STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, HI, 96813

September 9, 2011

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: REQUEST FOR DELEGATION OF AUTHORITY TO ISSUE PERMITS UNDER CHAPTER 13-126, HAWAII ADMINISTRATIVE RULES, RULES REGULATING WILDLIFE SANCTUARIES, TO THE CHAIRPERSON, AND THE ADMINISTRATOR AND BRANCH MANAGERS OF THE DIVISION OF FORESTRY AND WILDLIFE

AND

AUTHORIZE THE CHAIRPERSON, AND THE ADMINISTRATOR AND BRANCH MANAGERS OF THE DIVISION OF FORESTRY AND WILDLIFE TO DETERMINE AND APPROVE CHAPTER 343, HAWAII REVISED STATUTES (HRS) ENVIRONMENTAL COMPLIANCE REQUIREMENTS, INCLUDING APPROVAL OF DECLARATIONS OF EXEMPTIONS, AS APPLICABLE, FOR PERMITS ISSUED UNDER THE RULES REGULATING WILDLIFE SANCTUARIES.

BACKGROUND

The state wildlife sanctuary system is comprised of 42 wildlife sanctuaries that support many of the most sensitive native habitats in the state, including montane forests, coastal wetlands, and offshore island ecosystems. Wildlife sanctuaries provide managed and protected habitat for Hawaii's unique plant and wildlife species and are a key component of the department's strategy for the recovery of endangered species.

Prior to December 2009, activities within wildlife sanctuaries were regulated under Chapter 13-125, Hawaii Administrative Rules (HAR), Rules Regulating Wildlife Sanctuaries. Under those rules, prohibited activities and entry into closed sanctuaries may be allowed by permit issued by the board or its authorized representative. Authorization to issue permits for entry into prohibited sanctuaries was delegated to the Division of Forestry and Wildlife branch biologists.

On December 11, 2009 the Board of Land and Natural Resources unanimously approved the adoption of Chapter 13-126, HAR (Attachment 1), updating the Rules Regulating Wildlife Sanctuaries, and repealing the outdated wildlife sanctuary rules, Chapter 13-125, HAR. The new rules provide a much higher level of protection for wildlife sanctuaries by imposing stricter regulation of entry into and activities within wildlife sanctuaries. Notable changes include:

- A holistic approach for the protection of wildlife *and their habitats,* including plants, geological features, caves, and cultural and historic resources.

- Clarification and addition of rules to enhance enforcement capability.

- Creation of a new regulatory framework for restricted access to certain sanctuaries, for which some level of human use may be allowed without risk to the resources. For the sanctuaries for which this is applicable, the rules specify the restrictions under which human access is allowed, including for example, restricted access to sensitive areas of the sanctuary, during sensitive times, or restrictions on the number of users.

- Addition of many prohibited activities to enhance protection of biological, cultural, and geological resources. Clarification of the permitting process to authorize certain activities that are otherwise prohibited.

- Establishment of a permit and fee process for commercial use of sanctuaries in which commercial use is allowed, with fees to be deposited into the Endangered Species Trust Fund where they can be tracked and used by the Division.

- Authorization to establish visiting hours to protect natural resources.

- Authorization to temporarily close any sanctuary for up to two years to protect resources or public safety.

- Establishes that all sanctuaries are closed from sunset to sunrise (except Kipuka Ainahou).

The purpose of this submittal is to obtain board approval to delegate certain authorities under the new rules, Chapter 13-126, HAR, from the board to the Chairperson and the Division of Forestry and Wildlife.

AUTHORITY

Pursuant to §183D-4, Hawaii Revised Statutes (HRS), the department shall establish, maintain, manage, and operate wildlife sanctuaries for the purposes of preserving, protecting, conserving, and propagating wildlife. Section 183D-2, HRS, provides that the department shall manage and administer the wildlife and wildlife resources of the State, and have the power to manage and regulate all lands which may be set apart as wildlife sanctuaries. Pursuant to §183D-3, subject to Chapter 91, HRS, the department shall adopt, amend, and repeal rules concerning the preservation, protection, regulation, extension, utilization of, and conditions for entry into

wildlife sanctuaries, protecting and conserving wildlife, and setting fees for activities permitted under Chapter 183D.

Section 13-126-6, HAR, authorizes the board or its authorized representative to close or restrict the public use of all or any portion of a wildlife sanctuary for up to two years, when deemed necessary by the board for the protection of the biological, geological, or cultural resources of the area or the safety and welfare of persons or property. This section also authorizes the board or its authorized representative to renew any such closure.

Section 13-126-7, HAR, authorizes the board or its authorized representative to establish a reasonable schedule of visiting hours for all or portions of any wildlife sanctuary by the posting of appropriate signs indicating the extent and scope of closure.

Section 13-126-9, HAR, authorizes the board or its authorized representative to issue permits to conduct activities otherwise prohibited by chapter 13-126, HAR, for the following purposes:

1. Scientific, research, or education purposes.
2. Conservation and management.
3. Subsistence, traditional, and customary practices by native Hawaiians consistent with the long-term preservation of the wildlife sanctuary resources.
4. Any other purpose consistent with chapter 195D, Hawaii Revised Statutes.

Sections 13-126-9 and 10, HAR, provide detailed standard conditions and procedures for the issuance of permits.

Sections 13-126-50 through 13-126-54, HAR, authorize the board or its authorized representative to issue permits for commercial activities within wildlife sanctuaries, and provide criteria for the issuance of those permits.

