
A BILL FOR AN ACT

RELATING TO HAWAIIAN FISHPONDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the repair or
2 restoration of Hawaiian loko i'a (fishponds) may require permits
3 from the department of land and natural resources, department of
4 health, office of planning, federal agencies, and county
5 agencies. The legislature further finds that the permit process
6 for repair or restoration of loko i'a may be time-consuming,
7 complicated, confusing, and inconsistent across agencies.
8 Burdensome regulations and permit requirements have historically
9 prevented community organizations or native Hawaiian lawai'a
10 (aquaculturalists) from initiating projects to restore, repair,
11 or maintain loko i'a.

12 In practice, it has reportedly taken up to ten years to
13 obtain the certifications and permits required for loko i'a
14 restoration and repair by state and federal law, including the
15 Clean Water Act and the Coastal Zone Management Act. For
16 example, sections 401 and 404 of the Clean Water Act require
17 first a water quality certification and permit from the



1 department of health and then a permit from the Army Corps of
2 Engineers before loko i'a activities may proceed.

3 Government and community interests have demonstrated their
4 willingness and ability to work together to streamline the
5 permit process for Hawaiian loko i'a. Pursuant to Senate
6 Resolution No. 86 (2012), the department of land and natural
7 resources, office of planning, and the department of health have
8 led these efforts, including coordination with cultural
9 practitioners, community groups, and affected federal and county
10 agencies.

11 The department of land and natural resources is in the
12 final stages of implementing a statewide programmatic general
13 permit and programmatic agreement that would allow most
14 applicants for loko i'a restoration and repair permits to submit
15 a single permit application for review by an interagency
16 advisory group and relevant resource agencies instead of a
17 series of single-agency applications. Upon the appropriate
18 findings by the advisory group, the department of land and
19 natural resources would be able to issue the applicant an
20 authorization to proceed. After a final thirty-day comment
21 period, the permit would be issued and the applicant may conduct



1 restoration and repair activities in compliance with existing
2 environmental protection and other laws, including the Clean
3 Water Act.

4 The purpose of this Act is to ensure that the statewide
5 programmatic general permit and programmatic agreement functions
6 as intended by specifying that a permit applicant that has
7 received notice of authorization to proceed from the department
8 of land and natural resources is not required to obtain
9 additional water quality certification from the department of
10 health. The legislature finds that the intent of this Act is to
11 improve state government efficiency and response time in the
12 administration of water pollution control. It is not the intent
13 of the legislature to limit or impede state environmental
14 controls on water pollution.

15 SECTION 2. Section 342D-6.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+] §342D-6.5 [{}]
18 Hawaiian [~~fishponds~~] loko i'a. (a) The
19 department shall process applications for permits and water
20 quality certifications for the reconstruction, restoration,
21 repair, or reuse of any loko i'a, or Hawaiian fishpond as defined
in section 183B-1, before all other permits and certifications.



1 The director shall render a decision on the completeness of any
2 application for that permit or water quality certification
3 within thirty days of receipt. Applications for [~~fishpond~~] loko
4 i'a reconstruction, restoration, or repair that are incomplete
5 shall be denied without prejudice. The director shall render a
6 decision on any complete application for a permit or water
7 quality certification for any [~~fishpond~~] loko i'a within one
8 hundred fifty days.

9 (b) The department shall waive the requirement to obtain
10 water quality certification under this chapter for any person
11 that has received notice of authorization to proceed from the
12 department of land and natural resources office of conservation
13 and coastal lands under the statewide programmatic general
14 permit for the restoration, repair, maintenance, and operation
15 of loko i'a.

16 (c) For purposes of this section:
17 "Water quality certification" means state certification
18 pursuant to section 401 of the federal Clean Water Act."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Loko i'a; Hawaiian Fishponds; Waiver; Water Quality Certification

Description:

Waives DOH water quality certification requirement for restoration, repair, and operation of Hawaiian loko i'a (fishponds) that are permitted under the Statewide Programmatic General Permit process, administered by the DLNR. (SD1)

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