

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**PROCLAMATION**

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

**WHEREAS**, state and county fire fighters have fought nine wildfires on four islands since July 1, 2007 which have damaged or destroyed over 18,500 acres of land; and

**WHEREAS**, state and county fire fighters have been engaged in fighting a large wildfire near Wahiawa and Waialua in the City and County of Honolulu since August 12, 2007; and

**WHEREAS**, this wildfire known as the Waialua Wildfire has damaged or destroyed well over 6,700 acres of land, including agricultural lands, and threatens at least one hundred homes, fifteen businesses, two elementary schools, one high school, Schofield Barracks Military Reservation, a large state forest preserve, countless natural resources and endangered species, and other significant tracts of property should the fire cross the Waianae Mountain Range; and

**WHEREAS**, state and county agencies have expended considerable funds fighting these wildfires and have exhausted funds identified for use in fighting wildfires; and

**WHEREAS**, the lack of moneys and resources gravely compromise the ability of the State and counties to fight wildfires that may arise before December 31, 2007; and

**WHEREAS**, two additional wildfires are also currently burning on Oahu near Kaena Point; and

**WHEREAS**, the National Weather Service has forecast that Hawaii should expect continued high winds and a lack of rain in the area of these wildfires; and

**WHEREAS**, the National Weather Service continues to forecast that Hawaii should expect weather for the rest of the year that is drier than normal; and

**WHEREAS**, these drier than normal weather conditions are likely to continue to significantly increase the risk of wildfires in Hawaii; and

**WHEREAS**, rainfall, stream flow, and ground water levels across the State have been observed to be significantly below normal; and

**WHEREAS**, current forecasts indicate that drought conditions are likely to persist or intensify through the rest of the year; and

**WHEREAS**, the fires are burning in dry brush and steep terrain and the Waialua Wildfire has exhibited erratic behavior with twenty-five foot flame lengths; and

**WHEREAS**, the fires remain in an uncontrolled state and officials do not expect to get them under control without significant resources and other intervention; and

**WHEREAS**, the Waialua Wildfire is of such magnitude that the Federal Emergency Management Agency has granted the State's request for a Fire Management Assistance Grant which will make federal funds available to assist the state and county in fighting this fire; and

**WHEREAS**, wildfires leave the land vulnerable to soil erosion, take away necessary habitat for threatened and endangered species, create a public nuisance through the presence of partially burned or hazardous trees, and create unsafe conditions for public access; and

**WHEREAS**, forest restoration measures will aid in the prevention of long term soil erosion and nuisance abatement through the removal of hazardous trees resulting from wildfires;

and

**WHEREAS**, section 155-9(e), Hawaii Revised Statutes, provides for emergency loans to provide relief and rehabilitation to qualified farmers without limit as to purpose who have suffered great economic loss in the above areas stricken by this extraordinary natural catastrophe; and

**WHEREAS**, pursuant to section 209-2, Hawaii Revised Statutes, the Governor is authorized to make a determination whether a disaster has occurred, thereby making available housing relief, under part II of chapter 209, Hawaii Revised Statutes, and commercial and personal loans under part III of chapter 209, Hawaii Revised Statutes, for disaster relief and rehabilitation; and

**WHEREAS**, the Legislature of the State of Hawaii 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 disaster; and

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

**WHEREAS**, pursuant to section 127-11, Hawaii Revised Statutes, the Governor is authorized to determine whether a major disaster has occurred and authorize the expenditure of funds thereunder; and

**WHEREAS**, section 127-10, Hawaii Revised Statutes, provides that when sections 127-1 to 127-9, Hawaii Revised Statutes, are not in effect, the Governor may exercise any and all powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief and that all provisions of the law provided in chapter 128, Hawaii Revised Statutes, during such period are made applicable to other disaster relief, including without limitation, provisions making or authorizing appropriations or expenditures; and

**WHEREAS**, pursuant to Act 35, Regular Session Laws of Hawaii 1961, sections 127-1 to 127-9, Hawaii Revised Statutes, have been indefinitely suspended and are not in effect, the provisions of chapter 128, Hawaii Revised Statutes, are applicable to other disaster relief; and

**WHEREAS**, pursuant to section 127-10, Hawaii Revised Statutes, other disaster relief includes, but is not limited to the preparation for and the carrying out of all functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by fire, flood, tidal wave, volcanic eruption, earthquake, or other natural causes and major disasters caused by acts of man, including but not limited to, massive oil spills, nuclear accidents, airplane crashes and civil disturbances; and

**WHEREAS**, pursuant to section 121-30, Hawaii Revised Statutes, the Governor may order the Hawaii National Guard, or any part thereof, into active service for assistance to civil authorities in disaster relief, civil defense, averting any imminent public danger and threat, and to insure the compliance with the civil laws of the State of Hawaii; and

**WHEREAS**, pursuant to section 128-6(6), Hawaii Revised Statutes, the Governor may require each public utility, or any person owning, controlling, or operating a vital facility, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding; and provide for the protection and safeguarding of all public properties, or such other properties as the governor may consider advisable, including the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the Governor may prescribe; and

**WHEREAS**, pursuant to section 128-6(8), Hawaii Revised Statutes, the Governor may direct or control, as may be necessary for civil defense partial or full mobilization of civil defense organizations in advance of actual disaster; shutting off water mains, gas mains, electric power connections, or suspension of other services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after disasters; traffic control; the congregation of the public in stricken or danger areas or under dangerous conditions; and the evacuation and reception of the civilian population; and

