

**[CHAPTER 180C]**  
**SOIL EROSION AND SEDIMENT CONTROL**

Section

180C-1 Definitions

180C-2 Erosion and sediment control

180C-3 Limitation of enactment of ordinances

180C-4 Department of health

## **Note**

L 2014, c 218, §8 purports to amend this chapter.

Department of transportation's bridge rehabilitation and replacement program; temporary exemption from certain construction requirements of this chapter through June 30, 2017 or until completion. L 2012, c 218.

## **Cross References**

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

## **Case Notes**

The public trust duties imposed on the State under article XI, §1 of the Hawaii constitution also applied to the county, as a political subdivision of the State; article XI, §1 mandates that the county has an obligation to conserve and protect the State's natural resources; the county's power under the general laws with respect to its public trust duty to protect the natural resources of the State can be found in this chapter; thus, the county had a duty to protect the waters located adjacent to defendant's property. 111 H. 205, 140 P.3d 985.

" **[§180C-1] Definitions.** "Conservation plan" or "plan" means a plan for the control of soil erosion and sediment resulting from a land disturbing activity.

"Conservation standards" or "standards" means standards adopted within ninety days of the passage of this chapter by the department of health.

"County" means all the county governments of Honolulu, Maui, Kauai, or Hawaii.

"Department of health" or "department" shall mean the department of health of the State of Hawaii.

"Land disturbing activity" means any land change which may result in soil erosion from water or wind and the movement of sediment into state waters or onto lands in the State including, but not limited to, tilling, clearing, grading, excavating, transporting, and filling of land other than federal lands, except that the term shall not include such minor land disturbing activities as home gardens and individual home landscaping, repairs, and maintenance work.

"Persons" means any individual, partnership, firm, association, joint-venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality, and other political

subdivisions of the State, any interstate body or any other legal entity.

"Soil and water conservation districts" or "district" means a governmental subdivision of this State, and a public body corporate and politic, organized under chapter 180.

"State waters" means all waters, fresh, brackish or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a pollution control system are excluded. [L 1974, c 249, pt of §2]

### Revision Note

Numeric designations deleted and definitions rearranged.

" **[\$180C-2] Erosion and sediment control.** (a) The county governments, in cooperation with the soil and water conservation districts and other appropriate state and federal agencies, shall enact ordinances for the purpose of controlling soil erosion and sediment.

(b) The ordinance for erosion and sediment control shall include but not be limited to the following:

- (1) Be based on relevant physical and developmental information concerning the watersheds and drainage basins of the county and/or State including but not limited to data relating to land use, soil, hydrology and geology, size of land area being disturbed, approximate water bodies and their characteristics, transportation, and public facilities and services.
- (2) Include such survey of land and waters as may be deemed appropriate by the county or required by any applicable law to identify areas including multi-jurisdictional and watershed areas with critical erosion and sediment problems.
- (3) Contain standards for various types of soil and land uses, which standards shall include criteria, techniques, and methods for the control of erosion and sediment resulting from land disturbing activities.
- (4) Include a provision whereby standards shall be deemed met if it can be shown that the land is being managed in accordance with soil conservation practices acceptable to the applicable soil and water conservation district directors, and that a comprehensive conservation program is being actively pursued. [L 1974, c 249, pt of §2]

### Case Notes

The public trust duties imposed on the State under article XI, §1 of the Hawaii constitution also applied to the county, as a political subdivision of the State; article XI, §1 mandates that the county has an obligation to conserve and protect the State's natural resources; the county's power under the general laws with respect to its public trust duty to protect the natural resources of the State can be found in this chapter; thus, the county had a duty to protect the waters located adjacent to defendant's property. 111 H. 205, 140 P.3d 985.

" **[\$180C-3] Limitation of enactment of ordinances.** The counties shall enact ordinances within one year from June 15, 1974. [L 1974, c 249, pt of §2]

### Revision Note

"June 15, 1974" substituted for "the date of this law".

" **[\$180C-4] Department of health.** The department of health shall adopt conservation standards within ninety days after passage of this chapter. Upon the failure of any county or counties to enact soil erosion and sediment control ordinances within one year from the date of this bill, the department of health shall then, promulgate rules and regulations within one hundred eighty days, to be effective within those counties failing to enact such ordinances. [L 1974, c 249, pt of §2]