

~~DEPARTMENT OF AGRICULTURE~~

~~Adoption of Chapter 4-157
Hawaii Administrative Rules~~

~~{September 27, 2005}~~

~~SUMMARY~~

~~Chapter 4-157, Hawaii Administrative Rules,
entitled "Rules Governing Irrigation Water Service to
Consumers of Hawaii State Department of Agriculture
Irrigation Systems", is adopted.~~

HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 8

DIVISION OF AGRICULTURAL RESOURCE MANAGEMENT

CHAPTER 157

RULES GOVERNING IRRIGATION WATER SERVICE TO
CONSUMERS OF HAWAII STATE DEPARTMENT OF AGRICULTURE
IRRIGATION SYSTEMS

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S4-157-1 General. (a) These rules establish the practices governing the provision of irrigation water for all department of agriculture irrigation systems and define the obligations of the board to consumers and of the consumers to the board.

(c) Prospective consumers are advised to obtain information from the department on the availability of water, pressure conditions, and other pertinent data. [Eff 3/17/06; comp ~~MAR 17, 2006~~] (Auth: HRS §167-5) (Imp: HRS §167-5)

"Acreage assessment" means any levy imposed pursuant to this chapter on the agricultural land and pastureland within an irrigation project and any amount charged by the State for the purpose of acquiring, establishing, or maintaining irrigation facilities for an irrigation project.

"Actual need" means the volume of irrigation water consumed by an irrigation customer. The volume of irrigation water shall be actual use as determined by monthly meter readings or as otherwise provided in these rules.

"Administrator-chief engineer" means the person holding the office of administrator and chief engineer of the division of agricultural resource management of the department acting directly or through authorized assistants including the irrigation district manager.

"Board" means the board of agriculture of the State of Hawaii, which is the governing body of the department of agriculture.

"Consumer" means the person, firm, corporation, partnership, association, or any public or private organization, whether owner, tenant, or lessee, whose name appears on the records of the department as responsible and liable for receiving irrigation water service from the board.

"Consumer's supply pipe" means the pipe extending from the consumer's end of the service connection to the consumer's service areas.

"Cost of service connection" means the sum of the cost of the service connection materials, labor, transportation, equipment, and road repair, if any, and other incidental charges necessary for the complete installation of a service connection.

"Department" means the department of agriculture.

"Irrigation system" or "system" means the intakes, ditches, flumes, weirs, siphons, reservoirs, tunnels, pipelines, valves, pumps, and controls, and other elements comprising an irrigation system operated by the board to serve the lands within an irrigation district as defined by the board.

"Irrigation district manager" means the person holding the office of irrigation district manager for a particular irrigation system of the department acting directly or through authorized assistants.

"Livestock" means any animal which is pastured within the boundaries of the project and uses the system. Not all irrigation systems have pastureland

and livestock that are recognized by the department. Therefore, any references to livestock, pastureland, pasturing, pastoral, herds, livestock watering, and livestock drinking water are only applicable and valid for irrigation systems with pastureland and livestock that are officially recognized within these rules.

"Main" or "main pipe" means the supply or distribution pipe to which service connections are made.

"Measuring device" means a weir, meter, or other suitable means for measuring the amount of water received by the consumer from the irrigation system.

"Pastureland" means agricultural land within an irrigation system that is used for grazing livestock. Only areas identified in section 4-157-3(i) are eligible for pastureland designations.

"Project", "district", "irrigation district", or "irrigation project" means the area, contiguous or noncontiguous, established under chapter 167, Hawaii Revised Statutes, to be served by a unique and specific department of agriculture irrigation system.

"Service connection" means the tap, pipe, fittings, and valves from the mains to and including the meter.

"State" means the State of Hawaii.

"Temporary irrigation system or district" means any irrigation system that is in the process of being constructed by the department.

"Water charges" means the sum of the water tolls and acreage assessments which may include credits as may be applicable.

"Water tolls" means all of the charges established by the board for irrigation water and livestock drinking water supplied by it to consumers.

"Weir" means any device which allows the measurement of a quantity of irrigation water being delivered. Eff MAR 17, 2006 (Auth: HRS §167-5) (Imp: HRS §§167-2, 167-5)

§4-157-3 General conditions. (a) Upon proper application, a prospective consumer whose premises are

within the service limits established by the board for a specific irrigation system and whose premises are adjacent to the distribution main, where pressure conditions permit, may obtain irrigation water service; provided that there is a sufficient water supply developed to take on new or additional service without detriment to those already served, and the consumer agrees to abide by these rules.