ANALYSIS

The Rules Regulating Wildlife Sanctuaries, Chapter 13-126, HAR, protect wildlife sanctuary resources by regulating access to sanctuaries, non-commercial activities within sanctuaries, and commercial activities within sanctuaries. Permits issued pursuant to different sections of the rules are likely to differ with regard to their complexity and potential impacts on wildlife sanctuary resources and public access to those resources. In delegating the authority to issue permits, consideration should be given to the complexity of the permit and the potential impacts the activities have on sanctuary resources. For more potentially impactful permits, for which the analysis of impacts is complex, delegation should be to higher levels of leadership within the department. For less impactful and routine permits, for which the analysis of impacts is straight forward, delegation is appropriate to management levels of leadership. The Division provides the following considerations:

Sections 13-126-6 and 13-126-7 authorize the board or its authorized representative to close or restrict access to wildlife sanctuaries that are otherwise not restricted. The issuance of such permits may have significant impacts on some users and a determination of impacts on the public

may be complex. The Division recommends that authority to issue such permits be delegated to the Chairperson.

Section 13-126-9 provides for the issuance of permits for activities that are otherwise prohibited under the rules. These include a wide range of activities, but for which the analysis of impacts is generally straightforward. The Division recommends that authority to issue such permits be delegated to the Administrator of the Division of Forestry and Wildlife.

Sections 13-126-4 and 13-126-5 restrict entry into wildlife sanctuaries or portions of sanctuaries. Permits issued under those sections are for access only, and do not authorize any actual activities that may be prohibited by other rules. These permits are generally routine and the potential impacts from their issuance are relatively straightforward to assess. The Division recommends that authority to issue such permits be delegated to the branch managers of the Division of Forestry and Wildlife.

Section 13-126-9(a)(3) provides for the issuance of permits for activities pursuant to subsistence, traditional, and customary practices by Native Hawaiians consistent with the long-term preservation of the wildlife sanctuary resources. These permits typically involve access to otherwise closed or restricted sanctuaries and collection of resources that is otherwise legal. These permits are generally routine and the potential impacts from their issuance are relatively straightforward to assess. The Division recommends that authority to issue such permits be delegated to the branch managers of the Division of Forestry and Wildlife.

Sections 13-126-50 through 13-126-54 authorize commercial activities but those activities do not include any activities that are otherwise prohibited by rule. Impacts from the issuance of these permits are expected to be minimal since the criteria and specific sanctuaries for which they may be issued are already identified in the rules and have undergone extensive public review and consideration. The Division recommends that authority to issue such permits be delegated to the branch managers of the Division of Forestry and Wildlife.

The Division notes that the delegation of authorities to issue permits as identified in table 1 below represent potential procedures that may be followed based on a case-by-case review of permit requests. In some cases, however, such as those dealing with new or unforeseen issues, based on that review, the delegated authority may conclude that a higher authority, or the Board, should review a permit request and determine whether the request should be approved or denied. In those cases the request will be forwarded to the appropriate authority for decision.

The recommendations are summarized in table 1 below.

Table 1. Delegation of authorities under the Rules Regulating Wildlife Sanctuaries, Chapter 13-126, Hawaii Administrative Rules.

Section	Rule	Delegation
13-126-4	Prohibited entry	Branch Manager
13-126-5	Restricted entry	Branch Manager
13-126-6	Closing of areas	Chairperson
13-126-7	Visiting hours	Chairperson

13-126-9	Permits	Administrator
13-126-9(a)(3)	Permits for customary practice	Branch Manager
13-126-50	Commercial activity	Branch Manager
13-126-51	Commercial permit criteria	Branch Manager
13-126-52	Advertisements	Branch Manager
13-126-53	Commercial filming, photography, and videotaping	Branch Manager
13-126-54	Commercial permit suspension and termination	Branch Manager

HRS CHAPTER 343

The Division requests that the Board authorize the department staff identified in table 1 to determine and approve Chapter 343, Hawaii Revised Statutes (HRS) environmental compliance requirements, including approval of declarations of exemptions, as applicable, for the activities authorized under permits issued pursuant to chapter 13-126, HAR.

Permit requests will be reviewed by the delegated department staff for potential impacts resulting from the requested activities. The delegated staff will make a determination as to whether the activities require preparation of an Environmental Assessment, or, as provided by CH 343, HRS, and chapter 11-200 HAR, determine whether the activities are exempt from the preparation of an Environmental Assessment in accordance with the current Exemption List for the Division of Forestry and Wildlife of the Department of Land and Natural Resources.

For projects that are eligible for a declaration of exemption, the Division will consult with agencies and individuals having expertise before seeking a project exemption as required under Chapter 11-200, HAR. For projects that require the preparation of an environmental assessment, an environmental assessment for the project will be developed and published.

RECOMMENDATION

The Department recommends that the Board:

1. Delegate the authority to issue permits under the Rules Regulating Wildlife Sanctuaries, Chapter 13-126, Hawaii Administrative Rules to the department chairperson and administrator and branch managers of the Division of Forestry and Wildlife as identified in Table 1.

2. Authorize the department chairperson and administrator and branch managers of the Division of Forestry and Wildlife to determine and approve Chapter 343, Hawaii Revised Statutes (HRS) environmental compliance requirements, including approval of declarations of exemptions, as applicable, for permits issued under the Rules regulating Wildlife Sanctuaries, as detailed in table 1.

Respectfully submitted,

Paul J. Conry, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

William J. Aila, Jr., Chairperson
Board of Land and Natural Resources

Attachment 1: Chapter 13-126, Hawaii Administrative Rules, Rules Regulating Wildlife Sanctuaries

UNCERTIFIED COPY
A certified copy of the official rules can be obtained from DLNR, call (808) 587-1496

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5 FORESTRY AND WILDLIFE

PART 2 WILDLIFE

CHAPTER 126

RULES REGULATING WILDLIFE SANCTUARIES

Subchapter 1: General Provisions

§13-126-1 Purpose
§13-126-2 Definitions
§13-126-3 Designation of wildlife sanctuaries
§13-126-4 Prohibited entry
§13-126-5 Restricted entry
§13-126-6 Closing of areas
§13-126-7 Visiting hours
§13-126-8 Posted signs
§13-126-9 Permits
§13-126-10 Application for permits
§13-126-11 Penalties
§§13-126-12 - 13-126-19 (Reserved)

