

CARE Committee

From: James Buika <James.Buika@co.maui.hi.us>
Sent: Tuesday, February 16, 2021 3:08 PM
To: Michele McLean; taram@hawaii.edu; CARE Committee; Nicole A. Siegel
Cc: Jeffrey Dack
Subject: CARE-1(2) presentation by James Buika
Attachments: BUIKA, SMA EMERGENCY RULES, COUNCIL CARES, 02.17.21 desktop.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Nicole,

My slide order is after Michele Tara and Jeff. So post mine accordingly.

I will do slides shared from my computer.

Mahalo,
Jim Buika

Jim Buika
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>>> "Nicole A. Siegel" <Nicole.Siegel@mauicounty.us> 02/16/21 2:44 PM >>>
Mahalo, Tara and Michele!

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From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Tuesday, February 16, 2021 2:39 PM
To: taram@hawaii.edu; CARE Committee <CARE.Committee@mauicounty.us>
Cc: James Buika <James.Buika@co.maui.hi.us>; Jeffrey Dack <Jeffrey.Dack@co.maui.hi.us>; Nicole A. Siegel <Nicole.Siegel@mauicounty.us>
Subject: Re: CARE-1(2) presentation by Tara Owens

Mahalo, Tara!

Keeping with this thread, attached is my presentation.

Aloha,
Michele.

>>> Tara Owens <taram@hawaii.edu> 2/16/2021 2:33 PM >>>

Hi CARE committee:

Please see attached. The presentations tomorrow will be a tag team effort, so this slide set will follow an introduction and overview by the Planning Director, and will then be followed by other slides or information delivered by the Planning Director and other Department staff.

