	
Year	Month	2019 Baseline	Actuals	Actual - Baseline	%	Forecast %	Forecast \$	Forecast %	Forecast \$	Forecast %	Forecast \$
2020	Jan-20	\$2,717,884	\$2,685,569	-\$32,315	-1%						
	Feb-20	\$2,779,836	\$2,741,430	-\$38,406	-1%						
	Mar-20	\$2,698,650	\$2,706,883	\$8,234	0%						
	Apr-20	\$2,544,860	\$2,898,249	\$353,389	14%						
	May-20	\$2,624,874	\$3,282,881	\$658,006	25%						
	Jun-20	\$2,824,394	\$3,226,074	\$401,680	14%						
	Jul-20	\$2,883,057	\$3,379,100	\$496,043	17%						
	Aug-20	\$3,022,286	\$3,549,276	\$526,990	17%						
	Sep-20	\$2,957,969	\$3,798,822	\$840,853	28%						
	Oct-20	\$3,005,123	\$4,359,696	\$1,354,573	45%						
	Nov-20	\$2,671,364	\$4,629,303	\$1,957,939	73%						
	Dec-20	\$2,709,943	\$4,588,706	\$1,878,763	69%						
2021	Jan-21	\$2,717,884				65%	\$1,766,625	70%	\$1,902,519	70%	\$1,902,519
	Feb-21	\$2,779,836				60%	\$1,667,902	70%	\$1,945,885.36	80%	\$2,223,869
	Mar-21	\$2,698,650				55%	\$1,484,257	70%	\$1,889,054.78	90%	\$2,428,785
	Apr-21	\$2,544,860				50%	\$1,272,430	65%	\$1,654,159.32	100%	\$2,544,860
	May-21	\$2,624,874				45%	\$1,181,194	60%	\$1,574,924.68	100%	\$2,624,874
	Jun-21	\$2,824,394				40%	\$1,129,757	55%	\$1,553,416.55	95%	\$2,683,174
	Jul-21	\$2,883,057				35%	\$1,009,070	50%	\$1,441,528.45	90%	\$2,594,751
	Aug-21	\$3,022,286				30%	\$906,686	45%	\$1,360,028.75	90%	\$2,720,057
	Sep-21	\$2,957,969				20%	\$591,594	40%	\$1,183,187.68	85%	\$2,514,274
	Oct-21	\$3,005,123				15%	\$450,769	35%	\$1,051,793.20	80%	\$2,404,099
	Nov-21	\$2,671,364				15%	\$400,705	32%	\$854,836.51	75%	\$2,003,523
	Dec-21	\$2,709,943				15%	\$406,491	30%	\$812,982.77	70%	\$1,896,960
2022	Jan-22	\$2,717,884	Enter actuals in column D Enter forecast % in columns G, I, and K Enter Uncollectable % in cells G44, I44 and K44					25%	\$679,471.01	65%	\$1,766,625
	Feb-22	\$2,779,836						25%	\$694,959.06	60%	\$1,667,902
	Mar-22	\$2,698,650						20%	\$539,729.94	55%	\$1,484,257
	Apr-22	\$2,544,860						15%	\$381,729.07	50%	\$1,272,430
	May-22	\$2,624,874						15%	\$393,731.17	45%	\$1,181,194
	Jun-22	\$2,824,394						15%	\$423,659.06	40%	\$1,129,757
	Jul-22	\$2,883,057						15%	\$432,458.54	35%	\$1,009,070
	Aug-22	\$3,022,286						15%	\$453,342.92	30%	\$906,686
	Sep-22	\$2,957,969						15%	\$443,695.38	25%	\$739,492
	Oct-22	\$3,005,123						15%	\$450,768.51	20%	\$601,025
	Nov-22	\$2,671,364						15%	\$400,704.62	15%	\$400,705
	Dec-22	\$2,709,943						15%	\$406,491.38	15%	\$406,491
						Maximum Delinquency Amount	\$1,766,625	\$1,945,885		\$2,720,057	
						Uncollectable %	5%	10%	15%		
						Uncollectable Amount	\$88,331	\$194,589		\$408,009	

Commercial Scenarios

						Scenario A		Scenario B		Scenario C	
Year	Month	2019 Baseline	Actuals	Actual - Baseline	%	Forecast %	Forecast \$	Forecast %	Forecast \$	Forecast %	Forecast \$
2020	Jan-20	\$1,081,867	\$965,841	-\$116,027	-11%						
	Feb-20	\$1,109,851	\$1,041,587	-\$68,263	-6%						
	Mar-20	\$1,258,911	\$1,130,103	-\$128,808	-10%						
	Apr-20	\$880,459	\$1,488,070	\$607,611	69%						
	May-20	\$855,638	\$1,699,130	\$843,492	99%						
	Jun-20	\$920,374	\$1,612,603	\$692,229	75%						
	Jul-20	\$930,561	\$1,795,977	\$865,417	93%						
	Aug-20	\$937,117	\$1,808,170	\$871,053	93%						
	Sep-20	\$973,196	\$2,076,008	\$1,102,812	113%						
	Oct-20	\$1,070,958	\$2,037,669	\$966,711	90%						
	Nov-20	\$1,159,024	\$1,848,766	\$689,742	60%						
	Dec-20	\$1,089,322	\$1,795,913	\$706,591	65%						
2021	Jan-21	\$1,081,867				65%	\$703,214	70%	\$757,307	70%	\$757,307
	Feb-21	\$1,109,851				60%	\$665,910	70%	\$776,895.53	80%	\$887,881
	Mar-21	\$1,258,911				55%	\$692,401	70%	\$881,237.71	90%	\$1,133,020
	Apr-21	\$880,459				50%	\$440,230	65%	\$572,298.41	100%	\$880,459
	May-21	\$855,638				45%	\$385,037	60%	\$513,382.67	100%	\$855,638
	Jun-21	\$920,374				40%	\$368,150	55%	\$506,205.73	95%	\$874,355
	Jul-21	\$930,561				35%	\$325,696	50%	\$465,280.38	90%	\$837,505
	Aug-21	\$937,117				30%	\$281,135	45%	\$421,702.64	90%	\$843,405
	Sep-21	\$973,196				20%	\$194,639	40%	\$389,278.42	85%	\$827,217
	Oct-21	\$1,070,958				15%	\$160,644	35%	\$374,835.29	80%	\$856,766
	Nov-21	\$1,159,024				15%	\$173,854	32%	\$370,887.71	75%	\$869,268
	Dec-21	\$1,089,322				15%	\$163,398	30%	\$326,796.67	70%	\$762,526
2022	Jan-22	\$1,081,867	<div>Enter actuals in column D</div> <div>Enter forecast % in columns G, I, and K</div> <div>Enter Uncollectable % in cells G44, I44 and K44</div>					25%	\$270,466.84	65%	\$703,214
	Feb-22	\$1,109,851						25%	\$277,462.69	60%	\$665,910
	Mar-22	\$1,258,911						20%	\$251,782.20	55%	\$692,401
	Apr-22	\$880,459						15%	\$132,068.86	50%	\$440,230
	May-22	\$855,638						15%	\$128,345.67	45%	\$385,037
	Jun-22	\$920,374						15%	\$138,056.11	40%	\$368,150
	Jul-22	\$930,561						15%	\$139,584.11	35%	\$325,696
	Aug-22	\$937,117						15%	\$140,567.55	30%	\$281,135
	Sep-22	\$973,196						15%	\$145,979.41	25%	\$243,299
	Oct-22	\$1,070,958						15%	\$160,643.69	20%	\$214,192
	Nov-22	\$1,159,024						15%	\$173,853.61	15%	\$173,854
	Dec-22	\$1,089,322						15%	\$163,398.33	15%	\$163,398
Maximum Delinquency Amount							\$703,214		\$881,238		\$1,133,020
Uncollectable %						5%		10%		15%	
Uncollectable Amount							\$35,161		\$88,124		\$169,953

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CHAPTER 54 WATER SYSTEMS

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Note

Standardized water audits of public water systems; reports. L 2016, c 169.

Cross References

Graywater recycling program, see §342D-70.

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§54-26 Rates. The board of water supply may fix and adjust rates and charges for the furnishing of water and for water service; provided no rates or charges shall be fixed or adjusted prior to the holding by the board of a public hearing, public notice of which shall be given not less than twenty days before the date of the public hearing and the notice shall set forth the time, place of the hearing, and the proposed rates and charges to be considered thereat. The board may collect and by appropriate means, including the discontinuance of service to delinquent consumers, or commencement of civil action in the name of the board, enforce the collection of the rates and charges; and adjust and settle all complaints, claims, and accounts of consumers or the public. All water furnished to the county or any department thereof or to the State or any department thereof shall be charged to the respective departments and shall be payable to the board by the respective departments at the rates and times established by the board, and, upon failure of the departments to make payment when payment is due, then the auditor of the county and the comptroller of the department of accounting and general services of the State shall pay from the account of the department or departments all delinquencies as certified by the chairperson of the board. [L 1961, c 155, pt of §1; am L 1965, c 96, §91; Supp, §145A-16; HRS §54-26; gen ch 1993; am L 1998, c 2, §21]

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preservation of sacred sites, and that confirms such transaction or activity is in compliance with the environmental laws of the city, State of Hawaii and the United States of America. Such report shall be transmitted to council with a request for approval of the transaction or activity.

3. The council must approve by resolution the execution by the city of any instruments concerning transactions or activities relating to city real property interests.

(2016 General Election Charter Amendment Question No. 8)

ARTICLE VII - BOARD OF WATER SUPPLY

Section 7-101. Organization –

There shall be a department of water, to be known as the "board of water supply," consisting of a board of water supply, manager and chief engineer of the board of water supply and the necessary staff.

Section 7-102. Definitions –

The terms "department" and "board" as used in this article of the charter shall have the following meaning:

- (a) "Department" shall mean the governmental unit known as the "board of water supply," unless the context indicates otherwise.
- (b) "Board" shall mean the policy-making body, consisting of seven members of the board of water supply.

Section 7-103. Powers, Duties and Functions of the Department –

1. All water systems of the city, including water rights and water sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water systems shall be under the control of the department.

2. The department shall have full and complete authority to manage, control and operate the water systems and properties used or useful in connection with such water systems.

3. The department shall:

- (a) Make studies, surveys, investigations and estimates relating to the locations and sources of water supply within the city, the amounts available for current and prospective uses, the water resources which may be made available for such uses and the maximum productivity of such sources.

- (b) Investigate, examine, inspect and ascertain the manner and extent of use or other disposition of any water by any person irrespective of ownership thereof and any machinery, pump or other plant or equipment and conduits, pipes or other means used for the elevation, transmission or distribution of water, upon either public or private property and, in the case of wells, ascertain, as far as practicable, the depth thereof, depth and thickness of the different strata penetrated, pressure, quantity, quality or chemical composition of the water, and the general conditions surrounding the same, including encasement, capping and other equipment or means of control thereof.
- (c) Devise ways and means for the economic distribution and conservation of water.
- (d) Make contracts necessary or convenient to the execution and performance of its powers, duties and functions.

4. To carry out the powers, duties and functions of the department, any member or authorized representative of the department may enter upon any public or private property at any reasonable time without warrant, doing no unnecessary injury thereto.

(Reso. 70 and 253 (1974))

Section 7-104. Board of Department of Water –

The board shall consist of seven members. The chief engineer of the department of facility maintenance of the city and the director of transportation of the State shall be members ex officio of the board. Five other members shall be appointed as provided by Section 13-103 of this charter. The board shall be governed by the provisions of Section 13-103 of this charter.

(Reso. 83-357; 1992 General Election Charter Amendment Question No. 32A(17); 1998 Reorganization)

Section 7-105. Powers, Duties and Functions of the Board of Water Supply –

The board of water supply shall:

- (a) Appoint and remove the manager and chief engineer of the department.
The manager and chief engineer shall be a registered engineer who shall have had a minimum of five years of training and experience in waterworks activities or related fields, at least three years of which shall have been in a responsible administrative capacity.
- (b) Fix the salary of the manager and chief engineer.
- (c) Have the authority to create and abolish positions.

- (d) Determine the policy for construction, additions, extensions and improvements to the water systems of the city which shall include a long range capital improvement program covering a period of at least six years which shall be adopted after consultation with the director of planning and permitting and which may be amended or modified by the board from time to time.
- (e) Have the authority to acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the water systems of the city. The council shall take no action to acquire real property or any interest therein for the department without the written approval of the board.
- (f) Have the authority to recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the department. The council shall take no action to dispose of such property without the prior approval of the board, and all proceeds from the disposition of such property shall be paid into the special fund of the department.
- (g) Have the authority to enter into arrangements and agreements, as it deems proper for the joint use of poles, conduits, towers, stations, aqueducts, and reservoirs, for the operation of any of the properties under its management and control.
- (h) Have the authority to issue revenue bonds under the name of "board of water supply."
- (i) Modify, if necessary, and approve and adopt annual operating and capital budgets submitted by the manager and chief engineer.
- (j) Prescribe and enforce rules and regulations having the force and effect of law to carry out the provisions of this article of the charter, including (1) the regulation of water systems and necessary appurtenances for subdivisions and other properties and requirements for adequate water supply and storage facilities for domestic use and fire protection, (2) the prevention of waste and pollution of water, (3) the manner in which new wells or shafts may be bored, drilled or excavated, cased and capped or recased, (4) the manner in which wells or shafts shall be maintained, controlled and operated to prevent waste of water or the impairment of potability, (5) the limitation to beneficial uses of all water, (6) in times of shortage or threatened shortage of water or of danger to potability of the water of any ground water basin or area by overdraft on such basin, the restriction of the drawing of water in all wells supplied from such basin on a basis proportionate to the proper and beneficial uses served by them respectively, and (7) other matters having for

their object the proper conservation and beneficial use of the water resources available for the city.

- (k) Hear appeals from the order of the manager and chief engineer refusing, suspending or revoking any permit for the sinking, drilling or reopening of any well or shaft for the development of underground water supply.

(Reso. 70, 253 (1974) and 83-357; 1998 General Election Charter Amendment Question No. 1(IV))

Section 7-106. Powers, Duties and Functions of the Manager and Chief Engineer -

The manager and chief engineer shall:

- (a) Administer the affairs of the department, including the rules and regulations adopted by the board.
- (b) Grant, suspend or revoke permits under conditions prescribed by the rules and regulations of the department for the drilling, casing, recasing or reopening of any well or shaft for the development of underground water.
- (c) Unless otherwise provided by this charter, sign all necessary contracts for the department.
- (d) Appoint and remove members of the staff.
- (e) Make recommendations to the board to create or abolish positions.
- (f) Prepare bills, collect and, by appropriate means including discontinuance of service and civil action, enforce the collection of charges for the furnishing of water and for water services.
- (g) Prepare payrolls and pension rolls.
- (h) Maintain proper accounts in such manner as to show the true and complete financial status of the department and the results of management and operation thereof.
- (i) Prepare annual operating and capital budgets.
- (j) Prescribe rules and regulations as are necessary for the organization and internal management of the department.
- (k) Recommend rules and regulations for adoption by the board.

(Reso. 70 and 253 (1974))

Section 7-107. Personnel Administration; Centralized Purchasing; Auditing; Pension -

1. The department shall be subject to the civil service provisions of this charter.
2. The department shall be subject to the centralized purchasing and disposal of personal property provisions of this charter.

3. The department shall come within the purview of the performance audit conducted by the managing director and such audits as may be required by the council or conducted by the city auditor.

4. Pensions for officers and employees shall be governed by law.
(*Reso. 02-39*)

Section 7-108. Independent Post Audit –

The accounts and financial status of the department shall be examined annually by a certified public accountant whose services shall be contracted for by the board and whose fees shall be paid as an expense of the department. The result of such examination shall be reported to the board, the council and the mayor.

Section 7-109. Rates, Revenues and Appropriations –

The board shall have the power to fix and adjust reasonable rates and charges for the furnishing of water and for water services so that the revenues derived therefrom shall be sufficient to make the department self-supporting. Such revenues shall be sufficient to meet all necessary expenditures, including expenditures for (a) operating and maintenance expenses; (b) repairs, replacements, additions and extensions; (c) accident reserve, pension charges and compensation insurance; (d) payment of principal and interest on all bonds, including reserves therefor, issued for the acquisition or construction of waterworks and extensions thereto, and (e) reserve funds under Section 7-112 of this charter. All water furnished to the city or any department thereof shall be charged to the respective departments and collected at the regular rates established by the board. There shall be no free water, except as authorized by the state. The board may make appropriations for the purposes stated in this section of the charter.

(*Reso. 70 and 253 (1974)*)

Section 7-110. Public Hearings –

The board shall hold public hearings prior to fixing and adjusting rates and prior to the adoption of the budget.

Section 7-111. Receipt and Disbursement of Funds –

The department shall make its own collections, but all receipts shall be paid daily into the city treasury and maintained in a fund separate and apart from any other funds of the city.

RULES AND REGULATIONS

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BWS Rules and Regulations

These Rules and Regulations have been adopted pursuant to the authority expressed in Section 7-105(j) of the Revised Charter of the City and County of Honolulu; and, in accordance with procedures established and prescribed in Hawaii Revised Statutes, Chapter 91.

These Rules and Regulations represent a compilation, recodification and general amendment to those previously existing rules and regulations governing the Board of Water Supply.

(Reprinted 2010 with amendments)

To view the BWS Rules and Regulations (2010 with Amendments) online, see the Table of Contents that follows. Or, download a version of the BWS Rules and Regulations (2010 with Amendments) in PDF format.

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Definitions

For the purpose of these Rules and Regulations, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"APPROVED RECYCLED WATER USE SITE" refers to an area approved by the Department on which recycled water is applied.

"BOARD" shall mean the policy-making body, consisting of seven members, of the Board of Water Supply.

"MANAGER" shall mean the Manager and Chief Engineer of the Board of Water Supply or his authorized representative.

"BOARD OF LAND AND NATURAL RESOURCES" shall mean the policy-making body, consisting of six members, of the State Department of Land and Natural Resources.

"CESSPOOL" refers to an excavation in the ground which receives domestic sewage and/or discharges of a drainage system or part thereof, so designed as to retain the organic matter and solids discharging therein, but permit the liquids to seep through the bottom or sides.

"CHIEF ENGINEER" shall mean the Director and Chief Engineer of the Department of Public Works, City and County of Honolulu.

"CITY" shall mean the City and County of Honolulu.

"CONSERVATION DISTRICT" refers to those lands within the City and County of Honolulu bounded by the Conservation District line as established under the provisions of Act 187, S.L.H. 1961, and Act 205, S.L.H. 1963 and subsequent amendments thereto.

"CONSUMER" shall mean the person, firm, corporation, association, governmental department, or other legal entity whose name appears on the records of the Board of Water Supply as the party responsible and liable for receiving water service.

"CROSS-CONNECTION" shall mean any actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices, through which or because of which "backflow" can or may occur, are considered to be cross-connections.

"DAILY RECORDS" means information and data collected during a defined and consistently observed 24-hour time period such as 6:00 am to 5:59 am.

"DEPARTMENT" shall mean the governmental unit known as the "Board of Water Supply."

"DESIGNATED GROUNDWATER CONTROL AREA" means an area in which the State's Board of Land and Natural Resources finds that the groundwater must be regulated and protected for its best utilization, conservation, and protection in order to prevent threat of exhaustion, depletion, waste, pollution, or deterioration by salt encroachment or an area in which the Board of Land and Natural Resources finds that the groundwater must be regulated and protected in order to protect the groundwater resources from exhaustion, depletion, waste, pollution, or deterioration by salt encroachment.

"DEVELOPER" shall mean an owner or other person or legal entity with written authorization from the owner who intends to improve or to construct improvements upon his property. The term shall also mean a subdivider.

"DEVELOPMENT" shall mean the improvement of, or construction of improvements on, a lot. The term shall include subdivisions, planned development projects, cluster developments, site development plans and condominium projects.

Planned development projects, cluster developments and site development plans shall be as defined under the Comprehensive Zoning Code (CZC) of the City and County of Honolulu.

"DIRECTOR" shall mean the Director of Land Utilization of the Land Utilization Department, City and County of Honolulu.

"DISPOSAL WELL" refers to any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed into the ground for the diversion, injection, or disposal of wastewaters or other liquid wastes into any underground formation, except for shallow excavations in soil formations used for the disposal of irrigation tail water.

"DOH GUIDELINES" refers to Hawaii Department of Health's *Guidelines for the Treatment and Use of Recycled Water*.

"DOMESTIC USE" or "DOMESTIC WATER" refers to water meeting the requirements of P.L. 93-523 the "Safe Drinking Water Act" and all amendments thereto.

"HEAD LEVEL" means the groundwater elevation in feet at designated monitoring points in relation to sea level or as calculated by reference to bulkhead pressure measurements.

"INDIVIDUAL HOUSEHOLD AEROBIC TREATMENT UNIT" refers to a watertight receptacle which receives the discharge of domestic sewage, and is constructed so as to retain solids, digest organic matter through a period of detention and aeration, and allows the aerated effluent to discharge outside the tank into a subsurface disposal field or seepage pit.

"IRRIGATION TAIL WATER" refers to water remaining after irrigation of agricultural lands which the user intends to dispose of.

"MAIN" or "MAIN PIPE" shall mean the supply or distribution pipe to which service laterals are connected.

"NO PASS ZONE" means areas in which the installation of waste disposal facilities, which may contaminate groundwater resources used or expected to be used for domestic water supplies, shall be prohibited.

"NONPOTABLE WATER" shall mean water that does not meet State Department of Health drinking water standards.

"OWNER" imports the plural as well as the singular, and includes both the person, permittee operator, firm, partnership, association, estate, corporation or other legal entity that:

- a. Owns the land on which the well is or will be located.

- b. Operates the well under a lease, license or other similar form of agreement.

"PERMITTED USE" refers to the use or uses of land as permitted and defined under Regulation No. 4, Department of Land and Natural Resources, State of Hawaii.

"PESTICIDES" refer to toxic chemicals used to control insects, other pests and unwanted vegetation.

"PONDING" means retention of piped recycled water on the surface of ground or man-made surface for a period of 2 hours following the cessation of an approved recycled water use activity.

"PREVIOUS 12-MONTH MONTHLY AVERAGE" means the recorded consumption for billing during the last complete 12-month billing period prior to the declaration of a low water condition by the Board divided by twelve (12). Once the previous 12-month monthly average has been established for each consumer, it shall remain in effect, unchanged, for the duration of the declared low water condition or conditions.

"PRIVATE WATER SYSTEM" shall mean mains, valves, hydrants, pumps, tanks, and all appurtenances beyond the master meter which are necessary to provide water and fire

protection, and which shall be owned, operated, and maintained by the Association or other legal entity.

"PRIVATE WELL" means any well that is not owned by the Department.

"PROJECT WATER SYSTEM" shall mean the water system, to and within any development, including mains, valves, hydrants, laterals, pumps, tanks, reservoirs and all appurtenances necessary to provide water and fire protection for such development and, where necessary, sources of supply.

"PUBLIC WATER SYSTEM" shall mean the water system owned and operated by the Department.

"RECYCLED WATER" refers to oxidized wastewater that is filtered and disinfected to achieve bacterial concentrations consistent with DOH Guidelines for R-1 Water.

"REFUSE DISPOSAL DUMPS" refer to any specific land site where solid wastes or refuse of any type, except rocks, soil and agricultural leaf trash, are deposited, and where the site is not thereafter managed as a sanitary landfill.

"RESTRICTED WATERSHED" ("RW") shall refer to those areas defined by the State of Hawaii Department of Land and Natural Resources Regulation No. 4, dated October 2, 1964, and any subsequent legal revisions of said definition; such areas being delineated on maps on file at the Office of the Department of Land and Natural Resources and the Office of the Lieutenant Governor, State of Hawaii.

"SANITARY LANDFILL" refers to a method of disposing of refuse on land by confining the refuse to the smallest practical area, reducing the refuse to the smallest practical volume, and covering the refuse with a layer of earth at the conclusion of each day's operation.

"SEPTIC TANK" refers to a water-tight receptacle which receives the discharge of domestic sewage, designed and constructed so as to retain solids, digest organic matter through a period of detention, and allow the liquids to discharge outside the tank into a subsurface disposal field or one or more seepage pits.

"SERVICE LATERAL" shall mean the main tap, pipes, fittings, valves and appurtenances from the main to, and including, the meter box and consumer's shut-off valve.

"SERVICE LIMIT" shall mean the maximum elevation to which adequate water service is available. The service limit shall be that elevation which is 100 feet below the spillway elevation of the supplying reservoir for the area.

"SEWAGE DISPOSAL SYSTEM" refers to an individual household treatment unit such as a cesspool, septic tank, or individual household aerobic treatment unit, with the effluent discharging into subsurface disposal fields or into one or more seepage pits.

"SEWAGE TREATMENT PLANTS" refer to man-made structures which subject wastewater to treatment by physical, chemical, or biological processes, or to a combination of such processes, for the purpose of removing or altering objectionable constituents, rendering it less offensive or dangerous to humans or other forms of life, and includes the reclamation of such wastewater at a level of quality suitable for reuse in some beneficial way.

"STABILIZATION POND" refers to a pond designed for the treatment of sewage by natural biological processes, with or without the addition of supplemental aeration or chemicals.

"STATE" shall mean the State of Hawaii, except where reference is clearly to another State, Territory, or possession of the United States.

"SUBDIVIDER" shall mean a person, firm, corporation, partnership, association, trust or other entity, or any combination thereof, who is the owner of the land to be subdivided or consolidated, or the duly authorized agent or lessee of the owner.

"SUBDIVISION" shall mean the division of land into two or more lots, parcels, sites, or other divisions of land, including designation of easements, for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to or interest in, any or all of such lots, parcels, sites, easements or other division. The term shall include resubdivision, and, when appropriate to the context, shall relate to the land subdivided.

"TEST BORINGS" refer to holes drilled for geologic-hydrologic exploration and not originally intended as water producing wells.

"USER" means any person, firm, corporation, association or agency receiving recycled water service.