Subchapter 2: Prohibited Activities

§13-126-20 Unattended and abandoned property
§13-126-21 Agricultural use of premises
§13-126-22 Aircraft
§13-126-23 Animals and plants
§13-126-24 Archaeological and historical features
§13-126-25 Boating

§13-126-26 Camping
§13-126-27 Communication equipment
§13-126-28 Disorderly conduct
§13-126-29 Explosives
§13-126-30 False Report
§13-126-31 Firearms and other weapons
§13-126-32 Fires
§13-126-33 Fishing
§13-126-34 Geological features
§13-126-35 Hunting
§13-126-36 Intoxication; drug incapacitation
§13-126-37 Memorials and markers
§13-126-38 Modelcraft operation
§13-126-39 Portable engines and motors
§13-126-40 Public property and resources
§13-126-41 Report of injury or damage
§13-126-42 Residence prohibited
§13-126-43 Sanitation and litter
§13-126-44 Swimming; nudity
§13-126-45 Vehicle operation
§§13-126-46 to 13-126-49 (Reserved)

Subchapter 3: Commercial and Private Operations

§13-126-50 Commercial activity
§13-126-51 Commercial permit criteria
§13-126-52 Advertisements
§13-126-53 Commercial filming, photography, and videotaping
§13-126-54 Commercial permit suspension and termination
§13-126-55 Fees
§§13-126-56 to 13-126-59 (Reserved)

Historical Note: This chapter is based substantially upon Chapter 13-125 [Eff 9/28/81]

SUBCHAPTER 1

GENERAL PROVISIONS

§13-126-1 Purpose. The purpose of these rules is to conserve, manage, and protect indigenous wildlife and their habitats in sanctuaries. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-2 Definitions. As used in this chapter unless otherwise provided:

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles or vessels that have been left unattended on land owned or controlled by the State for a continuous period of more than twenty-four hours without the written permission of the board or its authorized representative.

"Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

"Aquatic life" means any finfish, crustacean, mollusk (including sea shell and opihi), live coral, algae or limu, or other marine life, or eggs thereof.

"Authorized representative" means any person authorized by the board of land and natural resources to act for the board including the chairperson, deputy directors, the forestry and wildlife administrator, forestry and wildlife managers, foresters, wildlife biologists, and conservation enforcement officers.

"Bicycle" means any type of non-motorized two or three-wheeled vehicle.

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

"Camper" means any person engaged in a camping activity.

"Camping" means being in possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia, any time after one hour after sundown until sunrise in a wildlife sanctuary. Includes the use of a wildlife sanctuary for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

"Cave" means any naturally occurring void, cavity, recess, or system of interconnected passages large enough for human entry, occurring beneath the surface of the earth or within a cliff or ledge, including the cave resources therein, whether or not an entrance exists or is natural or artificial, and that is of archaeological, geological, biological, or cultural significance. The term includes such forms as a lava tube, natural pit, sinkhole, underwater cave, or other feature that is an extension of the entrance.

"Chairperson" means the chairperson of the board of land and natural resources.

"Commercial activity" means the use of or activity in a state wildlife sanctuary for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise, soliciting, demanding or requesting gifts, money, or services shall be considered commercial activity.

Commercial activities include activities whose base of operations are outside the boundaries of the state wildlife sanctuary, or provide transportation to or from the state wildlife sanctuary.

"Compensation" includes, but is not limited to fees, barter, or services-in-kind.

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

"Fishing" means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest aquatic life. The use of any gear, equipment, tool, or other means by any person who is in the water, in a vessel on the water, or on or about the shore to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest aquatic life shall be construed as fishing activity.

"Hunting" means the act of pursuing with the means to take, kill or capture wildlife.

"Indigenous" means any aquatic life, wildlife, or land plant species growing or living naturally in Hawaii without having been brought to Hawaii by humans.

"Motorized vehicle" means a vehicle of any shape or form that depends on a motor (gas, electric, or other fuels) for propulsion.

"Nude" means uncovered post-pubertal human genitals, pubic areas, or the nipple or areola of post-pubertal human female breasts.

"Paleontological deposit" means any remains or fossils of life forms or surface debris that are over fifty years of age and provide a record of past climates and biota.

"Premises" means any lands within the state wildlife sanctuary system.

"State Wildlife Sanctuary System" means those public lands or lands under the control and management of the Division of Forestry and Wildlife which have been designated as State Wildlife Sanctuaries.

"Subsistence" means harvesting for direct personal or family consumption and not for commercial purposes.

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

"Traditional and customary practices" means Native Hawaiian traditional and customary practices as defined under the Hawaii State Constitution, statutes, and case law.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds, bicycles and devices other than bicycles moved by human power.

"Vessel" means every description of watercraft used or capable of being used as a means of transportation on water, including, but not limited to, power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats, pleasure craft, floating equipment, floating gear, dry docks, and any and all other watercraft.

"Wildlife" means any non-domesticated member of the animal kingdom or feral member of any domesticated animal, 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 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-2, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-3 <u>Designation of wildlife sanctuaries.</u> The board may declare and establish wildlife sanctuaries for the conservation, management, and protection of indigenous wildlife and their habitats.

[Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3,

183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-5, 195D-6)

§13-126-4 Prohibited entry. It is prohibited for any person to land upon, enter or attempt to enter, or remain in any wildlife sanctuaries identified in Exhibit 1, "List of CLOSED wildlife sanctuaries", located at the end of this chapter and by reference made a part hereof, except as authorized by permit by the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-5 Restricted entry. It is prohibited for any person to land upon, enter or attempt to enter, or remain in any wildlife sanctuaries identified in Exhibit 2, "List of RESTRICTED wildlife sanctuaries", located at the end of this chapter and by reference made a part hereof, except as authorized in Exhibit 2 or as authorized by permit by the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-6 Closing of areas. The board or its authorized representative may close or restrict the public use of all or any portion of a wildlife sanctuary for up to two years, when deemed necessary by the board for the protection of the biological, geological, or cultural resources of the area or the safety and welfare of persons or property, by the posting of appropriate signs indicating the duration, extent, and scope of closure. Closures may be renewed with the approval of the board or its authorized

representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-7 Visiting hours. (a) Visiting hours for all sanctuaries, except for Kipuka Ainahou, are restricted to the daylight hours between sunrise and sunset unless otherwise permitted by the board or its authorized representative.

