

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5

FORESTRY AND WILDLIFE

PART 2

WILDLIFE

CHAPTER 124

INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED
WILDLIFE, AND INTRODUCED WILD BIRDS

- §13-124-1 Purpose
- §13-124-2 Definitions
- §13-124-3 Prohibited activities
- §13-124-4 Scientific, propagation, and educational permits
- §13-124-5 Repealed
- §13-124-6 Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals
- §13-124-7 Crop damage, nuisance, and threat to human health and safety permits
- §13-124-7.1 Revocation of permits
- §13-124-7.2 Compliance with laws
- §13-124-8 Penalty
- §13-124-9 Exemption
- §13-124-10 Severability

Historical Note: Chapter 13-124, Hawaii Administrative Rules, is based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources. [Eff 8/10/53; am 10/10/55; am 3/28/58 and ren Regulation 6; am 9/8/73; R 3/22/82]

§13-124-1

§13-124-1 Purpose. The purpose of this chapter is to conserve, manage, protect, and enhance indigenous wildlife; and manage introduced wild birds. [Eff 3/22/82; am and comp 8/28/86; am and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§191-12, 195D-3, 195D-4, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-2 Definitions. As used in this chapter unless context requires otherwise:

"Agriculture" means the production of crops which are planted, cultivated, and harvested for food, ornamental, grazing, cultural, medicinal or forest purposes.

"Aquaculture" means the farming or ranching of aquatic life in a controlled salt, brackish, or fresh water environment; provided that the farm or ranch is on or directly adjacent to land.

"Board" means the board of land and natural resources.

"Crops" means a plant or animal or product thereof that can be grown and harvested for profit or subsistence.

"Cultural use" means use for traditional native Hawaiian practices;

"Department" means the department of land and natural resources.

"Domestic animal" means any of various animals which have been domesticated by humans in a condition mainly dependent on humans.

"Endangered wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as endangered and any species, subspecies, or population of indigenous wildlife listed in, but not limited to the exhibit entitled "Exhibit 2, List of Species of Endangered Wildlife in Hawaii, 6/13/96" and as updated, which is located at the end of this chapter and incorporated by reference.

"Export" means shipment to any point outside the State;

"Feral" means having escaped or been released from domestication and reverted to a wild state over several generations.

"Game birds" means those birds designated by law or rule for hunting.

"Game mammals" means those mammals designated by law or rule for hunting.

"Indigenous wildlife" means any species or subspecies of animal, including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawaii, 2/1/97" and as updated, which is located at the end of this chapter and incorporated by reference.

"Injurious wildlife" means any species or subspecies of animal except game birds and game mammals which is known to be harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in Hawaii, 2/1/97" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

"Introduced wild birds" means any non-domesticated species of birds introduced or imported to Hawaii by humans and living in a wild state other than game birds, including, but not limited to, species listed in the exhibit entitled "Exhibit 4, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, 2/1/97" and as updated, which is located at the end of this chapter and incorporated by reference.

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans and living in a wild and undomesticated state.

"Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered or threatened species of wildlife, or to attempt to engage in any such conduct.

"Threatened wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as threatened and any species, subspecies, or population of indigenous wildlife listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in Hawaii, 2/1/97" and as updated, which is located at the end of this chapter and incorporated by reference.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. [Eff 3/22/82; am and comp 8/28/86; am and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-3 Prohibited activities. (a) With respect to indigenous wildlife and introduced wild birds, and except as provided in subsections (d) and (e), no person shall or attempt to:

- (1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof;
- (2) Export any such species, or any young or egg, or the dead body or skin thereof from the State.

(b) With respect to endangered and threatened species of wildlife except as provided in subsection (e), no person shall or attempt to:

- (1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State;
- (2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.

(c) No person shall remove, damage, or disturb the nest of any indigenous, endangered, or threatened species except as provided in subsection (e);

(d) With respect to injurious wildlife, except as provided in subsection (e), no person shall, or attempt to:

- (1) Release injurious wildlife into the wild;**
- (2) Transport them to islands or locations within the State where they are not already established and living in a wild state;**
- (3) Export any such species, or the dead body or parts thereof, from the State.**

(4) The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.

(e) The prohibited activities in this section shall not apply to authorized employees of the department, or enforcement agents and inspectors of the department of agriculture and U.S. Fish and Wildlife Service when acting in the course of their official duties, or persons authorized by the board or its authorized representative and as provided elsewhere in this chapter. [Eff 3/22/82; am and comp 8/28/86; am and comp] (Auth: HRS §§183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-4 Scientific, propagation, and educational permits. (a) Permits for collecting, possessing, killing, selling or offering for sale, and transporting threatened wildlife, indigenous wildlife, introduced wild birds, game birds, or game mammals may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species.

