

OFFICE OF THE GOVERNOR
STATE OF HAWAII

**EMERGENCY PROCLAMATION
RELATING TO MAUNA LOA**

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, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, pursuant to Chapter 127A, Hawaii Revised Statutes (HRS), emergency powers are conferred on the Governor of the State of Hawai'i to respond to disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare;

WHEREAS, experts have been monitoring increased seismic activity on Mauna Loa in the County of Hawai'i;

WHEREAS, on November 27, 2022, Mauna Loa began erupting with lava initially confined to Moku'aweoweo, the summit caldera near the mountain's summit. The eruption has since migrated from the summit to the Northeast Rift Zone where fissures are feeding several lava flows;

WHEREAS, the eruption has also resulted in the release of volcanic gasses and an ash plume of such character that the National Weather Service had issued an ashfall advisory for the County of Hawai'i;

WHEREAS, the ash plume from Mauna Loa had further travelled in a North-Northeasterly direction toward Maui County;

WHEREAS, the Mayor of the County of Hawai'i has issued a proclamation declaring a state of emergency for the County of Hawai'i as a result of this event; and

WHEREAS, based on historic eruption patterns of the volcanoes in the County of Hawai'i, this eruption along with further seismic activity will most likely continue thereby endangering the health, safety, and welfare of the people;

WHEREAS, this occurrence of a severe, sudden, and extraordinary event of the eruption of Mauna Loa with associated lava, volcanic gasses, and ash that threatens 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 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;

WHEREAS, pursuant to section 127A-12(b)(8), 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, in whole or in part, if these provisions 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;

WHEREAS, pursuant to section 127A-12(b)(16), Hawaii Revised Statutes, the Governor may order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers;

WHEREAS, pursuant to section 127A-12(b)(5), Hawaii Revised Statutes, the Governor may take possession of, use, manage, control, and reallocate any public property of the State, real or personal, required by the Governor for the purposes of this chapter, including airports, parks, playgrounds, and schools, and other public buildings;

WHEREAS, pursuant to section 127A-12(b)(9), 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 management 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 the provisions of chapter 127A, Hawaii Revised Statutes, provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State;

WHEREAS, pursuant to section 127A-12(b)(19), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 127A, Hawaii Revised Statutes, notwithstanding that powers in section 127A-13(a) may only be exercised during an emergency period; and

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, has occurred in the Counties of Hawai'i and Maui, 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. Invocation of Laws

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 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.

II. 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:

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 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 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.

III. Severability

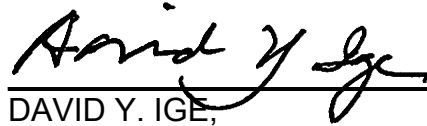
If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected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

IV. 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 the disaster emergency relief period shall commence immediately and continue through January 27, 2023 unless terminated or superseded by separate proclamation, whichever shall occur first.

Done at the State Capitol, this
28th day of November 2022



DAVID Y. IGE,
Governor of Hawai`i

APPROVED:



Holly T. Shikada
Attorney General
State of Hawai`i