(b) The board or its authorized representative may establish a reasonable schedule of visiting hours for all or portions of the wildlife sanctuary by the posting of appropriate signs indicating the extent and scope of closure. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-8 Posted signs. All persons shall observe and abide by officially posted signs within wildlife sanctuaries. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1,195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-1, 195D-3, 195D-4, 195D-5, 195D-6)

§13-126-9 Permits. (a) The board or its authorized representative may issue permits to conduct activities otherwise prohibited by this chapter for the following purposes:

(1) Scientific, research, or education purposes.
(2) Conservation and management.
(3) Subsistence, traditional, and customary practices by Native Hawaiians consistent with the long-term preservation of the wildlife sanctuary resources.
(4) Any other purpose consistent with chapter

195D, Hawaii Revised Statutes.

(b) All permits shall be subject to standard conditions, as approved by the board, including but not limited to the following:

(1) The permittee shall adhere to project specifications given in the permit application and in the permit conditions;

(2) Disturbance of flora and fauna shall be avoided as much as possible;

(3) Precautions shall be taken to prevent introductions of plants or animals not naturally present in the area. The permittee is responsible for making sure that participants' clothing, equipment, vehicles, and vessels are clean and free of seeds, plant material, dirt, insects, or other animals to lessen the chance of introducing any non-native plants, animals, or other organisms. Should an infestation develop that is attributable to the permittee, whether it occurs during or after the permit period, and even though it may be only indirectly attributable to the project activities, the permittee shall be responsible for eradication by methods specified by the department or the Division of Forestry and Wildlife;

(4) The permit does not exempt the permittee from complying with any other applicable rule or statute; and

(5) The State of Hawaii shall be released and held harmless from any and all liability for injuries or death, or damage or loss of property, however occurring, during any activity related to this permit.

(c) The board or its authorized representative may attach special conditions to the permit, including but not limited to reporting requirements, limitations on the size of groups, or the length of time for which the permit is valid.

(d) Failure to comply with any of the permit conditions shall render a permit void.

(e) All permittees shall carry the permit with them at all times while on the premises and shall, upon request, show the permit to any law enforcement officer, the board, or its authorized representative.

(f) Permits are not transferable. If the permittee is a partnership, joint venture, or corporation, the sale or transfer of 25% or more of ownership interest or stocks by dissolution, merger, or any other means, shall be deemed a transfer for purposes of this subsection and subject to the right of the department to terminate this permit effective the date of the sale or transfer.

(g) The board or its authorized representative may revoke or cancel a permit without prior hearing when an emergency is declared by the department or other proper authority or when the permitted use poses an immediate threat to the health, safety, and welfare of the public or natural, geological, or cultural resources of the wildlife sanctuary. Notice of the revocation or cancellation shall be given in a fair, reasonable, and expedient manner.

(h) The board or its authorized representative may revoke or cancel any permit:

(1) For any infraction of the terms and conditions of the permit;

(2) Upon a finding that the permitted use threatens to damage the integrity or condition of the natural, geological, or cultural resources in the wildlife sanctuary;

(3) Upon a finding that the permitted use poses a threat to the health, safety, or welfare of the general public or otherwise negatively impacts the general public's use and enjoyment of the premises; or

(4) Upon closure of a wildlife sanctuary pursuant to section 13-126-6.

(i) The provisions of this section shall not exempt the permittee from complying with any other

applicable rule or statute and shall not exempt the permittee from other penalties provided by law. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-10 Applications for Permits. (a) All applications for permits shall be submitted in writing to the board or its authorized representative on the form prescribed by the department. The application shall contain the following information:

(1) Name of applicant, and if relevant, affiliation and title;
(2) Contact information, including name of primary contact, mailing address, and if available, phone number(s), fax number, and email address;
(3) The period of time for which the permit is requested, not to exceed one year;
(4) The wildlife sanctuary(s) involved;
(5) A map illustrating the premise and the location of the proposed use;
(6) A description of the proposed use;
(7) A discussion of how the proposed use satisfies subsections (b)(1) - (b)(6) below;
(8) An assessment of the potential environmental impact the use may have on the sanctuary or the surrounding area;
(9) Signature of the applicant; and
(10) Any other information as determined by the department.

(b) In evaluating the merits of an application for a permit, the board or its authorized representative shall apply the following criteria:

(1) The proposed use cannot be conducted elsewhere;
(2) The proposed use is consistent with the purpose and objectives of the wildlife sanctuary system;

(3) The proposed use is consistent with the management plan developed for the sanctuary;
(4) The proposed use provides a benefit (direct or indirect) to the wildlife sanctuary system and/or to individual sanctuaries;
(5) The proposed use will not damage or threaten to damage the integrity or condition of the natural, geological, and/or cultural resources in the wildlife sanctuary and adjacent area or region;
(6) The proposed use complies with provisions and guidelines contained in Chapter 205A, Hawaii Revised Statutes, entitled "Coastal Zone Management," where applicable; and
(7) The applicant shall have complied with, or be in compliance with, the conditions of any previously approved permit.

(c) The applicant shall have the burden of demonstrating that the proposed use is consistent with the above criteria.