(b) The water supplied by all irrigation systems is intended to be used only for agricultural and aquaculture activities, as defined in section 166-2, Hawaii Revised Statutes, and may include livestock watering and pastoral irrigation. Consumers may not use water for any other purpose except with the express written consent of the board. The board makes no guarantee, warranty, or representation, expressed or implied, as to the quality, quantity, flow rate, condition, or fitness of the water supplied for any use or purpose.

(c) When an extension of the main is necessary or where large quantities of water are required or a substantial investment is necessary to provide service, the consumer shall be informed by the department as to the conditions and charges to be made for that particular area and situation in question before water service may be approved. Before water service commences, the consumer and the board shall execute an agreement, which will include the specific conditions and charges to be made for that particular area. The board shall have the right to refuse service to a consumer if an agreement cannot be executed.

(d) All water supplied by the department will be measured by means of suitable meters or other means as may be applicable at the discretion of the irrigation district manager. The water tolls shall be in accordance with the rates established by the board. The department through the administrator-chief engineer shall determine the location and size of all meters and service connections to the irrigation system. All service connections shall become the property of the department for operation and maintenance after installation and new connections or

disconnections may be made thereto by the department at any time.

(e) Where applicable, the total cultivatable and pastoral area of the consumer shall be levied an acreage assessment in addition to the water delivery charge. The department shall determine the area of each consumer's land subject to this assessment. The unit of area measured shall be the acre and fractional acres shall be considered to be a full acre. Once an area is levied the acreage assessment, it may not thereafter be withdrawn from this assessment; provided, however, that should the consumer lose the right to cultivate a portion of the consumer's acreage, except by default for nonpayment of water bills, said acreage may be withdrawn from the acreage assessment, with the consent of the board.

(f) To assure the maximum and most efficient use of system water available, no one who owns or occupies less than two acres of agricultural land within the project suitable for irrigation or livestock pasturing or watering will be permitted to become a consumer.

(g) To assure that the irrigation system meets its financial obligations, there shall be levied a minimum acreage assessment equivalent to two acres for those potential consumers who are land occupiers within the boundaries of the irrigation district but do not apply for water service connection.

(h) For the following irrigation systems, no service connection shall be allowed directly from the transmission pipeline prior to the system's reservoir, except upon specific written approval by the board: Waimanalo, Kahuku Agricultural Park, Molokai, Waimea, and Honokaa-Paauilo. Future irrigation systems that have been recognized and established by the board shall be governed under this provision unless specifically exempted by the board.

(i) Pastureland designations may only occur in the Honokaa-Paauilo irrigation system or where otherwise approved by the board. Following approval by the board, pastureland designations for specific consumers must be approved by the administrator-chief engineer. Only consumers with designated and approved

pastureland will be responsible for pastureland acreage assessments, fees, and adherence to pastureland rule provisions.

(j) These rules shall apply to all irrigation systems and districts that are officially recognized and established by the board, including Honokaa-Paauilo, Kahuku Agricultural Park, Molokai, Waimanalo, and Waimea. Eff MAR 17, 2006 (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-4 Conservation measures and interruption of water supply. (a) The department shall exercise reasonable diligence and care to deliver an adequate supply of water to the consumer and to avoid shortage or interruptions in water service, whenever possible, but shall not be liable for any interruption, shortage, insufficiency of supply, or any loss or damage occasioned thereby.

(b) Whenever, in the administrator-chief engineer's opinion, special conservation measures are deemed necessary to forestall a water shortage and a consequent emergency, the administrator-chief engineer may restrict or ration the use of water by any reasonable method of control. Livestock watering customers shall install an automatic water flow control device to prevent waste or continued overflow from livestock drinking troughs. Each device shall be approved by the irrigation district manager prior to installation and shall be tested periodically to determine its functionality.

(c) To ensure that a continuous water supply is available to livestock, the department may require those consumers with a large herd (more than fifty animals) of animals to install an adequate means of storage for water or reservoir on their property.

(d) The department reserves the right at any and all times to shut off water from the mains with reasonable notice for the purpose of making repairs, extensions, alterations, or for other reasons. Consumers who require a continuous supply of water shall provide, at their own cost, emergency water storage and any check valves or other devices

necessary for the protection of equipment or fixtures against failure of the pressure or supply of water in the department's main. Repairs or improvements shall be carried out as rapidly as practicable and at the time or times as will cause the least inconvenience to consumers.

(e) The department will deliver water to the land of each consumer at the ground elevation and at the outlet site as the department may establish upon each consumer's land convenient with the operation of the department's irrigation system, and it shall be the responsibility of each consumer to provide for the distribution of the water upon the consumer's land by the consumer's own method.