"USER SUPERVISOR" refers to a person who is responsible for the day-to-day management and operations and maintenance of recycled water on the approved use site.

"WASTAGE OF WATER" is defined as causing, or permitting, the water in any well to reach any porous substratum, or to flow from the well upon any land, or directly into any stream, or other natural water course or channel, or into the sea or any bay, lake or pond, or into any street, road, or highway, unless to be used for beneficial purposes; provided, that this section shall not be so construed as to prevent the beneficial use of water by direct flow, or from storage reservoirs served by wells for irrigation, domestic and other useful purposes, except for driving machinery; provided, that water may be used for driving machinery, in case it is utilized afterwards for irrigation or other useful purposes.

"WASTEWATER" refers to water discharged after it has been used in some beneficial way, and which the user intends to dispose of in some manner. This definition excludes irrigation tail water to be disposed of as provided under the definition of "Disposal Well."

"WATER SYSTEM FACILITIES CHARGE" shall mean the fee to be paid by developers and consumers as their share of the cost of developing water system facilities.

"WATER RESOURCES" refer to all waters on or below the ground surface, regardless of quality.

"WELL" is defined to be, but not limited to, any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed into the ground for the location, exploration, diversion, or acquisition of any groundwater by natural pressure or artificial means; provided, that if and whenever groundwater is encountered in an excavation, for whatever purposes made, such excavation shall be considered a well and subject to these Rules and Regulations.

"WATER SERVICE" shall mean the complete installation of pipes, fittings, appurtenances and meter necessary to provide service to a consumer. This term also refers to the delivery of water to consumers.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. 475, 1980; am BWS Res. No. 502, 1982; am BWS Res. No. 528, 1985; am BWS Res. No. 598, 1991; am BWS Res. No. 610, 1992; am BWS Res. No. 722, 2001]

CHAPTER I: WATER AND WATER SYSTEM REQUIREMENTS FOR DEVELOPMENTS

Sec. 1-101 Availability of Water

1. General Requirements

a. Extensions from and connections to the public water system will be approved by the Department where pressure conditions permit; provided, that the water meters are within the service limit except as provided for in Sec. 2-217, Elevation Agreement, and the Department has sufficient pressure and water supply available for domestic use and fire protection and can assume new or additional service without detriment to those presently being served.

b. The developer will be required to pay for and install, in accordance with these Rules and Regulations and the Standards of the Department, adequate water system facilities for the development.

2. Main Extension. If the Department's facilities in the area are inadequate, or where facilities are not readily available to serve a development, the developer must extend a water main from the nearest adequate facility. The water main so constructed, connecting the project water system to the nearest adequate public water system, is termed a main extension.

3. Water Supply to Areas Where No Public Water Supply Exists. In areas where there is no public water supply available to serve the development, plans and specifications for providing water sources, including wells, tunnels, shafts, pumps, buildings, mains and other appurtenant structures and devices, shall be in conformance with the Standards of the Department, and shall be approved by the Manager in their entirety prior to construction.

4. Availability of Water for Subdivision Applications. The Department will inform the Director as to the availability of water for subdivision applications referred to the Department.

5. Availability of Water for Proposed Developments. The Department may issue water commitments to proposed developments as follows:

a. Areas with Adequate Water Supply. The Department may issue advance water commitments to proposed developments in areas where the water system has adequate supplies to assume new or additional services.

b. Areas with Limited Additional Water Supply. The Department may restrict the issuance of advance water commitments to proposed developments in areas where the water system has limited additional supplies to assume new or additional services.

c. Areas with No Additional Water Supply. The Department shall not issue water commitments to proposed developments in areas where the water system has no additional supplies to assume new or additional services. The only exception shall be the issuance of a single 5/8-inch meter to proposed developments on existing single vacant lots.

The Department may establish guidelines for issuance of water commitments as indicated in Section 1-101, 5. a. and b.

6. Availability of water for large landscaped areas such as golf courses, parks, schools, cemeteries, and highways. If a suitable nonpotable water supply is available, the Department shall require the use of nonpotable water for irrigation of large landscaped areas.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 468, 1979; am BWS Res. No. 472, 1979; am BWS Res. No. 485, 1981; am BWS Res. No. 530, 1985; am BWS Res. No. 598, 1991; am BWS Res. No. 610, 1992]

Sec. 1-102 Water System Facilities Charges

Water system facilities charges shall be levied against all new developments requiring water supplies from the Department's system or additional water supplies from the existing services. Developers shall pay the water system facilities charges before water services are made available to the developments. A schedule of such charges is included in the Department's Schedule of Rates and Charges for the Furnishing of Water and Water Service.

The Department may negotiate water system facilities charges other than those in the schedule when it is determined that the schedule is inappropriate. The Department may also negotiate agreements with developers for payment of the actual costs of the installation of the necessary water system facilities or require the installation of the facilities by the developer in lieu of payment of water system facilities charges.

Water system facilities charges will not be levied on developments where the developer installs at his cost, a complete water system including source and transmission and daily storage facilities.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 468, 1979; am BWS Res. No. 472, 1979; am BWS Res. No. 528, 1985]

Sec. 1-103 Increase in Size of Water Mains

1. Increase in Size of Water Main Extensions for Service to Other Areas. Whenever the Department finds it is necessary that the water mains proposed to deliver water to a development should be of a greater capacity, in order to supply water and fire protection to other property, the Department will require the installation of a larger size main.

2. Increase in Size of Water Mains Within Developments for Benefit of Other Areas. Whenever, in order to provide for existing or future services beyond the boundaries of a development, the Department finds that the mains to be installed within the

development should be of greater capacity than would otherwise be required, the Department will require the installations of larger size mains.

3. Reimbursement of Additional Costs of Mains. When the developer is required to install a larger size main, for the reasons set forth in the preceding paragraphs, the department will reimburse the developer as soon as practicable after acceptance by the Department of the completed work for the additional cost of the installation over and above the cost of the mains that would have been required; provided, however, that in no case shall reimbursement be made of any portion of the cost of an 8-inch or lesser size main; provided that reimbursement will not be made where such larger main or mains will serve only those areas under the same ownership as the development under consideration.

After the installation has been completed and accepted by the Department, the developer shall furnish the Department with itemized costs incurred by him in the installation of the said larger mains. The eligibility for reimbursement of each item shall be left to the discretion of the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 1-104 Sizes of Mains, Hydrant Spacing, Fire Protection

1. Sizes of Mains. Any development within the City and County of Honolulu shall provide water mains designed to deliver water in adequate quantities and pressures for domestic use and fire fighting.
2. Hydrant Spacing. The Department will determine the spacing and location of all hydrants. All fire hydrants required for adequate fire protection will normally be located within the development.
3. Fire Protection. The standards for fire protection, insofar as water supply is concerned, will be determined by the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 1-105 Laterals, Dead-Ends, Alterations to Public Water System Contours

1. Laterals. Where water main construction is necessary, the developer shall provide each lot in a subdivision with a service lateral. As an alternate, one service lateral may be installed for each two lots.
2. Dead-Ends. Where water mains would result in dead-ends, interconnections may be required by the Department.
3. Alterations to Public Water System. All work and materials in connection with the change in location or grade of any part of the existing public water system made necessary by the development shall be at the expense of the developer.

4. Contours. When required by the Department, contours or elevations shall be furnished by the developer, based upon City and County datum.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 1-106 Construction Plans

1. Preparation of Plans. All construction plans shall be prepared by a registered engineer. Preliminary and final maps of developments to be reviewed by the Department shall fully conform to the definitions and requirements of the Rules and Regulations of the Planning Commission of the City.

2. Information to be shown on Construction Plans. The construction plans, insofar as the water system is concerned, shall show the following on standard size sheets measuring 22" x 36":

- a. Name of development, name of developer, name of engineer, and location of development.
- b. Date, North arrow, scale, tax key.
- c. The proposed water system, complete in both plan and profile, reflecting the inter-relationship with street lines, lot lines, curb grades, sewers and drains, both existing and proposed, as well as any other features, natural or artificial.
- d. Plan views drawn to a scale of one inch equals 40 feet or one inch equals 20 feet. Profile views drawn to a vertical scale of one inch equals 4 feet or larger. Manhole, fire hydrant, lateral and other details drawn to a scale of one half inch equals one foot or larger.
- e. The designation, including alignment and width, of all easements for parts of the water system which will not be in street areas to be dedicated to the public.
- f. A general layout map showing the entire development on one sheet with locations of lots and streets within the development and its vicinity, together with existing and proposed water systems.
- g. A small key location inset or vicinity map showing the proposed development in relationship to streets and water mains in the area.
- h. In cases in which the owner or developer also owns areas contiguous to the proposed development, or separated therefrom by a street, a sketch of the future street and lot pattern and the water system proposed to serve such contiguous areas shall be furnished for study with the construction plans.
- i. All plans shall have the approval block at the lower right hand corner of the drawings except when the approval signature is on the title sheet.

3. Service Limit. Whenever a lot or lots within a development are at or near the service limit, the contour line of the service limit shall be shown on the construction drawings and subdivision map. A reasonable buildable area below the service limit shall be provided for the lot or lots in the development.

4. Approval of Plans. No construction of a water system, or any portions thereof, shall be undertaken prior to approval of the final construction plans by the Manager, the Director,

the Chief Engineer, and the State Department of Health. After said approval, the developer shall transmit three sets of all final construction plans to the Department.

5. Delays in Construction. If any period exceeding two years, or such extension as may be granted, passes without substantial progress in the construction of the water facilities, after approval of plans by the Department, the plans thereof shall be resubmitted to the Department for review and for making such changes as of Standards or amendments to these Rules and Regulations.

6. Filing of Tracings. Upon completion of the construction of a development, the developer must submit to the Department for filing, as-built construction plan tracings of the water system.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 562, 1988]

Sec. 1-107 Materials and Construction Standards, Installation of Water Service, Inspection of Work

1. Materials and Construction Standards. All materials, design and construction procedures, and workmanship, with respect to any project water system, or any portion thereof, shall be in accordance with the requirements and standards of the department and with the requirements of the State Department of Health and all other applicable legal authority. The Manager shall determine the capacity and location of any of the component parts of the water system.

2. Installation of Water Service. No water service will be approved, except a service for construction purposes, until the project water system has been completed and accepted by the Department. Private water systems installed above the service limit will not be accepted by the Department.

3. Inspection of Work. The Manager, or any employee representing him, shall have free access at all times to all installations made for the development and shall be given any assistance requested as well as every facility, information, and means of thoroughly inspecting the work to be done and the materials used or to be used.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 610, 1992]

Sec. 1-108 Ownership of Installed Water System

As a condition precedent to connecting the project water system to the public water system, the developer shall convey the water system, except when a private water system is proposed, to the Department and said system thereafter will be maintained and operated as a part of the public water system; provided, however, that the Department may refuse to operate and maintain facilities installed without the Department's prior approval. Prior to the commencement of water service, and as a prerequisite to such service, the developer shall deliver to the Department perpetual easements for all portions of the water system installed in other than publicly owned property. The developer shall also convey, without cost to the Department, fee simple title to all sites on which are located tanks, reservoirs, sources of supply, and pumps constructed by the developer and

connected to the public water system together with easements for access, water pipeline, and other necessary utility purposes.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. No. 610, 1992]

Sec. 1-109 Modification of Requirements

When conditions pertaining to any development are such that the public may be properly served with water and fire protection without full and strict compliance with these Rules and Regulations, or where the development site or layout is such that the public interest will be adequately protected, such modification thereof as is reasonably necessary or expedient, and not contrary to law or the intent and purpose of these Rules and Regulations, may be made by the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 1-110 Construction Agreement and Bond

To secure approval prior to construction of the required improvements, insofar as the construction of the project water system is concerned, and excepting private water systems, the developer shall enter into an agreement with the City and the Department to make, install and complete all of the required improvements within a specified time and file with the Director a surety bond or other security, as hereinafter specified, to assure the City and the Department the actual construction and installation of the improvements and utilities shown on the approved construction plans.

The agreement shall specify, insofar as the project water system is concerned, and excepting private water systems, that the developer will complete the same to the satisfaction of the Manager, and shall provide that if the developer shall fail to so complete such work within the time specified, or such extension as may be mutually agreed upon, the Department may complete the same and recover the full cost and expense thereof from the developer.

The bond or other security to be filed with the Director with the aforesaid agreement shall be one of the following (provided, that in all instances where a surety bond is filed, it shall be executed by the developer, as principal, and by a surety company authorized to transact a surety business in the State, as surety):

1. A surety bond in a sum equal to the cost of the work required to be done as estimated by the Manager; payable to the City and the Department, and conditioned upon the faithful performance of all work required to be done by the developer, and upon the further condition that should the developer fail to complete all work required to be done within a specified time, the Department may cause all work which is not finished to be completed, and the parties executing the bond shall be firmly bound for the payment of all costs therefor; or
2. Where the developer has entered into a contract with a reputable contractor, and has filed with the Director all three of the following: (a) a certified copy of his said contract and specifications, (b) a certified copy of the performance bond of his contractor, and (c) a surety bond in a sum equal to at least 50 percent of the cost of all work required to be done by the developer as estimated by the Manager and payable and conditioned as above set forth; or
3. The developer shall make a deposit of money with the Director, or a responsible escrow agent designated by the Director as agent of the city and the Department, in an amount equal to the cost of the construction of said improvements as estimated by the Manager. Under this arrangement, the agreement may provide for approved progress payments to be made to the contractor for materials used and services and labor performed out of said deposit as the work progresses; provided, that said progress payments shall at no time exceed the value of the completed portion of said improvements; or
4. In lieu of said surety bond or deposit in escrow mentioned in paragraphs numbered 1, 2 and 3 above, the developer may deposit with the Director bonds or other negotiable

securities acceptable to the Manager in the amount provided by paragraphs numbered 1, 2 or 3 respectively, of this Section.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 610, 1992]

Sec. 1-111 Repair and Replacement of Improvements

The developer shall enter into an agreement with the City and the Department and shall file with the Director, a surety bond to insure the repair and replacement of subdivision improvements excluding private water systems, for a period of one year from the date of acceptance by the City of the dedication. The amount of the surety bond shall be ten percent of the cost of construction as estimated by the Chief Engineer, Director of Recreation and Manager.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 610, 1992]

Sec. 1-112 Use of Nonpotable Water Required for Large Landscaped Areas

1. If the Department determines that a suitable nonpotable water supply is available, the Department shall require existing services to use nonpotable water for irrigation of large landscaped areas such as golf courses, parks, schools, cemeteries, and highways.
2. Upon such notification by the Department, the existing service holder(s) has no more than five (5) years to complete the conversion to nonpotable irrigation as may be required by the Department unless otherwise approved by the Manager. Failure to comply with these requirements may result in discontinuation of water service and/or penalties as authorized in section 2-205, 2b, and Section 5-501 of these Rules and Regulations.

[Eff 12/1/1991; BWS Res. No. 598, 1991]

Sec. 1-113 Review of Construction Plans and Building Permit Applications

1. General Requirements. The applicant, the Owner¹ (in situations where the applicant is not the owner), and the architect and/or engineer shall ultimately be responsible for producing complete plans and specifications which comply with the following requirements as applicable: Section 1-106, Construction Plans of the Department's Rules & Regulations, Water System Standards; the latest checklist for construction plans and building permit application submittals to meet fire protection requirements and water service for domestic use; water allocation requirements; and approved master plans.

If plans are determined to be incomplete, they will be returned without further review.

¹ Owner is defined as: 1) the fee simple owner; or (2) buyer of a property if a letter of authorization from the seller is submitted; or (3) lessee/tenant if a letter of authorization from the fee owner is submitted.

Notwithstanding approval, the applicant or the Owner (in situations where the applicant is not the owner) is responsible for all costs incurred during the construction of the project to comply with current Water System Standards or costs caused by a defect of reason, error, omission or negligence on part of the architect/engineer.

2. Maximum Time Limits. First reviews of building permit applications and plans and plan review of construction drawings and specifications for non-City projects submitted to the Department for approval shall be completed within the maximum time limits specified below.

PERMITS

*Maximum Time Limit

Category I

Excavation Clearance

1 full working day

Test Boring

Driveway construction

Swimming pool/spas

Category II

One (1) single-family dwelling
on a vacant lot

2 full working days

Category III

Non-residential development

6 full working days

Second single-family dwelling

Ohana dwelling

Multi-family high/low-rise development

Addition/renovation to all existing
residential development

Variance for surface encroachment

* All projects shall be evaluated for complexity upon submission of the building permit applications and plans and maximum time limits may not apply under conditions noted below.

PLANS REVIEW FOR NON-CITY PROJECTS

Maximum Time Limit

Category I

On-Site Fire Hydrants, Offsite Utility and
Water System Improvements for One-Lot
Developments

8 working days*

New 3" and Larger Meters for One-Lot
Developments

Projects under Ordinance 2412 requirements

Category II

New Utility Lines or other improvements that
require water system adjustments

10 working days

Subdivision Water System Improvements
for two to 50-lot developments, including
On-site and Off-site fire hydrants

Any other projects with valuation for water system improvements below \$49,999

Category III

Water System Improvements for 51 to 500 lots

16 working days

Transmission Mains (up to one mile/5,280 linear feet)

Exploratory Wells

And any projects with valuation for water system improvements between \$50,000 to \$999,999

Category IV

Water System Improvements for more than 500 lots

20 working days

Reservoirs and other Infrastructure improvements

Booster & Pump Stations

New Wells

Transmission Mains (more than one mile long)

And any other projects with valuation for water system improvements between \$1,000,000 to \$9,999,999

* Applications affecting property that is subject to a zoning variance, or that fall within a potential slide area, special district or shoreline setback area shall be evaluated for complexity upon submission of construction plans and may be placed within a higher category. The applicant shall verify with the Department of Planning and Permitting if the project is subject to these requirements.

The maximum time limits shall begin upon receipt of the application and shall stop when the applicant is called for pick-up except under the following conditions:

Additional Plans. The Department may request the submission of additional sets of plans in order to accommodate the maximum time limit requirements. The Maximum Time Limit requirement starts on the day when the Department receives the required number of plans for review. Maximum time limits shall be extended by one day for each day the additional sets are due for up to three (3) working days.

If additional plan sets are not received within this period, all plan submittals then in receipt by the Department shall be returned without review.

Extensions. Extensions from the maximum time limit may be granted in the event of a national disaster, state emergency, or union strike, which would prevent the Department from reviewing permits or plans, or when adequately justified by the Department and mutually acceptable to the Department, the applicant, and/or owner.

Inapplicability. Maximum time limits shall not apply:

Where submittals fail to meet basic adequacy requirements noted in Section 1-113.1 above; or

Where the project is required to install/improve off-site facilities that are determined to be non-existent/inadequate, respectively, to accommodate the project; or

Where plans need to be coordinated with other City agencies; or

Where submittals are withdrawn by the applicant prior to completion of the review; or

Where the scope of work on subsequent submittals differs from the first submittal of plans; or

Where the area of the development is under moratorium by the Board; or

Where the applicant failed to obtain necessary discretionary permits or approvals (water allocations, and approved water master plans).

Second Review. Maximum time limits for a second review shall be one-half of the maximum time limits specified above. Plans that are not approved after the second submittal shall be subject to the provisions of Section 1-113.4.

3. Automatic Approval. Failure to complete review within the maximum time limits and applicable conditions as specified above shall result in automatic approval in accordance with the requirements of Chapter 91, Hawaii Revised Statutes. Automatic approval shall not be construed to be an approval of any violation of applicable codes, regulations, ordinances, standards, or waiver/inapplicability of any applicable charges.

4. Resubmittal of Plans. For plans that require more than one review, subsequent plan reviews shall be limited to revisions unless the scope of work is revised in which case plans will be subject to first plan review.

Applicants with plans not approved after a second plan review, may either:

Submit an Automatic Approval Form. A licensed architect or engineer may, on behalf of the applicant, submit an Automatic Approval form (provided by the Department) attesting that the remaining revisions have been addressed along with revised plans (not applicable only to Category IV, Plan Review projects). If it is found that plans are given the automatic approval without the necessary corrections in compliance with comments on second plan review, the Department will notify the applicant to take appropriate corrective measures at no cost to the Department. The Department may restrict the type of projects eligible for Automatic Approval based on the complexity of the scope of work; or

Request a Plan Approval by Appointment. The applicant may schedule an appointment with the plan reviewer(s) to discuss remaining comments. The applicant, the Owner (in situations where the applicant is not the owner), and the architect and/or engineer (for stamped plans) shall attend the appointment to discuss comments and resolve issues on the plans. Subsequent to the appointment, revised plans may be submitted and will be subject to the maximum time limits established for the first plan review, as established in Section 1-113.2.

[Eff 1/1/2000; BWS Res. No. 699, 2000]

CHAPTER II: WATER SERVICE TO CONSUMERS

Sec. 2-201 Application for Water Service

1. Any prospective consumer adjacent to a distributing main, where pressure conditions permit except as provided for in Sec. 2-217, Elevation Agreement may obtain water service; provided, that the Department has a sufficient water supply developed and available for domestic use and fire protection to take on new or additional service without detriment to those already served.
2. Each prospective consumer may be required to sign an application form for water service.
3. The consumer shall be responsible for payment of all charges for water service at the designated location. Charges will begin when the water service is established, and will continue until due notification from the consumer, or until discontinued by the Department for failure of the consumer to comply with these Rules and Regulations.
4. When an application for water service is made by a consumer who was responsible for and failed to pay bills previously rendered by the Department, regardless of location and within the statutory period of limitations, the Department may refuse to furnish water service to such applicant until the outstanding bills are paid.
5. A consumer taking possession of a property and using water without having made application for the transfer of water service shall be held liable for the water delivered from the date of the last recorded meter reading. If proper application for transfer is not made, and if accumulated bills for water service are not paid upon presentation, the water service may be discontinued five business days after written notice is given to the consumer.
6. The Department may require a deposit from any consumer or prospective consumer to guarantee payment of bills for service are other obligations to the Department.
 - a. The amount of the deposit may be the maximum estimated charge for service for two consecutive billing periods, or as may reasonably be required by the Department in cases involving service for short periods or special occasions, but shall be not less than \$10.00.
 - b. No interest on these deposits shall be accrued, or paid, to the consumer.
 - c. The deposit shall be retained as long as it is necessary to ensure payment of obligations to the Department.
 - d. If the deposit has not been returned by the time the consumer discontinues service or pays all outstanding obligations, the deposit shall be returned less all unpaid or outstanding charges.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. No. 530, 1985; am BWS Res. No. 659, 1996]

Sec. 2-202 Installation of Water Service

1. **Installation.** Water service will be installed at the expense of the applicant. The Department will determine the size and location of all water services and the number of houses, buildings or dwelling units to be served by a single service.
2. **Installation Charge.** Installation charges shall be based on the cost of installation as established by the Department. Said charges shall be available for inspection at the offices of the Department.
3. **Water System Facilities Charge.** In addition to the installation cost, a water system facilities charge shall be levied against all new water service connections to the system or connections requiring additional water supplies from existing water services. A schedule of such charges is included in the Department's Schedule of Rates and Charges for the Furnishing of Water and Water Service. The charge shall be paid by the applicant prior to installation of water service.

Water system facilities charges will not be levied in developments where the developer has installed at his cost a complete water system including source and transmission and daily storage facilities.
4. **Consumer's Supply Pipe.** The consumer shall install and connect at his expense his supply pipe to the shut-off valve or outlet installed by the Department.
5. **Location of Water Service.** An applicant for water service to property fronting on private roads, lanes, etc., where there is no public water system, must extend his supply pipe to the nearest public street on which a water main exists. All meters shall be installed in the public sidewalk areas wherever possible.
6. **Alteration to Public Water System.** All work and materials in connection with the change in location or elevation of any part of the existing public water system, made necessary by the installation of the new service connection, shall be at the expense of the applicant.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. No. 528, 1985]

Sec. 2-203 Meter Reading and Rendering of Bills

1. All water supplied by the Department will be measured by means of suitable meters registering in gallons.
2. Meters will be read and bills rendered monthly or bimonthly as determined by the Department. Special readings may be made, when necessary, for closing accounts or other reason. If a meter cannot be read, an estimated bill will be rendered, said bill to be calculated whenever possible on prior consumption.
3. Closing bills for short periods of time from the last meter reading date will ordinarily be determined by the amount of water actually used, as indicated by the meter reading, plus a proration of the service charge. In prorating service charge, the billing period for monthly bills shall be considered to be 30 days, and bimonthly bills to be 60 days. After July 1, 1980, there shall be no proration of service charge.

4. Readings of Separate Meters Not Combined. For the purpose of computing charges, all meters serving the consumer's premises shall be considered separately, and the readings thereof shall not be combined except in cases where the Department, because of operating necessity, installs two or more meters in parallel to service the same consumer's supply pipe.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979]

Sec. 2-204 Payment of Bills

1. All bills shall be due and payable upon presentation to the consumer. Payment shall be made at the offices of the Department or, at the Department's option, to duly authorized collectors of the Department.
2. Any bill which is not paid within 30 days after the date of the bill shall be deemed delinquent. Water service may be discontinued five business days after written notice is given to the consumer.
3. A service fee for handling a dishonored check may be made in accordance with fees established by the Department.
4. A late payment charge may be applied to any delinquent balance payable to the Department. The late payment charge shall be assessed at the rate of one percent for each month or fraction thereof against the delinquent balance, beginning 30 days after the date of the bill.
5. For the purposes of this section, 'delinquent balance' includes any loan, fee, charge, or other liquidated sum which is 30 days past due to the Department, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or administrative order.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 659, 1996]

Sec. 2-205 Discontinuation of Water Service

1. Consumer About to Vacate Premises. Each consumer about to vacate any premises supplied with water by the Department shall give notice of his intention to vacate, specifying the date service should be discontinued; otherwise, the consumer shall be responsible for all water service furnished to such premises until the Department has received a notice of discontinuance. Before buildings are demolished, the Department should be notified so the water service can be closed.
2. Water service may be discontinued for any of the following reasons:
 - a. Nonpayment of Bills. Water service may be discontinued for nonpayment of a bill five business days after written notice is given to the consumer.
 - b. Noncompliance with Rules and Regulations. If the consumer fails to comply with any of these Rules and Regulations, the Department will have the right to discontinue service.