(d) The board or its authorized representative may hold a public hearing on an application where determined by the chairperson that the scope of the proposed use or the public interest requires a public hearing. Notice of hearing shall be given not less than twenty days prior to the date set for the hearing. Notice of the date, time, and place of the hearing shall be published at least once in a newspaper in the county where the wildlife sanctuary is located.
[Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-6) (Imp: HRS §§ 183D-2,183D-3, 183D-4)

§13-126-11 Penalties. The penalties for violating any of the provisions of chapter 13-126 are as provided in Hawaii Revised Statutes sections 183D-5, 183D-12, 195D-8, 195D-9, and 195D-27.
[Eff 1/22/2010] (Auth: HRS §§ 183D-2, 184D-3, 183D-4, 183D-5, 183D-12, 195D-3, 195D-6, 195D-8, 195D-9,

195D-27) (Imp: HRS §§ 183D-2, 184D-3, 183D-4, 183D-5, 183D-12, 195D-3, 195D-6, 195D-8, 195D-9, 195D-27)

§§13-126-12 - 13-126-19 (Reserved)

SUBCHAPTER 2

PROHIBITED ACTIVITIES

§13-126-20 Unattended and abandoned property.

(a) No person shall abandon motor vehicles or any other property within any state wildlife sanctuary. All such property may be impounded or disposed of by the board or its authorized representative.

(b) Vehicles or other property left unattended that interfere with the safe or orderly management of the premises may be impounded by the board or its authorized representative at any time.

(c) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, Hawaii Revised Statutes.

(d) All impounded property, other than vehicles, shall be moved to a place of storage. The owner shall be assessed moving, storage, and other related costs and shall bear the responsibility for the risk of any loss or damage to the property. Moving, storage, and other related costs shall be assessed pursuant to section 171-31.5, HRS.

(e) Abandoned vehicles may be disposed of pursuant to section 290-11, HRS. All other impounded property may be disposed of pursuant to section 171-31.5, HRS. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 171-31.5, 290-11, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 171-31.5, 290-11)

§13-126-21 Agricultural use of premises. No person shall run at large, herd, drive across, or graze animals or use the premises for any agricultural purpose except under a valid lease, contract, or permit issued by the board. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-22 Aircraft. No person shall land, launch, or cause any aircraft to approach within 500 feet of any sanctuary, including airplanes, airships, balloons, gliders, hang gliders, para-gliders, helicopters, parachutes, dirigibles, and other similar means of conveyance, except with the written permission of the board or its authorized representative or in the case of an emergency. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-23 Animals and plants. (a) No person shall introduce, feed, remove, injure, take, or kill any plant or animal, either in whole or in part, except as authorized by the Board or authorized representative or as provided by rules of the Board.

(b) The introduction by any person of any animal or plant and the placement, abandonment or leaving of any animal or plant in a state wildlife sanctuary is strictly prohibited except as authorized by permit by the board or its authorized representative. This section shall not apply to dogs when authorized by the hunting rules of the department or service animals accompanying their handlers.

(c) Animal pets are not permitted in wildlife sanctuaries, except as authorized by the board or its authorized representative, or by the rules of the department. Any animal, such as a dog or cat, found

roaming and loose in a state wildlife sanctuary may be impounded or destroyed.

(d) No person shall ride horses except in areas designated for this purpose by the board or its authorized representative or by appropriate signs. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-24 Paleontological, archaeological and historical features. No person shall appropriate, damage, remove, excavate, disfigure, deface, or destroy paleontological objects, objects of antiquity, prehistoric ruins and monuments; provided, however, that the board or its authorized representative may permit qualified persons or institutions to examine ruins, excavate archaeological sites and gather objects of antiquity in accordance with chapter 6E, Hawaii Revised Statutes. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-25 Boating. (a) No person shall beach, park, or launch vessels in any state wildlife sanctuary, except for the coastal and offshore sanctuaries identified in Exhibit 2 of this chapter, for which access below the high water mark is allowed, or except by permit by the board or its authorized representative or in cases of emergency.

(b) No person shall moor or anchor vessels as defined in subsection (a) without the written permission of the board or its authorized representative, except as permitted by the rules of the department or anchoring in cases of emergency. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-26 Camping. No person shall camp, erect any tent, tarpaulin, or other structure, or use recreational trailers or other camper units within any state wildlife sanctuary, except with the prior written authorization of the board or its authorized representative or as permitted by the rules of the department. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-27 Communication equipment. No person shall install or operate aerials, antennas, transmitters or other radio, telephone, television, or other communication equipment, except hand held devices or equipment installed within vehicles, without the written permission of the board or its authorized representative, or in the case of an emergency. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-28 Disorderly conduct. No person shall engage in disorderly conduct within the premises. Disorderly conduct is described in chapter 711, Hawaii Revised Statutes. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-29 Explosives. No person shall use or possess fireworks, firecrackers, or explosives, except with the written permission of the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-30 False report. No person shall give a false or fictitious report or other information to any authorized representative investigating an accident or any violation of law or administrative rule. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-31 Firearms and other weapons. (a) No person shall use or possess bow and arrows, crossbows, firearms, pellet or BB guns, slingshots, or other implements designed to discharge projectiles except as provided herein.

(b) Firearms and other weapons may be used or possessed if done so in accordance with section 13-126-35 and other rules of the department, except in sanctuaries that are closed in accordance with section 13-126-6. Firearms and other weapons shall be unloaded when transported through non-hunting areas of the premises. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-32 Fires. No person shall discard any lighted objects, or start or maintain a fire, including use of portable stoves or cooking devices. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-33 Fishing. No person shall engage or assist in any fishing activity within any state wildlife sanctuary, except for the coastal and offshore sanctuaries identified in Exhibit 2 of this chapter, for which access below the high water mark is allowed, or by permit by the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-34 Geological features. No person shall destroy, disturb, or mutilate any geological features or dig or remove sand, earth, gravel, mineral, rock, coral, or any other substance except for digging in sand areas of beaches. No person shall excavate or quarry any stone, or lay, set, or cause any blast or explosion, or assist in these acts, without the written permission of the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-35 Hunting. No person shall engage or assist in any hunting activity within any state wildlife sanctuary without the written permission of the board or its authorized representative, except as provided by the rules of the department. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-36 Alcohol, intoxication; drug incapacitation. (a) No person shall use or possess narcotics or drugs, provided that a person may use or possess drugs legally prescribed by a physician. No person shall enter or remain within the premises when under the influence of alcohol or illegal narcotics or drugs.