(f) During seasonal drought periods, a shortage of irrigation water within an irrigation system may occur. During these periods, the department shall continue to supply irrigation and livestock drinking water as available. However, the department shall use its best judgment in allocating the available agricultural water in a manner that it deems fair and equitable.

(g) The department reserves the right in times of declared emergency to allow the use of irrigation water for emergency purposes. Charges for the water used shall be established by the board based on the nature of the emergency and attendant circumstances.

(h) The department reserves the right to allocate water use in the following order of priority as it may deem necessary to:

- (1) Preserve crops and harvests on agricultural and aquacultural lands;
- (2) Preserve animal life; and
- (3) Irrigate pasture.

(i) During periods of low rainfall or drought, the department shall develop notices and criteria on the manner in which water will be delivered, restricted, and allocated for the duration of the emergency. Violations of the restrictions or allocations may result in the discontinuance of service, additional water toll surcharges, or the removal of the water connection.

(j) Upon declaration of emergency conditions and implementation of mandatory conservation measures (i.e., ten per cent, twenty per cent, or thirty per cent cutbacks), consumers exceeding the level of mandatory cutback shall be assessed a surcharge as follows:

(1) Mandatory ten per cent conservation - consumers shall be assessed a surcharge of ten cents per thousand gallons of water consumed in excess of ninety per cent of their average use as calculated by the administrator-chief engineer;

(2) Mandatory twenty per cent conservation - consumers shall be assessed a surcharge of twenty cents per thousand gallons of water consumed in excess of eighty per cent of their average use as calculated by the administrator-chief engineer; and

(3) Mandatory thirty per cent conservation - consumers shall be assessed a surcharge of thirty cents per thousand gallons of water consumed in excess of seventy per cent of their average use as calculated by the administrator-chief engineer.

(k) Notwithstanding any provision herein to the contrary, subsection (j) shall not apply to the users of the Molokai Irrigation System who are also lessees of the department of Hawaiian home lands (homesteaders), provided that an actual need is shown and the homesteader's aggregate irrigation water consumption remains at or below two-thirds of the water developed in the first phase of the construction of the Molokai Irrigation System, based on the most current monthly three year average of non-drought years. Should the homesteader's use exceed the homesteader's two-thirds preference, the homesteader shall be subject to the terms and conditions contained in subsection (j). The homesteader shall be subject to subsection (j) until the homesteader's usage falls to a two-thirds to one-third ratio or less, based on the most current monthly three year average of non-drought years, or until the conservation notice for the Molokai Irrigation System is canceled, whichever

first occurs. [Eff March 17, 2006] (Auth: HRS §167-5)
(Imp: HRS §§167-5, 167-6, 167-11, 167-19)

§4-157-5 Elevation agreement, pressure condition.

(a) The department shall make every effort to maintain pressure but shall not be responsible for maintaining pressure in its water main.

(b) Where property is situated at an elevation higher than the irrigation system, the consumer, in consideration of a connection with the department's system, shall agree to accept water service as the department is able to render it from the department's existing facilities and to install, if necessary, and maintain at the consumer's own expense a tank and pump of suitable design and of sufficient capacity to furnish an adequate and dependable supply of water. When required, the consumer shall install protective devices between the consumer's supply line and the service connection. The consumer shall execute a written release to the department for all claims on account of any inadequacy of the department's system or inadequacy of the water supply to the consumer.

(c) When the pressure from the department's supply is higher than that for which the irrigation equipment or other facilities are designed, the consumer shall protect the consumer's equipment and other facilities by installing and maintaining pressure reducing and relief valves at the consumer's expense. The department shall not be liable for damage due to pressure conditions caused by or arising from the failure or defective condition of the pressure regulators and relief valves or for damage that may occur through their installation, maintenance, or use. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-6 Application for water service and service connections. (a) Each prospective consumer shall be required to sign the standard application form for the water service desired. A nonrefundable

filing fee shall be required with each water service application. This application fee shall be in accordance with the amount established by the board. By signing the application form, the consumer assumes responsibility for the payment of future water charges at each designated location and to abide by these rules before water is turned on for any use whatsoever. The consumer signing the application form shall be held liable for the payment of all water charges at the designated location. The lessee or owner of the land shall also be liable for the water charges in the event that the consumer fails to pay.

(b) Water charges shall begin when the water service is established and shall continue until due notification from the consumer or until discontinued by the administrator-chief engineer for failure of the consumer to comply with these rules. It is the responsibility of the landowner to notify the irrigation district manager when there is a change in the occupant of the parcel; otherwise, the property owner will incur additional charges.

(c) When an application for water service is made by a consumer who was responsible for and failed to pay all water bills previously rendered, regardless of location or time incurred, the department may refuse to furnish water service until the outstanding bills are paid.