- c. **Unauthorized Use of Water.** The Department may refuse or discontinue water service to any premises or consumer in order to protect itself against fraud, abuse or unauthorized use of water. For unauthorized use of water a surcharge may be assessed as established by the Department.
 - d. **Wasteful Use of Water.** Where negligent or wasteful use of water exists on any premises, the Department may discontinue service if such conditions are not corrected within five business days after giving the consumer written notice of said conditions.
 - e. **Service Detrimental to Others.** The Department, may refuse to furnish water, and may discontinue the service to any premises, where the demands of the consumer will result in inadequate service to others.
3. Where discontinuation of water service for any of the above reasons is proposed, the Department shall, prior to the proposed shut off, give to the water consumer at least five (5) business days notice. This notice shall specify to the consumer a reason for the proposed shut off as well as inform the consumer of the right to dispute the shut off by making appropriate inquiry to the Department at an address and/or phone number which shall be provided in the notice. The notice shall further inform the consumer that (1) once water has been shut off there will be a service fee charged for reinstatement of water service, and (2) in cases where the landlord pays the water bill, the consumer may transfer service to his or her name.
4. Procedures for contesting shut off:
- a. If the consumer wishes to dispute a proposed shut off, the consumer must, within five (5) business days from the date of the notice of shut off, request a billing conference of the Customer Service Division. Once a billing conference is requested, it shall be scheduled at the earliest reasonable opportunity for the consumer and in no case more than ten (10) days from the request and the consumer shall be given the option of having the conference over the phone or in person with the Customer Service employee who will conduct the billing conference.
 - b. At the billing conference the consumer shall have the right to submit evidence, present and cross examine witnesses, and bring in an interpreter, or representative to aid in presenting his case. The consumer shall have the right to see the Department's records concerning his account, and the consumer has the right to reasonable explanation by the Customer Service employee for any matter concerning the proposed shut off. The Customer Service employee conducting the billing conference shall not have previously been involved in the case, shall not be swayed or effected in any manner by other Department personnel, and shall exercise impartial judgment in deciding the merits of the consumer's case.
- The Customer Service employee conducting the billing conference shall be empowered to correct any errors in the billing, and to take whatever remedial action is necessary including a stay in order to make a just and fair resolution of the matter. The Customer Service employee conducting the conference shall make a final written decision within three (3) working days of the conference.
- c. If the consumer is dissatisfied with the decision by the Customer Service employee conducting the billing conference, the consumer shall have the right within five (5) business days of receipt of the written decision to appeal the matter as follows: first,

to the head of the Collection and Credit Section; second, to the Chief of the Customer Service Division whose decision shall be the final agency decision. However, the amount due must be paid into an escrow trust account after the billing conference with the Customer Service employee and will not be postponed pending the appeal with the head of the Collection and Credit Section or with the Chief of the Customer Service Division. In conducting an appeal all upper management personnel shall exercise the same impartial judgment required of the employee conducting the billing conference.

5. Where the water consumer is a tenant, the delinquent service holder is the tenant's landlord, and a discontinuation of the tenant's water service is proposed, the following special conditions will be observed:

- a. Prior to shut off, notice to the tenant shall be accomplished by delivery of notice of discontinuation of water services described in Section 2-205 (3) to the tenant in person or to the premises being serviced.
- b. At the same time the tenant shall also be notified that (s)he has the right and opportunity to place water service in his/ her own name. If the tenant consumer places water service in his/her own name and the changeover in service can be accomplished without serious mechanical and financial burden, the tenant will not be held responsible for the landlord's unpaid water bills.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 462, 1978; am BWS Res. No. 659, 1996]

Sec. 2-206 Restoration of Water Service

If water service is turned off because of failure to pay a bill, or for violation of any of these Rules and Regulations, all outstanding accounts against the consumer must be paid before service is restored. For the restoration of service, a charge based on the cost of turning on the water service must be paid by the applicant. Said charge shall be as established by the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-207 Nonregistering Meters

If a meter fails to register due to any cause except nonuse of water, an average bill may be rendered. Such average bill will be subject to equitable adjustment, taking into account all factors before, during, and after the period of said bill.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-208 Meter Tests and Adjustment of Bills

1. Meter Tests. Any consumer, who for any reason questions the accuracy of the meter serving his premises, may request a test of the meter. The consumer, if he so requests, will be notified as to the time of the test and may witness same.
2. Adjustment of Bills for Meter Inaccuracy. If, as the result of test, the meter is found to register more than two percent fast under conditions of normal operation, the Department

will refund to the consumer the overcharge based on past consumption, for a period not exceeding six months, unless it can be proved that the error was due to some cause, the date of which can be fixed. In such latter event, the overcharge shall be computed back to, but not beyond, such date.

3. Underground Leak Adjustments. The Department may grant adjustments for excessive bills resulting from leakage in underground piping. This adjustment will be one-half of the excess consumption over a normal bill and will be granted only when repairs are made within two weeks after the consumer has been notified of the underground leak. For good cause shown to the Department, an extension of time to make repairs may be granted.

4. Control and Maintenance. The consumer has sole control of the water delivered through the meter and will be responsible for maintenance and repairs to pipes and fixtures on the consumer's side of the meter.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 477, 1980]

Sec. 2-209 Conservation Measures and Interruption of Water Supply

1. The Department will exercise reasonable diligence to deliver water to the consumer and avoid shortages or interruptions in service, but will not be liable for any interruption, shortage, insufficiency of supply, or any loss or damage occasioned thereby.

2. Whenever, in the Department's opinion, special conservation measures are advisable in order to forestall water shortages the Department may restrict the use of water by any means or method of control.

3. The Department reserves the right at any and all times to shut off water from the mains without notice for the purpose of making repairs, extensions, alterations, or other reason. Consumers dependent upon a continuous supply of water shall provide emergency water storage and any check valves or other devices necessary for the protection of plumbing or fixtures against failure of pressure or supply of water in the Department's mains. Repairs or improvements will be pursued as rapidly as practicable and, insofar as practicable, at such times as will cause the least inconvenience to the consumer.

4. The Department will not be liable or responsible for any damage to person or property caused by spigots, faucets, valves and other equipment that may be open when water is turned on at the meter, either when turned on originally or when turned on after a temporary shutdown.

5. The Department shall restrict the serving of drinking water to any customer unless expressly requested at any restaurant, hotel, cafe, cafeteria, or other place where food is sold, served or offered for sale. These restrictions shall not apply to catered groups of 25 people or more. Failure to comply with these requirements may result in the imposition of a fifty dollars (\$50.00) special assessment for each violation, or in the discontinuation of water service and/or penalties as authorized in Section 2-205, 2b, and Section 5-501 of these Rules and Regulations.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 597, 1991]

Sec. 2-210 Pressure Conditions

When the pressure of the Department's supply is higher than that for which individual fixtures are designed, the consumer shall protect such fixtures by installing and maintaining pressure reducing and relief valves. The Department will not be liable for damage due to pressure conditions caused by or arising out of the failure or defective condition of such pressure regulators and relief valves or for damage that may occur through the installation, maintenance, or use of such equipment.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-211 Damage to Department's Property

1. Any damage to water mains, service connections, valves, fire hydrants, or other property of the Department shall be paid for by the person, persons or legal entity responsible for the damage.
2. The consumer shall be liable for any damage to a meter or other equipment or property of the Department caused by the consumer or his tenants, agents, employees, contractors, licensees or permittees, and the Department shall be promptly reimbursed by the consumer for any such damage upon presentation of a bill therefor. In the event settlement for such damage is not promptly made, the Department reserves the right to discontinue water service to such premises.
3. When a meter is found to have been damaged by hot water or steam emanating from the premises served, the consumer shall pay all costs required to repair the meter.
4. No obstruction shall be placed on or around any water meter, fire hydrant, or valve so as to render it inaccessible.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-212 Ingress To and Egress From Consumer's Premises

Any officer or employee of the Department shall have the right of ingress to and egress from the consumer's premises at all reasonable hours, and at any hour during an emergency, for any purpose reasonably connected with the furnishing of water or other Departmental service and the exercise of any and all rights secured to the Department by law or these Rules and Regulations. In case any such officer or employee is refused admittance to any premises, or, being admitted, shall be hindered or prevented from carrying out his duties, the Department may cause the water service to be turned off at said premises five business days after written notice is given the consumer.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-213 Cross-Connection Control and Backflow Prevention

1. Prohibition of Certain Connections and Installations. In order to provide proper sanitary protection to the Department's water supply, and to comply with the applicable statutes, rules and regulations of the United States Environmental Protection Agency and of the State Department of Health, as presently adopted and from time to time amended, no cross-connections with other water supplies, or other physical connections, shall exist, or be installed, located, maintained or operated, which could permit backflow of contaminated water from the consumer's premises into the Department's water supply system, except as provided below:

a. Cross-Connections with Other Water Supplies. Existing water supplies which are in active use and cross-connected to the Department's system will be allowed only under the following conditions:

(1) Where such water supplies are regularly analyzed by the Department, or other agencies satisfactory to the Department, meet the requirements of the State's Safe Drinking Water Regulations and have no cross-connections which could permit backflow of contaminated water into those water supplies.

(2) Where such water supplies do not meet the requirements of (1) above, are not normally under pressure, and are maintained solely for fire fighting purposes, and, where adequate protection against backflow to the Department's water system is provided by mechanical means, or other methods or devices, satisfactory to the Department.

b. Other Physical Connections. Other physical connections may be permitted if, in the judgment of the Department, adequate protection can be provided the water supply of the Department against backflow by the installation of mechanical, or other methods or devices, approved by the Department, and installed, maintained and operated by the consumer in a manner satisfactory to the Department at all times; provided, however, that the Department may require the consumer to eliminate or rearrange designated plumbing or piping connections or fixtures, or to install a backflow device at the meter or other location, subject to the approval of the Department, whenever (1) the consumer is engaged in the handling of dangerous or corrosive liquids or industrial or process waters, highly contaminated water or sewage, or is engaged in the medical or dental treatment of persons who might have diseases transmittable by water; or, whenever (2) in the judgment of the Department there exists a danger of backflow into the Department's mains because of the possibility of unauthorized connections being created through noncompliance or inadvertence by reason of the complexity of the system or systems; or, because of failure by the consumer to provide adequately qualified personnel and supervision for maintenance and extension of the consumer's piping system or systems; or, for any other reason or cause deemed sufficient in the Department's discretion.

2. Separate Pressure System. The Department will require the installation of mechanical, or other methods or devices, on the consumer's side of the meter to prevent backflow whenever the consumer maintains a separate pressure system or a separate storage

facility; or, in any way increases the pressures of the water within his premises above the pressure furnished by the Department; or, has such equipment or arrangement of piping, storage or industrial methods or processes as might under certain conditions raise the pressure of the water within his premises above the pressure of the water in the mains of the Department. Plans for all such installations must be approved by the Department.

3. Location of Protective Devices. Any device installed for the prevention of backflow as may be required under these Rules and Regulations, shall unless the Department approves otherwise in writing, be located above ground, and in such location as to be safe from flooding or submergence in water or other liquids, properly protected from external damage, freely accessible, and with adequate working room for testing and repairing.

All such devices shall be tested at least once annually, and as often as required by the Department in those instances where successive tests indicate repeated failure. Repairs, replacement of parts, etc., shall be made whenever deemed necessary by the Department at the expense of the consumer. Making annual tests shall be the responsibility of the consumer, and shall be performed only by the consumer or such other qualified person or persons as may be acceptable to the Department. Records of all tests shall be made on forms prescribed by the Department, and a copy of each such record shall be promptly furnished to the Department. Failure of the consumer to make the proper tests and submission of records may, at the discretion of the Department, result in the Department's making the tests, needed repairs, and replacements, and charging the costs thereof to the consumer.

4. Conformance with Laws and Ordinances. The several conditions relative to installation and maintenance of cross-connections and other physical connections referred to in this Section shall be subject to the changing requirements of State and Federal health and environmental statutes, rules, regulations or other authority, and of the City and County of Honolulu Building Code.

5. Discontinuance of Water Service for Noncompliance. Failure on the part of the consumer to comply with the Department's requirements relative to cross-connections and backflow prevention will be sufficient reason for discontinuing water service until such time as the Department is satisfied the requirements have been met.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979]

Sec. 2-214 Fire Service

1. Fire service will be furnished as a public service only where adequate provision is made to prevent diversion of water through such service for other purposes. The fire connection shall be paid for by the consumer. After the water is turned on, the Department assumes no liability for loss or damage of any kind whatsoever that may occur to the premises served, as a consequence of fluctuation in pressure or any other cause.

2. No charge will be made for water used through such service for fire protection purposes, but any water lost through leakage or used in violation of the conditions contained herein shall be paid for by the consumer at the regular schedule of water rates

and charges. The Department may disconnect and remove the said service if water is used for other than fire protection purposes or if leaks are not corrected. Whenever such disconnection is in effect, the Department shall not be in any way liable for loss or damage sustained due to the disconnection of service.

A ten-day written notice of the Department's proposed disconnection with reasons therefore will be given to the consumer before disconnection is effected by the Department.

3. Service charges will be in accordance with rates established by the Department.

4. All fire services will be metered by a detector meter of a type approved by the Department. All services shall become the property of the Department after installation.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979]

Sec. 2-215 Fire Hydrants

1. Use of Fire Hydrant. Any use of a fire hydrant, or tampering therewith, or the taking of water therefrom for purposes other than fire protection by persons other than authorized employees of the Fire Department or the Department is prohibited, except upon prior application to the Department.

2. Damage to Hydrant or Property. Any damage to fire hydrants, and the consequent resulting loss or damage to property, or any injury to persons arising from or out of the damage to fire hydrants shall be paid for by the person or legal entity responsible for the damage.

3. Change in Hydrant Location. The Department will, if it approves the request for a change in location of a hydrant, change such location, provided, the cost of all labor, material, equipment and all other charges are paid by the person requesting such change.

4. Maintenance of Private Hydrants. The consumer shall, at his own expense, test periodically and maintain in good and safe working condition all private hydrants under his control and not under the jurisdiction of the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-216 Resale of Water

Unless specifically agreed upon, the consumer shall not resell any water received by him from the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 2-217 Elevation Agreement

1. Where pressure conditions permit, two or more residential units may be constructed on an existing lot which is located above the service limit. The meter serving the lot shall be located within the service limit of the system. The water system within the lot, if required, shall provide for fire protection in accordance with the requirements of the Fire Department.

2. Where pressure conditions within the distributing main adjacent to the lots above the service limit is less than 40 psi, the existing vacant lots may be serviced provided only one single-family home is constructed on the lot. For existing lots that are located along the water main between a reservoir and the service limit, a maximum of two (2) single-family homes will be allowed.

3. Where pressure conditions permit, subdivisions served by a private water system will be permitted above the service limit. The master meter serving the private water system shall be located within the service limit of the system. As a condition of providing water service to subdivisions above the service limit with private water systems, the Department will require the formation of an Association, which shall be organized and managed so that it substantially conforms with the requirements of Section 514A-83.6 Hawaii Revised Statutes. The Association shall name the Department as an additional insured in its general liability insurance policy and shall be financially responsible for the operation and maintenance of the private water system.

4. Where the floor elevation of a unit is less than 70 feet below the spillway elevation of the reservoir, a receiving tank with air gap, in accordance with the Department's requirements, and a pump shall be installed. The consumer shall permit the Department to inspect the installation for compliance with departmental requirements.

5. The prospective consumers or associations shall enter into an agreement with the Department agreeing to accept such water service as the system is able to provide and to hold the Department harmless for all claims due to any inadequacy of water supply.

The Department will record the agreement at the Bureau of Conveyances.

[Eff 9/5/1979; BWS Res. No. 472, 1979; am and renum BWS Res. No. 530, 1985; am BWS Res. No. 591, 1991; am and renum BWS Res. No. 610, 1992]

CHAPTER III: PROTECTION, DEVELOPMENT AND CONSERVATION OF WATER RESOURCES

Sec. 3-301 Waste Disposal Facilities

1. All plans proposing the following waste disposal facilities must have the written approval of the Manager:
 - a. Sewage disposal systems.
 - (1) Cesspools.
 - (2) Septic tank systems.
 - (3) Individual household aerobic treatment units.
 - b. Disposal wells.
 - c. Sanitary landfills.
 - d. Refuse disposal dumps.
 - e. Sewage treatment plants.
 - f. Stabilization ponds.
 - g. Any other wastewater disposal facilities.
2. The Department may establish "No Pass Zones" which shall be delineated on "No Pass Zone" maps. These maps shall be used as guidelines in implementing this Section.
3. The Manager may at his discretion, withhold his approval, if there is any basis to expect that the operation of the proposed waste disposal facility and any wastewater therefrom may to any degree affect the quality and/or quantity of water resources used or expected to be used for domestic water.
4. If the Manager disapproves a proposal, he shall inform the applicant in writing of the facts and reasons upon which his disapproval is based and afford the applicant an opportunity for an informal appeal hearing. Any applicant who is aggrieved by the Manager's decision and desires reconsideration of such decision shall petition the Manager in writing within 30 days from the date of receiving such decision. The applicant should base his request for reconsideration on pertinent technical data, including boring logs which indicate that the proposed waste disposal facility in the "No Pass Zone" would not contaminate groundwater resources used or expected to be used for domestic water supplies. If after the hearing, the request for reconsideration is disapproved by the Manager, the applicant may appeal the decision to the Board, which shall have the power to affirm, modify or reverse the decision of the Manager so appealed from. Such appeal shall be taken within 30 days after the final decision of the Manager.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 502, 1982]

Sec. 3-302 Surface Waters

The subject of surface waters shall be governed by the appropriate and applicable Federal and State statutes, rules, regulations, directives and standards as currently exist and as may, from time to time hereafter be amended.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-303 Use of Pesticides

1. Any person planning to use pesticides on lands within the "RW" (Restricted Watershed) Conservation District Subzone, Department lands and installations, must obtain written approval from the Manager in addition to any other approval or permit required by law.
2. The Manager may prohibit or restrict the use of pesticides in any area when there is a reasonable basis to expect the pesticide will affect the quality of water resources used or expected to be used for domestic water.
3. If the Manager proposes to prohibit or restrict the use of pesticides in an indicated area, he shall inform the users of pesticides in the area of those facts and reasons upon which his prohibition or restriction is based, and afford the users an opportunity to be heard before taking action.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-304 Protection of Water Resources

1. Pursuant to the applicable provisions of the Revised Charter of the City and County of Honolulu, any proposed amendments to the "General Plan" and "Development Plan" of the City and County of Honolulu shall be reviewed by the Manager.
2. Whenever applications for any land use activity within the Conservation District in the City, whether permitted or not by State or City agencies, are submitted to the Manager for his review, the Manager shall investigate the effects the proposed use may have on water resources.
3. The Manager may recommend disapproval, within 30 days, if he finds any reason that the proposed activity could affect water resources and may be a detriment to the water resources used or expected to be used for domestic water.
4. If the Manager recommends disapproval, he shall inform the applicant of those facts and reasons upon which his disapproval is based, and shall afford the applicant an opportunity for informal hearing before the Manager prior to making a final decision.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-305 Application for Drilling, Modifying, Recasing, or Reusing Wells

1. An application for drilling each new well to develop water; modifying, recasing or changing the use to other than originally practiced or approved of an existing well from which water is to be drawn; or reusing for water development purposes any well which has been unused for a period of five years or more, shall be made to the Manager in writing, signed by the Owner, and shall include such of the following as are pertinent:

a. Name, signature and post office address of the applicant and/or the Owner of the property on which the well is located. In the event that the Owner of the land on which the well is located and the Owner of the well are not the same, written notarized permission from the Owner of the land shall be filed with the application.

b. A plan or drawing showing the proposed work, and a plot plan showing the well location referenced to the nearest property corner, City survey monument or government triangulation station.

c. A statement of the nature, purpose and extent of the proposed usage of the water and/or the facility.

d. A map showing the land area to be served from the well.

e. Specifications for the proposed work, including:

(1) The length, nominal diameter, thickness, material, type of joints and kind of casing or lining.

(2) A plan of the well showing:

(a) main control valve, fittings, appurtenances required by Section 3-309 of these Rules and discharge pipes leading from the well;

(b) size, type, capacity and kind of pumps or tanks, if any;

(c) buildings and manholes;

(d) plan and description of meter or other facility or method of recording output;

(e) a vertical cross section of the well including details of casing or lining, grouting of annular space, and open hole.

(3) The elevation of the top of the well control valve, or of the top of the casing, and the approximate elevation of the ground at the well head.

2. A fee of One Hundred Dollars (\$100.00) shall accompany each application for the drilling or excavation of each new well for water development. In addition, before the permit is granted, a permittee bond for each new well, meeting the following requirements, shall be submitted to the Manager:

a. The amount of the bond shall be set by the Manager but in no case shall the amount be greater than \$25,000.

b. The amount of bond as set by the Manager shall include the cost of sealing the well in accordance with these Rules and Regulations should it be necessary to abandon the well for any reason prior to its completion.

c. The bond shall be effective for a period covering the life of the drilling contract plus 30 days.

d. The payee of the bond shall be the Department, and the payor shall be the Owner of the well or his agent.

3. Application forms for drilling, modifying, recasing, or reusing wells may be obtained at the offices of the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-306 Permit for Drilling, Modifying, Recasing, or Reusing Wells

1. An application for drilling each new well to develop water; modifying, recasing, or changing the use of an existing well from which water is to be drawn; or reusing for water development purposes any well which has been unused for a period of five years or more will be reviewed and acted upon by the Manager within thirty (30) calendar days after receipt.

2. Before a permit is granted, the Owner will be required to furnish an agreement to perform the work in accordance with these Rules and Regulations, and thereafter to operate and maintain the well in accordance with the laws of the State of Hawaii and these Rules and Regulations.

3. The Manager shall classify all wells, guided by Figures 1 and 2, included herein, and by the fundamental criteria that the primary purpose of these Rules and Regulations is to assure public safety, water conservation, prevention of groundwater degradation and/or pollution, and the obtaining and recording of geologic and hydrologic information. The Manager may reclassify any well while work is in progress if the geologic and hydrologic information that then becomes available does not substantiate his original classification. The Manager's classification of the well shall be the basis of application of these Rules and Regulations.

4. The Manager may refuse to grant a permit to drill a new well or to modify, reuse, or recase an existing well if there is a reasonable basis to expect that the proposed work will affect groundwater resources by:

- a. Causing or bringing about overdraft conditions, or
- b. Excessive lowering of the ambient groundwater table, or
- c. Causing or bringing about excessive salt water intrusion, excessive mineralization or other degradation of water quality, or
- d. Interfering with the operations of existing established water sources.

5. If the Manager elects to refuse a permit, he shall inform the applicant of the facts and reasons upon which his refusal is based and afford the applicant an opportunity for informal hearing before taking action.

6. This permit shall be valid for a period of one year (365 calendar days) from the date of issuance.

7. The Owner or his authorized representative shall notify the Manager when drilling work, including the installation of the casing, is completed, but prior to installing any equipment or appurtenances on or in the well.

8. No work, as stated in paragraph 1 above, shall commence without a permit.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-307 Suspension of Permit and Correction of Defects

1. Whenever it shall appear that any well work for which a permit has been granted by the Manager is not being done in accordance with the conditions of the permit or agreement mentioned in Section 3-306, the Manager shall notify the Owner to appear before him at a time and place designated in the Notice to show cause why the permit should not be suspended or revoked and the well sealed, or put in proper condition by the Owner. The Notice shall contain a brief statement of the grounds for suspension or revocation. After such hearing the Manager shall render his order as to revocation, suspension or continuation of the permit. The order shall be subject to appeal as provided in Section 5-502.

2. Whenever the Manager shall find that any well is not being maintained or operated in accordance with these Rules and Regulations, the Manager shall notify the Owner of such well to take whatever steps may be necessary to remedy the defect at the Owner's expense within a time specified in such Notice. If the Owner fails to comply with such Notice, and remedy the defect within the specified time, the Manager may do such work as may be necessary to put the well in proper condition at the expense of the Owner, or he may take necessary action to enforce the penalty provided by law.

3. The Notice provided in the preceding paragraphs 1 and 2 may be served by delivery to the Owner, or by delivery thereof to his last known place of business or residence, or by registered mail addressed to his last known post office address, not less than ten (10) days nor more than thirty (30) days before the date set for hearing, or time specified for correcting the defect, as the case may be.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-308 Well Casing

1. Whenever there is any reasonable basis to anticipate that any well subject to these Rules and Regulations could result in wastage or contamination of water resources, the Manager shall require the well to be cased, recased, lined or relined.

2. For all new and/or modified wells wherein casing is required, the casing and joints shall be of a quality conforming with the latest American Water Works Association specifications, or any other material approved by the Manager. If the casing is of steel material, it shall conform to the following minimum thickness.

TABLE OF CASING THICKNESS

Nominal Diameter of Casing (In.)	Casing Thickness (In.)
2	0.154
2-1/2	0.203
3	0.216
3-1/2	0.226
4	0.237
6 - 8	0.250
10	0.312
12	0.312
14	0.312
16	0.375
18	0.375
20	0.375

For well diameters greater than 20",
casing thickness shall be as specified by the Manager.

The well owner shall insure that proper precautions are taken during installation to prevent collapse.

3. In all new and/or modified wells wherein casing is required, the annular space shall be grouted in a manner approved by the Manager from a depth set by the Manager to the ground surface.

4. Joints in the steel casing may be either welded or of the screwed type with external sleeves. Welded joints are to be made by a State certified welder. External sleeve joints shall be screwed to refusal before being lowered into the ground. The threads of the pipe casing and the sleeves shall be cleaned of any rust, dirt or grease and given a coating of approved metal preservative. After the joint has been made up, all exposed surface of the joints, sleeves and uncovered threads are to be given a final coating of the same preservative.

