

State Land Use System



Informational Briefing
Before the
Senate Committee on Water and Land
January 28, 2015

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Governing Statutes

Together, these statutes provide the overall framework of the Land Use System in the State of Hawaii.

- **Hawaii Revised Statutes Chapter 205 – Land Use Commission**
- **Hawaii Revised Statutes Chapter 205A – Coastal Zone Management**

Chapter 205

- Purpose: “preserve, protect, and encourage the development of the lands in the State for those uses to which they are best suited for the public welfare.”
- Established in 1961 – Act 187, SLH 1961
- Key agencies: State Land Use Commission, State Office of Planning, County planning departments

Chapter 205A

- To “provide for the effective management, beneficial use, protection, and development of the coastal zone.”
- Establishment of Hawaii CZM Program
 - 1973 - Act 164 mandated development of a statewide CZM program
 - 1977 - Act 188 enacted a statewide CZM program
 - 1978 - U.S. Department of Commerce approved Hawaii CZM Program
- Office of Planning is the lead agency under the federal Coastal Zone Management Act of 1972, as amended.
- Hawaii CZM Program approved by the federal government and the State
 - Hawaii’s CZM Program was enacted to provide a common focus for state and county actions dealing with land and water uses and activities.
 - The Legislature designed the Hawaii CZM law to build upon the existing functional agencies, which comprise the Hawaii CZM Network.
 - To effectuate the network concept, Chapter 205A requires within the scopes of their authorities, all agencies must assure their statutes, ordinances, rules, and actions comply with the CZM objectives and policies.

State Land Use System Overview

The Statewide land use system includes planning and regulatory programs:

State planning	<ul style="list-style-type: none">• Hawaii State Plan and State Functional Plans• Statewide planning framework
State land use management	<ul style="list-style-type: none">• State Land Use Law [LUC]• State Conservation District [DLNR]
State agency plans	<ul style="list-style-type: none">• Long-range and program plans• Capital improvement plans
State agency permits	<ul style="list-style-type: none">• Environmental permits• Facility permits

Statewide Land Use System

Cornerstone: State Land Use Law

1961

Act 187, SLH 1961

Codified as **Chap. 205, HRS**

“To preserve, protect, and encourage the development of the lands in the State for those uses to which they are best suited for the public welfare” (HRS Chapter 205).

- Administered by State Land Use Commission
- Nine (9) members, appointed by Governor, serve as volunteers
- Supported by LUC staff
- LUC decides on:
 - Amendments of State Land Use Districts
 - Special Permits > 15 acres in Agricultural and Rural Districts
 - Designation of Important Agricultural Lands (IAL)
 - Declaratory Rulings

State land use law

FRAMEWORK for statewide land use management:

Four State land use districts—all lands classified



URBAN

- City-like uses
- **Regulated by counties**



RURAL

- Small farms, low-density residential
- **Uses in Chapter 205**
- **Permitting: counties**
- **Districting: State**



AGRICULTURAL

- Cultivation, other agriculture-related uses
- **Uses in Chapter 205**
- **Permitting: counties**
- **Districting: State**



CONSERVATION

- Forest reserves, watersheds, other nature resources
- **Permitting: State**
- **Districting: State**