Thank you,
Tara

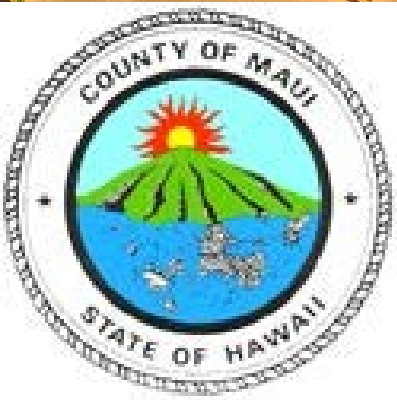
~~~~~  
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# **Proposed Amendments to the Emergency Rules of the *Special Management Area Rules for the Maui Planning Commission***

**Maui County Council *Climate Action, Resiliency, and  
Environment Committee* Workshop  
February 17, 2021**

**James Buika  
Coastal Resource Planner  
County of Maui Department of Planning**







# **Outline of *Key Points:*** ***SMA Rules 12-202-16*** ***Special Management Area*** ***Emergency Permit Procedures***

- 1. Why the Proposed Rule Changes?**
- 2. Examples of Common Emergencies (2)**
- 3. Proposed Rules**
- 4. Proposed Process**



# 1. Why the Proposed Rule Changes?

The purpose of an emergency permit is to allow an urgently needed protective measure, principally of a temporary nature...

1. **Current rules only address the immediate emergency and do not encourage or provide guidance to address the situation with a long-term solution (Current rules are REACTIVE rather than PROACTIVE); and**
2. **Clarify a process for addressing coastal erosion**

# 1. Why the Proposed Rule Changes?

**“Temporary” property protection measures for coastal erosion have become a substitute for “long term” (1-3):**

- 1. Creates continued work for staff;**
- 2. Property owners have become complacent (“we’re protected now”); and**
- 3. Temporary measures are costly, so owners unwilling to remove them; even as beach recovers.**

# 1. Why the Proposed Rule Changes?

**“Temporary” property protection measures for coastal erosion have become a substitute for “long term” (4-6):**

- 4. Permitting is costly -- A “long-term” solution (beach nourishment, relocation, elevation) is costly to permit and execute;**
- 5. Permitting is lengthy – takes several years to prepare environmental documents and obtain permits; and**
- 6. Permitting is complex – multiple jurisdictions are often required -- County, State, and Federal permits.**

**Erosional End Effect Impacts caused by “Temporary Property Protection” under Emergency Permit. Temporary sand bags are “extended” by State or County.**

## 2. Examples of Common Emergencies



12/09/2017 07:11

Valley Isle Resort, Kahana Bay



## 2. Examples of Common Emergencies

### EXAMPLE: HOW & WHY???

HOW AND WHY DOES COASTAL EROSION OCCUR TO RESULT IN THIS THREATENED COASTAL ZONE?

“How did you go bankrupt?” Bill asked.

“Two ways,” Mike said.

“Gradually, then *Suddenly*.”

--- The Sun Also Rises

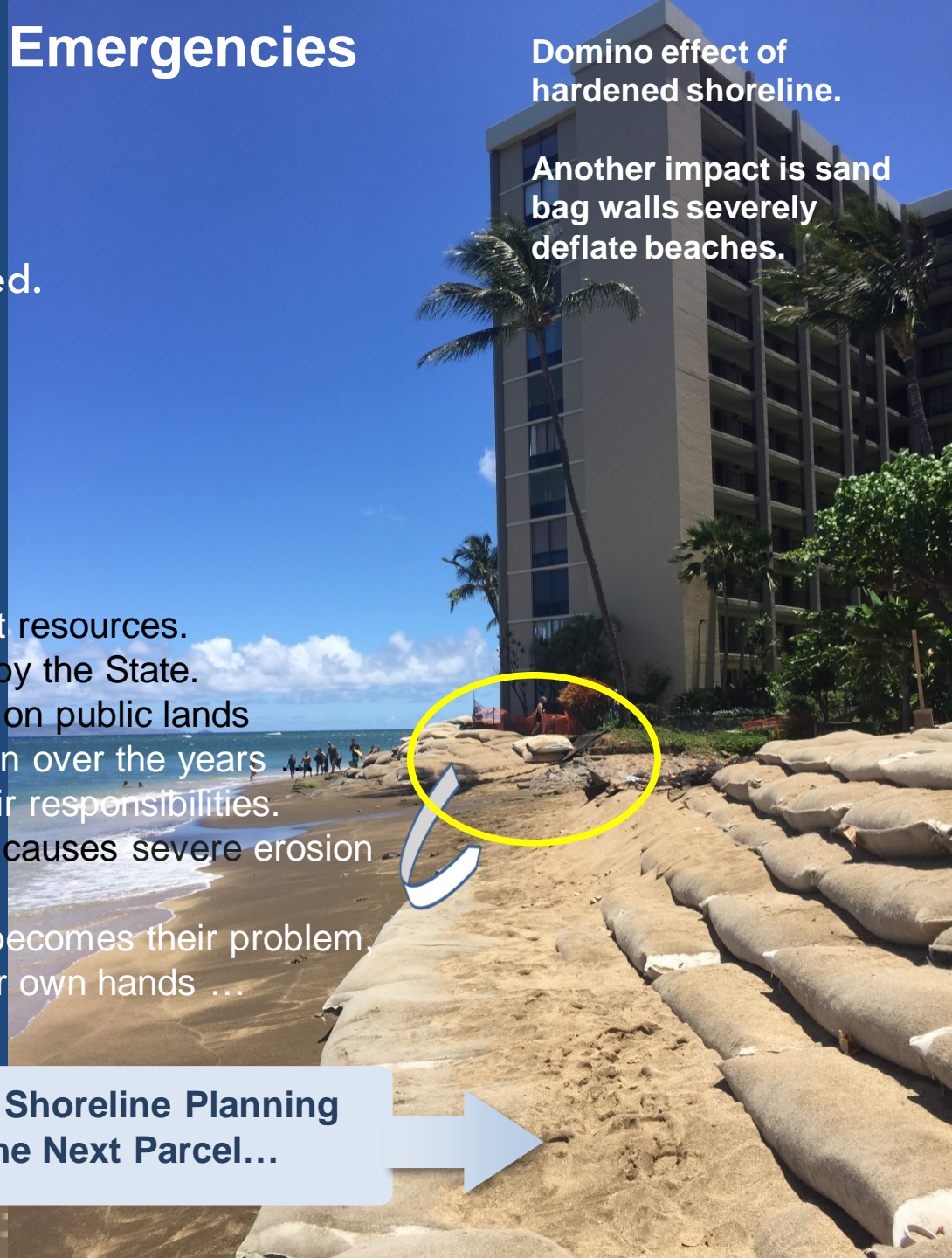
### The Why... whereas...

- Beaches and shorelines are public trust resources.
- Beaches and shorelines are managed by the State.
- Private owners are unable to intervene on public lands
- Owners observe gradual coastal erosion over the years
- ... but managing shorelines are not their responsibilities.
- Until, suddenly, a large, episodic storm causes severe erosion fronting their parcel...
- ... then the erosion problem suddenly becomes their problem, and owners must take matters into their own hands ...

Domino effect of hardened shoreline.

Another impact is sand bag walls severely deflate beaches.

... then Hawaii's Reactive Shoreline Planning Process Kicks in for the Next Parcel...



# 3. Proposed Rules

## Proposed Rule Change Development Process...

1. Vetted with DLNR Office of Conservation and Coastal Lands (DLNR-OCCL) and Office of Planning (OP)