5. The lower end of the casing shall be set at such depth and by such method, chosen by the contractor and approved by the Manager, as will minimize the possibility of leakage and insure that any loose material will not enter or ravel into the well. Tests for leakage in and around the casing shall be conducted under the direction of the Manager after drilling or recasing is completed. For the purposes of such tests a suitable standpipe shall be temporarily installed by the Owner at his own expense when so requested by the Manager.

6. Should a well casing be found to be leaking and causing wastage of water or contamination of water resources, the Owner must either stop the leak or seal the well at his own expense, and in a manner satisfactory to the Manager.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-309 Other Requirements for Wells

1. For all new wells constructed after March 1972 from which water is to be drawn, the Owner shall provide and maintain the following at his own expense:

- a. Devices satisfactory to the Manager for measuring and recording total draft. Where the well is one of a battery of interconnected wells, a centralized measuring and recording facility may be installed.
- b. Means to determine water level satisfactory to the Manager.
- c. Adequate access and clearance for well drilling equipment.

2. For all new artesian wells constructed after March 1972, wherein the static water level can rise to the well head, the Owner shall provide and maintain the following equipment at his own expense in addition to that required in paragraph 1 above:

- a. A valve of the same diameter as the well casing, so arranged as to facilitate the introduction of instruments for inspection and test purposes, the valve shall be capable of stopping the flow from the well and shall be installed directly at the top of the well casing.
- b. A valve or petcock 1/4" or larger shall be installed below the valve required in paragraph (2a) above, for periodic testing of the well or sampling of the water under static conditions.
- c. Clearance at the well to permit the well casing to be extended above the altitude of the static artesian head.

3. The replacement of pumps or other equipment at a well for its control and operation that will materially increase the output from the well shall be subject to the approval of the Manager, measured by the criteria set forth in Section 3-306(4). The Manager's decision whether or not to approve shall be made within two weeks after receipt of the notification.

4. The Manager shall be notified at least 48 hours before the Owner removes pumps or other devices installed in the well bore. When such devices are removed, the Manager shall be allowed access to the cleared well for inspection and measurements. In emergencies, the Manager shall be notified as soon as practicable after the devices are removed.

5. The Owner of any well subject to these Rules and Regulations shall be responsible for providing adequate safeguards at the well at his own expense, so that any person permitted to be on such property where the well is located shall not be exposed to any dangerous hazard or nuisance.

6. For all wells constructed prior to March 1972, wherein the static water level can rise to the well head, the Owner shall provide and maintain an operable control valve to prevent unnecessary wastage.

Sec. 3-310 Log of Well, Length of Casing and Depth of Well

1. The Owner shall require that the well driller maintain a continuous log of the drilling of the well, including a description and samples of the materials encountered, together with the depths to the top and bottom of each change in geologic characteristics. The log shall include a record of water levels encountered, any changes thereof, and the rate of flow at the surface, if any, for different depths of drilling.

2. Within ninety (90) calendar days after construction of each well, the Owner shall submit a Driller's Report to the Manager on forms approved by the Manager.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-311 Qualifications of Well Drillers

The drilling, modifying, recasing, reusing, or sealing of any well shall be done only under the direct supervision of personnel properly certified by the Department of Regulatory Agencies, State of Hawaii.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-312 Inspection of Work

The Manager may supply an inspector, whose duties shall be to obtain and report the progress of the work of drilling, modifying, recasing, reusing, or sealing of wells. The Manager and his assistants or inspectors shall have free access to all parts of the work at all times, and shall be given any assistance required and every facility, information and means of thoroughly inspecting the work and the materials used or to be used.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-313 Utilization of Well Water

1. All water wells shall be operated in a manner that will readily and effectively prevent wastage and pollution of water. The Manager may exclude high-level tunnels from the provisions of this section if it is specifically determined in each case that wastage of water therefrom cannot be reasonably corrected.

2. The Manager may limit the amount of water drawn from any well covered under these Rules and Regulations if there is a reasonable basis to expect that the overdraft will:

- a. Cause or bring about overdraft conditions, or
- b. Excessively lower the ambient groundwater table, or
- c. Cause or bring about excessive salt water intrusion, excessive mineralization, or other degradation of water quality, which may render a domestic water source unfit for such purposes, or
- d. Interfere with the operations of existing established water sources.

3. If the Manager proposes to limit draft from any well, he shall inform the Owner of sufficient facts and reasons upon which his limitation is based, and afford the Owner an opportunity for informal hearing before taking action.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 475, 1980]

Sec. 3-314 Data Relating to Wells

1. Every Owner or user of any well in the City shall, upon request of the Manager, disclose the location of such well and all other facts or information within his knowledge or possession relating to such well. He shall include a statement of the manner in which the well is being used or operated, the volume of water being drawn or flowing therefrom, and the method and means of control thereof.

2. Owners of wells in existence on October 1, 1959 shall not be required to alter or augment existing facilities or appurtenances to obtain data, but shall assist the Manager, when required, in installing facilities or altering or augmenting existing facilities at the discretion and cost of the Department in order that such data may be obtained.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-315 Test Borings

1. The driller shall notify the Manager prior to any test boring work.

2. The driller shall submit a completed information form within ten (10) calendar days after giving notice of proposed test borings. Forms may be obtained at the offices of the Department.

3. If information discloses that there is any reasonable basis to anticipate that the test borings would cause contamination or wastage of groundwater resources, the driller shall complete the work at his own expense in a manner satisfactory to the Manager.

4. No fee is required for test borings.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-316 Abandonment and Sealing

1. Every Owner or user of any well in the City and County who fails to demonstrate actual use of the well for a period of five (5) years, shall be notified that said well is verified as abandoned.

2. Abandoned wells shall be sealed by the owner at his own expense within a reasonable period after notification. The sealing method chosen by the Owner shall be approved in writing by the Manager and shall assure protection of groundwater resources against wastage and contamination.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979]

Sec. 3-317 Access to Wells and Appurtenances

Any member and any authorized representative or employee of the Department shall have free access to all wells and their appurtenances at any reasonable time for the purpose of inspecting or testing or securing such hydrologic or other information as the Manager may deem necessary.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 3-318 Low Groundwater Level Conditions

1. Caution Low Groundwater Condition

A caution low groundwater condition exists:

- a. At any time during the period in which three or more of the groundwater head levels at the areas listed in Schedule I fall below the levels designated in Column A of said schedule for said areas.
- b. Whenever chloride content rises 8 ppm but less than 12 ppm over three consecutive months at sufficient sources to hamper operations.

The Board may at any time during the period in which a caution low groundwater condition exists:

- a. Inform the public that a Caution Low Groundwater Condition exists.
- b. Conduct an intensive public appeal for water conservation through the mass media.
- c. Institute voluntary irrigation and other water use schedules to reduce water consumption.
- d. Send letters to large consumers and other private well operators asking them to cut back their usage.

2. The Manager shall, at each regular Board meeting while a caution low groundwater condition exists, report to the Board the status of the head and chloride levels of the Department's facilities; the weekly average of daily pumpage; the effectiveness of the voluntary conservation measures being advocated; recommendations to increase or decrease public appeals to conserve water, and such other information which the Board may desire or require from time to time to evaluate the status of the low groundwater condition and make modification to the voluntary conservation measures being advocated.

3. Alert Low Groundwater Condition

An alert low groundwater condition exists:

- a. At any time during the period in which three or more of the groundwater head levels at the areas listed in Schedule I fall below the levels designated in Column B of said schedule for said areas.
- b. Whenever chloride content rises 12 ppm but less than 16 ppm over three consecutive months at sufficient sources to hamper operations.

The Board may at any time during the period in which an alert low groundwater condition exists:

- a. Declare that an alert low groundwater condition exists. An alert low groundwater condition shall continue to exist, once it is declared by the Board, until such time as the Board declares that the condition is terminated.
- b. Implement mandatory restrictions within the scope of these Rules and Regulations.
- c. Punish offenders within the scope of these Rules and Regulations.

4. Critical Low Groundwater Condition

A critical low groundwater condition exists:

- a. At any time during the period in which three or more of the groundwater head levels at the areas listed in Schedule I fall below the level designated in Column C of said schedule for said areas.
- b. Whenever chloride content rises 16 ppm or more over three consecutive months at sufficient sources to hamper operations.

The Board may at any time during the period in which a critical low groundwater condition exists:

- a. Declare that a critical low groundwater condition exists. A critical low groundwater condition shall continue to exist, once it is declared by the Board, until such time as the Board declares that the condition is terminated.
- b. Implement mandatory restrictions within the scope of these Rules and Regulations.
- c. Punish offenders within the scope of these Rules and Regulations.

5. The Manager shall, at each regular Board meeting while a declared alert or critical low groundwater condition as provided herein is in effect, report to the Board the status of the head and chloride levels of the Department's facilities; the weekly average of daily pumpage; the effectiveness of the restrictions and allotments in force; recommendations to increase or reduce restrictions and allotments; and such other information which the Board may desire or require from time to time to evaluate the status of the low groundwater condition and make modifications to the restrictions and allotments imposed.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 475, 1980; am BWS Res. No. 624, 1994]

Sec. 3-319 Mandatory Restrictions Related to Alert Low Groundwater Condition

1. Board of Water Supply Consumers

During an alert low groundwater condition period, the Board may set lawn and ground cover water irrigation restrictions on any of the Department's consumers. Such restrictions may relate to the time when such irrigation may take place and the quantity of water used and may be different for the various classes of the Department's consumers as the Board shall determine. In addition, the Board may establish water allotments for commercial, residential, industrial, military,

governmental, and agricultural consumers. The allotment shall not be less than 90% of the previous 12-month monthly average or less than 350 gallons/day for single family and duplex residences.

2. Private Wells

During an alert low groundwater condition period, the Board may ask owners of private wells to comply with maximum monthly water allotments established for each private well or battery of private wells. Such allotments shall be stated as a percentage of the highest average daily draft for each month of the year over the last 5 years prior to the effective date of declaration by the Board.

Example: John Doe Well - Average Daily Pumpage Each Month

Jan.	2.3 mgd	1.7 mgd	*2.4 mgd	2.0 mgd	1.9 mgd
Feb.	1.8 mgd	1.9 mgd	1.8 mgd	*2.0 mgd	1.8 mgd
Mar.	*1.9 mgd	1.8 mgd	1.8 mgd	1.7 mgd	1.8 mgd
Apr.	2.2 mgd	2.0 mgd	*2.6 mgd	2.3 mgd	2.3 mgd
etc.	etc.	etc.	etc.	etc.	etc.

***Highest Average Daily Pumpage for Each Month of the Year Over the Last 5 Years for John Doe Well**

Jan.	2.4 mgd.
Feb.	2.0 mgd.
Mar.	1.9 mgd.
Apr.	2.6 mgd.
etc.	etc.

In no case shall the allotment be less than 90% of the highest average daily draft for each month of the year over the last 5 years. Any owner of 2 or more separate wells may regulate the draft of their wells so that aggregate monthly draft will not exceed the combined monthly allotment for all of their wells.

3. Department personnel may issue warnings and citations for violations of mandatory restrictions set by the Board.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

Sec. 3-320 Mandatory Restrictions Related to Critical Low Groundwater Condition

1. Board of Water Supply Consumers

The Board may declare that one or more of the following restrictions shall apply to any or all classes of the Department's consumers. Such restrictions may relate to the time when the uses listed in this paragraph may occur and the quantity of water used and may be different for the various classes of the Department's consumers as the Board may determine.

- a. Limits on lawn and ground cover water irrigation.
- b. Limits on plant and garden irrigation.
- c. Limits on the washing of cars, boats, trailers, and other vehicles.
- d. Limits on the filling of swimming pools and other types of pools and ponds.
- e. Limits on the washing of sidewalks, walkways, driveways, patios, parking lots, tennis courts, and other hard surfaced areas.
- f. Limits on the operations of fountains.

2. Private Wells

During a critical low groundwater condition period, the Board may ask owners of private wells to comply with maximum monthly water allotments established for each private well or battery of private wells. Such allotments shall be stated as a percentage of the highest average daily draft for each month of the year over the last 5 years prior to the effective date of declaration by the Board. The Board may from time to time increase or decrease the initial percentage limit set for each well or battery of wells provided that in no case shall the percentage be less than 70% of the highest average daily draft for each month of the year over the last 5 years.

Any owner of 2 or more separate wells may regulate the draft on their wells so that the aggregate monthly draft will not exceed the combined monthly allotment for all of their wells.

3. Department personnel may issue warnings and citations for violations of mandatory restrictions set by the Board.

4. Special Rates and Charges Relating to Critical Low Groundwater Condition.

During a critical low groundwater condition period, a surcharge schedule for excess water use shall be established according to the following procedure. The Board shall set water allotments per billing period for each class of the Department's consumers. Such allotments shall be stated as a percentage (which may be greater than 100% but not less than 70%) of the previous 12-month monthly average. In addition the allotment shall not be less than 350 gallons per day for single family and duplex residences. The Board may from time to time increase or decrease the initial percentage limit set for any class of consumers. Allotment percentages may be set at different times and at different levels for the various classes of consumers as the Board shall determine. In determining what percentages to declare for various classes of consumers at various times, the Board shall consider present and predicted weather conditions, the rate of decline of the ground water head levels, the impact on the economy, compliance with regulations by various classes of consumers, new service applications, development of supplementary source, impact on the budget of the Department, and the social impact of proposed restrictions. Water

consumed in excess of the water allotment per billing period for each consumer shall be charged according to the following schedule:

Gallons in excess of Allotment for Meter Sizes 2" and Larger (Monthly or Bi-monthly Billing)	Gallons in excess of Allotment for Meter Sizes 5/8" to 1-1/2" (Monthly Billing)	Gallons in excess of Allotment for Meter Sizes 5/8" to 1-1/2" (Bi-Monthly Billing)	Surcharge
First 25% or part thereof	First 3,000 gallons or part thereof	First 6,000 gallons or part thereof	2 times existing water rate*
Next 25% or part thereof	Next 3,000 gallons or part thereof	Next 6,000 gallons or part thereof	3 times existing water rate*
Next 25% or part thereof	Next 3,000 gallons or part	Next 6,000 gallons or part thereof	4 times existing water rate*
Next 25% or part thereof	Next 3,000 gallons or part	Next 6,000 gallons or part thereof	12 times existing water rate*
All use over 100%	All use over 12,000 gallons	All use over 24,000 gallons	20 times existing water rate*

**If the service is charged by block rates, the surcharge will be charged at the Block Rate that the allotment falls in.*

For residential consumers, the surcharge shall be charged at the block rate that the allotment falls in. Surcharges shall be assessed each consumer after receipt of the first water bill following the establishment of allotments by the Board. Upon termination of allotments by the Board, surcharges shall cease.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

Sec. 3-321 Penalties

1. Any violation by any person of the restrictions declared by the Board under Sections 3-319 and 3-320 of this Chapter shall be punishable according to Chapter II, Section 2-205 and Chapter V, Section 5-501 of these Rules and Regulations.
2. Any consumer who violates the restrictions declared by the Board under Sections 3-319 and 3-320 of this Chapter or who consumes water in excess of the amount designated below for their class shall be subject to the installation of a flow restriction device by the Department and punishable according to Chapter V, Section 5-501 of these Rules and Regulations. An offender shall pay \$50.00 for the installation and removal of a flow restriction device by the Department. Water service may be discontinued for an offense committed after the installation of a flow restrictor in accordance to Chapter II, Section 2-205.

Class of Consumer	Maximum Allowable Consumption in Excess of Allotment
I. Residential including single family and duplex	I. 5,000 gallons per monthly billing period, 10,000 gallons per bi-monthly billing period.
II. Resort, commercial, multi-family, industrial, agricultural, military, and government.	II. Difference between allotment and previous 12-month monthly average.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

Sec. 3-322 Procedures for Control of Water Use During Low Groundwater Level Condition

1. Declaration of Low Groundwater Level Condition

The Manager shall inform the public and the Department's consumers of the declaration of an alert or critical low groundwater condition by publishing such declaration in a newspaper of general circulation on the island of Oahu at least once a day for three consecutive days. The alert or critical low groundwater condition shall begin at midnight on the third day of the publication declaring such condition.

2. Notice of Restrictions

The Manager shall inform the public and the Department's consumers of the restrictions being imposed because of an alert or critical low groundwater condition by publishing such restrictions in a newspaper of general circulation on the island of Oahu at least once a day for three consecutive days. The restrictions shall begin at midnight on the third day of the publication declaring such condition and shall terminate at midnight on the first day of a publication terminating such condition.

3. Notice of Water Allotment to Consumers

Each consumer shall be notified of their water bill or by direct mail to the consumer. In cases where a water bill is not sent directly to the person using the water, the consumer shall be responsible for informing the user of the water allotment per billing period applicable to them.

4. Notice of Maximum Monthly Water Allotment to Private Well Operators

Each private well operator shall be notified by mail of their monthly water allotment.

5. Exceptions

Consideration of written applications for exceptions regarding the allotment system or regulations and restrictions on water use set forth in this Chapter shall be as follows:

a. Written applications for exceptions shall be accepted, and may be granted, by the Manager.

b. Grounds for granting such exceptions are:

- (1) Failure to do so would cause an unnecessary and undue hardship to the Applicant, including but not limited to adverse economic impacts such as loss of production or jobs;
- (2) Failure to do so would cause an emergency condition affecting the health, sanitation, fire protection, or safety of the Applicant or the public;
- (3) For single family residences with more than four persons permanently residing in the home, if a written application for an exception is granted as provided herein, the applicable allotment shall be increased by 40 gallons per person per day for each person permanently residing in the home in excess of four persons;
- (4) For multiple residential units with more than two dwelling units where the allotment is less than 280 gallons per day per dwelling unit, if a written application for an exception is granted as provided herein, the applicable allotment shall be 280 gallons for each unit;
- (5) Denial of an application for exception may be appealed in writing to the Board.

6. Termination of Low Groundwater Level Condition

The Board may terminate a declared low groundwater level condition whenever head levels at fewer than five of the area heads listed in Schedule I are within the prevailing condition or whenever chloride content has risen less than 12 ppm over three consecutive months at sources that caused the declared low groundwater level conditions.

The Manager shall inform the public and the Department's consumers of the termination of an alert or critical low groundwater condition by publishing such termination in a newspaper of general circulation on the island of Oahu at least once a day for three consecutive days. The alert or critical low groundwater condition and all restrictions and allotments associated therewith shall terminate at midnight on the first day of a publication terminating such condition.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

Sec. 3-323 Exemption of Private Wells Within Designated Groundwater Control Areas

New and existing private wells within Designated Groundwater Control Areas only shall be exempt from the provisions of the Rules and Regulations. However, owners of private wells shall be asked to comply with any allotments set by the Board for private wells. Control and regulation of such wells shall be subject to State statutes, rules, regulations, directives, and standards as currently exist and as may, from time to time hereafter, be amended.

Groundwater Head Levels

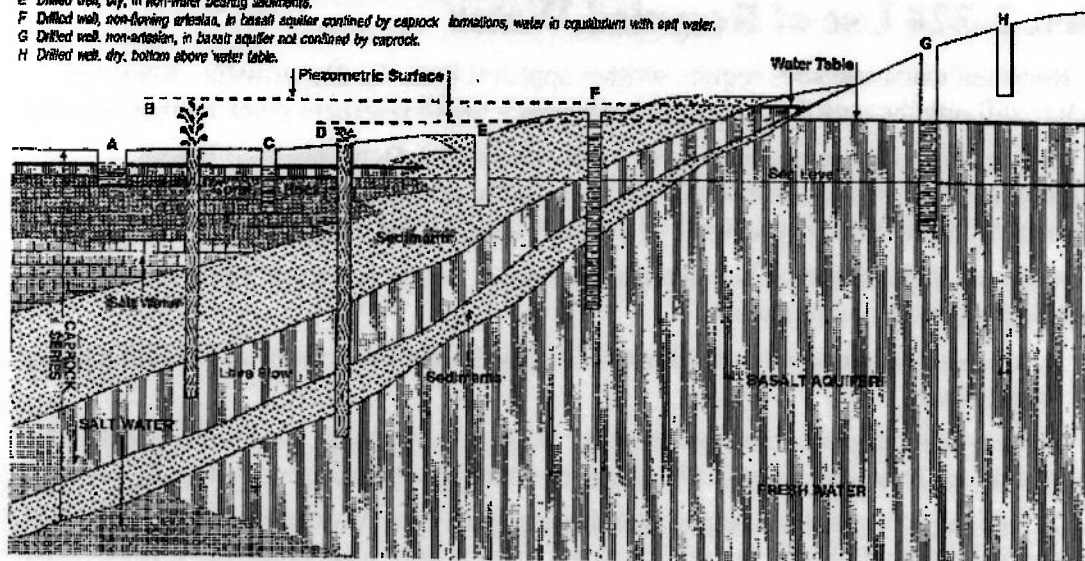
SCHEDULE I

COLUMN A ("Caution" Low Groundwater Conditions)		COLUMN B ("Alert" Low Groundwater Conditions)		COLUMN C ("Critical" Low Groundwater Conditions)	
Area	Head Level (ft.)	Area	Head Level (ft.)	Area	Head Level (ft.)
Kaimuki	23.5	Kaimuki	22.5	Kaimuki	20.5
Beretania	21.0	Beretania	20.0	Beretania	17.5
Kalihi	20.5	Kalihi	19.5	Kalihi	17.0
Moanalua	18.5	Moanalua	17.5	Moanalua	15.0
Halawa	15.5	Halawa	14.5	Halawa	12.0
Kalauao	15.5	Kalauao	14.5	Kalauao	12.0
Pearl City	14	Pearl City	13	Pearl City	12
Waipahu	17	Waipahu	16	Waipahu	15
Hoaeae-Kunia	13	Hoaeae-Kunia	12	Hoaeae-Kunia	11
Makaha	7	Makaha	6	Makaha	4
Waialua	11	Waialua	10.5	Waialua	10
Kaluanui	16	Kaluanui	15	Kaluanui	14
Punaluu	17	Punaluu	16	Punaluu	14
Waihee Tunnel**	15 psi	Waihee Tunnel**	10 psi	Waihee Tunnel**	5 psi

****Bulkhead pressure**

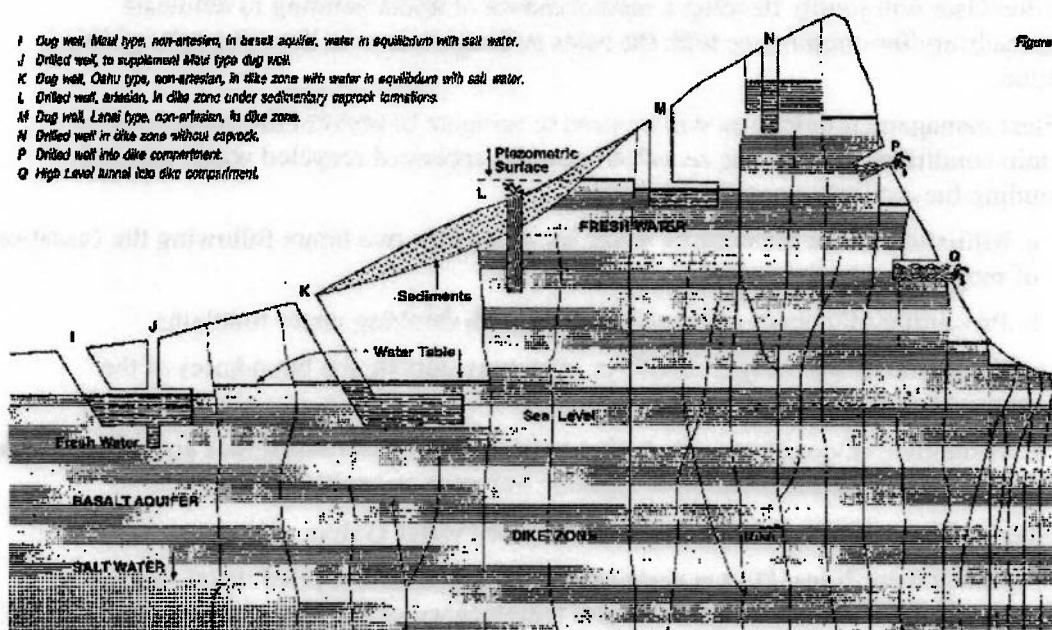
- A Dug well, non-artesian, in formation of caprock series.
 B Drilled well, artesian, in water bearing formations of caprock series.
 C Drilled well, non-artesian, in lava or sediments of caprock series.
 D Drilled well, artesian, in lava flows confined under caprock formations, water in equilibrium with salt water.
 E Drilled well, dry, in non-water bearing sediments.
 F Drilled well, non-flowing artesian, in basalt aquifer confined by caprock formations, water in equilibrium with sea water.
 G Drilled well, non-artesian, in basalt aquifer not confined by caprock.
 H Drilled well, dry, bottom above water table.

Figure 1



- I Dug well, blind type, non-artesian, in basalt aquifer, water in equilibrium with salt water.
 J Drilled well, to supplement blind type dug well.
 K Dug well, Oahu type, non-artesian, in dike zone with water in equilibrium with salt water.
 L Drilled well, artesian, in dike zone under sedimentary caprock formations.
 M Dug well, Lanai type, non-artesian, in dike zone.
 N Drilled well in dike zone without caprock.
 P Drilled well into dike compartment.
 Q High Level tunnel into dike compartment.