(d) A prospective consumer taking possession of property and using water without applying to the department for water service to the property shall be held liable for the water charges from the date of the last recorded meter reading as well as a new application fee. If proper application for water service is made and if accumulated bills for water service are not paid upon presentation, the water service shall be subject to discontinuance without further notice.

(e) Consumers are required to notify the irrigation district manager at least forty-eight hours in advance of the time they would like water delivery to begin. The department does not guarantee the start date or time, nor amount of irrigation water delivered

but the department will operate in a manner consistent with its responsibilities set forth in these rules. Consumers may be required to receive water on a defined delivery schedule established by the administrator-chief engineer. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-7 New service connections. (a) The application for a new service connection is subject to approval by the department. After approval, the connection shall be installed by the department or its designee at the expense of the applicant and thereafter shall become the property of the department and maintained by the department at the department's expense. There shall be one meter for each service connection unless the department, because of operating necessity, installs two or more meters in parallel. After installation, the department will seal all meters and no seal shall be altered or broken except by one of the department's authorized employees. Meters whose seals have been altered or broken shall be replaced at the expense of the consumer.

(b) A standard deposit for installing a service connection shall be required of the applicant before the connection is installed. The standard deposit shall be in accordance with the rates established by the board as shown in the table entitled ~~["Schedule of Rates, Fees, and Charges for Irrigation Water Delivery Services at All DOA Irrigation Systems", dated September 27, 2005,]~~ attached as Exhibit "A" at the end of this chapter and made a part of this chapter. If the actual cost of the connection is in excess of the standard deposit, the applicant shall pay for the difference. Arrangement to make payments in monthly or pre-arranged installments shall be at the discretion of the administrator-chief engineer. If the actual cost is less than the standard deposit, the applicant shall be refunded the difference.

(c) The consumer shall install and connect, at the consumer's own expense, the necessary supply pipe to the shut-off valve or outlet installed by the

department. The consumer's supply pipe shall at all times remain the sole property of the consumer who shall be responsible for its maintenance and repair. If the consumer's supply pipe exists before the service connection is installed, the department may complete the connection to the consumer's supply pipe, provided it is requested by the consumer prior to installation.

(d) Only employees and designees of the department shall be allowed to connect or disconnect the service connection to or from the department's ditch or main.

(e) Employees and designees of the department are strictly forbidden to demand or accept personal compensation for services rendered.

(f) No service connection or water main shall be installed by the department on any private land until the department is given proper easements for the main or service connection and vehicular access is available.

(g) All meters or suitable water flow measuring devices shall be installed within the public right-of-way or easements, preferably on the boundary line most nearly perpendicular to the main, unless the department, because of operating necessity, provides otherwise. The valve, which is installed before the meter, is only for the use of employees and designees of the department.

(h) When the proper size of the service connection for any consumer has been determined and the installation has been made, the department has fulfilled its obligations for providing the size of the service connection and the location thereof. If thereafter the consumer desires a change in the size of the service connection or a change in the location, the consumer shall bear all costs of the change.

(i) All work and materials involved with the change in location or elevation of any part of the existing irrigation system made necessary by the new service connection shall be at the expense of the applicant or consumer.

(j) The department shall determine the location and size of all meters and service connections for the consumer's system. [Eff 3/17/06; am and comp
March 17, 2006] (Auth: HRS §167-5)
(Imp: HRS §§167-5, 167-6, 167-19)

§4-157-8 Meter reading and rendering of bill. (a) Meters or water flow measuring instruments are read and bills are rendered monthly. Special readings will be made when necessary for closing of accounts or when otherwise required. Consumers using the system to water animals or herds of livestock shall be billed in the same manner and at the same rate as agricultural and aquacultural consumers. Irrigation water delivered by ditches to the consumer shall be measured at weirs at the point or points of delivery to the consumer's land. The agents or employees of the board shall take readings from the weirs at least once during the period of delivery of the irrigation water and the readings taken shall be used by the board to determine the amount of irrigation water delivered. If the board does not deliver the amount of irrigation water requested by the consumer, its agent or employee shall notify the consumer at that time of the amount of water delivered. All protests by the consumer shall be made within seven days of the date of delivery. If no protest is made by the consumer within that period, the amount of irrigation water determined by the board to have been delivered, from its readings pursuant to this section, shall be deemed conclusive.

(b) Closing bills for periods shorter than the standard billing cycle will ordinarily be determined by the amount of water actually used as indicated by the meter reading, plus the acreage assessment for the full billing cycle.

(c) For the purpose of computing charges, all meters serving the consumer's premises shall be considered separately and the readings thereof shall not be combined.