Role of Office of Planning

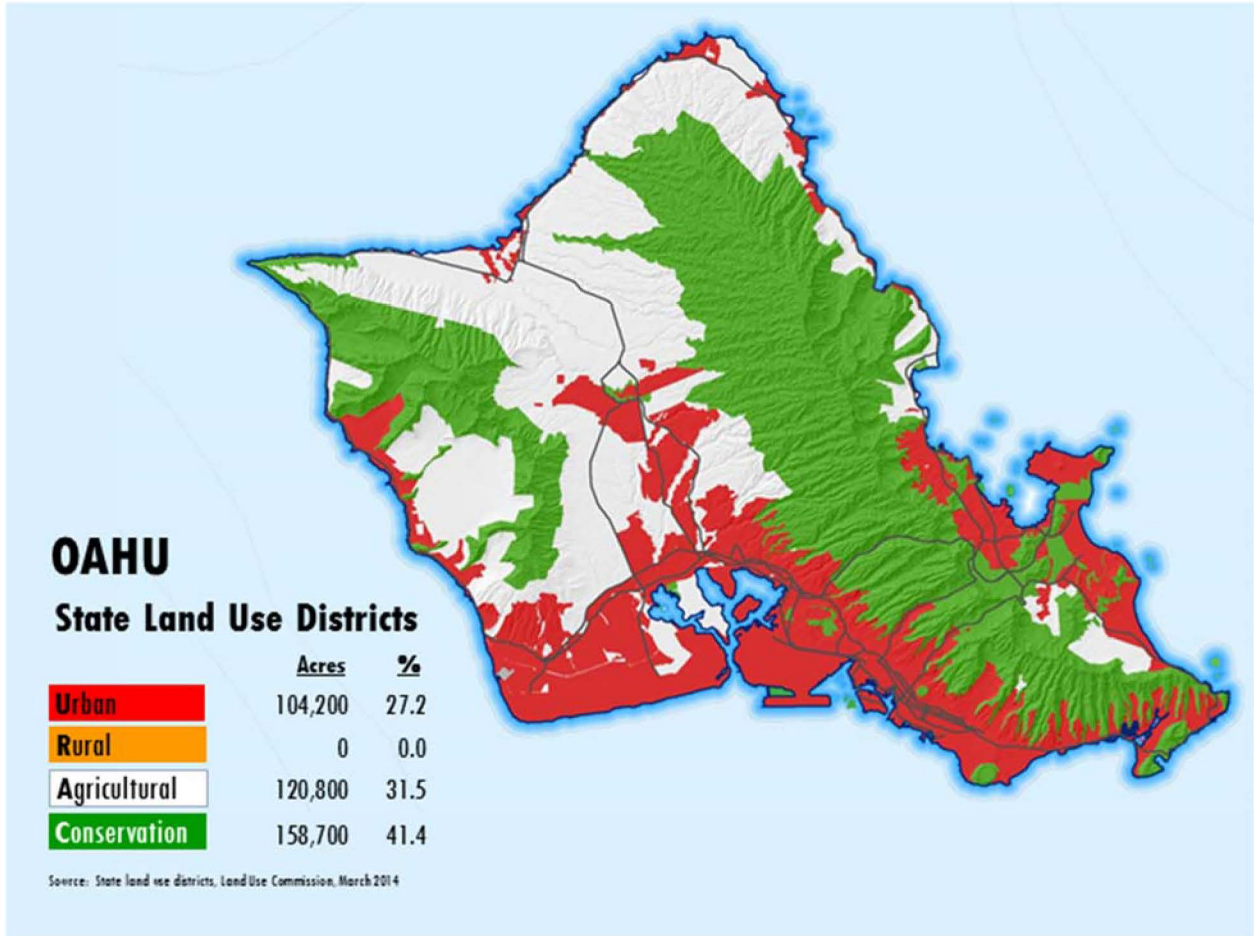


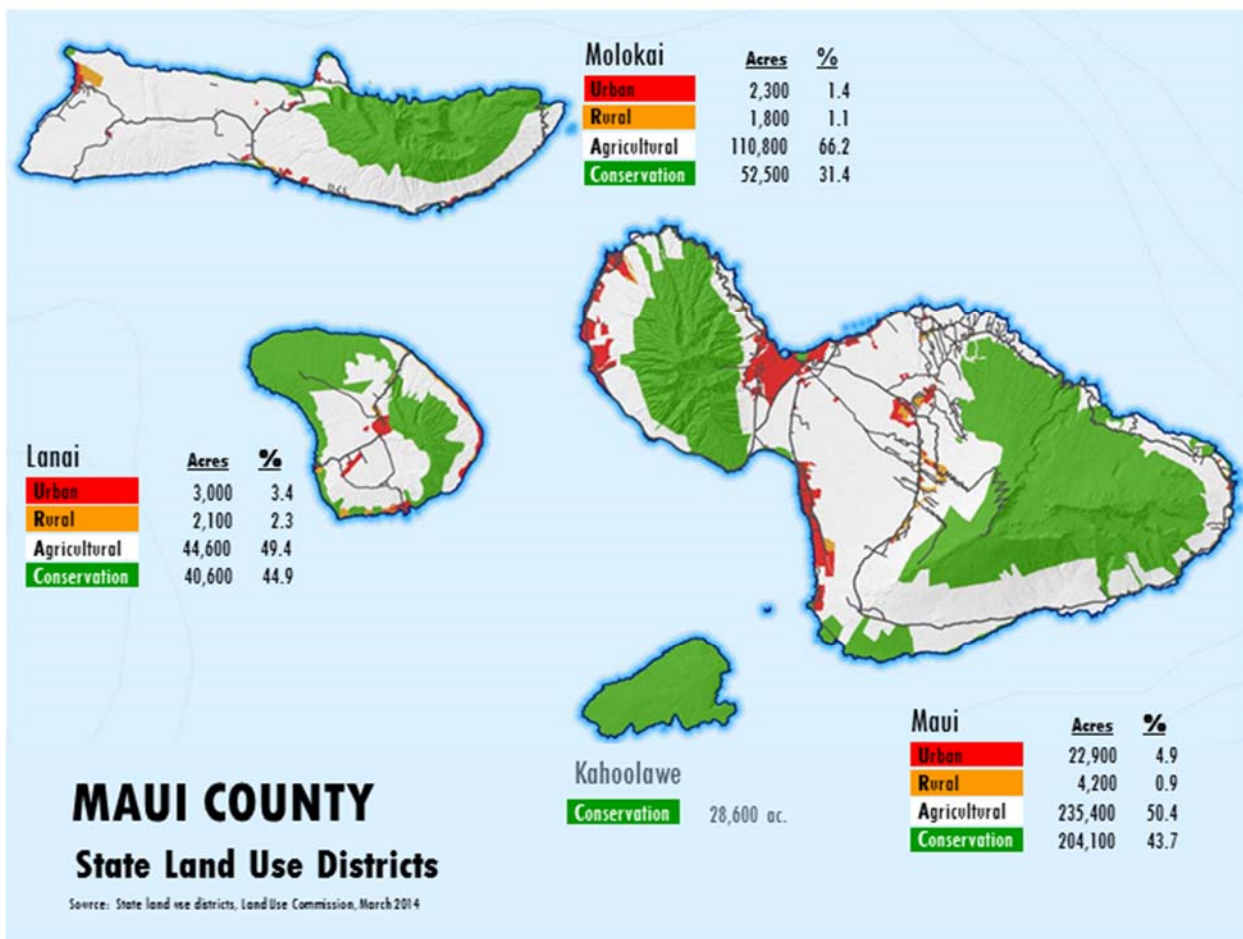
OP is the **State's planning agency**, responsible for **statewide comprehensive** and **regional planning**.