(b) No person shall use or possess alcohol, except with the written permission of the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-37 Memorials and Markers. No person shall install any monument, memorial, tablet, or other commemorative installation, except with the written

permission of the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-38 Modelcraft operation. No person shall operate model motorized aircraft, automobile, or watercraft, or other similar models, except with the written permission of the board or its authorized representative. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-39 Portable engines and motors. No person shall operate or use a portable motor driven electric generating plant, pump, compressor, or any other equipment driven by a portable engine or motor, without written permission from the board or its authorized representative, or in the case of an emergency. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-40 Public property and resources. The following activities are prohibited within a state wildlife sanctuary, except as authorized by the board or its authorized representative:

(a) To remove, injure, take, or kill any natural object or plant or animal, either in whole or in part.

(b) To enter into, place any vessel or material in or on, or otherwise disturb, a lake or pond.

(c) To remove, damage, or disturb any historic or prehistoric feature or remains.

(d) To remove, damage, or disturb any geological or paleontological feature or substance.

(e) To remove, damage, or disturb any equipment, notice, marker, or structure, or the failure to leave any gates as found.

(f) To engage in any construction or improvement except as authorized by the board.

(g) To enter into any cave or lava tube.

[Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§13-126-41 Report of injury or damage. All incidents resulting in injury or death to persons or damage to property shall be reported as soon as possible to the board or its authorized representative. This report does not relieve persons from the responsibility of making any other report that may be required under federal, state, or county laws, ordinances, rules and regulations.

[Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-42 Residence prohibited. No person shall occupy or establish a temporary or permanent residence within a state wildlife sanctuary except with a permit or other written agreement with the board. [Eff 1/22/2010] ((Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-43 Sanitation and litter. (a) All persons shall dispose of garbage, trash, refuse, waste material, and rubbish of any kind only at places designated for its disposal or shall remove it from the premises. No person shall remove refuse or garbage from refuse containers nor remove or relocate such containers.

(b) No person shall drain or dump garbage, trash, rubbish, refuse, or waste except in places or receptacles provided for this use.

(c) No person shall bring, carry, or transport garbage, trash, rubbish, refuse, or waste from outside the premises for deposit or dumping on the premises.

(d) No person shall pollute or contaminate any watershed or water used for drinking purposes in any manner.

(e) No person shall dispose of fish entrails or other parts of fish or animals in a wildlife sanctuary, or waters within or adjacent to any state wildlife sanctuary, except as authorized by the board or its authorized representative.

(f) No person shall urinate or defecate on the premises other than in the toilet facilities provided. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-44 Swimming; nudity. A person may swim or bathe except in waters and at times where or when these activities are prohibited in the interest of public health or safety. These waters shall be designated by posting of appropriate signs. No person shall bathe, swim, walk, sunbathe, or remain on the premises in the nude, or take outdoor showers in the nude, except for bathing or changing clothes within enclosed facilities provided for those purposes or for the exposed breast of a nursing mother in the act of breastfeeding an infant. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-45 Vehicle operation. (a) No person shall operate any motorized or non-motorized land vehicle or air conveyance of any shape or form in any area, including roads or trails, not designated for its use, except in the case of an emergency.

(b) No person shall drive vehicles, or motorized or non-motorized bikes, faster than posted speed limits (except in the case of an emergency), or in a reckless manner, or in a manner that endangers any person, property, flora, or fauna.

(c) No person shall drive vehicles or any other motorized or drawn equipment over, on, or across any road or bridge if the gross load of the vehicle or equipment exceeds the posted weight limits, unless authorized by the board or its authorized representative.

(d) Except as otherwise authorized by the department or in the case of an emergency, no person shall stop, park, or permit to remain halted a motorized vehicle in a wildlife sanctuary other than in accordance with officially posted signs.

(e) Vehicles parked in violation of posted signs may be impounded by the board or its authorized representative at any time, except in the case of an emergency.

(f) No person shall use any motor vehicle, motorized equipment, internal combustion engines, or electric motors unless equipped with efficiently operating fire or spark arresting equipment.

[Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-4, 195D-3, 195D-6)

§§13-126-46 to 13-126-49 (Reserved)

SUBCHAPTER 3

COMMERCIAL AND PRIVATE OPERATIONS

§13-126-50 Commercial activity. (a) No person shall engage in commercial activities of any kind, without a written permit, contract, license, lease,

concession, or other written agreement authorized by the board or its authorized representative.

(b) Commercial activity may be permitted only where and to the extent indicated in Exhibit 3, which is located at the end of this chapter and by reference made a part hereof, and in accordance with all other applicable provisions of this chapter.

(c) For entry into or landing on any wildlife sanctuary by means of any kayak, boat, or other vessel rented from a commercial vendor, a wildlife sanctuary entry sticker obtained from that vendor must be visible on the kayak, boat, or other vessel at all times while in the sanctuary. The commercial vendor will be held responsible for any entry or landing that does not comply with this requirement. Emergency or official government business entries or landings are exempt from this requirement. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-51 Commercial permit criteria. (a) A commercial wildlife sanctuary access permit may be granted for only sanctuaries designated in Exhibit 3 of this chapter, and only when the commercial activity is consistent with the purpose of the wildlife sanctuary system. All commercial permits issued are subject to conditions that are to be determined by the board or its authorized representative and such conditions shall carry out the purpose of the wildlife sanctuary system. Where commercial activities are allowed, as shown on Exhibit 3, the specific limitations for commercial activities set forth in Exhibit 3 are guidelines only, and are not binding on the board or department. If there is a great demand for commercial permits, the board or its authorized representative may determine a method by which commercial operators may be issued permits. The board or its authorized representative may establish a

moratorium on the issuance of commercial permits based on the needs of the sanctuaries.