(b) Permits to take, possess, process, sell or offer for sale, transport, or export any endangered species of wildlife may be issued only for scientific purposes or to enhance the propagation or survival of the wildlife species, except permits to possess legally obtained endangered species may be issued for educational purposes which enhance the survival of that species. [Eff 3/22/82; am and comp 8/28/86; am and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6, 50 CFR §§17.11, 17.12)

§13-124-5 Repealed. [R]

§13-124-6 Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals. (a) Permits may be issued by the board or its authorized representative to qualified persons who apply

in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of the animals. [Eff 3/22/82; am and comp 8/28/86; am and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-7 Crop damage, nuisance, and threat to human health and safety permits. (a) The board or its authorized representative may issue permits to destroy or otherwise control game birds, game mammals, or introduced wild birds causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
- (2) Permits to control game mammals and game birds on parcels larger than 300 acres, may be issued only when it has been determined that public hunting is not a reasonable and appropriate method of control;
- (3) Permits shall state the species and may specify the number to be destroyed and the method of control to be used. The permit may include other terms and conditions as may seem proper and applicable;
- (4) Permits for restricted use pesticides may be issued only after an integrated animal damage control plan has been submitted to and approved by an authorized agent of the department.

(b) The board or its authorized representative may issue permits to destroy or otherwise control indigenous wildlife other than threatened and endangered species, causing substantial damage to agricultural or aquacultural crops, indigenous plants

or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
- (2) Permits shall state the species to be destroyed or taken; the method of control to be used; the maximum number of individuals of each species to be destroyed or taken ; and the disposition of individuals destroyed or taken. The permit shall include other terms and conditions as may seem proper and applicable.
- (3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze or non-lethally deter the pest animals have been attempted and proved ineffective.

(c) Permittees shall submit monthly summary reports to the department on forms provided or facsimiles that include:

- (1) The common name of the target and non-target wildlife taken;
- (2) The number of each wildlife species;
- (3) The disposition of the wildlife; and
- (4) Any other information required by the permit.

(d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.

(e) No permit shall be issued or used for the destruction of any endangered or threatened species of wildlife.

(f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be attached to the permit.

(g) When species of introduced wildlife are found to be generally harmful or destructive to agriculture or aquaculture, native plants or wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports.

(h) No permit is required merely to scare or herd depredating wildlife other than endangered or threatened species of wildlife. [Eff 3/22/82; am and comp 8/28/86; am and comp] (Auth: HRS §§183D-

61,195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-
61, 195D-3, 195D-4, 195D-5, 195D-6, 16 U.S.C. §§1531,
50 CFR §§17.11, 17.12)

§13-124-7

§13-124-7.1 Revocation of permits. Any permit issued pursuant to this Chapter shall be revocable for due cause and shall be nonassignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the date of revocation. [Eff] (Auth: HRS §§195D-3, 195D-4, 195D-6) Imp: HRS §§195D-8, 195D-9)

§13-124-7.2 Compliance with laws. All persons applying for and receiving permits under this chapter shall comply with all federal, state, and county laws, rules, and required permits or licenses. [Eff] (Auth: HRS §§195D-3, 195D-4, 195D-6) Imp: HRS §§195D-8, 195D-9)

§13-124-8 Penalty. Any person violating any part of this chapter shall be penalized as provided by law. [Eff 3/22/82; am and comp 8/28/86; comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-33, 183D-61, 183D-62, 183D-63, 183D-64, 195D-8, 195D-9)

§13-124-9 Exemption. This chapter shall not apply to any activity involving indigenous, endangered, or threatened wildlife which was held in captivity, or in a controlled environment on May 10, 1975; provided that the purposes of the holding were not contrary to the purposes of chapter 195D, HRS, and that the wildlife were not held for sale or resale. [Eff and comp 8/28/86; am and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6)

§13-124-10 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected. [Eff

] (Auth: HRS §§183D-2, 183D-3) (Imp: HRS §§183D-2,
183D-3)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapter 124, title 13, Hawaii Administrative Rules Regulating Indigenous Wildlife, Endangered And Threatened Wildlife, And Introduced Wild Birds, on the Summary Page dated _____, 1996 were adopted on _____ following public hearings held on August 4, 6, 11, 12, and 13, after public notice was given in the "Honolulu Advertiser" on _____, "Hawaii Herald Tribune" on _____, "West Hawaii Today" on _____, "Maui News" on _____; "Molokai Dispatch" on _____, and th

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

MICHAEL D. WILSON
Chairperson of the Board
Land and Natural Resources

BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: _____

Filed

APPROVED AS TO FORM

Deputy Attorney General