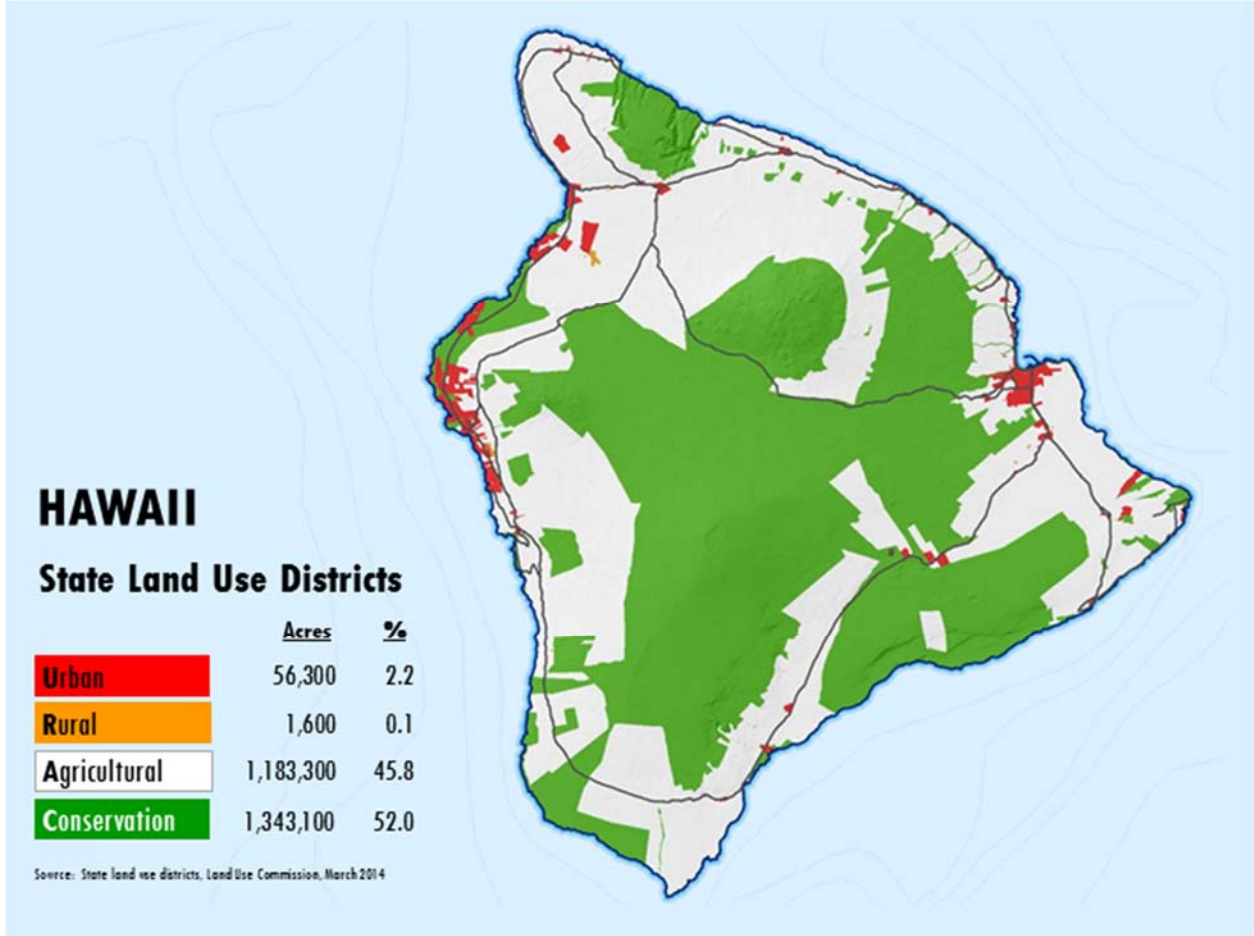
OP works with **other state agencies** and **counties** to **evaluate** whether **proposed projects** heard by the Land Use Commission **further the intent** of the State land use law.

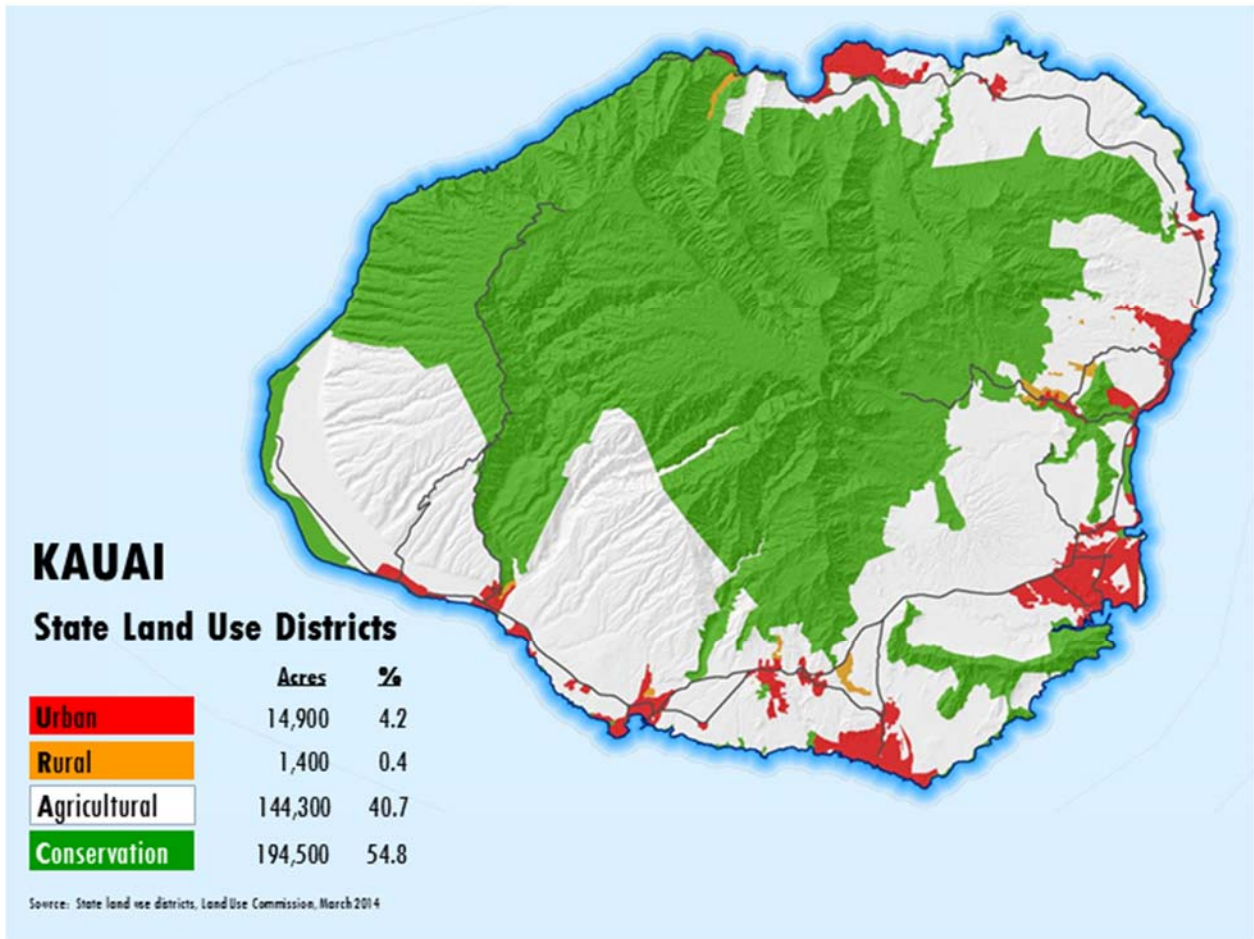
OP represents the State's interests in land use matters before the State Land Use Commission:

- district boundary amendments
- declaratory rulings
- special permits
- important agricultural lands

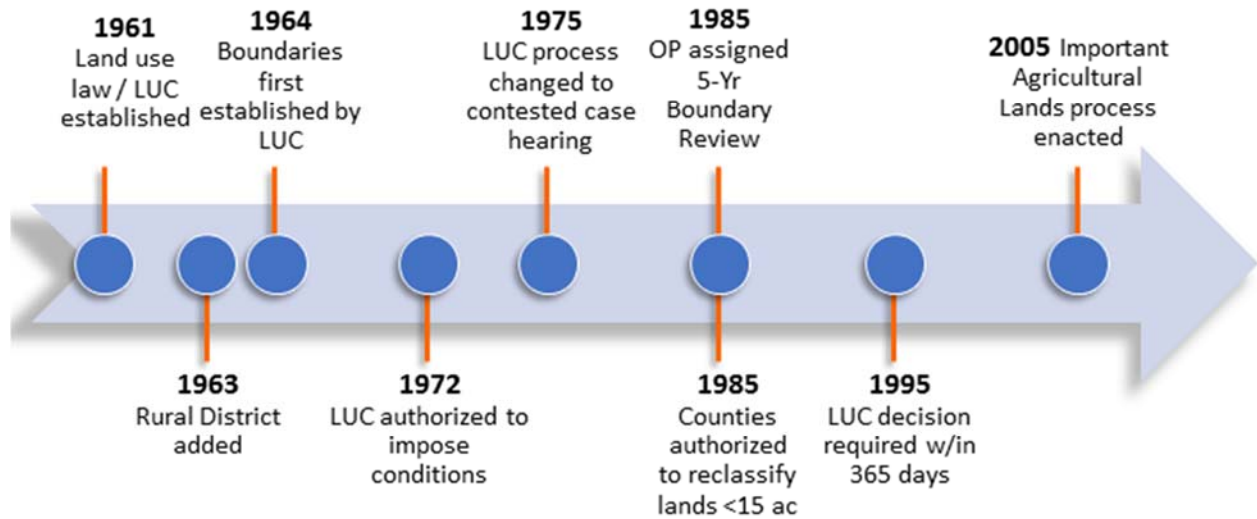




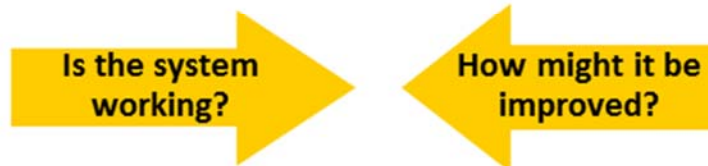




Changes in land use law



State Land Use Review



OP is undertaking a comprehensive review of the State Land Use District Boundary process. Report to be completed by mid-2015.

1. **Purpose:** A more efficient and effective process without compromising the original intent of the law.
2. **Means:** OP convened a task force of diverse stakeholders and sought input from the general public to discuss how the State land use system is working.

