

OFFICE OF THE GOVERNOR
STATE OF HAWAII

**THIRD PROCLAMATION
RELATING TO WILDFIRES**

By the authority vested in me by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, SYLVIA LUKE, Acting Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, on August 8, 2023, I issued my Proclamation Relating to Wildfires and declared a state of emergency to exist in the counties of Maui and Hawai'i;

WHEREAS, on August 9, 2023, after wildfires spread considerably and burned a number of structures in and around Lahaina, I issued my Second Proclamation Relating to Wildfires, which extended the emergency declaration to the entire State;

WHEREAS, several large wildfires continue to burn in the counties of Hawaii and Maui, including in the North Kohala, South Kohala, Kula, and Lahaina areas;

WHEREAS, these fires have burned thousands of acres, cut off communications, and forced closure of roads and schools, and evacuations in the Kohala Ranch, Kula, and Lahaina areas;

WHEREAS, at least six people have died and more seriously injured as a result of wildfires on the Island of Maui;

WHEREAS, very dry conditions and strong and potentially damaging easterly winds caused by the passage of Hurricane Dora to the south of the State are contributing to the wildfire danger;

WHEREAS, these fires threaten to cause damages, losses, and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and to affect the economy of the State, and has the potential to be of such a nature as to warrant rehabilitative assistance from the State;

WHEREAS, the wildfires have caused catastrophic damage in Maui County, have caused damage in Hawaii County, and have strained resources throughout the State;

WHEREAS, it is necessary to supplement my second proclamation to ensure a

continued and effective statewide response to the wildfire emergency;

WHEREAS, the Legislature of the State of Hawai'i has appropriated from the general revenues of the State monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the emergency;

WHEREAS, in expending such monies, the Governor may allot any portion to any agency, office, or employee of the state or to any county for the most expeditious and efficient relief of the conditions created by the emergency;

WHEREAS, pursuant to sections 127A-14 and 127A-16, Hawaii Revised Statutes, the Governor may determine whether an emergency or disaster has occurred, or whether there is an imminent danger or threat of an emergency or disaster and authorize actions under chapter 127A, Hawaii Revised Statutes, and the expenditure of funds thereunder;

WHEREAS, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes, the Governor may suspend any law that impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or that conflicts with, emergency functions, including laws specifically made applicable to emergency personnel;

WHEREAS, pursuant to section 127A-13(a)(2), Hawaii Revised Statutes, the Governor may relieve hardships and inequities, or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, Hawaii Revised Statutes, by suspending laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

NOW, THEREFORE, I, Sylvia Luke, Acting Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, is occurring in the State of Hawai'i, and do hereby authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

I. **ESSENTIAL TRAVEL ONLY TO ISLAND OF MAUI**

All nonessential travel to the Island of Maui is strongly discouraged. I order all affected State agencies to assist as needed.

II. Invocation of Laws

Section 121-30, HRS, and I hereby authorize the Adjutant General to activate such units of the Hawai'i National Guard as may be necessary to assist and aid civilian authorities in disaster relief and in averting any imminent public danger and threat and to ensure the compliance with the civil laws of the State of Hawai'i.

Sections 127A-12 and 127A-13, HRS, in order for county and state agencies to provide emergency relief and engage in emergency management functions as defined in section 127A-2, HRS, as a result of and in response to this event.

Sections 127A-3, 127A-12(a)(5), 127A-13(a)(5), and 127A-13(a)(6), HRS, and the Director of Hawai'i Emergency Management and the Administrator of Emergency Management are directed to take appropriate actions to direct or control, as may be necessary for emergency management:

- a. Alerts, warnings, notifications, and activations;
- b. Warnings and signals for alerts and any type or warning device, system, or method to be used in connection therewith;
- c. Partial or full mobilization of state personnel in advance of or in response to an actual emergency or disaster;
- d. The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, emergencies, or disasters;
- e. Shut off water mains, gas mains, electric power connections, or suspension of other services; and
- f. Mandatory evacuation of the civilian population.

Section 127A-12(b)(13), HRS, requiring each public utility, or any person owning, controlling, or operating a critical infrastructure, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof, and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting or safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon terms and conditions as I may prescribe.