(d) All notices and bills for water charges shall be mailed by the department to the consumer at

the address of the consumer stated in the consumer's application until the department is notified in writing by the consumer of a new address. It shall be the responsibility of the consumer to report a change of address or ownership to the department; if the consumer fails to report a change in address or ownership, the consumer shall continue to be liable for all charges and interest that accrue on the account. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-11, 167-19)

§4-157-9 Payment of bills. (a) All bills shall be due and payable when the department deposits the bill in the United States mail, or upon presentation to the consumer, whichever is earlier. Payment shall be made at the office of the irrigation district manager or at the department's option, to duly authorized collectors of the department. If any bill is not paid within thirty days after the department presents the bill directly to the consumer or deposits it in the United States mail for delivery, the water service shall be subject to discontinuance without further notice.

(b) There shall be a service charge for payments made by checks which have been dishonored by the bank for any reason. The service charge shall be as provided in section 40-35.5, Hawaii Revised Statutes, and shall be added to the charges set in section 167-6, Hawaii Revised Statutes.

(c) An interest charge shall be assessed on delinquent balances of more than sixty days and the interest rate shall be consistent with chapter 167, Hawaii Revised Statutes. [Eff March 17, 2006] (Auth: HRS §§167-5, 167-6, 167-11) (Imp: HRS §§167-5, 167-6, 167-11, 167-19)

§4-157-10 Non-registering meters. If a meter fails to register due to any cause except the non-use of water, an average bill may be rendered. This average bill shall be subject to equitable adjustment,

taking into account all factors before, during, and after the period of the bill. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-11, 167-19)

§4-157-11 Meter tests and adjustment of bills for inaccuracy of measurement. (a) All meters are tested prior to installation. Any consumer who, for any reason, doubts the accuracy of the meter serving the consumer's premises may request a test of the meter. The requesting consumer will be notified as to the time of the test and may witness the test. There will be a charge for meter tests to defray the cost.

(b) If, as a result of the test, the meter is found to register more than two per cent fast under conditions of normal operation, the department shall refund to the consumer the overcharge based on past consumption for a period not to exceed six months, unless it can be proved that the error was due to some cause for which a specific date can be determined, and the cost of the test. Any overcharge shall be computed back to, but not beyond, the determined date. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-11, 167-19)

§4-157-12 Discontinuance of service. (a) Water service may be refused or discontinued by the department for the following reasons:

(1) If the bill has not been paid within thirty days after the mailing or presentation thereof to the consumer. However, acreage assessments shall continue in spite of the discontinuance of service;

(2) If the consumer fails to comply with any of these rules, and noncompliance is not corrected within five days after the department so notifies the consumer;

(3) Without notice by the department, to protect the department against fraud, abuse, or unauthorized use of water

(4) Where negligent or wasteful use of water exists on any premises, if the conditions are not corrected within five days after the department gives the consumer written notice of the department's intent to refuse or discontinue service; or

(5) Where the demands of the consumer will result in inadequate service to others.

(b) A consumer about to vacate any premises supplied with water by the department shall give prior written notice of the consumer's intention to vacate, specifying the date service is desired to be discontinued. In the event of failure to give such written notice, the consumer shall be held responsible for all water service furnished to the premises until the department has received the notice of discontinuance. A consumer may not vacate only a portion of the consumer's assessed acreage.

(c) The department may remove a meter for non-use if there are no water toll charges for a period of one year after the meter is installed. A consumer whose meter is removed for non-use forfeits all previous fees, and reapplication shall be treated as a new service connection with applicable costs. Acreage assessments will continue to accrue.

(d) Any consumer who sells, assigns, conveys, or subleases the lot being served with irrigation water shall notify the department in writing indicating the name and address or other means of contact for the new consumer together with the notice of discontinuance as provided in subsection (b). [Eff March 17, 2006]
(Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

S4-157-13 Restoration of water service. If water service is turned off because of failure to pay a bill or violation of any of these rules or for other reasons, all outstanding accounts against the consumer shall be paid or satisfactorily secured before water service shall be restored. [Eff March 17, 2006]
(Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-14 Department's equipment on consumer's premises. All equipment belonging to the department and installed upon the consumer's premises for measurement, test, check, or other purpose, shall continue to be the property of the department and may be repaired, replaced, or removed by the department at any time without the consent of the consumer. The consumer shall exercise reasonable care to prevent damage to meters and other equipment of the department upon the premises and shall in no way interfere with the operation of the meters and other equipment. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-15 Damage and accessibility to department's property. (a) Any damage to water mains, service connections, valves, standpipes, or other property of the department shall be paid for by the person or organization responsible for the damage.