State Land Use Review Task Force

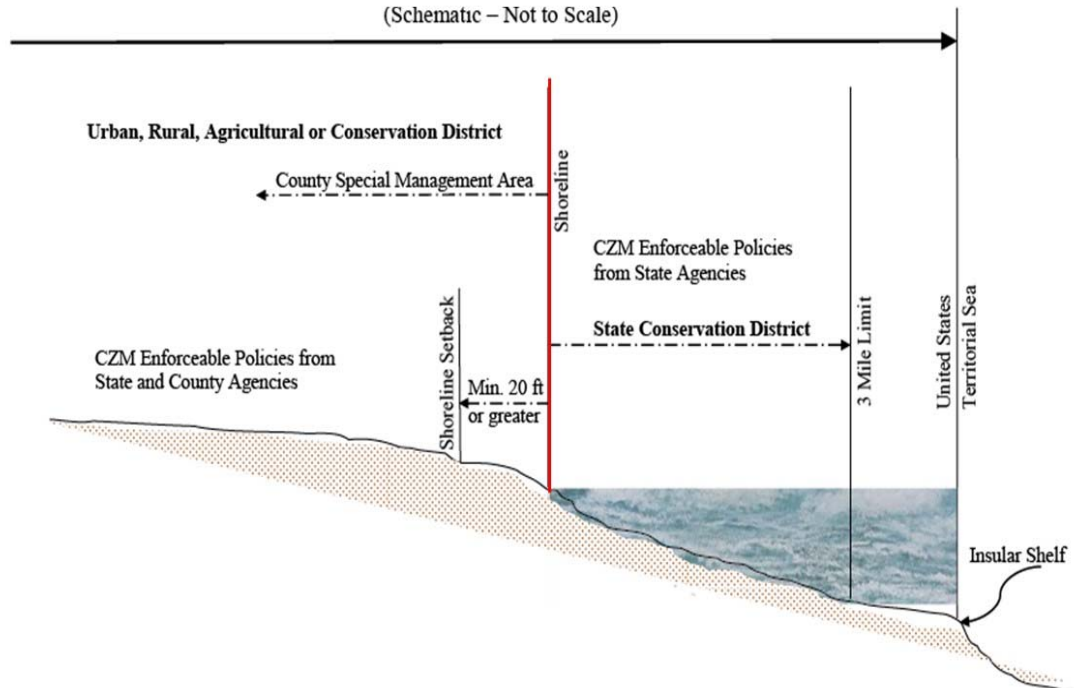
Office of Planning	Land Use Commission
Honolulu DPP	Maui Planning
Hawaii Planning	Kauai Planning
State DOT	State DOA
State DLNR	State DBEDT
Waikiki Improvement Assn	Hawaii Farm Bureau
APA Hawaii	AIA Hawaii
Land Use Research Foundatn	Chamber of Commerce
Building Industry Assn	Sierra Club
Outdoor Circle	Office of Hawaiian Affairs
State Senate	House of Representatives

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Hawaii CZM Network – A Spatial Perspective

(Schematic – Not to Scale)



National CZM Program

- National CZM Program is a voluntary partnership between the federal government and U.S. coastal and Great Lakes states and territories
- Program is administered by National Oceanic and Atmospheric Administration
- Goal of National CZM Program is to “preserve, protect, develop, and where possible, to restore or enhance the resources of the nation’s coastal zone.”
- National CZM Program includes key elements:
 - Protecting natural resources
 - Managing development in high hazard areas
 - Giving development priority to coastal-dependent uses
 - Providing public access for recreation
 - Prioritizing water-dependent uses
 - Coordinating state and federal actions

Hawaii CZM Program

Employs a variety of regulatory and non-regulatory techniques to address coastal issues related to CZM objectives and policies [HRS §205A-2]

- Performed within a framework of cooperation among federal, state, and local levels
- Evaluates federal actions for CZM Act consistency Provides guidance and funding to counties to support administration of the special management area permitting process
- Prepares and updates the Hawaii Ocean Resources Management Plan
- Administers the Coastal Estuarine and Land Conservation Program
- Leads designation process for the Hawaii National Estuaries Research Reserve

Spatial Perspective of the Hawaii CZM Network

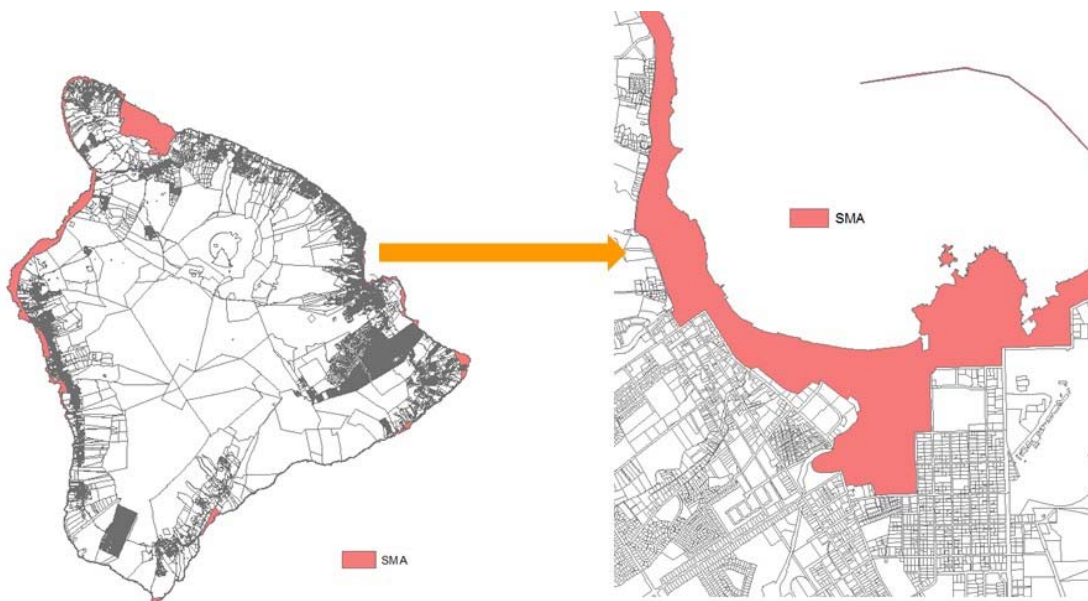
- Depicts jurisdictional areas of the Land Use System in Hawaii
- Hawaii CZM Area – entire State