Figure 2



[Eff 3/31/1980; BWS Res. No. 475, 1980; am BWS Res. No. 624, 1994; am BWS Res. No. 796, 2010]

Revised 4/20/2010

Sec. 3-324 Use of Recycled Water

1. Recycled water use sites require written approval from the Department. Recycled water will only be used for the purpose for which the Department gives written approval.
2. Users of recycled water shall comply with the Hawaii Department of Health Guidelines (DOH Guidelines) established to ensure protection of public health and prevent environmental degradation of aquifers and/or surface waters.
3. Minimum distances must be maintained between a recycled water approved use site and drinking water supply wells.
 - a. Irrigation of recycled water must be at least 50 feet away from any drinking water supply well.
 - b. The outer edge of any recycled water impoundments (e.g., reservoirs, golf course ponds, etc.) must be at least 100 feet away from any drinking water supply well.
 - c. Drainage from areas using recycled water must be controlled to prevent the water from coming within 50 feet of a drinking water supply well.
4. Prior to using recycled water on any approved recycled water use site, the Department and the User will jointly develop a memorandum of understanding to delineate responsibility for compliance with the rules and regulations in the remainder of this section.
5. Best management practices will be used to mitigate or prevent the occurrence of certain conditions when using recycled water on approved recycled water use sites, including the conditions outlined below:
 - a. Mitigation of the ponding of water for more than two hours following the cessation of recycled water irrigation.
 - b. Prevention of contact of recycled water with drinking water fountains.
 - c. Mitigation of discharge, runoff, or overspray outside the boundaries of the approved recycled water use site.
 - d. Mitigation of conditions conducive to proliferation of mosquitoes and other disease vectors, and to avoid creation of a public nuisance or health hazard.
6. Standard hose bibs will not be used on recycled water system piping.
7. A Management Reuse Plan is required for the approved recycled water use site to delineate responsibilities of operation and maintenance of the site. A template for the preparation of a Management Reuse Plan is available from the Department.
 - a. A User Supervisor is required for each approved recycled water use site. Any change in the User Supervisor will require approval by the Department.
 - b. The User Supervisor:
 - i. Should be knowledgeable about the entire recycled water system within his/her responsibility;

- ii. Should be knowledgeable about all applicable conditions of recycled water use;
 - iii. Will be responsible for installing, operating, and maintaining the recycled water system;
 - iv. Will be responsible for preventing potential hazards;
 - v. Will be responsible for implementing the DOH Guidelines; and
 - vi. Will be responsible for coordinating with the Department's cross-connection control program.
 - c. The Management Reuse Plan will include operation criteria for irrigation.
 - i. Rationale for scheduling irrigation.
 - ii. How to determine when to stop irrigation.
 - iii. The number of fields that can or should be irrigated at the same time.
 - iv. The order in which fields should be irrigated.
 - v. The sequence to follow when starting and stopping the irrigation system.
 - vi. How to control flow and pressure.
 - d. The Management Reuse Plan will include a contingency plan that identifies actions and precautions to be taken to protect public health in the event of a non-approved use, such as an overspray or runoff from the approved recycled water use site, and ponding of recycled water.
8. A public education plan will be developed to inform persons about the use of recycled water in areas where they are likely to come in contact with it.
- a. When spray irrigation is used, the Department and user property manager will comprise a reuse committee. The intent of this committee is to identify, document, and notify the Department of Health of inappropriate use of recycled water.
 - b. Signs with conspicuous pictorial and text warning will be approved by the Department and will be posted in all areas where recycled water is used. The wording will be of sufficient size to be clearly read by the public. Examples of approved signs are available from the Department.
9. Information will be provided to employees who work in an approved recycled water use site. Information will include oral and written information that:
- a. Recycled water is being used.
 - b. Recycled water is not suitable for drinking and that drinking recycled water may result in potential illness.
10. Daily records of operation and maintenance information will be maintained, including:
- a. The volume of recycled water flow applied to the approved recycled water use area.
 - b. The volume of any supplemental water flow applied to the approved recycled water use area.

- c. The total area irrigated.
 - d. The cycle or number of applications per day.
 - e. The total volume of recycled water and supplemental water applied to the approved recycled water use are in gallons per acre per day.
 - f. The total daily precipitation.
 - g. The number of incidents of ponding for more than 2 hours.
 - h. The number of incidents of runoff from the approved use area.
 - i. The stress condition of the crop.
 - j. Days when irrigation does not occur.
 - k. Freeboard of any recycled water storage impoundment.
11. Cross-connections of recycled water supplies and potable water supplies are prohibited. Additional information and restrictions about cross-connections can be found in Sec. 2-213.

[Eff 1/1/2002; BWS Res. No. 722, 2001]

CHAPTER IV: RULES GOVERNING PARKING AT THE BOARD OF WATER SUPPLY

Sec. 4-401 Off-Street Parking Areas

The following areas are designated for off-street parking as indicated:

1. Visitor Parking

Areas in the back of the Public Service Building and in front of the Engineering Building, shown as Areas A and B in Appendix A, attached.

2. Employee Parking

Areas makai of Lusitana Street bounded by Alapai, Lisbon and Lauhala Streets, respectively, which are shown as Areas C, D & E, in Appendix A.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 4-402 Parking Authorization

Except as specified otherwise by appropriate signs and/or markings, parking in the above-designated areas is authorized only as follows:

1. Areas A and B - For bona fide visitors on Departmental business.
2. Areas C, D and E - For bona fide employees of the Department, whose vehicles display the required decal evidencing the issuance of a parking permit by the Manager or his authorized representative.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 4-403 Parking Hours

Except as otherwise specifically authorized, the off-street parking areas shall be open Monday through Friday, inclusive, from 6:30 a.m. to 5:30 p.m., holidays excepted.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 4-404 Removal of Unauthorized Vehicles

The Manager or his authorized representative is hereby authorized to remove or cause to be removed at the vehicle owner's expense any vehicle parking within the areas described in Section 4-402 when:

1. Such vehicle is parked by a person who is not a bona fide visitor on Departmental business.
2. Such vehicle does not display the required decal evidencing the issuance of a parking permit by the Manager or his authorized representative.

3. Such vehicle is not parked wholly within a designated stall and straddles an adjoining stall.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

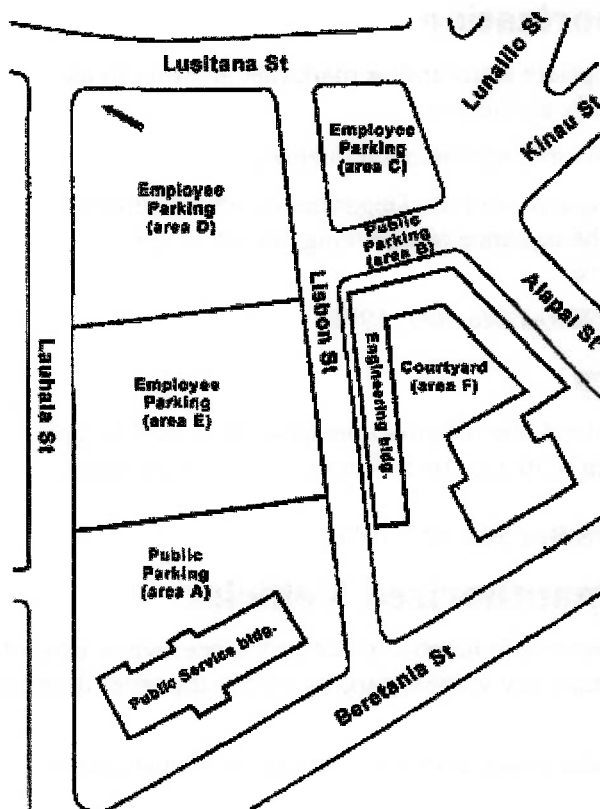
Sec. 4-405 Authorization to Initiate Parking Fees

The Manager is hereby authorized to establish and institute parking fees for employees of the Department when such fees are deemed appropriate; provided however, that such fees shall be comparable to the parking rates established for employees at the City Hall Complex.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 4-406 Authorization to Establish Other Parking Areas

The Manager is hereby authorized to establish and designate other areas within the Department's premises for off-street parking and to apply the applicable provisions of these rules accordingly.



[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

CHAPTER 11 GENERAL PROVISIONS

Sec. 1-201 Purpose

The purpose of this chapter is to provide a general framework for the various provisions of this chapter. The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter. The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter.

Sec. 1-202 Interpretation

Sec. 1-203 Interpretation

The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter. The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter.

Sec. 1-204 Interpretation

Sec. 1-205 Interpretation

The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter. The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter.

Sec. 1-206 Interpretation

Sec. 1-207 Interpretation

The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter. The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter.

Sec. 1-208 Interpretation

Sec. 1-209 Interpretation

The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter. The provisions of this chapter are intended to be interpreted in a manner that is consistent with the purpose of this chapter.

Sec. 1-210 Interpretation

CHAPTER V: GENERAL PROVISIONS

Sec. 5-501 Penalty

Any person who shall violate any provision of any of the foregoing Rules and Regulations shall be guilty of a misdemeanor, pursuant to Chapter 1, Article 3, Section 1-3.1 of the Revised Ordinances of Honolulu, as amended and upon conviction thereof shall be punished for each offense as prescribed by law, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 5-502 Appeals

Appeals to the Board as prescribed in Sections 7-105(k) and 7-118 of the Revised Charter of the City and County of Honolulu shall be conducted in accordance with procedures established under Sections 91-9, -10, -11 and -12 of the Hawaii Revised Statutes.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 5-503 Repeal of Rules

The Rules and Regulations and all amendments thereto previously adopted by the Board are hereby repealed.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 5-504 Severability

If any rule, section, sentence, clause, or phrase of these Rules and Regulations, or the application thereof to any person, circumstance, or property is held to be unconstitutional or invalid, the remaining provisions or applications of these Rules and Regulations to other persons, circumstances, or property shall not be affected, and to this end the provisions of these Rules and Regulations are severable. The Board hereby declares that it would have adopted these Rules and Regulations as presently promulgated, irrespective and notwithstanding the fact that any one or more of said rules, sections, sentences, clauses, or phrases might be declared unconstitutional or invalid.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

Sec. 5-505 Rules Inoperative, When

If any provision of these Rules and Regulations jeopardizes the receipt by the State, City and County of Honolulu, or Department of any federal grant-in-aid or other federal allotment of money, the provision shall, insofar as such funding is jeopardized, be deemed inoperative.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

III. NEW BUSINESS

- B. Discussion and Action on Proposed Amendments to HAR Chapter 13-31,
Molokini Shoal Marine Life Conservation District, Maui, promulgated by DLNR

**PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**

(Hawaii Revised Statutes §201M-2)

Date: 8/8/2023

Department or Agency: Land and Natural Resources

Administrative Rule Title and Chapter: HAR 13-31, HAR 13-230, & HAR 13-257

Chapter Name: Molokini Shoal MLCD, General Provisions, and Day-Use Mooring Rules

Contact Person/Title: Keali'i Sagum

E-mail: nicholas.k.Sagum.researcher@hawaii.gov Phone: 8087244234

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?



Yes



No

If "Yes," provide details: _____

I. Rule Description:



New



Repeal



Amendment



Compilation

II. Will the proposed rule(s) affect small business?



Yes



No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?



Yes



No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))



Yes



No

(If "Yes" no need to submit this form.)

*

*

*

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

Forty tour boat (Snorkel, Dive, or Snuba dive operations) that are currently permitted to take passengers into the Molokini Marine Life Conservation District will be affected by these rule amendments.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

The proposed rule changes would increase permit fees by \$725/year for smaller vessels (<25 passengers), \$1,475/yr for mid sized vessels (25-74 passengers) and \$2,975/yr for larger vessels (>75 passengers).

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.

\$50/ two year permit, implemented in 1995 and not changed since then.

- b. Amount of the proposed fee or fine and the percentage increase.

Various see # 2 above.

- c. Reason for the new or increased fee or fine.

To help more closely cover the existing cost to the Department to manage the permit system within the Molokini MLCD.

- d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).

Accounting of the current cost to manage the commercial permit with consideration for the size of the business based on their passenger carrying capacity.

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

These permit fee increase will amount to approximately \$61,500 dollars being collected by the Department per year. Of this sum, \$12,000 will be paid to OHA as revenue from submerged ceded lands, with the additional \$49,500 being used to administer the permits, correspond with and ensure compliance of the permit holders, operate a remote live web camera system within the MLCD, provide for stepped up enforcement of rules in the area, conduct routine resource monitoring and continue to work with permit holders to reduce crowding and potential impacts to marine ecosystem within the MLCD.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

Extensive planning and scoping with all permit holders. We gathered input and adjusted the fee plan several times over a 3 year planning process. We reduced fees and changed to a set fee rather than a per person fee to reduce record keeping and compliance requirements on the operators, and we agreed to reduce fees given other funding options to help cover the maintenance and upkeep of the day use mooring infrastructure within the MLCD.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

We discussed various options with the tour operators and everyone decided this staged set fee would be the best option to help fund the management of the commercial permit process at this MLCD. There is no practical less restrictive alternative that was identified.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

See response to #5 above.

7. How the agency involved small business in the development of the proposed rules.

Several group meetings and emails over a three year period including the creation of a Molokini Commercial tour representative working group that meet to work through various options for rule amendments and permit fees.

- a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

Yes. We worked through various options for regulating the use of Molokini by the commercial tour operators and made significant changes to the day use mooring rules allowing for more flexibility in use of the area, we strengthened language that allowed for only permitted operators to take tours to Molokini, we changed early plans on fees from per person to set based on passenger capacity to reduce fee amounts and the administrative burden on the companies, etc.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

All proposed amendments were made in consultation with the tour operators using the area and done to address real time issues and concerns at the MLCD. The management needs were the driving force of the rule amendments and all proposals were developed with industry consultation.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
Improved public access to the Molokini MLCD. Limiting commercial use to 40 permitted operations. Taking action to reduce crowding and improve visitor experiences to the MLCD while reducing impacts to the resources.
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
N/A
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
N/A
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
N/A
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.
N/A

* * *

Small Business Regulatory Review Board / DBEDT

Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>

Amendment and Compilation of Chapter 13-31
Hawaii Administrative Rules

(Date adopted)

1. Chapter 13-31, Hawaii Administrative Rules, entitled "Molokini Shoal Marine Life Conservation District, Maui", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART 1 MARINE LIFE CONSERVATION DISTRICTS

CHAPTER 31

MOLOKINI SHOAL MARINE LIFE CONSERVATION DISTRICT, MAUI

- §13-31-1 Definitions
- §13-31-2 Boundaries
- §13-31-3 Prohibited activities
- §13-31-4 Allowed activities
- §13-31-5 Exceptions; permits
- §13-31-6 Penalty

Historical note: Chapter 31 of title 13 is based substantially upon regulation 42 of the division of fish and game, department of land and natural resources, State of Hawaii. [Eff 7/8/77; R 5/26/81]

§13-31-1 Definitions. As used in this chapter unless otherwise provided:

~~["Trolling" means trailing a line attached to either a baited hook or artificial lure from a boat moving faster than slow-no-wake speed;~~

~~"Slow-no-wake" means as slow as possible without losing steerage way and so as to make the least possible wake. This would almost always mean speeds of less than five miles per hour;~~

~~"Demonstrate" as is used in section 13-31-5(3) means proof such as in any combination of documents including but not limited to copies of commercial licenses, excise tax reports, brochures, affidavits, etc. The burden of proof lies with the applicant.~~

~~"Active commercial vessel operation" as used in section 13-31-5(3) means use no less than two times every quarter over four quarters (12 months) and greater than eight times per year]~~

"Anchor" means to drop or deploy an anchor into the water. For the purposes of this section, "anchor" does not include attaching to a legal mooring.

"Finfish" means any of various species of marine life that uses fins to swim, not including marine mammals or sea turtles.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweed or other marine plants, including any part, product, seed, or holdfast thereof.

"Slow-no-wake" means as slow as possible without losing steerage way and so as to make the least possible wake. This would almost always mean speeds of less than five miles per hour.

"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, marine life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, marine life by any person who is in the water, or in a vessel on the water, or on or about the shore where marine life can be fished for, caught, captured, confined, or harvested, shall be construed as taking. Any gear, equipment, or tool possessed in the water shall be construed as being in use for the purposes of taking marine life.

"Trolling" means trailing a line attached to either a baited hook or artificial lure from a boat moving faster than slow-no-wake speed. [Eff and comp 9/16/95; am and comp] (Auth: HRS §190-3) (Imp: §§190-3, 190-4.5)

§13-31-2 Boundaries. The Molokini shoal marine life conservation district shall include subzones A and B of that portion of the submerged lands and overlying waters surrounding Molokini islet, county of Maui, as follows:

- (1) Subzone A is defined as that portion of submerged lands and overlying waters within the crater, beginning at a point at the highwater mark of Lalilali Point, then along the highwater mark of the northern shoreline eastward until Pahe'e o Lono Point, then west along a straight line to the end of the submerged ridge (shoal) extending from Lalilali Point, then along the top of the shoal back to the point of beginning; and
- (2) Subzone B is defined as that portion of submerged lands and overlying waters outside the crater, encircling the islet out to 100 yards, seaward of the point of beginning at the highwater mark of Lalilali Point then eastward along the highwater mark of the

southern shoreline of the islet to Pahe'e o Lono Point, then west along a straight line from Pahe'e o Lono Point to the end of the shoal extending from Lalilali Point, then along the top of the shoal back to the point of beginning.

Subzone areas A and B are illustrated in [~~"Map of Molokini Shoal Marine Life Conservation District, Maui 1/18/94" attached~~] Exhibit A entitled "Map of Molokini Shoal Marine Life Conservation District, Maui", dated June 24, 2019, located at the end of this chapter. [Eff 5/26/81; am, ren, and comp 9/16/95; am and comp] (Auth: HRS §190-3) (Imp: HRS §§190-1, 190-2, 190-3)

§13-31-3 Prohibited activities. [~~No person shall engage in the following activities in~~] Within the Molokini [shoal marine life conservation district] Shoal Marine Life Conservation District, county of Maui, no person shall:

- (1) [~~Fish for, catch, take, injure, kill, possess, or remove any finfish, crustacean, mollusk including sea shell and opihi, live coral, algae or limu, or other marine life, or eggs thereof~~] Take marine life except as provided for in section 13-31-4(1);
- (2) Have or possess in the water, any [~~spear, trap, net, crowbar,~~] gear, equipment, tool, or [~~any~~] other device that may be used for the taking or altering of [~~marine life,~~] any geological feature[7] or specimen;
- (3) Take, alter, deface, destroy, possess, or remove any sand, coral, rock, or other geological feature[7] or specimen;
- (4) Feed or deliberately introduce any food material, substance, or attractant, directly to or in the vicinity of any marine life, by any means for any purpose except as provided in section 13-31-4(1);

- (5) ~~[Moor boats for commercial activities]~~
Engage in commercial activity involving
ocean users getting in or on the water,
including but not limited to swimming,
snorkeling, diving, kayaking, or paddling,
except as provided for in section 13-31-5;
or
- (6) Anchor a boat ~~[when a day use mooring system~~
~~and management plan is established by this~~
~~department].~~ [Eff 5/26/61; am, ren, and
comp 9/16/95; am and comp]
(Auth: §§190-3, 190-4.5) (Imp HRS §§190-1,
190-3, 190-4.5)

§13-31-4 Allowed activities. A person ~~[may:~~

- ~~(1) Fish for, catch, take, possess, or remove]~~
may take or possess any finfish by trolling
in subzone B [only;
- ~~(2) Possess in the water, any knife and any~~
~~shark billy, bang stick, powerhead, or~~
~~carbon dioxide (CO2) injector for the sole~~
~~purpose of personal safety.] only.~~ [Eff
5/26/81; am, ren, and comp 9/16/95; am and
comp] (Auth: HRS §§190-3, 190-
4.5) (Imp: HRS §§190-1, 190-3, 190-4.5)

§13-31-5 Exceptions; permits. (a) The
department may issue ~~[permits]~~ special activity
permits, not longer than one year in duration, to
engage in activities otherwise prohibited by law ~~[and~~
~~section 13-31-3, under such terms and conditions it~~
~~deems necessary to carry out the purpose of chapter~~
~~190, Hawaii Revised Statutes:~~

- ~~(1) To take]~~ for scientific, educational,
management, or propagation~~[, or other]~~
purposes in conformance with chapter 190 and
section 187A-6, Hawaii Revised Statutes~~[,~~

~~any form of marine life or eggs thereof otherwise prohibited by law;].~~

[+2+] (b) Except as provided in chapter 13-257, subchapter 4, the department may issue marine life conservation district commercial use permits to engage in commercial activity, excluding the taking of marine life, with [a marine life conservation district use permit.] the following conditions:

- (1) Each boat shall be required to obtain a separate permit[. An applicant for this permit shall pay a non-refundable permit fee of \$50 valid for a two-year duration.];
- (2) Upon adoption of this chapter, active permits with an expiration date of December 14, 2023 shall have a new expiration date of December 31, 2023. Thereafter, permits shall be valid for not longer than two years and shall expire on December 31 of each odd-numbered year;
- (3) Each permittee shall pay a permit fee at the time of renewal. The fee shall be set based on three categories of passenger capacity: Category 1 for vessels with passenger capacities lower than 25; Category 2 for vessels with passenger capacities between 25 and 74; and Category 3 for vessels with passenger capacities equal to 75 or more;
- (4) Permit renewal fees shall be set at the following: Category 1 = \$1,500; Category 2= \$3,000; and Category 3= \$6,000;
- (5) The department may establish permit terms and conditions that provide for the reduction or waiver of permit fees as the department deems appropriate;
- (6) Prior to [its] the expiration of the permit, the permittee may apply for reissuance. Unless the permit is reissued, it shall automatically expire on the expiration [date. The permittee shall indemnify, defend, and hold harmless the State of

~~Hawaii, its successors, assigns, officers, employees, contractors, and agents from and against any loss, liability, claim or demand for property damage, personal injury and death arising from any act or omission related to this permit;~~ date;

~~[(3)]~~ (7) An application for reissuance of this permit shall be accepted only from a commercial operator who ~~[can demonstrate active commercial vessel operation within the Molokini shoal marine life conservation district]~~ possesses a current permit within the twelve-month period immediately prior to the [effective date of these rules,] expiration date of their current permit and who possesses a commercial vessel use permit for the use of state boating facilities issued in accordance with section [13-231-57,] 13-231-57 or a commercial vessel registration issued in accordance with section 13-256-4. [No application for a permit shall be accepted after ninety days of the effective date of these rules;]

(8) The permittee shall indemnify, defend, and hold harmless the State of Hawaii, its successors, assigns, officers, employees, contractors, and agents from and against any loss, liability, claim or demand for property damage, personal injury and death arising from any act or omission related to this permit;

~~[(4)]~~ (9) The permit shall be incorporated as an addendum to the commercial vessel use permit for the use of state boating facilities issued in accordance with section 13-231-57, or a commercial vessel registration issued in accordance with section 13-256-4;

~~[(5)]~~ (10) The permit shall be non-transferrable, except as provided by section 13-231-62;
[and]

(11) The Department may establish additional permit terms and conditions deemed necessary

to minimize any adverse effect within the conservation district; provided that the department shall provide written notice of any change in permit conditions at least ninety calendar days prior to the effective date of the change, except, as determined by the department, when an immediate change in permit conditions is necessary to protect or preserve the conservation district or to protect the health and safety of the public; and

[~~(6)~~] (12) The board may revoke any permit for any infraction of the terms and conditions of the permit, and a person whose permit is revoked shall not be eligible to renew a permit until the expiration of one year from the date of revocation. [Eff 5/26/81; am 3/2/87; am, ren, and comp 9/16/95; am and comp] (Auth: §§187A-6, 190-3, 190-4.5) (Imp: HRS §§90-3(b), 187A-6, 190-4)

§13-31-6 Penalty. A person violating the provisions of this chapter or the terms and conditions of any permit issued as provided by this chapter, shall be punished as provided by law." [Eff 5/26/81; am, ren, and comp 9/16/95; comp] (Auth: HRS §§190-3, 190-4.5) (Imp: HRS §190-5)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 13-31, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

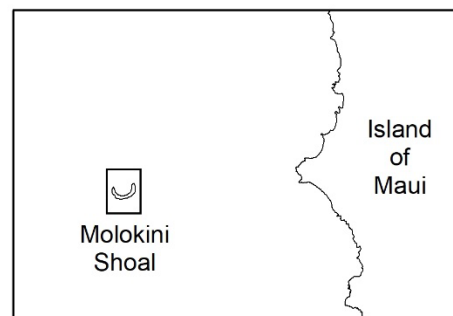
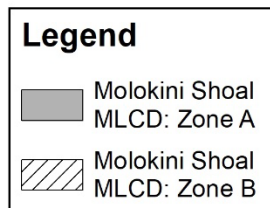
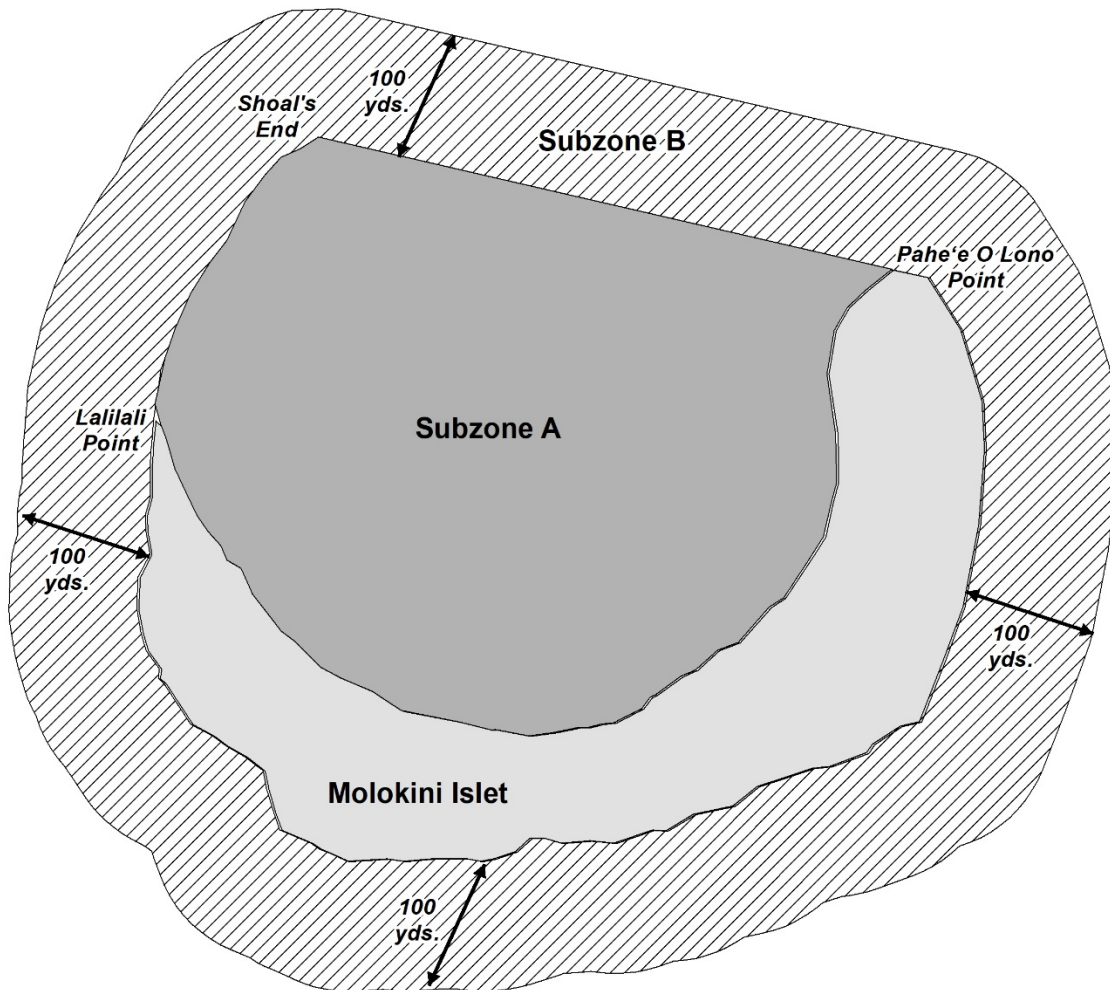
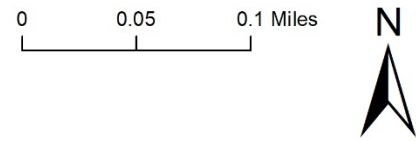
I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on (date), and filed with the Office of the Lieutenant Governor.