(b) The consumer shall be liable for any damage to a meter or other equipment or property of the department caused by the consumer or the consumer's tenants, agents, employees, contractors, licensees, or permittees, and the department shall be promptly reimbursed by the consumer for all damages upon demand. In the event settlement for the damage is not promptly made, the department reserves the right to discontinue water service to the premises.

(c) No obstructions shall be placed upon or around any water meter, valve, or standpipe rendering it inaccessible. If an obstruction is placed so as to interfere with the department's meter, the obstruction may be removed by the department without notification to the consumer. Any costs associated with the removal of the obstruction will be billed to the consumer. The department may confiscate the obstruction and may dispose of it without resource to the consumer.

(d) No animals, livestock, or fowl shall be tethered or tied to any pipe, flume, structure, valve,

standpipe, meter, or hydrant of the irrigation system, or be permitted to graze or to wander under any structure, or be put or permitted to go into, over, or upon any ditch, ditch bank, flume, reservoir, tunnel, or other element of the irrigation system. The department may confiscate any animal in violation of this subsection and may dispose of the animal without recourse to the owner.

(e) No grass, bushes, trees, or other windbreak or planting shall be grown or be permitted to grow upon the banks of any ditch or so close thereto as to hang into or over any ditch, reservoir, flume, tunnel, standpipe, valve, meter, or hydrant, or other element of the irrigation system, or to inhibit the free passage of water therein. No dirt, trash, cuttings, rubbish, weed, manure, or drainage water from stables, pens, and pastures, or debris of any nature shall be thrown, dumped, or put into or upon, any ditch, ditch bank, flume, reservoir, tunnel, or other element of the irrigation system. The department may remove or correct such obstructions or violations and bill the consumer for the cost of remediation. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-16 Ingress to and egress from consumer's premises. Any officer, employee, or designee of the department shall have the right of ingress to and egress from the consumer's premises at all reasonable hours for any purpose reasonably connected with the furnishing of water or other service to the premises, and the exercise of any and all rights secured to the department by law, including these rules. In case any officer, employee, or designee is refused admittance to the premises or after being admitted is hindered or prevented from making the inspection, the department may cause the water to be turned off from the premises after giving twenty-four hours' notice to the owner or occupant of the premises of the department's intention to do so. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-17 Responsibility for water receiving equipment. (a) The consumer shall, at the consumer's own risk and expense, furnish, install, and keep in good and safe condition all equipment that may be required for receiving, controlling, applying, and utilizing water and the board shall not be responsible for any loss or damage caused by the improper installation of the equipment or the negligence, want of proper care, or wrongful act of the consumer, or of any of the consumer's tenants, agents, employees, contractors, licensees, or permittees in installing, maintaining, using, operating, or interfering with any equipment.

(b) The department shall not be responsible for damage to property and losses caused by irrigation equipment, spigots, faucets, valves, and other equipment that may be opened when water is turned on at the meter, either when turned on originally or where turned on after a temporary shutdown.

(c) All of the consumers' valves shall be slow-closing to prevent water hammer. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-18 Unauthorized drawing of water. (a) No person or entity shall be permitted to draw water from any part of the system without the written consent of the administrator-chief engineer. No approval shall be granted in cases where, in the opinion of the administrator-chief engineer, the drawing of water may adversely affect the water service extended by the department to other consumers.

(b) Approvals given by the department under this section are subject to revocation upon thirty days' notice. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-19 Cross-connections. (a) No cross-connections shall be made without the written consent of the department.

(b) The department requires the installation of a mechanical or any other methods or devices on the consumer's side of the meter to prevent backflow on all new services at the sole cost and expense of the consumer.

(c) Whenever the consumer maintains a separate pressure system or separate storage facility, or in any way increases the pressure of the water within the premises above the pressure furnished by the department, or has the equipment, devices, or arrangement of piping, storage, or industrial methods or processes that might, under certain circumstances, raise the pressure of the water within the premises above the pressure of the water in the mains of the department, a backflow prevention device shall be specified and approved by the administrator-chief engineer for installation at the sole cost and expense of the consumer.

(d) As a protection to the consumer's water system, a suitable pressure relief valve shall be installed and maintained at the consumer's expense when backflow devices are installed on the consumer's side of the meter.

(e) Any device installed for the prevention of backflow as may be required under these rules shall, unless the department approves otherwise in writing, be located above ground and in a manner safe from flooding or submergence in water or other liquid, properly protected from external damage, freely accessible, and with adequate working room for inspections, testing, and repairing.