SMA Permit

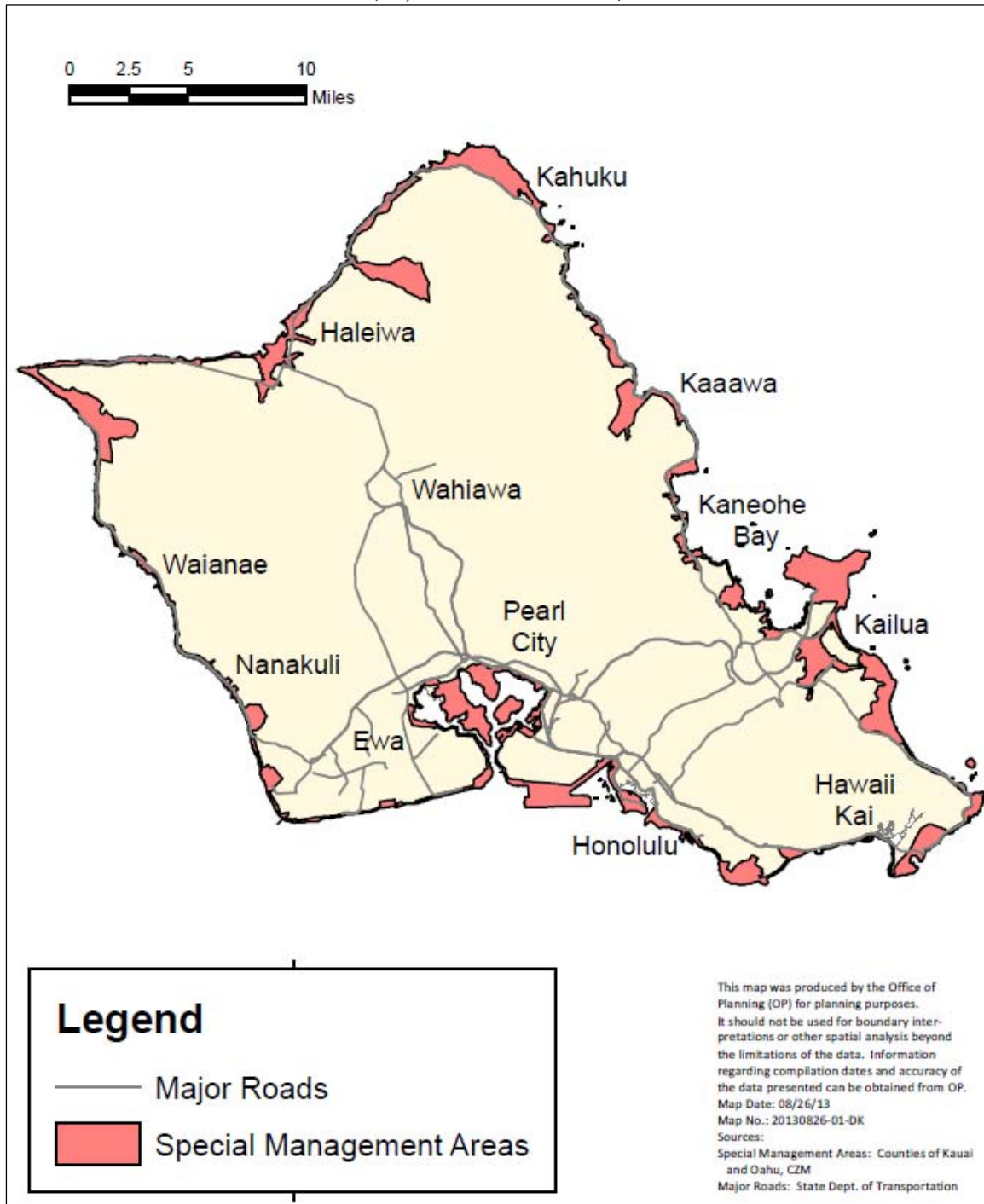
- SMA permitting system is part of the Hawaii CZM Program.
- The SMA permit regulates permissible land uses that are already allowed by land use policies including zoning designations, development plans and county general plans.
- No development shall be allowed in any county within the SMA without obtaining an SMA permit.
- When there is lack of mitigation measures or mitigation measures cannot achieve consistency with CZM objectives and policies, and the SMA guidelines, the SMA permit would be denied.
- No agency authorized to issue permits pertaining to any development within the SMA shall authorize any development unless approval of the SMA permit is first received.
- The SMA permit as the first permit does not preclude concurrent processing of other permits.