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

APPROVED AS TO FORM:

Deputy Attorney General

**Exhibit A. Map of Molokini Shoal
Marine Life Conservation District, Maui
June 24, 2019**



III. NEW BUSINESS

- C. Discussion and Action on Proposed
Amendments to HAR Chapter 13-230
General Provisions, promulgated by
DLNR

Amendment and Compilation of Chapter 13-230
Hawaii Administrative Rules

(Date adopted)

1. Chapter 13-230, Hawaii Administrative Rules,
entitled "General Provisions", is amended and compiled
to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 1

SMALL BOAT FACILITIES AND PROVISIONS GENERALLY
APPLICABLE TO ALL STATE NAVIGABLE WATERS

CHAPTER 230

GENERAL PROVISIONS

Historical note

Subchapter 1 Scope and Definitions

§13-230-1	Purpose and scope
§13-230-2	Interpretation
§13-230-3	Severability
§13-230-4	Penalties and prosecution
§13-230-5	Judicial review
§13-230-6	Notice

- §13-230-7 Tampering with, defacing or removing notices
- §13-230-8 Definitions
- §§13-230-9 to 13-230-19 (Reserved)

Subchapter 2 Determination of Residency

- §13-230-20 Purpose
- §13-230-21 Repealed
- §13-230-22 Twelve-month rule
- §13-230-23 Indications of residence
- §13-230-24 Rules of construction
- §13-230-25 Particular categories
- §13-230-26 Determination of residence procedure
- §13-230-27 Permittee required to report change of residence
- §13-230-28 Appeals
- §13-230-29 Misrepresentation

Historical note. This chapter is based on general provisions, definitions, and determination of residency of the small boat harbors rules, effective November 5, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activities was transferred to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94; comp 12/7/13]

SUBCHAPTER 1

SCOPE AND DEFINITIONS

§13-230-1 Purpose and scope. The purpose of these rules is to secure the most effective control

and management of the small boat harbors and facilities of the State in order that the general public may enjoy safe, orderly, and convenient water recreation. These rules are intended to harmonize and coordinate the department's powers and duties with all applicable public laws, and are also intended to govern the use or operation of vessels and the activities of persons in the small boat harbors, shores, ocean waters, and navigable streams of the State. [Eff 2/24/94; comp 12/7/13; comp
] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-2 Interpretation. If any section of these rules is inconsistent with any laws of the United States or any rule, or standard established pursuant thereto, such section shall be construed, superseded, or governed thereby. Nothing contained in these rules shall be construed to limit the powers of any state department or agency. Each provision of these rules is also intended to be construed most liberally in light of the purpose stated in section 13-230-1. [Eff 2/24/94; comp 12/7/13; comp
] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-3 Severability. The provisions of these rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of such remainder to other persons or property shall not be affected. [Eff 2/24/94; comp 12/7/13; comp
] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-4 Penalties and prosecution. (a) Violation of rules, penalty. Any vessel, its agent, owner, or crew that violates the rules of the

department, including vehicular parking or traffic movement and unauthorized discharge, dumping, or abandoning of any petroleum product, hazardous material, or sewage in violation of the state water quality standards established by the department of health, may be fined or deprived of the privilege of operating or mooring any vessel in state waters for a period of not more than thirty days, in accordance with section 200-14, Hawaii Revised Statutes.

(b) General administrative penalties. Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines and fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 8 of title 12 or any rule adopted thereunder in accordance with section 200-14.5, Hawaii Revised Statutes. Each day or instance of violation shall constitute a separate offense.
[Eff 2/24/94; comp 12/7/13; am 12/31/18; comp
] (Auth: HRS §§200-2, 200-3, 200-4, 200-14, 200-14.5) (Imp: HRS §§200-2, 200-3, 200-4, 200-14, 200-14.5)

§13-230-5 Judicial review. Nothing contained in these rules shall be construed to preclude appropriate resort to judicial remedy or review. [Eff 2/24/94; comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-6 Notice. Where notice to a permittee, co-owner, lien holder, owner or any other party is required by this chapter the department shall effect service by one of the following:

- (1) Posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;

(2) Mailing the notice to the person by certified mail, return receipt requested, at the person's last known address, provided that service by mail is deemed received and completed five days after the date of mailing; or

(3) Personal service;

provided that in an emergency, where life or property is endangered or if a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway unless immediate action is taken, remedial action may be taken by the department without prior notice. [Eff 2/24/94; comp 12/7/13; comp

] (Auth: HRS §§200-2, 200-4, 200-9, 200-10) (Imp: HRS §§200-2, 200-4, 200-9, 200-10)

§13-230-7 Tampering with, defacing or removing notices. No person shall tamper with, deface, or remove any notice posted by the department pursuant to section 13-230-6 except the owner of the vessel or the permittee assigned to the berth. [Eff 2/24/94; comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-8 Definitions. When used in these rules promulgated pursuant to chapter 200, Hawaii Revised Statutes, unless otherwise specifically provided or the context clearly indicates otherwise:

"Abandon" when applied to animals, means to leave an animal at any location, whether intentionally, recklessly, or negligently, without the owner intending to return for the animal and without the permission of the public or private property owner.

"Adult" means a person who has reached majority.

"Agreement" means the agreement between the boat owner and the State as required by section 13-231-2.

"Anchoring" means to secure a vessel temporarily to submerged land by dropping an anchoring device from a vessel.

"Anchoring device" means a device made of metal or similar material, attached by rope or chain to a vessel, which can be deployed to submerged land to secure the vessel in a particular place.

"Approved" means that a fitting, appliance, apparatus, or item of equipment to be fitted or carried in a vessel, or by any particular arrangement, is sanctioned by the commandant of the Coast Guard, unless otherwise stated by the department.

"Approved backflow prevention device" means a backflow prevention device that meets the requirements contained in standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (IAPMO).

"Approved marine surveyor" means a person who has been approved by the chairperson to inspect a vessel for an owner seeking a permit to moor a vessel in a small boat harbor in accordance with section 13-231-45(h) and (i).

"Approved vessel inspector" means an employee of the department who has been designated by the chairperson to inspect a vessel for compliance with criteria necessary to obtain a mooring permit.

"Assigned berth" means a berth that is assigned to a permittee by a valid regular mooring permit.

"Background" means that portion of the hull or superstructure, or a specially provided backing plate, upon which the numbers are placed, but shall not include any border, trim, outlining, or shading of the numerals or letters.

"Barge" means a non-self-propelled vessel.

"Berth" means any place where a vessel is anchored, moored, or made fast or laid alongside a dock, quay, catwalk, or pier.

"Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels which are sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

"Boat" means a small vessel propelled by oars or paddles or by sail or power.

"Boat dealer" means a person engaged wholly or partly, for gain or compensation, in the business of selling vessels or offering vessels for sale, buying or taking in vessels for the purpose of resale, or exchanging vessels.

"Boat livery" means a person or entity who is engaged in the business of renting, leasing, or chartering vessels.

"Boat manufacturer" means a person engaged in:

- (1) The manufacture, construction, or assembly of boats or associated equipment;
- (2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or
- (3) The importation into the United States for sale of boats, associated equipment, or components thereof.

"Boat owner" means the legal owner of a vessel where there is no security interest held by anyone on the vessel, a buyer under a purchase money security interest, a debtor under any security interest, a demise charterer of a vessel, or a lessee or charterer of a vessel under lease or charter which provides the lessee or charterer with exclusive right to possession of the vessel to the exclusion of the lessor or the person from whom the vessel is chartered. The documentation of ownership must meet the requirements of section 13-241-5(c).

"Recreational boating accident":

- (1) Means a collision, accident, or other casualty involving:
 - (A) A person's death;
 - (B) Complete loss of a vessel;
 - (C) Damage to a vessel amounting to \$2,000 or more;
 - (D) The disappearance of a person from a vessel under circumstances indicating death or injury to that person; or

- (E) The injury to a person requiring medical treatment beyond first aid.
- (2) Includes damage to a vessel or its equipment, loss of life, or injury to any person or object:
 - (A) Caused by a moving vessel's wake, wash, or waves, or by a vessel's capsizing, or collision with another vessel or object;
 - (B) Caused by flooding, fire, or explosion;
 - (C) Caused when a person falls overboard; or
 - (D) On board a vessel.

"Bona fide fishing tournament" means a fishing tournament sponsored by a boat club, fishing club or yacht club, or a business or non-profit organization formed for the primary purpose of sponsoring a fishing tournament where participation is invited from the general public.

"Buoy" means any floating aids to navigation moored to the seabed and used to convey a message.

"Business" means any and all activities engaged in or caused to be engaged in by any person or legal entity, including, but not limited to, solicitations and advertisements, with the object of making a profit or obtaining an economic benefit either directly or indirectly.

"C.F.R." means the Code of Federal Regulations.

"Camping" means the use and occupation of any portion of a state small boat harbor, boat launching facility, or any other property managed by the department as a temporary or permanent dwelling place or sleeping place (including the laying down of bedding for the purpose of sleeping). Camping includes being in possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia, or storing personal belongings, or making any fire, or using any tents, shelter, or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of the circumstances,

that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

"Canoe" means outrigger canoe.

"Carrying passengers for hire" means the carriage of any person or persons by a vessel for compensation flowing, whether directly or indirectly, to the owner, charterer, operator, agent, or any other person interested in the vessel.

"Catamaran" means a multi-hulled vessel with a broad, flat deck that is affixed on top of closed cylinders which are used for buoyancy, the basic design of which is usually implemented with two rows of floats as a catamaran or with three rows of floats as a trimaran.

"Certificate" means a certificate of number issued by the department for an undocumented vessel.

"Chairperson" means the chairperson of the board of land and natural resources of the State of Hawaii or the chairperson's duly authorized representative or subordinate.

"Civil union" means a union between two individuals established pursuant to chapter 572B, Hawaii Revised Statutes.

"Civil union partner" means an individual who is a party to a civil union established pursuant to chapter 572B, Hawaii Revised Statutes.

"Coast Guard" means the United States Coast Guard, or its successor agency.

"Colony" means a collective of free-roaming, abandoned, stray, or feral cats.

"Commercial activity" means to engage in any action or attempt to engage in any action designed for profit, which includes, but is not limited to, the exchange or buying and selling of commodities; the providing of services relating to or connected with trade, traffic, or commerce in general; any activity performed by the commercial operator or its employees or agents in connection with the delivery of such commodities or services; and the soliciting of

business, including the display or distribution of notices, business cards, or advertisements for commercial promotional purposes.

"Commercial fishing motorboat" means a motorboat used for taking fish for profit or gain or as a means of livelihood.

"Commercial high speed boating" means the use of an open ocean racing boat to provide high speed rides to passengers who pay compensation for the rides.

"Commercial high speed boating" does not include:

- (1) The use of an open ocean racing boat during an official racing competition; or
- (2) The use of an open ocean racing boat while practicing for a racing competition; provided that no passenger pays compensation for riding the boat during the practice.

"Commercial motorboat" means any motorboat used for hire, profit or gain.

"Commercial ocean recreation activities" means any ocean recreation activity offered for a fee.

"Commercial purposes" includes the staging, loading, and discharge of passengers or supplies at a state boating facility for further transport to a vessel's offshore location by means of a water taxi or any other vessel, or provisioning a vessel before or after a voyage involving the carriage of passengers for hire.

"Commercial vessel" means a vessel engaged in any trade, business, or commercial activity, including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

"Compensation" means any valuable consideration.

"Contrivance" means any man-made object or artificial arrangement not used or intended to be used for transportation which may be floated upon or suspended within or on the water.

"Day-use mooring buoy" means a mooring buoy that can be used for a maximum of two and one-half hours at a time and overnight mooring is prohibited.

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

"Dinghy" means a small open boat under thirteen feet in length, which may be propelled by oars, sails, or an outboard motor and carried on or towed by a larger boat or yacht.

"Display area" means the area on a sign or buoy used for display of a waterway marker symbol.

"Diver's flag" means a red flag with a white diagonal running from the masthead to lower outside corner.

"Division" means the department of land and natural resources division of boating and ocean recreation.

"Documented vessel" means any vessel which has a valid marine document issued by the Coast Guard, in accordance with the Code of Federal Regulations, Subchapter G, Part 67, Documentation of Vessels.

"Dormant vessel" means a vessel or contrivance, other than a houseboat, that has not been navigated from or has not vacated an assigned mooring or facility within or offshore of a state small boat harbor at least once within a ninety-day period, or cannot be made seaworthy upon thirty days' notice to the owner.

"Enforcement officer" means a police officer and any other state or county officer charged with the enforcement of state laws.

"Federal laws and requirements" means all statutes, regulations, and other laws of the United States, which may be applicable to these rules.

"Feral" means having escaped or been released from domestication and reverted to a wild state and any offspring resulting therefrom.

"Firm" includes a business organization such as a sole proprietorship, partnership, or corporation which is licensed to engage in or conduct business in the State.

"Foreign built vessel" means any vessel whose hull was constructed in a country other than the United States.

"Forward half of the vessel" means any portion of the vessel in front of a point equidistant from the stem and stern of the vessel.

"Free diver" means a person who is using a mask and snorkel, other than for SCUBA diving, who submerges under water or breaks the surface of the water.

"Global Positioning System" (GPS) means the method of terrestrial navigation using a GPS electronic instrument, receiving data from a network of orbiting satellites to locate one's position by latitude and longitude.

"Gross receipts" means all moneys paid or payable to the account of the commercial use permittee or catamaran registration certificate holder, for services rendered, or resulting from trade, business, commerce, or sales by the vessel or water sports equipment owner when the services, trade, business, commerce, or sales have a direct relationship to the vessel or permitted activity.

"Guardian" means a person invested by a court of law with the power, and charged with the duty, of taking care of a person and of managing the property of that person.

"Hanai" means a child who is taken permanently to be reared, educated, and loved by someone other than natural parents--traditionally a grandparent or other relative. The child is given outright; natural parents renounce all claims to the child. Usually the child is given at infancy.

"Handboard" means any type of surf riding board that is:

- (1) With or without skegs;
- (2) Worn on one or both of the operator's hands;
- (3) Is less than sixteen inches in overall length; and
- (4) Is used for the sport of wave riding.

"Harbor resident" means the owner, co-owner, or their spouse and their legal dependents authorized by

the department to reside on board a vessel used as the principal habitation of the owner.

"Hearing officer" means a person appointed by the chairperson to hear appeals.

"High seas" means all parts of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal waters of the United States.

"Highway" means "street" as defined in this section.

"Houseboat" means any vessel which is fitted for use as a permanent or temporary place of habitation, and is either stationary or capable of being moved by oars, sweeps, or towing.

"Hull" means the shell, frame, or body of a vessel, exclusive of masts, yards, sails, riggings, machinery, and equipment.

"Immediate family" means any person and his or her spouse and dependent children under twenty-one years of age.

"Inland waters" mean the waters shoreward of the territorial sea baseline.

"Interest" includes any claim of right, title, ownership of stock, shares, profit, benefit, or gain in a corporation, partnership, joint venture, or any other business entity that has a use permit.

"Kayak" means a watercraft that has an open or covered top and is designed to hold one or more participants and propelled by use of a single- or double-bladed paddle.

"Launch" means a small motorboat that is open or that has the forepart of the hull covered.

"Legal dependent" or "dependent" means those persons who are defined as dependents by law, e.g., a spouse or minor child, or who are defined as dependents under Internal Revenue Service regulations or by the Armed Forces of the United States, or any of the following persons who are dependent upon a permittee for all or a substantial portion of the person's living expenses:

- (1) Spouse;
- (2) A son or daughter who is:

- (A) Unmarried and under eighteen years;
 - (B) Unmarried and under twenty years if a full-time student at a high school, business school, or technical school;
 - (C) Unmarried and under twenty-two years if a full-time undergraduate student at a college; or
 - (D) Unmarried and physically handicapped so as to be incapable of self-support;
- (3) A parent or grandparent if physically handicapped so as to be incapable of self-support;
 - (4) A grandchild, brother, or sister under eighteen years of age.

"Legal owner" includes a person who holds unencumbered title to a vessel or is a secured party under a security interest for the vessel.

"Length" when applied to vessels covered by these rules, means the measurement of a vessel from end to end over the deck. It is a straight-line measurement of the overall length from the foremost part of the vessel measured parallel to the centerline. Bowsprits, boomkins, rudders, motor brackets, and similar fittings or attachments or sheer are not to be included in the measurement. In case of a vessel of an open type or with a cockpit, the measurement is taken between the foremost and aftermost extremities of the hull exclusive of sheer.

In vessels having more than one deck, it is the length measured from the foremost part of the bow to the aftermost part at the stern exclusive of sheer.

"Lienholder" means a person holding a recorded security interest in a vessel.

"Lifeboat" means a boat carried aboard a vessel and used solely for lifesaving purposes, but not including dinghies, tenders, speedboats, or other types of craft carried aboard a vessel and used for other than lifesaving purposes.

"Liquor" or "intoxicating liquor" shall mean the same as defined in section 281-1, Hawaii Revised Statutes.

"Litter" means any and all types of debris and substances, whether liquid or solid, and materials such as garbage, refuse, rubbish, glass, cans, bottles, paper, wrappings, fish or animal carcasses, or any other nauseating or offensive matter or any machinery, appliance, or automobile, or parts thereof, or any other substances which render small boat harbor lands or facilities unsightly, noxious, or otherwise unwholesome to the detriment of the public health and welfare or the enjoyment of the small boat harbor for recreational purposes.

"Livery boat" means a vessel which is rented, leased, or chartered by a person who is engaged in the business of renting, leasing, or chartering vessels.

"Living aboard" means the substantial use of a vessel as a place of abode, dwelling, living quarters, or residence, including, but not limited to, the regular use for such purposes during weekends.

"Machinery" means all internal combustion engines located within the vessel and all motor or mechanical devices capable of propelling vessels.

"Majority" means the age specified under section 577-1, Hawaii Revised Statutes.

"Minor" means a person who has not reached the age of majority.

"Moor" means to secure a boat by making it fast with cables, lines, or anchors.

"Mooring" means a buoy attached by rope or chain to a permanently placed weight or structure situated within a submerged land area and to which a vessel can be made permanently or temporarily secured. "Moorings" are also referred to as "mooring buoys".

"Motorboat" means any vessel which is equipped with propulsion machinery, including steam. This term includes, but is not limited to, wet bikes, motorized surfboards, and any other vessel temporarily or permanently equipped with a motor.

"Navigable streams" means the waters of estuaries and tributaries of the streams of each island of the State, where boating and water related activities, recreational or commercial, may be carried on, whether the mouths of the streams are physically opened or not

to ocean waters for intra or interstate commerce or navigation.

"Nonresident" means a person who is not a resident of the State of Hawaii.

"Ocean recreation management area" (ORMA) means ocean waters of the State that have been designated for specific activities as described in chapter 13-256, Ocean Recreation Management Rules and Areas.

"Ocean waters" means all waters seaward of the shoreline within the jurisdiction of the State.

"Open ocean racing boat" means a motorized vessel which:

- (1) Is designed, modified, or restored for the primary purpose of high speed board racing; and
- (2) Has the capacity to carry not more than the operator and five passengers.

"Operate" means to navigate or otherwise use a vessel on or in the waters of the State.

"Operator" means a person who operates, or who has charge of the navigation or use of, a vessel.

"Operator permit" means the permit issued by the department which authorizes either the direct operation or the offering for a fee of surfboards and sailboards or any vessel, watercraft or water sports equipment on the ocean waters and navigable streams of the State.

"Outrigger canoe" means a canoe having the inclusion of a rig known as an outrigger which acts as a counterpoise or balance, rigged out from the side of the canoe. A number of spars (iako), usually two but up to as many as ten depending on the canoe's origin and purpose, are lashed across and to the canoe gunwales, extending outwards for a given distance and truncating with the attachment of a flotation device (ama).

"Owner" shall be synonymous with the word "boat owner" as defined in this section.

"Paddleboard" means any type of board that is:

- (1) Without skegs;
- (2) Does not exceed four feet in length; and
- (3) Is used for the sport of surfriding.

"Paipo board" shall be synonymous with the word "paddleboard" as defined in this section.

"Parasailing" means the activity in which an individual is transported or carried aloft by a parachute, sail, or other material attached to a towline, which is towed by a vessel.

"Parent" includes legal guardian and legal adoptive parent, except where the guardianship or adoption was acquired primarily to obtain resident status for the ward or adopted child. It shall also include a person who can legally claim an unmarried minor as a dependent for federal income tax purposes, but only when the person has been in loco parentis to the minor for the twelve-month period immediately preceding the residence determination date.

"Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

"Passenger" means every person carried on board a vessel other than:

- (1) The owner or the owner's representative;
- (2) The operator;
- (3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and are paid for their services; or
- (4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for the guest's carriage.

"Person" means any individual, firm, partnership, corporation, trust, association, joint venture, organization, institution, or any other legal entity.

"Personal flotation device" is a technical term for a life preserver that has been approved and certified by the United States Coast Guard and capable of providing at least ninety per cent of factory-rated flotation capacity.

"Pet owner" means any person owning, harboring or keeping a dog, cat, or other domestic pet, or having custody thereof.

"Power driven catamaran" means a catamaran propelled by machinery whether under sail or not.

"Power-driven vessel" means any vessel propelled by machinery.

"Pram" means a small lightweight nearly flat-bottomed boat with a broad transom and usually square-bow often used as a dinghy.

"Principal owner" means a person whose name appears on a certificate of number as the primary owner or who is named as managing owner of a Coast Guard documented vessel.

"Principally used" means a measurement of the time when a vessel is on the waters of the United States, a state, territory, province, or country and includes the time when the vessel is not in motion, as, for instance, when the vessel is moored or at anchor, as well as the time when the vessel is being navigated.

"Rafting" means tying up or otherwise attaching one vessel to another vessel that is already attached to a mooring or similar device, or to another vessel that is already anchored.

"Reciprocal beneficiary" means an adult who is a party to a valid reciprocal beneficiary relationship and meets the requisites for a valid reciprocal beneficiary relationship as set forth in chapter 572C, Hawaii Revised Statutes.

"Recreation" means activities in which there is direct and intimate contact with water including, but not limited to, fishing, swimming, surfing, boating, water skiing, and viewing or enjoying historical, archeological, scenic, or scientific sites.

"Recreational vessel" means any vessel that is being used for pleasure and not for conducting commercial activity.

"Regatta" or "marine parade" means an organized water event of limited duration which is conducted according to a prearranged schedule.

"Registration sticker" means a pair of stickers, plates, tabs, or other devices issued by the department with certificates of number and renewals thereof to be affixed to the vessel to indicate that the vessel's certificate of number is current and valid.

"Regular permittee" means a person holding a valid regular mooring permit.

"Regulatory marker" means a waterway marker which indicates the existence of regulatory areas, speed zones or restricted areas and which has no equivalent in the United States Coast Guard system of navigational aids.

"Residence" or "residence status" means a combination of physical presence in a place and the intent to make such place one's permanent home.

"Residency determination date" means:

- (1) The date a person applies for a use permit or for application renewal;
- (2) The date of issuance or renewal of a use permit;
- (3) The date the department makes a residency status determination following the receipt of a completed questionnaire submitted by a person classified as a nonresident pursuant to section 13-230-27; or
- (4) The date of a hearing officer's decision on a petition submitted to the department as prescribed in section 13-230-28.

"Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" shall refer to each roadway separately but not to all such roadways collectively.

"Rules" means the rules governing small boat harbors, facilities under the jurisdiction of the division, and State ocean waters as set forth in Title 13, Subtitle 11 - Ocean Recreation and Coastal Areas.

"Rules of the road" means the federal statutory and regulatory rules governing navigation of vessels.

These rules are published by the Coast Guard in pamphlet form and known as Navigation Rules - International - Inland COMDTINST M16672.2B.

"Sailboard" means any type of board that exceeds four feet in length and is propelled by a detachable sail apparatus.

"Sailing vessel" means any vessel propelled by sail only. Every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power-driven vessel.

"SCUBA" means self-contained underwater breathing apparatus and includes all forms of self-contained underwater breathing apparatuses, e.g., re-breathers, open-circuit, semi-closed or closed circuit or surface-supplied breathing apparatuses.

"Security interest" means an interest in a vessel reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended for security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions contained in article 9, chapter 490 and section 490:1-201, Hawaii Revised Statutes.