2. Augments existing rules
3. Primarily establishes a process to move from temporary protection to more “long-term” solution
4. Provides applicant with knowledge of planned path forward to alleviate the emergency situation
5. Provides defined planning steps into rules as a framework for solving emergency
6. Provides transparency and consistency in approach



### **3. Proposed Rules**

**Key Proposed Changes 12-202-16 (h & i) –  
for an emergency permit request that is the result of or  
that otherwise involves coastal erosion...**

- 1. SM3 Emergency Permit remains limited to 180 days;**
- 2. As part of Emergency Permit issuance, applicant is provided with a 90-day permit compliance requirement**
- 3. This proposed process provides Applicant with early educational intervention about the path ahead.**

## **4. Proposed Process in Rules (page 202-25): Within ninety days...**

Any such approval, in addition to any project-specific conditions, shall include the following conditions:

12-202-16 (h) (1) Within ninety days, the applicant shall provide the department a description of potential long-term alternatives designed to alleviate the emergency situation, which shall include:

- (A) alternatives, including relocation of threatened structures or elevation of structures, and dune or beach restoration;
- (B) assessment of other viable alternatives, which may include protective or erosion control measures, such as groins, and offshore structures such as breakwaters;
- (C) a description of how each alternative complies with chapter 12-203 of the commission's shoreline rules, if applicable;
- (D) a draft timeline to plan, design and complete each long-term alternative;
- (E) a list of potential Federal, State, and County permits required to achieve each long-term alternative.



## 4. Proposed Process in Rules: Within ninety days...

Any such approval, in addition to any project-specific conditions, shall include the following conditions:

12-202-16 (h) (2) Within ninety days of the permit's approval, the permit holder shall consult with the department about identified long-term alternatives to understand the requirements and restrictions for work permitted in the shoreline area, as defined in the commission's shoreline rules, if applicable.

12-202-16 (h) (3) The temporary measure must be removed unless the permit holder submits an application by the date specified by the emergency permit to allow the temporary measure to remain, pursuant to subsection (i).

## **4. Proposed Process in Rules: Time Extension Request @ 180 days...**

12-202-16 (i) No less than thirty days prior to the expiration date of an emergency permit, the permit holder may apply for a time extension for any permit provision on a form provided by the department. Such application shall include, at a minimum:

(1) a description of the permit holder's preferred alternative;

(2) evidence that the permit holder is making adequate progress toward completing permanent measures, but reasonably cannot do so within the time allowed by the emergency permit; and

(3) a plan and timeline for obtaining all required permits.

The director may approve a time extension for no more than one hundred and eighty days at a time.



# ***Q&A....Mahalo Nui Loa***

**KAMA'OLE III  
AMERICAN  
DISABILITIES ACT  
DUNE  
WALKOVER**

## **Maui Coastal Zone Management Team**

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