**WHEREAS**, pursuant to section 128-10(5), Hawaii Revised Statutes, the Governor is further authorized to order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

**WHEREAS**, pursuant to section 128-10(11), Hawaii Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency disaster relief functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, provide for and effect the interchange of personnel, by detail, transfer, or otherwise, between the State and any political subdivision, or among any agencies or departments of the State; and

**WHEREAS**, pursuant to section 128-8(4), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflict with, disaster relief or other emergency functions; and

**WHEREAS**, pursuant to section 128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws 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

**WHEREAS**, pursuant to section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, and I find that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

**WHEREAS**, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 128 and to provide for civil defense and other emergency functions; and

**NOW, THEREFORE**, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 128-7, 121-30, 155-9(e), and 209-2, Hawaii Revised Statutes, threatens the State of Hawaii in the above areas in the State of Hawaii, and do hereby proclaim this area to be a disaster area for the purpose of authorizing the expenditure of State monies as appropriated for the speedy and efficient protection and relief of the damages, losses, and suffering resulting from the threatened disaster, and hereby authorize and invoke the following measures under the Hawaii Revised Statutes:

1. Section 127-11, Hawaii Revised Statutes, by the activation of the Major Disaster Fund.
2. Section 121-30, Hawaii Revised Statutes, and I hereby order the National Guard into active service effective immediately, and the Adjutant General of the Hawaii National Guard is **DIRECTED AND AUTHORIZED** to activate such units of the Hawaii 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 insure the compliance with the civil laws of the State of Hawaii.
3. Section 128-6(6), Hawaii Revised Statutes, and I hereby require each public utility, or any person owning, controlling, or operating a vital facility, to protect and safeguard its or the person's property, or to provide for the protection and

safeguarding; and provide for the protection and safeguarding of all public properties, or such other properties as the Governor may consider advisable, including the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the Governor may prescribe and the Director of Civil Defense and the Vice Director of Civil Defense are directed to identify vital facilities or public properties to be protected or safeguarded.

4. Section 128-6(8), Hawaii Revised Statutes, and the Director of Civil Defense and Vice Director of Civil Defense are directed to take appropriate actions to direct or control, as may be necessary for civil defense:
  - a. Partial or full mobilization of civil defense organizations in advance of actual disaster;
  - b. Shutting off water mains, gas mains, electric power connections, or suspension of other services;
  - c. The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after disasters;
  - d. Traffic control;
  - e. The congregation of the public in stricken or danger areas or under dangerous conditions; and
  - f. The evacuation and reception of the civilian population.
  
5. Section 155-9(e), **relief to farmers**; and I further authorize the Department of Agriculture to modify or waive any or all security requirements or any limitations with respect thereto as provided under the law and, as necessary, on a case-by-case basis.
  
6. Part III of chapter 209, **commercial and personal loans**.
  
7. For purposes of this fire emergency, I hereby suspend, pursuant to sections 128-8(4) and 128-9(8), Hawaii Revised Statutes, section 209-9, Hawaii Revised Statutes, for purposes of this Proclamation and, as allowed by federal law, the


following statutes to the extent necessary to fight, gain control, and extinguish the Waialua Wildfire, protect, preserve, repair, and restore, with appropriate necessary mitigation and restoration efforts the State's forest reserves, natural area reserve system land, and watershed areas that may be endangered by wildfires:


- a. Chapter 46, **county organization and administration**
- b. Chapter 6E, **historic preservation** except for those provisions relating to burial sites
- c. Chapter 89, **collective bargaining in public employment**
- d. Chapter 89C, **public officers and employees excluded from collective bargaining**
- e. Section 103-53, **contracts with the State or counties; tax clearances**
- f. Chapter 103D, **procurement code**
- g. Chapter 104, **wages and hours of employees on public works**
- h. Sections 105-1 to 105-10, **use of government vehicles, limitations**
- i. Chapter 171, **public lands, management and disposition of**
- j. Chapter 180, **soil and water conservation districts**
- k. Chapter 180C, **soil erosion and sediment control**
- l. Chapter 183, **forest reserves, water development, zoning**
- m. Chapter 183C, **conservation districts**
- n. Chapter 183D, **wildlife**
- o. Chapter 184, **state parks and recreation areas**
- p. Chapter 195, **natural areas reserves system**
- q. Chapter 195D, **conservation of aquatic life, wildlife, and land plants**
- r. Chapter 198D, **Hawaii statewide trail and access system**
- s. Chapter 264, **highways**
- t. Chapter 343, **environmental impact statements**
- u. Chapter 343D, **environmental disclosure**
- v. Chapter 344, **state environmental policy**

8. Section 128-10(5), Hawaii Revised Statutes, and in order to provide emergency disaster relief, I hereby direct all state and county agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate the danger.

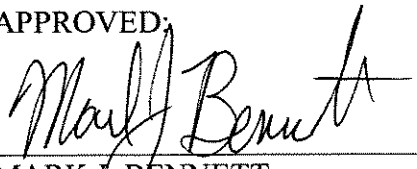
I FURTHER DECLARE that a disaster emergency relief period shall commence August 12, 2007, and the provisions of this proclamation shall remain in effect through December 31, 2007, unless terminated at an earlier date by me.

Done at the State Capitol State of Hawaii, this 16<sup>th</sup> day of August, 2007.

  
LINDA LINGLE  
*Governor of Hawaii*



APPROVED:

  
MARK J. BENNETT  
*Attorney General*  
*State of Hawaii*