Section 127A-12(b)(16), HRS, directing all state agencies and officers to cooperate and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

Section 127A-16, HRS, by activating the Major Disaster Fund.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**. For the Island of Maui, I hereby invoke the prohibition against price increases and lift the suspension of this section contained in my first Proclamation Relating to Wildfires.

III. Suspension of Laws

The following specific provisions of law are suspended, as allowed by federal law, pursuant to sections 127A-12(b)(8) and 127A-13(a)(3), HRS, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel:

Chapter 6E, HRS, **historic preservation**, to the extent necessary to allow for emergency demolition, repairs, construction, or other response to this emergency.

Section 37-41, HRS, **appropriations to revert to state treasury; exceptions**, to the extent that appropriations lapse at the end of the fiscal year prior to completion of the emergency actions.

Section 37-74(d), HRS, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), HRS, and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements, to the extent that legislative authorization would likely delay appropriation transfers or changes between programs to provide necessary funding to complete the emergency actions.

Section 40-66, HRS, **lapsing of appropriations**, to the extent that the timing of the procurement of the construction of the emergency permanent repairs may occur the fiscal year following the original emergency proclamation.

Chapter 46, HRS, **county organization and administration, provisions applicable to all counties, general provisions**, to the extent necessary to respond to the emergency.

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Chapter 89C, HRS, **public officers and employees excluded from collective bargaining**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 103-2, HRS, **general fund**, to the extent that compliance results in any additional delays.

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, only to the extent necessary to waive the Internal Revenue Service (IRS) tax clearance requirement.

Section 103-55, HRS, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance results in any additional delays.

Chapter 103D, HRS, **Hawaii public procurement code**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Chapter 103F, HRS, **purchases of health and human services**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations.

Chapter 104, HRS, **wages and hours of employees on public works**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Sections 105-1 to 105-10, HRS, **use of government vehicles, limitations**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency actions.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, except for the Island of Maui,

because the automatic, statewide invocation of this provision is not needed for this emergency.

Chapter 171, HRS, **public lands, management and disposition of**, to the extent necessary to respond to the emergency.

Chapter 174C, HRS, **state water code**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 180, HRS, **soil and water conservation districts**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 180C, HRS, **soil erosion and sediment control**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 183, HRS, **forest reserves, water development, zoning**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 183C, HRS, **conservation district**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 183D, HRS, **wildlife**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 184, HRS, **state parks and recreation areas**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 187A, HRS, **aquatic resources**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 195, HRS, **natural area reserves system**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 195D, HRS, **conservation of aquatic life, wildlife, and land plants**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 200, HRS, **ocean recreation and coastal areas programs**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 205, HRS, **land use commission**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 205A, HRS, **coastal zone management**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 342B, HRS, **air pollution**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 342D, HRS, **water pollution**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 342E, HRS, **non-point source pollution management and control**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 342F, HRS, **noise pollution**, to the extent necessary to the extent necessary to respond to the emergency.

Chapter 343, HRS, **environmental impact statements**, to the extent necessary to the extent necessary to respond to the emergency.

Section 464-4, HRS, **public works required to be supervised by certain professionals**, to the extent necessary to the extent necessary to respond to the emergency.

IV. Severability

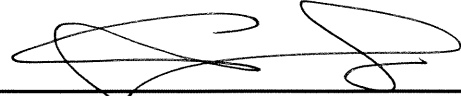
If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

V. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

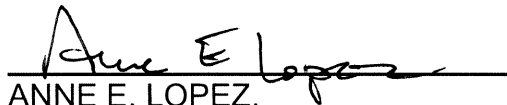
I FURTHER DECLARE that this proclamation supersedes my August 8, 2023 Proclamation Relating to Wildfires and my August 9, 2023 Second Proclamation Relating to Wildfires. The disaster emergency relief period shall commence immediately and continue through August 31, 2023 unless terminated or superseded by separate proclamation, whichever shall occur first.

Done this 9th day of August 2023



SYLVIA LUKE,
Acting Governor of Hawai'i

APPROVED:



ANNE E. LOPEZ,
Attorney General, State of Hawai'i