County Authorities

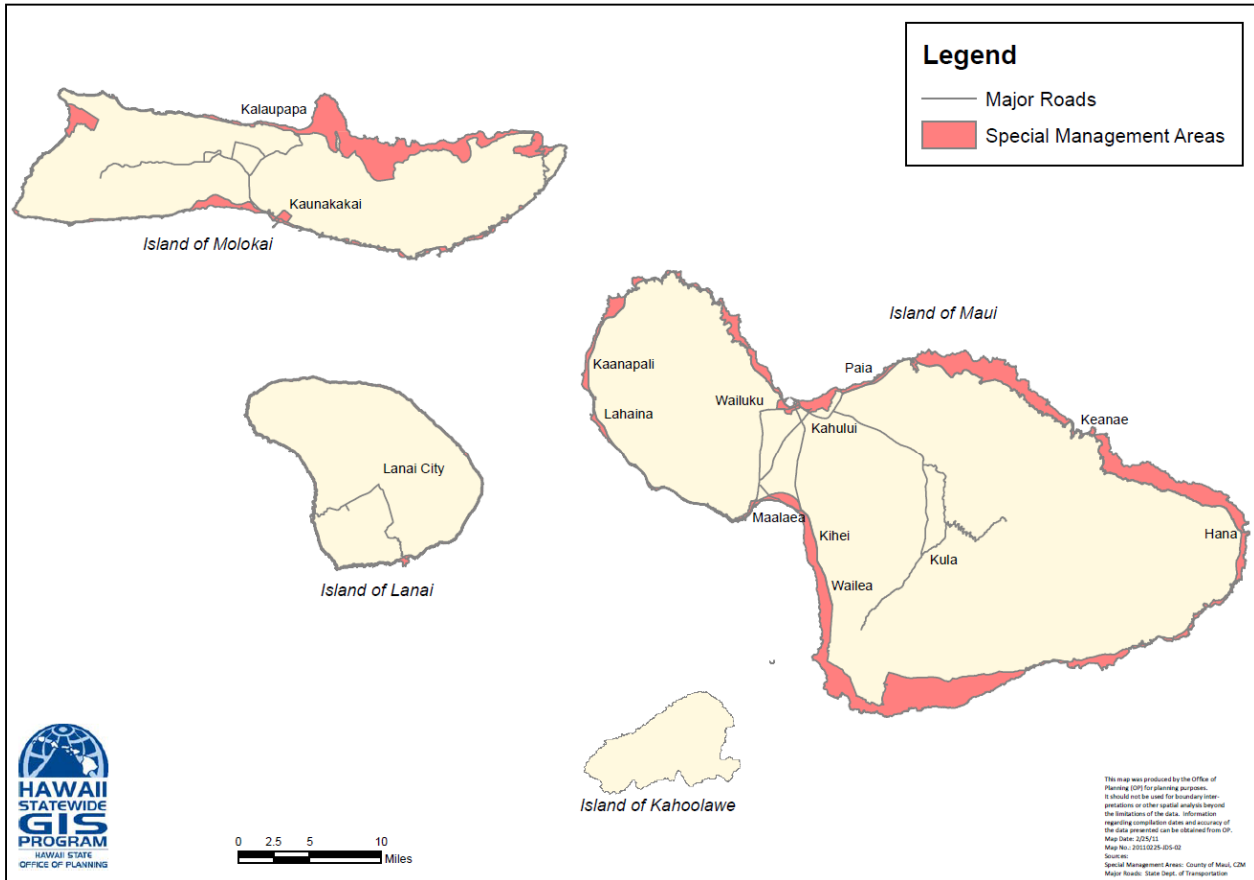
- Four counties play a key role in regulating developments in the SMA.
- The county authorities are the County Planning Commissions, except on Oahu where it is the City Council.
- The SMA boundaries were delineated by the county authorities
 - The SMA is the most sensitive area of the coastal zone
 - Begins at the shoreline and generally extended inland to the nearest highway
 - The SMA is much smaller than the CZM area



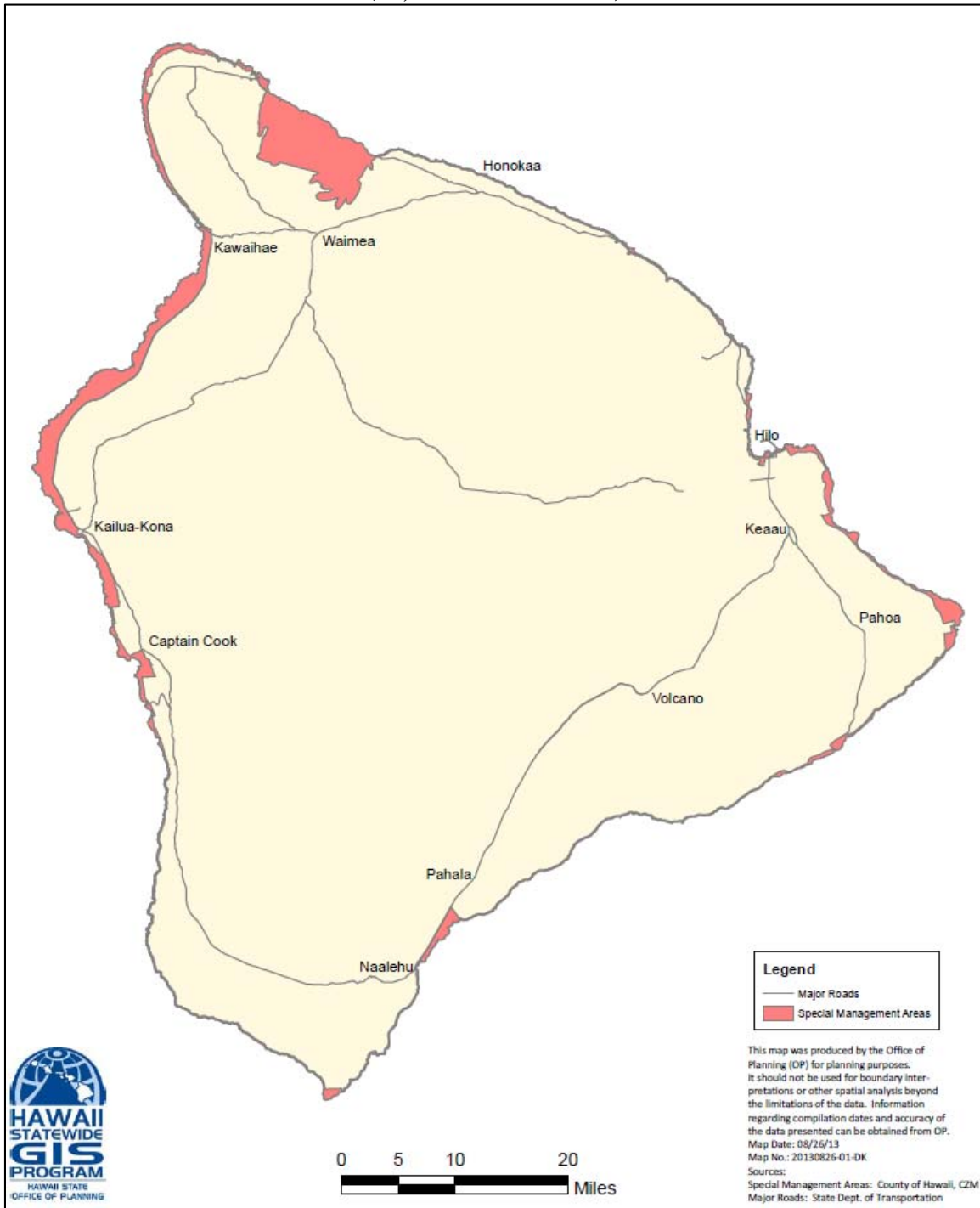
**Honolulu County
(37,724 acres in SMA)**