(b) The board or its authorized representative shall determine the duration of each commercial permit based upon the needs of the wildlife sanctuary for which a permit is sought. Unless earlier terminated, a commercial permit shall automatically expire at the end of its duration. There is no right to a renewal or reissuance of a commercial permit.

(c) Commercial permit applications may be denied based upon subsections (a) and (b) and when:

(1) The proposed activity would be detrimental to the wildlife sanctuary habitat or the surrounding area;

(2) The proposed activity would be detrimental to public safety;

(3) The proposed activity would compromise the quality and nature of the expected experience of other sanctuary users;

(4) The size, intensity, or cumulative impacts of the proposed activity would exceed the limits of acceptable change of a wildlife sanctuary;

(5) The size, intensity, or nature of the proposed activity would diminish the availability of the wildlife sanctuary for use by the general public;

(6) Repairs or improvements are being made to a wildlife sanctuary;

(7) The wildlife sanctuary, access, site, or facility for the proposed activity will be in use by other permittees or a government agency;

(8) The applicant violated a permit condition or a provision of this chapter or any other rule of the department within one year prior to the date of the application;

(9) An emergency is declared by the board or its authorized representative or other proper authority;

(10) The proposed commercial activity is not allowed in the wildlife sanctuary, access, or portion thereof, under the terms of an agreement with a private landowner or another government agency concerning the use of the wildlife sanctuary, access, or portion thereof;
(11) The wildlife sanctuary or portion thereof has been or will be closed or restricted pursuant to section 13-126-6; or
(12) Any other basis for denial as provided for in these rules. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-52 Advertisements. No person shall display, post, or distribute notices or advertisements, except with the prior written permission of the board or its authorized representative. Permission may be granted only if the notice or advertisement relates to services, goods, or facilities available within the premises and the notices and advertisements are found by the board or its authorized representative to be desirable and necessary for the convenience and guidance of the public, or as otherwise provided under chapter 13-126. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-53 Commercial filming, photography, and videotaping. (a) Before any motion picture is filmed or any video recordings, television production, or sound track is made, which involves the use of professional casts, models, settings, or crews, by any person other than bonafide newsreel or news television personnel, a person shall obtain a written permit approved by the board or its authorized representative

that shall be subject to terms, conditions, and fees set by the board.

(b) Before any still photograph may be taken by a commercial photographer for commercial purposes, a person shall obtain a written permit approved by the board or its authorized representative. The permit shall be subject to terms, conditions, and fees set by the board. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-54 Commercial permit suspension and termination. (a) A commercial permit shall automatically terminate when:

(1) An emergency is publicly declared by the department or other proper authority that affects the wildlife sanctuary for which the permit was issued;

(2) The wildlife sanctuary for which the permit was issued, or a portion thereof which is used under the permit, is closed or restricted pursuant to section 13-126-6; or

(3) Fees are not paid when due.

(b) A commercial permit shall automatically be suspended when a permittee has been informed, orally or in writing, by the board or its authorized representative, of an apparent violation, or the permittee has been cited for an alleged violation, of a permit condition, any provision of this chapter, or any other rule of the department, and the permit shall automatically terminate upon a determination by the board or a court that the permittee committed the violation.

(c) A commercial permit shall be automatically suspended when the board or its authorized representative informs the permittee, orally or in writing, that its permitted activity damages or threatens serious damage to the integrity or condition of the wildlife sanctuary or its surrounding

environment, or threatens the safety of wildlife sanctuary users, and shall automatically terminate upon a determination by the board that such harm or threatened harm occurred. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§13-126-55 Fees. (a) All entry fees collected for commercial activities in wildlife sanctuaries shall be deposited into the Endangered Species Trust Fund.

(b) The base commercial permit processing fee for entry to, landing on, or launching from a wildlife sanctuary shall be $10, and also as applicable

(c) Fees for commercial activities accompanied by a commercial guide shall be:

(1) Price per person for vessel or vehicle including 1-2 people: $5 or

(2) Price per vessel or vehicle including 3-5 people: $25 or

(3) Price per vessel or vehicle including up to 8 people: $50 or

(4) Price per vessel or vehicle including up to 12 people: $75 or

(5) Price per vessel or vehicle including up to 15+ people: $100 or

(d) Fees for commercial activities not accompanied by a commercial guide shall be: $3 per person.

(e) Fees for commercial still Photography or Filming: $100. [Eff 1/22/2010] (Auth: HRS §§ 183D-2, 183D-3, 183D-4) (Imp: HRS §§ 183D-2, 183D-3, 183D-4)

§§13-126-56 to 13-126-59 (Reserved)

DEPARTMENT OF LAND AND NATURAL RESOURCES

The repeal of chapter 13-125, and adoption of chapter 13-126, Hawaii Administrative Rules, on the Summary Page dated December 11, 2009, was adopted on December 11, 2009, following a series of statewide public hearings held between November 3 through 9, 2009 after public notice was given in the Star Bulletin, Garden Island, Maui News, Hawaii Tribune-Herald, and West Hawaii Today on October 4, 2009.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.