"Sheer" means the longitudinal upward curve of the deck, gunwales, and lines of a vessel, when viewed from the side.

"Shore waters" or "shores" means any shores or waters between the three nautical mile limit and the shoreline of the islands of the State of Hawaii.

"Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

"Sign" means any device for carrying a message which is attached to another object such as a piling, buoy, structure, or land itself.

"Skeg" means any fin-like projection.

"Sleeping place" means a place used by a person for the purpose of sleeping, where the person is or may be asleep inside a tent, sleeping bag, or some form of temporary shelter or is or may be asleep atop of or covered by materials such as a cot, mat, bedroll, bedding, sheet, blanket, pillow, bag, cardboard, or newspapers.

"Slow-no-wake" means as slow as possible without losing steerage way and so as to make the least possible wake. This would almost always mean speeds of less than five miles an hour.

"Small boat harbor" means those harbors or portions of harbors, and any interest in property, whether real, personal, or mixed connected therewith under the care and control of the department, which are used as described in section 200-9, Hawaii Revised Statutes.

"Snorkeler" shall be synonymous with the word "free diver" as used in this section.

"Spouse" means a marriage partner, reciprocal beneficiary, or civil union partner of an individual.

"Stand" or "standing" means the halting of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

"State" means the State of Hawaii.

"State aid to navigation" means a waterway marker which is the equivalent of a United States Coast Guard aid to navigation.

"Stay aboard" or "staying aboard" means a person or persons aboard any vessel with prior notice to the department or a stay aboard permit between the hours of 12:00 midnight and 6:00 A.M., while the vessel is moored in a state small boat harbor or offshore mooring area.

"Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Stray" means any dog, cat, or other animal without a microchip or other registered owner-identifier or that is living or roaming off its owner's property without permission to be on other public or private property. Strays may also be feral or abandoned.

"Street" means the entire width between boundary lines of every way publicly maintained in any small boat harbor when any part thereof is open to the public for purposes of vehicular traffic.

"Surfboard" means any type of board that exceeds four feet in length and is used for the sport of surf riding.

"Symbols" means geometric figures such as a diamond, circle, or rectangle, used to convey a basic message.

"Tahiti moor" means the mooring of a vessel where one end of the vessel is moored by a rope or chain attached to a buoy that is attached to a pile or device that includes, but is not limited to, an anchor, concrete block or similar device placed or dropped on submerged land. The other end of the vessel is moored to the facility that includes, but is not limited to, breakwaters, catwalk, piers, and docks where direct access can be made from the facility to the vessel either by gangway, plank, or stepping onto the vessel.

"Temporarily assigned berth" means a berth that is allocated to a permittee by a valid temporary mooring permit for interim use of the facility.

"Temporary mooring" means mooring pursuant to a temporary use permit. Calculation of the allowable period for temporary mooring shall include cumulative days moored with and without a permit.

"Temporary permittee" means a person holding a valid temporary mooring permit for the interim use of a berth or offshore mooring.

"Tender" means a dinghy or a larger launch used to carry persons and supplies to and from large vessels.

"Territorial sea baseline" means the line from which the territorial sea is measured, which is

generally the low water line along the coasts including the coasts of islands and special closing lines drawn tangent to the headlands across the mouths of rivers, bays, inlets, and other similar indentations.

"Thrill craft" means any motorized vessel that falls into the category of personal watercraft, which:

- (1) Is generally less than thirteen feet in length as manufactured;
- (2) Is generally capable of exceeding a speed of twenty miles per hour;
- (3) Can be operated by a single operator, but may have the capacity to carry passengers while in operation; or
- (4) Is designed to provide similar operating performance as a personal watercraft through a combination of small size, power plant, and hull design.

The term includes, but is not limited to, a jet ski, waverunner, wet bike, surf jet, miniature speed boat, hovercraft, and every description of vessel which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, or being towed behind the vessel.

"Tow-in surfing" means utilizing a surfboard, often equipped with foot straps, to surf waves with the assistance of a thrill craft that is equipped with a rescue sled, bow tow-line, and a tow-in-rope.

"Transient vessel" means any vessel visiting the State for a period of less than ninety days.

"Ultralight or experimental float equipped aircraft" means an aircraft of light weight construction and limited range, generally carrying not more than two individuals, able to land on water surfaces using floats.

"Unassigned berth" means a berth that is not assigned to a permittee by a regular mooring permit.

"Underway" means the vessel is not at anchor, aground, or made fast to shore.

"Undocumented vessel" means any vessel which does not have a valid marine document issued by the Coast Guard, in accordance with the Code of Federal Regulations, Subchapter G, Part 67, Documentation of Vessels.

"Use permit" as used in these rules, means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore moorings, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2.

"Vacation" means a period spent away from home or business in travel or recreation.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, but excludes mopeds, devices moved by human power, or devices used exclusively upon stationary rails or tracks.

"Vessel" means all description of watercraft, used or capable of being used as a means of transportation on or in the water, except a seaplane.

"Vessel carrying passengers for hire" means any vessel which carries any person or persons for a valuable consideration that goes directly or indirectly to the owner, charterer, operator, agent, or any person who has an interest in the vessel.

"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restrict maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.

"Vessel length" means the end-to-end measurement of a vessel, taken over the deck, parallel to the waterline from the foremost part of the bow to the aftermost part of the stern; provided, that hull platings, plankings, and extensions aside from the hull proper, such as a bowsprit, are not to be included in the measurement; provided further, that an open-type vessel or one with a cockpit shall be measured as if a complete deck existed at the upper level of the hull.

"Vessel length overall" means the distance between the fore-and-aft extremities of a vessel including hull platings, plankings and any extensions beyond the hull proper, such as bowsprit, boomkin, steering device, or other extensions.

"Vessel used as a place of principal habitation" means a vessel on which any person remains overnight ninety times or more in a calendar year while the vessel is moored in a state small boat harbor.

"Visiting vessel" means a vessel temporarily moored in a state small boat harbor while having a use permit applicable to a different state small boat harbor or other boating facility under the jurisdiction of the division.

"Water sledding" means the activity in which an individual is transported or carried over the surface of the water on an apparatus attached to a towline and towed by a vessel.

"Water sports equipment" means any equipment, contrivance, frame, or other device that one or more persons may wear, lie, sit, or stand upon or in, and which is primarily for use in or on the water for pleasure, recreation, or sports, and not necessarily for transportation.

"Waters of the State" means any waters within the jurisdiction of the State, the marginal seas adjacent to the State, and the high seas when navigated as part of a journey or ride to or from the shores of the State.

"Water taxi operations" means the shuttling of persons or cargo to or from the small boat harbor facility or a shoreside location authorized for such use under chapter 13-256 to a destination or vessel located outside the small boat harbor boundary.

"Waterway marker" means any device designed to be placed in, or near, the water to convey an official message to a boat operator on matters which may affect health, safety, or well-being, except that such devices of the United States or an agency of the United States are excluded from the meaning of the definition.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, and game mammals and game birds living in a wild and non-domesticated state, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. [Eff 2/24/94; am 4/27/02; am 6/16/03; am and comp 12/7/13; am 12/31/18; am and comp]
(Auth: HRS §§200-2, 200-4, 200-10, 200-22, 200-24)
(Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§§13-230-9 to 13-230-19 (Reserved)

SUBCHAPTER 2

DETERMINATION OF RESIDENCY

§13-230-20 Purpose. The purpose of this subchapter is to provide a procedure whereby a determination of residence status shall be made for all persons who own a vessel moored in a state small boat harbor or who apply for such moorage to assure that they are assessed the proper fees and charges as established by these rules; to provide appeals mechanism for those persons who believe their residency classification is in error; and to provide sanctions for misrepresentation by a petitioner. [Eff 2/24/94; comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-21 REPEALED. [R 12/31/18]

§13-230-22 Twelve-month rule. (a) Status as a Hawaii resident must be acquired, and not subsequently lost at least twelve months prior to the residence determination date to avoid payment of the nonresidence fee differential prescribed in section 200-34 Hawaii Revised Statutes. This twelve-month rule also applies to the person whose residency is determined by the fact of residency of another.

(b) While residency shall be lost if it is interrupted during the twelve months immediately preceding the residence determination date, resident status derived from two or more successive periods of domicile in Hawaii may be joined together to compute the twelve-month period. [Eff 2/24/94; am and comp 12/7/13] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-23 Indications of residence. Because determination of residence in Hawaii requires a finding of subjective fact (intent to make a permanent home) as well as of objective fact (and physical presence), the following objective indications of a person's intent will be considered when determining the person's status. No single index is decisive.

- (1) Primary indications.
 - (A) Voter registration in Hawaii.
 - (B) Voting in Hawaii.
 - (C) Possession and use of Hawaii motor vehicle license plates.
 - (D) Payment of Hawaii personal income tax.
 - (E) Presence of spouse, children, and other close relatives in Hawaii.
- (2) Secondary indications.
 - (A) Membership in voluntary organizations in Hawaii.
 - (B) Licensing from the State for professional practice.
 - (C) Carrying on of a business or the holding of a position in Hawaii.
 - (D) Ownership of residential property or continuous letting of an apartment on a

lease basis in Hawaii. [Eff 2/24/94;
comp 12/7/13; comp]
(Auth: HRS §§200-2, 200-4, 200-10)
(Imp: HRS §§200-2, 200-4, 200-10)

§13-230-24 Rules of construction. The following rules of construction shall be applied in all cases:

- (1) Residence in Hawaii and residence in another place cannot be held simultaneously.
- (2) Presence in Hawaii primarily to attend an institution of higher learning does not create resident status.
- (3) Resident status, once acquired, will be lost by future voluntary actions of the resident inconsistent with such status. However, Hawaii residence will not be lost solely because of absence from the State while employed in the service of the United States, while engaged in navigation, or while a student at any institution of learning. [Eff 2/24/94; comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-25 Particular categories. (a) Adults. The resident status of every adult shall be established by the adult's own acts and intentions and shall not be derived from any other person, except as specifically provided otherwise in these rules.

- (b) Minors.
 - (1) Unemancipated minor. The residence of an unemancipated minor is the residence of the minor's father, if living, or the residence of the minor's mother, if the father is deceased.
 - (2) Divorced parents. If the parents of an unemancipated minor are divorced, the minor's residence is that of the person to whom the minor's custody has been awarded by the court. If no award of custody has been

made, the minor's residence is that of the father. However, if the minor maintains the minor's primary abode with the parent not having legal custody, residence of the minor is determined by that parent with whom the minor's primary abode is maintained.

- (3) Separated parents. If the parents of an unemancipated minor are separated, without a divorce having been granted or custody award having been made, the minor's residence is that of the father if the minor is not living with either parent. If the minor maintains primary abode with a parent, the minor's residence is the residence of that parent.
- (4) Death of a parent who had custody. The residence of an unemancipated minor becomes that of the surviving parent upon the death of the parent who had the minor's custody.
- (5) Both parents deceased. If both parents are deceased, the residence of the unemancipated minor remains that of the last parent to die until changed by court order. Upon court appointment of a guardian for the minor, the residence of the minor becomes that of the guardian.
- (6) A nonresident unemancipated minor attending an institution of higher learning outside of Hawaii or on active duty with the United States Armed Forces, whose parents become residents of Hawaii, and who would reach majority before deriving Hawaiian residence from the minor's parents' new status, may be classified as a resident for fee purposes when the minor's parents have completed twelve consecutive months of residence; provided that such classification will be lost if actions inconsistent with resident status are taken after leaving such institution or discharge from the military (e.g., failure to promptly make a home in Hawaii).

- (7) If an unemancipated minor's parents lose their Hawaii residence, the minor will be classified as a nonresident at the next residence determination date. However, if the parents' change of residence is due to obedience to active-duty military orders, the minor shall continue to pay only resident fees and charges as long as one of the minor's parents remain on active duty and in a Hawaii resident status.
- (8) Emancipated minors. An emancipated minor shall be considered an adult for purposes of residence hereunder. The following shall constitute indications of emancipation, no one of which is controlling:
 - (A) Financially independent or self-supporting.
 - (B) Subsistence not provided by parent or legal guardian.
 - (C) Prior military service.
 - (D) Other primary and secondary indications of residence enumerated under section 13-230-24.
 - (E) Any other conduct inconsistent with parental control and custody.
- (9) Hanai. A person may base the person's residency on that of other than the parent or legal guardian, provided that the relationship between the person and the person or persons other than the parent or legal guardian is that of "hanai".

(c) Aliens. In addition to all other requirements herein, an alien shall be classified as a resident only upon the alien's admission to the United States for permanent residence (immigration visa). Residence of a minor alien can only be derived from another person (e.g., a parent) when both that person and the minor achieve resident status.

(d) Military personnel. Service in the armed forces of the United States shall not of itself negate establishment of residence in Hawaii. For instance, a nonresident member of the United States Armed Forces

whose last duty station is in Hawaii and who does all other things necessary to establish a bona fide Hawaiian domicile, including discharge from the military in Hawaii, may be classified as a resident. In addition, a person who establishes a Hawaiian domicile but who enters the military service prior to the expiration of twelve months from the date of such establishment may add the period of the person's military service on to the former period to satisfy the twelve-month rule.

(e) Married persons and persons in other legal relationships. A married person or reciprocal beneficiary or civil union partner may establish resident status, either on the basis of indications of residence, or on the basis of the indications of residence of the person's spouse. However, the person must clearly state intent to make Hawaii the person's permanent residence. For purposes of the liveaboard fee, the person holding a principal habitation permit may rely on the residency indications of a reciprocal beneficiary who lives on board the vessel. [Eff 2/24/94; am and comp 12/7/13; am 12/31/18; comp] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-26 Determination of residence procedure.

(a) These rules establish a fee structure in which nonstate residents in specified instances shall pay an application and permit fee differential. Therefore, any person seeking to be classified as a Hawaii resident for fee purposes shall, at the time of application for or prior to being issued a permit, complete and submit to the department a questionnaire provided by the department designed to elicit facts which will aid the department in determining the applicant's resident, nonresident, or Armed Forces status. The applicant shall answer all pertinent questions and shall attest to the truth of the answers with the applicant's signature. The department may also require the applicant to produce certified copies

of documents or other relevant proof as may be necessary for the determination of residency status.

(b) A nonresident who believes that the nonresident's residency status has changed so that the nonresident has achieved Hawaii residency status may seek reclassification as a resident by submitting a completed questionnaire as prescribed in subsection (a) on or following the date the nonresident believes that the change in residency status occurred. [Eff 2/24/94; comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-27 Permittee required to report change of residence. A resident permittee who subsequently takes up residence outside of the State and continues to moor the permittee's vessel in a state small boat harbor shall advise the department in writing within seven days of the permittee's change of residence. In such a case, nonresident fees and charges shall be payable following the change of residence. A permittee who intends to assume residence outside of the state or relocate to another island yet retain a permitted vessel and assigned mooring shall cause all applicable harbor use permits to be revised to identify the individual that agrees to assume the vessel owner's obligations under the use permit and these rules during the period of the permittee's absence. This individual shall reside on the same island that the vessel is moored. [Eff 2/24/94; am and comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-10, 200-22, 200-24)

§13-230-28 Appeals. (a) Classification as a nonresident by the department may be appealed by the aggrieved person by filing a petition for a declaratory ruling in accordance with section 13-1-27.

(b) No petition for appeal shall be accepted by the department unless:

- (1) The petitioner has paid the nonresident fees and fees and charges and filing fee for residency status appeal.
- (2) The petitioner has submitted with the petition documentary evidence tending to establish that the petitioner has, for a period of twelve months prior to the residency determination date, been physically present in the State of Hawaii with the intent to make Hawaii the petitioner's home. The documentary evidence to be furnished shall support the claim of residency by establishing acceptable indicia of residency as provided under section 13-230-23.
- (3) The petition is filed with the department within thirty days following receipt by certified mail, return receipt requested, or personal delivery, as the case may be, of the department's determination of the petitioner's nonresident status.

(c) The petition shall be signed by the petitioner. The petition shall be filed at any division of boating and ocean recreation district office on or before the thirtieth day following receipt by certified mail, return receipt requested or personal delivery, of the department's determination of the petitioner's nonresident status. The district manager receiving the appeal shall promptly forward it to the administrator of the division of boating and ocean recreation.

(d) The administrator of the division of boating and ocean recreation shall promptly review any petition filed with the department and take appropriate action as follows within fifteen days after the filing of the petition:

- (1) Return the petition to the concerned district manager if the administrator of the division of boating and ocean recreation determines the petition should not have been accepted under subsection (b) with an explanation of the basis for rejection, a

- copy of which shall be forwarded to the petitioner;
- (2) Reverse the department's prior determination that the petitioner is a nonresident if the administrator of the division of boating and ocean recreation determines that the petitioner has submitted adequate proof that the petitioner is a resident of the State of Hawaii; or
 - (3) Forward the petition to the chairperson for a declaratory ruling in accordance with section 13-1-27.
- (e) The nonstate resident fee differential and filing fee for residency status appeal shall be promptly refunded if the department reverses the determination of nonresident status, as provided in section 13-234-24. [Eff 2/24/94; am and comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-29 Misrepresentation. It is a violation of these rules for any person to misrepresent any fact upon any form or document intended for or used in determination of resident status for fees and charges purposes or for any person to misrepresent any fact at an appellant hearing hereunder." [Eff 2/24/94; am and comp 12/7/13; comp] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 13-31, Hawaii Administrative Rules, shall take

effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on (date), and filed with the Office of the Lieutenant Governor.

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

APPROVED AS TO FORM:

Deputy Attorney General

III. NEW BUSINESS

- D. Discussion and Action on Proposed
Amendments to HAR Chapter 13-257
Day-Use Mooring Rules, promulgated by
DLNR

Amendment and Compilation of Chapter 13-257
Hawaii Administrative Rules

INSERT DATE OF ADOPTION

1. Chapter 13-257, Hawaii Administrative Rules,
entitled "Day-Use Mooring Rules", is amended and
compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 3

OCEAN WATERS, NAVIGABLE STREAMS AND BEACHES

CHAPTER 257

DAY-USE MOORING RULES

Subchapter 1 General Provisions

§13-257-1	Purpose and scope
§13-257-2	Day-use mooring permit
§13-257-3	Day-use mooring buoy limitations
§13-257-4	Anchoring restrictions
§13-257-5	Day-use mooring installation
§13-257-6	Day-use mooring locations
§13-257-7	Rafting prohibited
§13-257-8	Liability
§13-257-9	Safety and enforcement

§§13-257-10 to 13-257-15 (Reserved)

Subchapter 2 Day-Use Moorings, Island of Hawai'i

§§13-257-16 to 13-257-24 Repealed

§§13-257-25 to 13-257-35 (Reserved)

Subchapter 3 Day-Use Moorings, Island of Maui

§§13-257-36 to 13-257-50 (Reserved)

Subchapter 4 Day-Use Mooring Area, Molokini Shoal
Marine Life Conservation District

§13-257-51 Molokini day-use mooring area

§13-257-52 Commercial-use restrictions

§13-257-53 Commercial day-use mooring permit fee

§13-257-54 Recreational vessel use of Molokini day-
use moorings

§13-257-55 Speed Restrictions

§13-257-56 Anchoring restrictions

§§13-257-57 to 13-257-60 (Reserved)

Subchapter 5 Day-Use Moorings, Island of Lāna'i

§§13-257-61 to 13-257-70 (Reserved)

Subchapter 6 Day-Use Moorings, Island of Moloka'i

§§13-257-71 to 13-257-80 (Reserved)

Subchapter 7 Day-Use Moorings, Island of O'ahu

§§13-257-81 to 13-257-90 (Reserved)

Subchapter 8 Day-Use Moorings, Island of Kaua'i
§§13-257-91 to 13-257-120 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§13-257-1 Purpose and scope. (a) The purpose of ~~[the day-use]~~ day-use mooring rules and zones is to reduce damage to coral and other marine life as a result of continuous use of anchors by commercial and recreational vessels in zones of high dive and mooring activity statewide.

(b) ~~[The rules describe the]~~ This chapter contains provisions for mooring at state ~~[day-use]~~ day-use mooring ~~[buoys and the zones where the buoys are located.]~~ buoys. [Eff 9/16/95; am and comp
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10)
(Imp: HRS §200-10)

§13-257-2 ~~[Day-use]~~ Day-use mooring permit. An owner or operator of a vessel using a ~~[day-use]~~ state day-use mooring ~~[established under]~~ buoy installed pursuant to this chapter shall not be required to apply for a ~~[day-use]~~ day-use mooring permit from the department, except as otherwise provided in this chapter. ~~[Any use of a state day use mooring shall be at the sole risk of the owner or operator of the vessel using the mooring.]~~ [Eff 9/16/95; am and comp
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-3 ~~[Time limit.]~~ State day-use mooring buoy limitations. (a) ~~[The time limit for use of a~~

~~day use mooring buoy by any one vessel]~~ A vessel using a state day-use mooring buoy shall not exceed two and one half hours [when another vessel is waiting for the use of that mooring buoy,] of use, except as provided by section 13-37-3 for the [old Kona airport marine life conservation district.] Old Kona Airport Marine Life Conservation District, Hawai'i.

(b) Overnight mooring is ~~[prohibited except in ease of emergency or by enforcement or rescue craft.] prohibited.~~ [Eff 9/16/95; am and comp
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-4 Anchoring restrictions. ~~[Anchoring]~~
Unless otherwise provided in this chapter, anchoring is allowed only in areas of sand, rock, or rubble bottom types where no live corals exist; provided further that anchoring is prohibited within one hundred yards of any [day use mooring buoy, except as otherwise provided in these rules. Anchoring elsewhere in a day use mooring zone is permitted in areas of sand, rock, or rubble bottom types where no live corals exist.] state day-use mooring buoy. [Eff 9/16/95; am and comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-5 ~~[Day use]~~ Day-use mooring buoy installation. (a) Design guidelines for ~~[a typical day use]~~ state day-use mooring buoy installation is as shown on Exhibits "DM-00", "DM-00-A" and "DM-00-B", dated December 16, 1994, located at the end of this subchapter. The department shall adhere to the design guidelines specified in this subsection, and the Board shall have the discretion to approve mooring buoy designs that differ from the guidelines in this section if the Board finds that:

- (1) A specific design offers environmental or structural advantages over those specified in the day-use mooring buoy guidelines; and
- (2) Such environmental or structural advantages outweigh any negative impacts to aquatic resources.
- (b) For each state day-use mooring buoy site, the department shall develop a day-use mooring buoy site proposal, subject to approval and modification by the Board, which shall consider:
 - (1) Public input;
 - (2) Impact upon aquatic resources;
 - (3) Use patterns with respect to the proposed site; and
 - (4) Any other information relevant to site selection and mooring buoy installation.