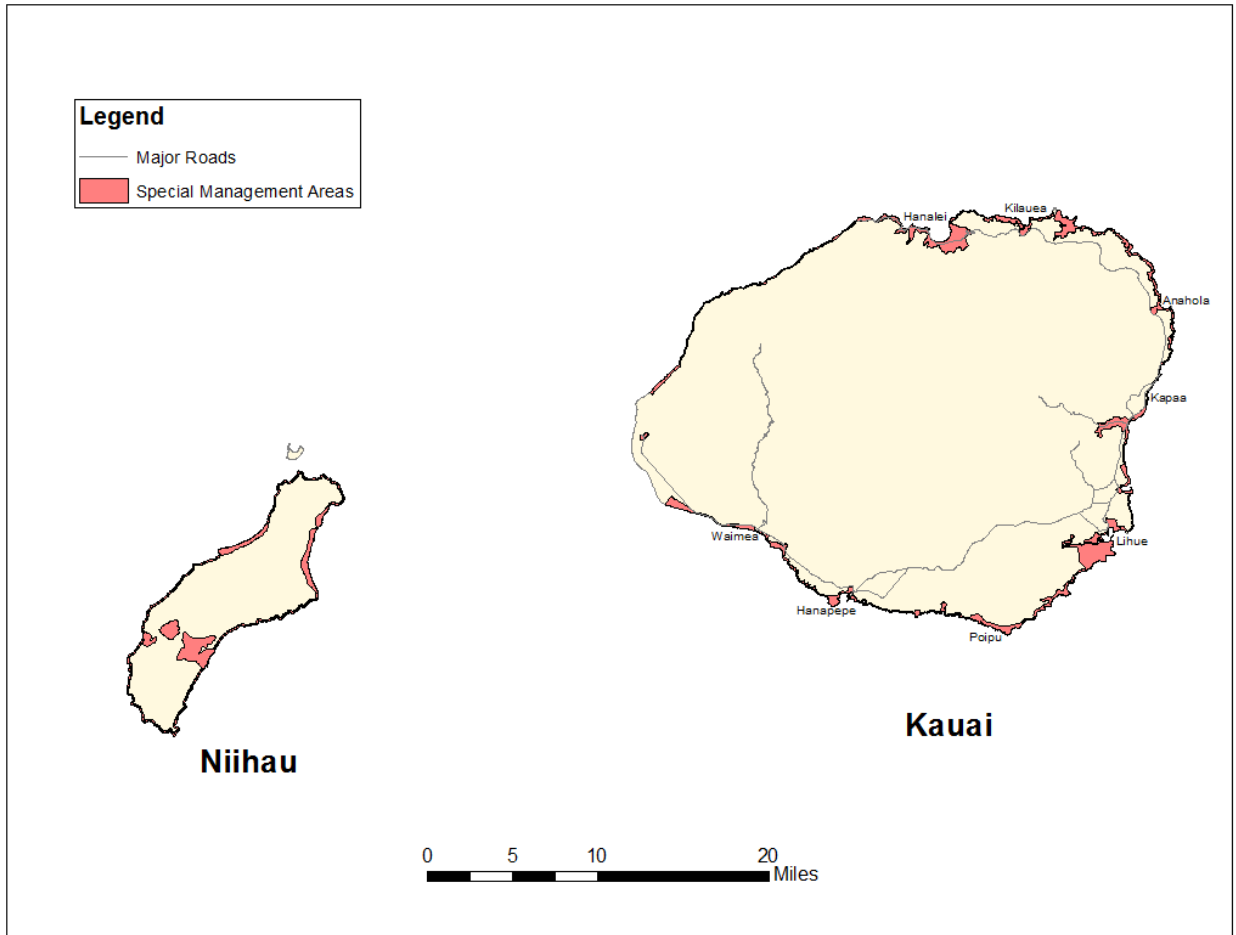
Maui County (75,296 acres in SMA)



Hawaii County (96,201 acres in SMA)



**Kauai County
(19,212 acres in SMA)**

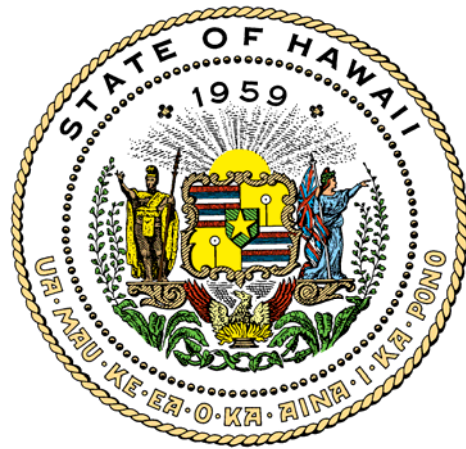




The Garden Island News

Shoreline Setbacks

- HRS § 205A-2(c)(9)(A) requires to “Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion.”
- Establishment of shoreline setbacks is to prohibit within the shoreline area structures or activities which may adversely affect beach processes, public access to and along the shoreline, or shoreline open space.
- The shoreline setbacks provide a buffer zone to minimize the risk of coastal hazards to life and property.
- Under the shoreline setback law, structures are prohibited within the shoreline area without a variance.
- The Shoreline Setback Variance (SSV) is not a permit, but an exception to shoreline setbacks, to the prohibition of structures within the shoreline area.



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