LAURA H. THIELEN
Chairperson
Board of Land and Natural Resources

APPROVED:

LINDA LINGLE
Governor
State of Hawaii

Dated: 1/8/10

LIEUTENANT GOVERNOR'S OFFICE
'10 JAN 12 A9:55

APPROVED AS TO FORM:

Pamela K. Matsukawa
Deputy Attorney General

JAN 12 2010

Filed

2903

Exhibit 1. List of CLOSED wildlife sanctuaries

Name	County	Island	District	Tax Map Key
Green Island	Honolulu	Kure	NWHI	NA
Sand Island	Honolulu	Kure	NWHI	NA
Pouhala Marsh	Honolulu	Oahu	Ewa	(1) 9-3-001:004
Kihewamoku Islet	Honolulu	Oahu	Koolauloa	(1) 5-6-001:001
Kukuihoolua Islet	Honolulu	Oahu	Koolauloa	(1) 5-5-002:017
Mokualai Islet	Honolulu	Oahu	Koolauloa	(1) 5-5-002:018
Pulemoku Islet	Honolulu	Oahu	Koolauloa	(1) 5-6-001:003
Kaohikaipu Islet	Honolulu	Oahu	Koolaupoko	(1) 4-1-014:010
Kekepa Islet	Honolulu	Oahu	Koolaupoko	(1) 4-4-008:002
Manana Island	Honolulu	Oahu	Koolaupoko	(1) 4-1-014:009
Moku Manu Islets	Honolulu	Oahu	Koolaupoko	(1) 4-4-009:004
Mokulea Rock Islet	Honolulu	Oahu	Koolaupoko	(1) 4-4-009:006
Kaula Island	Kauai	Kauai	Waimea	(4) 1-1-001:003
Moku Naio	Maui	Lanai	Lahaina	N/A
Nanahoa Islets	Maui	Lanai	Lahaina	(2) 4-9-003:004
Poopoo Islet	Maui	Lanai	Lahaina	N/A
Puupehe Islet	Maui	Lanai	Lahaina	(2) 4-9-003:003
Puuku Islet	Maui	Maui	Hana	(2) 1-4-004:012
Alau Island	Maui	Maui	Hana	(2) 1-4-002:001
Keopuka Islet	Maui	Maui	Hana	(2) 1-1-001:049
Moku Hala	Maui	Maui	Hana	N/A
Moku Mana Islet	Maui	Maui	Hana	N/A
Molokini Islet	Maui	Maui	Makawao	(2) 2-1-001:003
Papanui O Kane Islet	Maui	Maui	Makawao	(2) 2-8-003:026
Mokeehia Islet	Maui	Maui	Wailuku	(2) 3-1-001:011
Hulu Islet	Maui	Maui	Wailuku	(2) 3-1-001:013
Huelo Islet	Maui	Molokai	Kalawao	(2) 6-1-001
Mokapu Islet	Maui	Molokai	Kalawao	(2) 6-1-001
Okala Islet	Maui	Molokai	Kalawao	(2) 6-1-001
Kanaha Rock Islet	Maui	Molokai	Molokai	(2) 5-8-015:012
Mokuhooniki Islet	Maui	Molokai	Molokai	(2) 5-8-015:011
Mokumanu Islet	Maui	Molokai	Molokai	N/A

Exhibit 2. List of RESTRICTED wildlife sanctuaries

Name	County	Island	District	Tax Map Key	Restrictions
			COASTAL AND OFFSHORE		
Keaoi Islet	Hawaii	Hawaii	Kau	(3) 9-8-001:007	Access restricted to areas below the high water mark
Mokupuku Islet	Hawaii	Hawaii	North Kohala	(3) 5-1-001:015	Access restricted to areas below the high water mark
Paokalani Islet	Hawaii	Hawaii	North Kohala	(3) 5-1-001:013	Access restricted to areas below the high water mark
Mokuauia Islet	Honolulu	Oahu	Koolauloa	(1) 5-6-001:002	Access restricted to areas below the high water mark
Popoia	Honolulu	Oahu	Koolaupoko	(1) 4-3-009:057	Access restricted to areas below the high water mark
Kapapa Island	Honolulu	Oahu	Koolaupoko	(1) 4-4-008:004	Access restricted to areas below the high water mark
Mokulua Islets	Honolulu	Oahu	Koolaupoko	N/A	Access restricted to areas below the high water mark
Mokuaeae Rock Islet	Kauai	Kauai	Hanalei	(4) 5-2-004:018	Access restricted to areas below the high water mark
Lehua Island	Kauai	Kauai	Waimea	(4) 1-1-001:002	Access restricted to areas below the high water mark
Pauwalu Point	Maui	Maui	Hana	(2) 1-1-007:020, 1-1-008:011	Access restricted to marked road and trails only. No vehicles.
			WETLANDS		
Paiko Lagoon	Honolulu	Oahu	Honolulu	(1) 3-8-001	Access restricted to marked trails only
Hamakua Marsh	Honolulu	Oahu	Koolaupoko	(1) 4-2-003:030	Access prohibited in wetland areas bounded by perimeter fence and makai canal
Kawainui Marsh	Honolulu	Oahu	Koolaupoko	(1) 4-2-013:005, 043	Access restricted to the perimeter marked trails and roads, or other marked trails or roads. No motorized vehicles.
Kanaha Pond	Maui	Maui	Wailuku	(2) 3-8-001:019	Parking lot and viewing kiosk on Old Haleakala Hwy open year-round. All other areas closed April 1 - August 30. No vehicles. Access restricted to marked roads and trails only.
			MONTANE		
Puu Waawaa Forest Bird Sanctuary	Hawaii	Hawaii	North Kona	(3) 7-1-001:007	No motorized vehicles. Access restricted to marked roads or trails only, or as provided in Chapter 13-122, HAR

Exhibit 3. List of wildlife sanctuaries in which commercial activities may be permitted

Name	County	Island	District	Limits
COASTAL AND OFFSHORE				
Mokuauia Islet	Honolulu	Oahu	Koolauloa	50 visitors per day
Popoia	Honolulu	Oahu	Koolaupoko	200 visitors per day
Mokulua Islet (Mokunui only: the larger and northern of the two Islets)	Honolulu	Oahu	Koolaupoko	200 visitors per day
WETLANDS				
Paiko Lagoon	Honolulu	Oahu	Honolulu	20 visitors per day
Hamakua Marsh	Honolulu	Oahu	Koolaupoko	100 visitors per day
Kawainui Marsh	Honolulu	Oahu	Koolaupoko	100 visitors per day
Kanaha Pond	Maui	Maui	Wailuku	100 visitors per day