(f) All backflow prevention devices, whether mechanical or not, shall be tested and inspected internally not less than once annually. Repairs, replacement of parts, or any other maintenance, shall be made whenever necessary at the expense of the consumer. The annual test and inspection shall be the responsibility of the consumer and shall be made in accordance with methods recommended by the

manufacturers and approved by the department. Records of tests and inspections shall be made on forms prescribed by and furnished to the department. Failure of the consumer to properly test and submit the records may, at the option of the department, result in the department making the tests, repairing and replacing any equipment, and charging the cost to the consumer.

(g) Upon request by the department, the consumer shall present an affidavit either certifying to the fact that there are no connections or installations of the type prohibited under this rule on the premises or describing in detail all nonconforming connections or installations.

(h) The several conditions relative to the installation and maintenance of connections referred to in this section shall be subject to change to meet changing requirements of the state and county laws, ordinances, and rules.

(i) Failure on the part of the consumer to comply with the department's requirements relative to cross-connection and backflow protection shall be sufficient reason for discontinuing water service until such time that the department's requirements have been met. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-20 Resale of water. Unless specifically agreed upon by the board, the consumer shall not resell any water received from the board. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §§167-5, 167-6, 167-19)

§4-157-21 Rate, fee, and charge schedule. The irrigation system rates and charges established by the board are as follows:

(1) Water tolls, fees, and charges are set at the following rates:

(A) ~~[Effective October 1, 2005, the]~~ The irrigation system rates, fees, and charges established by the board shall be as provided in the table entitled

[~~"Schedule of Rates, Fees, and Charges for Irrigation Water Delivery Services at All DOA Irrigation Systems"~~, dated September 27, 2005,~~] "Schedule of Rates, Fees, and Charges for Irrigation Water Delivery Services at All DOA Irrigation Systems"~~, dated
 , attached as Exhibit "A" at the end of this

chapter and made a part of this chapter. These rates shall apply to all irrigation and livestock drinking water. Effective July 1, 2011, the board may adjust base water toll charges by no more than two cents per thousand gallons of irrigation water delivered once each fiscal year; and

(B) (The board may temporarily waive the collection of water tolls or acreage assessments, or both, and may provide credits if the board finds that total irrigation system revenue is sufficient to meet the expenditures necessary to administer the program for the current fiscal year. In the event that a grant is received to offset a system or group water rates, the minimum charge per thousand gallons shall be no less than 25 cents. The board may adjust this minimum charge once each fiscal year. Any excess shall be applied to the subsequent year or until the original grant is exhausted.

(2) Any irrigation system that, as a whole, uses more than eight hundred fifty million gallons of irrigation water per fiscal year shall be eligible for a volume usage discount that will lower the system's water rate by 5 cents per thousand gallons of irrigation water for the following fiscal year. Eligibility for this discount will be based on the previous year's usage;

(3) A surcharge for system pumping shall be imposed for individual irrigation systems that require the use of pumps for more than four cumulative months out of the fiscal year. The surcharge will be 5 cents per thousand gallons of irrigation water and will be imposed for the following, complete, fiscal year. Eligibility for this surcharge will be based on the previous year's usage;

(4) Acreage assessments are set for irrigation use pursuant to section 167-19, Hawaii Revised Statutes;

- (5) Acreage assessments cover a portion of the cost of maintaining irrigation system infrastructure;
- (6) From time to time, it may be necessary to stop the flow of irrigation water to conduct proper maintenance and repair on a particular irrigation system. In support of these efforts, the billing and payment of acreage assessments are mandatory even though irrigation water is not being provided. Acreage assessments may be waived by the board for specific time periods due to natural catastrophes and other external factors beyond the department's control that result in the temporary loss of irrigation water availability; and
- (7) The fee for new service connections shall be charged at cost. [Eff 3/17/06; am and comp
{March 17, 2006}] (Auth: HRS §§167-5, 167-6, 167-11) (Imp: HRS §§167-5, 167-6, 167-11, 167-19)

§4-157-22 Honokaa-Paauilo Irrigation System water user advisory board. (a) The board may allow the formation of a voluntary advisory board ("advisory board") of water users and community-based organizations in accordance with the federal assisted watershed project for the Honokaa-Paauilo Irrigation System only. This advisory board shall include the following:

- (1) A farmer water user;
 - (2) A rancher water user;
 - (3) A designee of the Hamakua/North Hilo Agricultural Cooperative;
 - (4) A designee of the Hamakua Farm Bureau;
 - (5) A designee of the Hamakua Soil and Water Conservation District;
 - (6) A representative from Waipio Valley; and
 - (7) Any others who may from time to time be designated by this advisory board to be added.
- The advisory board shall be voluntary and shall be appointed by the board of agriculture for four-year terms. The members shall serve with no compensation

and shall for administrative purposes be placed within the department.