[Eff 9/16/95; am and comp]
(Auth: HRS §§200-2, 200-3, 200-4, 200-10)
(Imp: HRS §200-10)

§13-257-6 Day-use mooring buoy locations. The department shall maintain a listing of sanctioned day-use mooring buoys installed in waters of the State. The listing shall be available on the division's website, may be maintained in print form, and shall provide GPS coordinates for the location of each mooring buoy. The department shall make a reasonable effort to ensure that the GPS coordinates on the listing provide an accurate location for each state-owned day-use mooring buoy. [Eff]
(Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-7 Rafting prohibited. Rafting of vessels from any day-use mooring buoys is prohibited.
[Eff] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-8 Liability. By using a state day-use mooring buoy, a vessel owner or operator assumes the sole risk of using the mooring. The State assumes no liability or responsibility associated with the use of any day-use mooring buoys, except as otherwise provided in this chapter. [Eff
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-9 Safety and enforcement. The restrictions cited in this chapter do not apply to the following:

- (1) Emergency situations;
- (2) Law enforcement, patrol, or rescue craft;
- (3) Department vessels and personnel performing official duties;
- (4) Vessels and personnel performing authorized homeland security training operations; and
- (5) The U.S. Coast Guard. [Eff
(Auth: HRS §§200-2, 200-3, 200-4, 200-10)
(Imp: HRS §§200-2, 200-3, 200-10)]

§§13-257-10 to 13-257-15 (Reserved)

SUBCHAPTER 2

[~~DAY-USE MOORING,~~] DAY-USE MOORINGS, ISLAND OF
[~~HAWAII~~] HAWAI'I

~~[§13-257-16 Kaiholena to Malae Point day use mooring zone. (a) Kaiholena to Malae Point day use mooring zone is encompassed by the boundaries as shown~~

~~on Exhibit "DM-01" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Malae Point and measured by azimuth clockwise from True South; 050 degrees for a distance of four hundred seventy-five feet; 161 degrees for a distance of four thousand eight hundred fifty feet; 150 degrees for a distance of two thousand feet; 167.5 degrees for a distance of seven thousand three hundred thirty feet; 246.5 degrees to the high water mark at the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

~~(1) Buoy "DM-01" located at a point on the water measured by azimuth clockwise from True South, 152.5 degrees for a distance of four thousand four hundred fifty feet from the southwest tip of Keaweula Bay.~~

~~(2) Buoy "DM-02" located at a point on the water measured by azimuth clockwise from True South, 143 degrees for a distance of two thousand eight hundred ten feet from the southwest tip of Keaweula Bay.~~

~~(3) Buoy "DM-03" located at a point on the water measured by azimuth clockwise from True South, 154 degrees for a distance of five hundred ninety feet from the southwest tip of Keaweula Bay.] [Eff 9/16/95; R~~

~~] (Auth: HRS §§200- 2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-17 Malae Point to Kaiopae Point day use mooring zone. (a) Malae Point to Kaiopae Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-02" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kaiopae Point and measured by azimuth clockwise from True South, 056 degrees for a distance of six hundred ten feet; 137 degrees for a distance of six thousand five hundred eighty feet; 151 degrees for a distance of forty thousand six hundred feet; 148 degrees for a distance of six thousand nine hundred ninety-five feet; then in a straight line to the high water mark at the Malae Point shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-04" located at a point on the water measured by azimuth clockwise from True South, 354 degrees for a distance of one thousand feet from the northwest tip of Kalala Gulch Cove.~~
- ~~(2) Buoy "DM-05" located at a point on the water measured by azimuth clockwise from True South, 333 degrees for a distance of two thousand six hundred feet from the northwest tip of Kalala Gulch Cove.~~
- ~~(3) Buoy "DM-06" located at a point on the water measured by azimuth clockwise from True South, 113.5 degrees for a distance of one thousand one hundred feet from the southeast tip of Kamilo Gulch Cove.~~
- ~~(4) Buoy "DM-07" located at a point on the water measured by azimuth clockwise from True South, 001 degrees for a distance of one thousand one hundred feet from the southeast tip of Kamilo Gulch Cove.~~
- ~~(5) Buoy "DM-08" located at a point on the water measured by azimuth clockwise from True South, 314 degrees for a distance of two thousand six hundred fifty feet from the southeast tip of Kamilo Gulch Cove.~~
- ~~(6) Buoy "DM-09" located at a point on the water measured by azimuth clockwise from True South, 095 degrees for a distance of one~~

~~thousand one hundred ten feet from the northwest tip of Keawewai Gulch Cove.] [Eff 9/16/95; R] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-18 Pauoa Bay to Honokaaope Bay day use mooring zone. (a) Pauoa Bay to Honokaaope Bay day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-03" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Lae o Panipou Point and measured by azimuth clockwise from True South; 124 degrees for a distance of one thousand two hundred feet; 060 degrees for a distance of two thousand nine hundred twenty feet; 044 degrees for a distance of seven thousand two hundred fifty feet; then in a straight line to the high water mark at the Anaahoomalu "trig" shoreline; then along the shoreline to the point of the beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

~~(1) Buoy "DM-10" located at a point on the water measured by azimuth clockwise from True South, 081.5 degrees for a distance of one thousand one hundred fifty feet from Keanapukalua Point.~~

~~(2) Buoy "DM-11" located at a point on the water measured by azimuth clockwise from True South, 057 degrees for a distance of two thousand feet from Keanapukalu Point.] [Eff 9/16/95; R] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-19 Kaauau Point to Kapalaoa Point day use mooring zone. (a) Kaauau Point to Kapalaoa Point~~

~~day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-04" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kaaau Point and measured by azimuth clockwise from True South; 053 degrees for a distance of four thousand one hundred eighty feet; then in a straight line to the high water mark at Kapalaoa Point shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoy is within the mooring zone described in this section.~~

~~(1) Buoy "DM-12" located at a point on the water measured by azimuth clockwise from True South, 219 degrees for a distance of three thousand fifty feet from Kapalaoa Point.]~~

~~[Eff 9/16/95; R] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-20 Makako Bay to Kalihi Point day use mooring zone. (a) Makako Bay to Kalihi Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-05" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kalihi Point and measured by azimuth clockwise from True South; 062 degrees for a distance of five hundred fifty feet; 150 degrees for a distance of two thousand nine hundred seventy five feet; 012.5 degrees for a distance of one thousand three hundred twenty five feet; 040 degrees for a distance of three thousand four hundred feet; 270 degrees to the high water mark of the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- (1) ~~Buoy "DM-13" located at a point on the water measured by azimuth clockwise from True South, 214 degrees for a distance of three thousand two hundred fifty feet from Keahole Lighthouse.~~
- (2) ~~Buoy "DM-14" located at a point on the water measured by azimuth clockwise from True South, 178 degrees for a distance of one thousand three hundred forty feet from Keahole Lighthouse.] [Eff 9/16/95; R~~
] (Auth HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

~~[§13-257-21 Wawaloli Beach to Maliu Point day use mooring zone. (a) Wawaloli Beach to Maliu Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-06" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Maliu Point and measured by azimuth clockwise from True South; 140 degrees for a distance of ten thousand five hundred feet; 158.5 degrees for a distance of four thousand five hundred forty feet; 180 degrees for a distance of two thousand two hundred fifty feet; 151 degrees for a distance of three thousand ninety feet; 242 degrees to the high water mark of the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- (1) ~~Buoy "DM-15" located at a point on the water measured by azimuth clockwise from True South, 172 degrees for a distance of four thousand three hundred seventy five feet from Puhili Point.~~
- (2) ~~Buoy "DM-16" located at a point on the water measured by azimuth clockwise from True South, 170 degrees for a distance of two~~

~~thousand six hundred twenty-five feet from Puhili Point.~~

- ~~(3) Buoy "DM-17" located at a point on the water measured by azimuth clockwise from True South, 152 degrees for a distance of one thousand one hundred fifty feet from Puhili Point.~~
- ~~(4) Buoy "DM-18" located at a point on the water measured by azimuth clockwise from True South, 002 degrees for a distance of nine hundred eighty feet from Puhili Point.~~
- ~~(5) Buoy "DM-19" located at a point on the water measured by azimuth clockwise from True South, 121 degrees for a distance of one thousand six hundred feet from Wawahiwaa Point (Heiau).~~
- ~~(6) Buoy "DM-20" located at a point on the water measured by azimuth clockwise from True South, 073 degrees for a distance of seven hundred fifty feet from Wawahiwaa Point (Heiau).~~
- ~~(7) Buoy "DM-21" located at a point on the water measured by azimuth clockwise from True South, 005 degrees for a distance of seven hundred fifty feet from Wawahiwaa Point (Heiau).~~
- ~~(8) Buoy "DM-22" located at a point on the water measured by azimuth clockwise from True South, 312 degrees for a distance of one thousand four hundred fifty feet from Wawahiwaa Point (Heiau).~~
- ~~(9) Buoy "DM-23" located at a point on the water measured by azimuth clockwise from True South, 143 degrees for a distance of one thousand seven hundred feet from Kaloko Point.~~
- ~~(10) Buoy "DM-24" located at a point on the water measured by azimuth clockwise from True South, 069 degrees for a distance of one thousand one hundred twenty-five feet from Kaloko Point.] [Eff 9/16/95; R~~

] (Auth: HRS §§200-2, 200-3, 200-4,
200-10) (Imp: HRS §200-10)

~~[§13-257-22 Kaiwi Point to Kukailimoku Point day
use mooring zone. (a) Kaiwi Point to Kukailimoku
Point day use mooring zone is encompassed by the
boundaries as shown on Exhibit "DM-07" dated November
15, 1990, located at the end of this subchapter and
described as follows:~~

~~Beginning at a point at the high water mark
at the tip of Kukailimoku Point and measured by
azimuth clockwise from True South; 000 degrees
for a distance of nine hundred fifty feet; 117.5
degrees for a distance of seven thousand three
hundred eighty feet; 099 degrees for a distance
of two thousand five hundred feet; 140 degrees
for a distance of three thousand eighty feet; 159
degrees for a distance of one thousand nine
hundred feet; 270 degrees to the high water mark
of the shoreline; then along the shoreline to the
point of beginning.~~

~~(b) The following buoys are within the mooring
zone described in this section.~~

- ~~(1) Buoy "DM-25" located at a point on the water
measured by azimuth clockwise from True
South, 001 degrees for a distance of seven
hundred feet from Kaiwi Point.~~
- ~~(2) Buoy "DM-26" located at a point on the water
measured by azimuth clockwise from True
South, 351 degrees for a distance of one
thousand six hundred ninety feet from Kaiwi
Point.~~
- ~~(3) Buoy "DM-27" located at a point on the water
measured by azimuth clockwise from True
South, 115 degrees for a distance of one
thousand five hundred fifty feet from
Keahuolu Point.~~
- ~~(4) Buoy "DM-28" located at a point on the water
measured by azimuth clockwise from True~~

~~South, 010 degrees for a distance of five hundred feet from Keahuolu Point.~~

- ~~(5) Buoy "DM-29" located at a point on the water measured by azimuth clockwise from True south, 288 degrees for a distance of one thousand three hundred feet from Keahuolu Point.~~
- ~~(6) Buoy "DM-30" located at a point on the water measured by azimuth clockwise from True South, 293 degrees for a distance of three thousand three hundred eighty feet from Keahuolu Point.~~
- ~~(7) Buoy "DM-31" located at a point on the water measured by azimuth clockwise from True south, 113 degrees for a distance of four thousand three hundred ninety feet from Kukailimoku Point.~~
- ~~(8) Buoy "DM-32" located at a point on the water measured by azimuth clockwise from True South, 107 degrees for a distance of two thousand three hundred fifty feet from Kukailimoku Point.~~
- ~~(9) Buoy "DM-33" located at a point on the water measured by azimuth clockwise from True South, 039 degrees for a distance of six hundred feet from Kukailimoku Point.] [Eff 9/16/95; R] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-23 Kuamoo Bay to Paaao Bay day use mooring zone. (a) Kuamoo Bay to Paaao Bay day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-08" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the Keauhou Coast "trig station" and measured by azimuth clockwise from True South; 090 degrees for a distance of eight hundred thirty feet; 335 degrees for a distance of eight thousand four~~

~~hundred feet; 270 degrees to the shoreline of the northwest tip of Paaaoa Bay; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-34" located at a point on the water measured by azimuth clockwise from True South, 025 degrees for a distance of eight hundred fifteen feet from the Keauhou Coast "trig station"~~
- ~~(2) Buoy "DM-35" located at a point on the water measured by azimuth clockwise from True South, 087 degrees for a distance of one thousand one hundred feet from Kalanui Point.~~
- ~~(3) Buoy "DM-36" located at a point on the water measured by azimuth clockwise from True South, 073 degrees for a distance of seven hundred feet from Kuamoo Point.~~
- ~~(4) Buoy "DM-37" located at a point on the water measured by azimuth clockwise from True South, 115 degrees for a distance of one thousand seventy-five feet from Leinokano Point.] [Eff 9/16/95; R]~~
~~(Auth: HRS §§200-2, 200-3, 200-4, 200-10)~~
~~(Imp: HRS §200-10)~~

~~[§13-257-24 Paaaoa Bay to Cook Point day use mooring zone. (a) Paaaoa Bay to Cook Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-09" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the northwest tip of Paaaoa bay and measured by azimuth clockwise from True South; 090 degrees for a distance of one thousand seventy-five feet; 015.5 degrees for a distance of five thousand nine hundred fifty-five feet; 329 degrees for a distance of eight thousand five hundred fifty feet; 009 degrees for a distance of three~~

~~thousand three hundred feet; 335 degrees for a distance of one thousand nine hundred feet; 295 degrees for a distance of four thousand six hundred ninety feet; 213 degrees to the high water mark at Cook Point; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-38" located at a point on the water measured by azimuth clockwise from True South, 156 degrees for a distance of nine hundred eighty feet from Paaoao Point.~~
- ~~(2) Buoy "DM-39" located at a point on the water measured by azimuth clockwise from True South, 090 degrees for a distance of eight hundred feet from Paaoao Point.~~
- ~~(3) Buoy "DM-40" located at a point on the water measured by azimuth clockwise from True South, 155 degrees for a distance of eight hundred feet from Kekeiwaha Point.~~
- ~~(4) Buoy "DM-41" located at a point on the water measured by azimuth clockwise from True South, 069 degrees for a distance of seven hundred fifty feet from Keikiwaha Point.~~
- ~~(5) Buoy "DM-42" located at a point on the water measured by azimuth clockwise from True South, 130 degrees for a distance of two thousand seven hundred ten feet from the Puu Ohau "trig station".~~
- ~~(6) Buoy "DM-43" located at a point on the water measured by azimuth clockwise from True South, 075 degrees for a distance of one thousand six hundred seventy five feet from the Puu Ohau "trig station".~~
- ~~(7) Buoy "DM-44" located at a point on the water measured by azimuth clockwise from True South, 000 degrees for a distance of two thousand one hundred feet from the Keauhou Coast "trig station".~~
- ~~(8) Buoy "DM-45" located at a point on the water measured by azimuth clockwise from True South, 181 degrees for a distance of two~~

~~thousand nine hundred ninety feet from
Keawekaheha Point.~~

- (9) ~~Buoy "DM-46" located at a point on the water
measured by azimuth clockwise from True
South, 168 degrees for a distance of one
thousand three hundred fifty feet from
Keawekaheha Point.] [Eff 9/16/95; R
] (Auth: HRS §§200-2, 200-3, 200-
4, 200-10) (Imp: HRS §200-10)~~

§§13-257-25 to 13-257-35 (Reserved)

SUBCHAPTER 3

~~[DAY-USE]~~ DAY-USE MOORINGS, ISLAND OF MAUI

§§13-257-36 to 13-257-50 (Reserved)

SUBCHAPTER 4

~~[DAY-USE]~~ DAY-USE MOORING AREA, MOLOKINI SHOAL MARINE
LIFE CONSERVATION DISTRICT

§13-257-51 Molokini Island Day-Use Mooring Area. The boundary of the Molokini Island Day-Use Mooring Area is contiguous with the boundary of Subzone A of the Molokini Shoal Marine Life Conservation District, as described in section 13-31-2, and as shown on ~~[Exhibit "DM-10",]~~ Exhibit A, entitled "Map of Molokini Shoal Marine Life Conservation District, Maui", dated [March 3, 1994,] June 24, 2019, located at the end of this subchapter and described as follows:

Beginning at a point at the high water mark
~~[at Pahe'e o Lono Point; then in a straight line~~
~~to the end of the shoal at the northwest point of~~
~~Molokini island; then in a counter-clockwise~~
~~direction along the shoreline of Molokini island]~~
of Lalilali Point, then along the high water mark
of the northern shoreline eastward until Pahe'e o
Lono Point, then west along a straight line to
the end of the submerged ridge (shoal) extending
from Lalilali Point, then along the top of the
shoal back to the point of beginning. [Eff
9/16/95; am and comp]
(Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp:
HRS §200-10)

§13-257-52 Commercial use restrictions. (a) No vessel shall use a ~~[day-use]~~ state day-use mooring for commercial purposes unless the owner has been issued a marine life conservation district use permit by the department pursuant to section 13-31-5, as evidenced by its inclusion as an addendum to a commercial vessel use permit for the use of state boating facilities issued in accordance with section 13-231-57, or a commercial vessel registration issued in accordance with section 13-256-4 for that vessel.

(b) ~~[Mooring zone "A" is designated for use by commercial vessels carrying twelve or more passengers. Mooring zone "B" is designated for use by commercial vessels carrying less than twelve passengers.]~~ The use of any one particular mooring shall be on a first-come, first-served basis. ~~[Mooring zones "A" and "B" as shown on exhibit "DM-10" located at the end of this subchapter are generalized locations intended to reflect current mooring practices and are subject to revision, pending development of a final mooring plan prior to installation of permanent moorings.]~~

(c) ~~The department may authorize the owner of a commercial vessel not having a marine life conservation district use permit occasional or infrequent use of the day use moorings, not to exceed eight times a year, when application is made and~~

~~approved not less than seven days in advance of the date of intended use.]~~ [Eff 9/16/95; am and comp
] (Auth: HRS §§200-2, 200-3, 200-4,
200-10) (Imp: HRS §200-10)

§13-257-53 Commercial ~~[day-use]~~ day-use mooring ~~[permit]~~ fee. ~~[The commercial day-use mooring permit]~~
Beginning January 1, 2024, the fee for [a] commercial use of a Molokini ~~[day-use]~~ day-use mooring [shall be the greater of \$100] is \$200 per month [or two per cent of gross receipts], provided that this fee [shall be] is waived for commercial operators who are presently paying [commercial vessel user fees for the use of state boating facilities in accordance with section 13-234-5.] the ocean stewardship user fee required by section 187A-52, Hawaii Revised Statutes. [This fee shall be in addition to the commercial use permit fee required under section 13-31-5.] This fee is in addition to the commercial use permit fee required under section 13-31-5. and any commercial fees charged pursuant to chapter 13-234. [Eff 9/16/95; am and comp
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-54 Recreational vessel use of Molokini day use moorings. ~~[Mooring zone "C" is designated for primary use by recreational vessels, and is shown on exhibit "DM-10" located at the end of this subchapter.]~~ Recreational vessels shall have exclusive use of designated recreational state day-use moorings. All designated recreational state day-use moorings shall be indicated with a surface float. Recreational vessels may also use vacant commercial state day-use moorings [located in zones "A" and "B"] except [during the period] from [8:30 a.m. to 11:30 a.m.] 7:30 a.m. to 9:30 a.m. [Eff 9/16/95; am and comp
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-55 Speed Restrictions. No vessel shall operate at a speed in excess of "slow-no wake" within the ~~[Subzone A, as defined in section 13-257-51 and shown on exhibit "DM-10".]~~ Molokini Island Day-Use Mooring Area. [Eff 9/16/95; am and comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

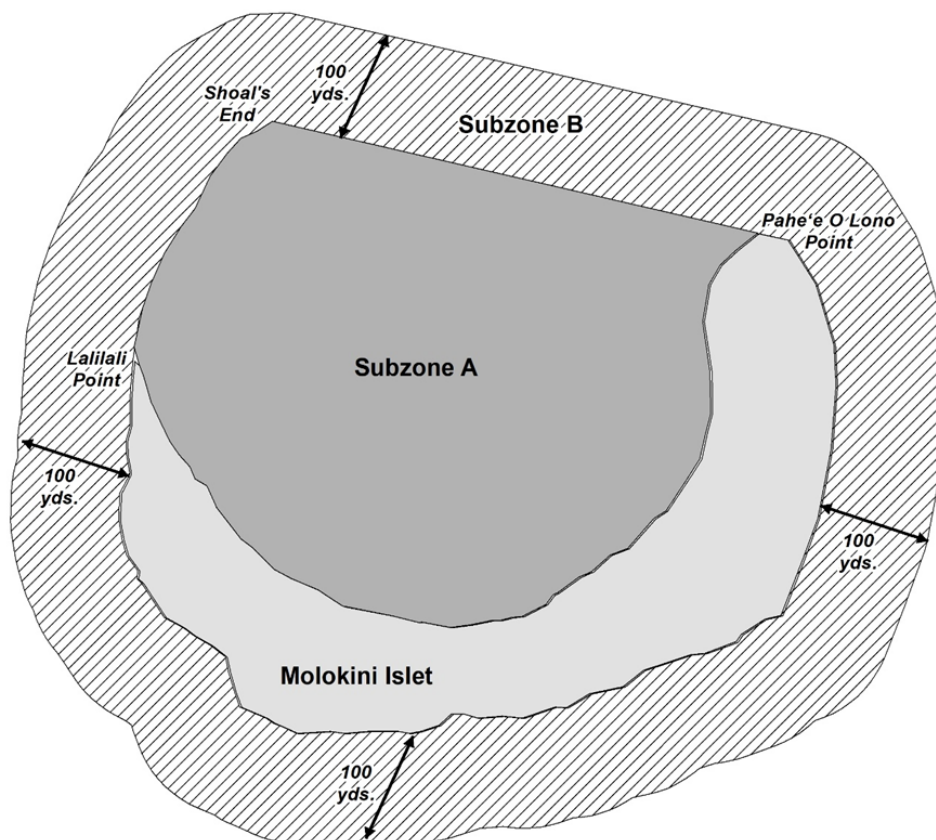
§13-257-56 Anchoring restrictions. ~~[(a)]~~
Anchoring is prohibited within the Molokini ~~[island day use mooring area, provided that anchoring is permitted within the designated area at locations of sand, rock, or rubble bottom types where no live eorals exist until such time as new day use moorings are installed.~~

~~(b) Anchoring is prohibited within Subzone B of the Molokini shoal marine life conservation district.]~~ Island Day-Use Mooring Area. [Eff 9/16/95; am and comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§§13-257-57 to 13-257-60 (Reserved)

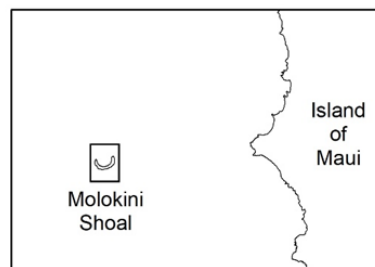
**Exhibit A. Map of Molokini Shoal
Marine Life Conservation District, Maui
June 24, 2019**

0 0.05 0.1 Miles



Legend

-  Molokini Shoal
MLCD: Zone A
-  Molokini Shoal
MLCD: Zone B



SUBCHAPTER 5

[~~DAY-USE~~] DAY-USE MOORINGS, ISLAND OF [~~LANAI~~] LĀNA`I

§§13-257-61 to 13-257-70 (Reserved)

SUBCHAPTER 6

[~~DAY-USE~~] DAY-USE MOORINGS, ISLAND OF [~~MOLOKAI~~]
MOLOKA`I

§§13-257-71 to 13-257-80 (Reserved)

SUBCHAPTER 7

[~~DAY-USE~~] DAY-USE MOORINGS, ISLAND OF [~~OAHU~~] O`AHU

§§13-257-81 to 13-257-90 (Reserved)

SUBCHAPTER 8

[~~DAY-USE~~] DAY-USE MOORINGS, ISLAND OF [~~KAUAI~~] KAUA`I

§§13-257-91 to 13-257-120 (Reserved) "

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. The amendments to and compilation of chapter 13-257, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

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

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

IV. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, HRS

- 1. Discussion and Action on Proposed Changes to Section 201M-5 Small business regulatory review board; powers (a), Hawaii Revised Statute**
- 2. Presentations to Industry Associations**
- 3. Staff's Small Business Outreach**
- 4. Director Letters and Meetings with State Agencies and Counties**

____.B. NO. _____

A BILL FOR AN ACT – OPT 1

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 201M-5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 “(a) There shall be established within the department of
4 business, economic development, and tourism, for administrative
5 purposes, a small business regulatory review board to review any
6 proosed new or amended rule-or legislation affecting small
7 businesses. If the board determines that a proposed rule will
8 not have a significant economic impact on a substantial number
9 of small businesses, the board shall submit a statement to that
10 effect to the agency that sets forth the reason for the board’s
11 decision. If the board determines that the proposed rule will
12 have a significant economic impact on a substantial number of
13 small businesses, the board may submit to the agency suggested
14 changes in the proposed rule to minimize the economic impact of
15 the proposed rule, or may recommend the withdrawal of the
16 proposed rule. The board may also consider any request from
17 small business owners for review of any rule proposed, amended,
18 or adopted by a state agency and to make recommendations to the

_____.B. NO._____

1 agency or the legislature regarding the need for a rule change
2 or legislation. For requests regarding county rules, the board
3 may make recommendations to the county council or the mayor ofr
4 appropriate action."

5 SECTION 2. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval.

8 INTRODUCED BY: _____

9 BY REQUEST

_____.B. NO._____

Report Title:

Small Business Regulatory Review Board; legislation; small business

Description:

Clarifies the intent of the Small Business Regulatory Review Board's powers to include the review of legislation affecting small businesses.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET - OPT 1

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE SMALL
BUSINESS REGULATORY REVIEW BOARD

PURPOSE: To clarify that, in addition to reviewing
any proposed new or amended rule, the Small
Business Regulatory Review Board has the
authority to review legislation affecting
small businesses.

MEANS: Amend section 201M-5(a), Hawaii Revised
Statutes.

JUSTIFICATION: The Small Business Regulatory Review Board's
powers are intended to include a review of
rules to be adopted, proposed, or amended.
The Board was also intended to review
legislation affecting small businesses.
Because the statute appears to be vague
regarding the Board's purview to comment on
proposed legislation, this bill will conform
the wording of the statute to its intent.

Impact on the public: Ensures the stability
of the Small Business Regulatory Review
Board by clarifying its legislative powers
under the Small Business Regulatory
Flexibility Act.

Impact on the department and other agencies:
Minimal.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BED 142.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

____.B. NO.____

A BILL FOR AN ACT – OPT 2

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 201M-5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 “(a) There shall be established within the department of
4 business, economic development, and tourism, for administrative
5 purposes, a small business regulatory review board to review any
6 proposed new or amended rule. If the board determines that a
7 proposed rule will not have a significant economic impact on a
8 substantial number of small businesses, the board shall submit a
9 statement to that effect to the agency that sets forth the
10 reason for the board’s decision. If the board determines that
11 the proposed rule will have a significant economic impact on a
12 substantial number of small businesses, the board may submit to
13 the agency suggested changes in the proposed rule to minimize
14 the economic impact of the proposed rule, or may recommend the
15 withdrawal of the proposed rule. The board may also consider
16 any request from small business owners for review of any rule
17 proposed, amended, or adopted by a state agency or for review of
18 any legislation affecting small businesses, and to make

_____.B. NO._____

1 recommendations to the agency or the legislature regarding the
2 need for a rule change or legislation. For requests regarding
3 county rules, the board may make recommendations to the county
4 council or the mayor for appropriate action."

5 SECTION 2. Section 201M-5(f), Hawaii Revised Statutes, is
6 amended by amending subsection (f) to read as follows:

7 "(f) The Board shall submit an annual report to the
8 legislature twenty days prior to each regular session detailing
9 any requests from small business owners for review of any rule
10 proposed, amended, or adopted by a state agency or for review of
11 any legislation affecting small businesses, and any
12 recommendations made by the board to an agency or the
13 legislature regarding the needs for a rule change or
14 legislation."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17 INTRODUCED BY: _____

18 BY REQUEST

____.B. NO.____

Report Title:

Small Business Regulatory Review Board; legislation; small business

Description:

To clarify that the Small Business Regulatory Review Board has the authority to review legislation affecting small businesses in response to a request from small business owners.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET - OPT 2

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE SMALL
BUSINESS REGULATORY REVIEW BOARD

PURPOSE: To clarify that, in addition to considering
any request from small business owners for
review of any rule, proposed, amended, or
adopted by a state agency, the Small
Business Regulatory Review Board has the
authority to review legislation affecting
small businesses in response to requests
from small business owners.

MEANS: Amend sections 201M-5(a) and 201M-5(f),
Hawaii Revised Statutes.

JUSTIFICATION: Because the statute appears vague regarding
the Small Business Regulatory Review Board's
purview to comment on proposed legislation
in response to requests from small business
owners, this bill will conform the wording
of the statute to its intent.

Impact on the public: Ensures the stability
of the Small Business Regulatory Review
Board by clarifying its legislative powers
under the Small Business Regulatory
Flexibility Act.

Impact on the department and other agencies:
Minimal.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BED 142.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.