(b) The purpose of the advisory board is to act as a liaison between the users and the irrigation system as a condition of the federal watershed project which includes the irrigation system. In addition to any other duties as may be required by the federal watershed project, the advisory board's duties and responsibilities may include the following:

(1) Comment on operational matters concerning the irrigation system;

(2) Provide support for improvements to the irrigation system's facilities;

(3) Act as a liaison between the water users and the community; and

(4) Assist the department in community hearings, meetings, legislative hearings, and informational public meetings.

(c) The advisory board shall elect a chairperson from among its members, whose duty is to conduct the meeting; and shall establish bylaws, which will govern its organization. The advisory board shall meet with the department at least twice a year for the purposes of long-range planning for the irrigation system's improvements. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §167-5)

§4-157-23 Severability. This chapter shall be deemed to be severable, and in the event a section of this chapter is determined to be invalid, such invalidity shall affect that section only and shall not invalidate this chapter in its entirety. [Eff March 17, 2006] (Auth: HRS §167-5) (Imp: HRS §167-5)

§4-157-24 Interim rules for temporary irrigation systems and districts. (a) Boundaries for a temporary irrigation district to be served by new infrastructure shall be defined and set by the administrator-chief engineer. These boundaries will change as necessary, until the temporary irrigation

system has been completed and the irrigation district is approved and accepted by the board, at which time the boundaries shall become permanent.

(b) Acreage assessments shall not be assessed for consumers in an irrigation district being administered under the interim rules.

(c) Water tolls shall be assessed a surcharge of 6 cents per thousand gallons of irrigation water in irrigation systems being administered under the interim rules over the rates established in the table entitled [~~"Schedule of Rates, Fees, and Charges for Irrigation Water Delivery Services at All DOA Irrigation Systems", dated September 27, 2005,~~]
"Schedule of Rates, Fees, and Charges for Irrigation Water Delivery Services at All DOA Irrigation Systems", dated _____, attached as Exhibit "A" at the end of this chapter.

(d) All conditions in this chapter shall apply to a temporary irrigation district. In addition, interim rules shall apply to temporary irrigation districts as defined in this chapter. Where there is a conflict of rules, the interim rules shall supersede this chapter.

(e) Interim rules shall be in effect until the board officially establishes the irrigation district by specifically including it in this chapter. [Eff
3/17/06; am and comp _____ March 17, 2006]

(Auth: HRS §167-5) (Imp: HRS §§167-5, 167 6, 167-11, 167-15, 167-16, 167-17, 167-19)

Exhibit "A"

Chapter 4-157

~~September 27,~~

2005 _____

SCHEDULE OF RATES, FEES, AND CHARGES
FOR IRRIGATION WATER DELIVERY SERVICES
AT ALL DOA IRRIGATION SYSTEMS

FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
WATER TOLL CHARGES (CENTS PER 1,000 GALLONS)					
36	40	42.5	45	47	50
WATER SERVICE AND SERVICE CONNECTION APPLICATION FEE					
\$65.00	\$65.00	\$65.00	\$65.00	\$65.00	\$65.00

<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
WATER TOLL CHARGES (DOLLARS PER 1,000 GALLONS)					
\$1.11	\$1.11	\$1.11	\$1.11	\$1.11	\$1.11
WATER SERVICE AND SERVICE CONNECTION APPLICATION FEE					
\$65.00	\$65.00	\$65.00	\$65.00	\$65.00	\$65.00

DISHONORED CHECK SERVICE CHARGE PLUS INTEREST
As provided in section 40-35.5, Hawaii Revised
Statutes.

STANDARD DEPOSIT FOR A NEW SERVICE CONNECTION
\$1,000

METER/SERVICE CONNECTION CHARGES
At Cost

COPYING FEES FOR DOCUMENTS OR DRAWINGS REQUESTED FROM
THE DEPARTMENT

50 cents per page for pages up to 11" x 17".

All other sizes shall be charged at cost.

DEPARTMENT OF AGRICULTURE

Amendments to and compilation of Chapter 4-157,
Hawaii Administrative Rules, on the Summary Page dated
September 27, 2005, whereas adopted
on September 27, 2005, following
public hearings held on September 7 and 8, 2005-

, after public notice
was given in the Honolulu Star-Bulletin Advertiser,
Hawaii Tribune-Herald, West Hawaii Today, The Maui
News, and The Garden Island on August 3,
2005.

They adoption of chapter 4-157 shall take effect
ten days after filing with the Office of the
Lieutenant Governor.

HURD

Sandra Lee Kanimoto SHARON

Chairperson
Board of Agriculture

APPROVED:

Linda Lingle JOSH GREEN, M.D.

Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

S4-157-14

Filed
