

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5 FORESTRY AND WILDLIFE

PART 1 FORESTRY

CHAPTER 104

RULES REGULATING ACTIVITIES WITHIN FOREST RESERVES

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Historical Note: Chapter 104 of Title 13, Administrative Rules, is based substantially upon Regulation 1 [Eff 12/9/43; am 8/12/76] and Regulation 10 [Eff 12/12/59] of the Division of

Subchapter 1 General Provisions

§13-104-1 Purpose and applicability. (a) The purpose of these rules is to regulate activity within forest reserves established pursuant to sections 183-11 and 183-15, Hawaii Revised Statutes.

(b) These rules shall apply to all persons entering the boundaries of a forest reserve. Everyone using the forest reserves should conduct themselves in a safe and courteous manner. Users of the forest reserves should be aware that there are certain inherent risks involved due to other users and the environment and should use caution at all times.
[Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-2 Definitions. As used in these rules, unless context requires otherwise:

"Administrator" means the administrator of the division of forestry and wildlife.

"Authorized representative" means the administrator, foresters, conservation enforcement officers, and other persons authorized by the board of land and natural resources to act for the board.

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

"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 forest reserve.

"Commercial activity" means the use of or activity in the forest reserve for which compensation is received by any person for goods or services or both rendered to customers or participants in that use of activity. Commercial activities include activities whose base of operations are outside the boundaries of the forest reserve, or provide transportation to or from the forest reserve.

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

"Division" means the division of forestry and wildlife.

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

"Forest reserve" means those lands designated as forest reserves by the department pursuant to sections 183-11 and 183-15, Hawaii Revised Statutes, and other lands for plant sanctuaries, facilities, nurseries and baseyards under the

custody and control of the division.

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

"Non-motorized vehicle" means a vehicle of any shape or form that depends on human, animal, wind, spring and other non-motorized means for propulsion.

"Residing" means being in the same forest reserve for more than seven (7) continuous days.

"Spark arrester" means a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine that is operated by hydrocarbon fuels. [Eff 9/28/81; am and comp 10/15/93; am 12/9/02] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-3 Penalty. Any person violating any of the provisions of these rules shall be guilty of a misdemeanor and shall be penalized as provided by law. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §§183-4, 183-18)

Subchapter 2 Public Use

§13-104-4 Preservation of public property and resources. The following activities are prohibited within a forest reserve:

- (1) To remove, injure, or kill any form of plant or animal life, either in whole or in part, except as authorized by the Board or authorized representative or as provided by rules of the Board;
- (2) To remove, damage, or disturb any natural feature or resource (e.g. natural stream beds) except as authorized by the board or its authorized representative;
- (3) To remove, damage, or disturb any historic or prehistoric remains;
- (4) To remove, damage, or disturb any notice, marker, or structure;
- (5) To enter, occupy, or use any building, structure, facility, motorized vehicle, machine, equipment, or tool within or on forest reserve except as authorized by the board or its representative;
- (6) To engage in any construction or improvement except as authorized by the board.
- (7) To sell, peddle, solicit, or offer for sale any merchandise or service except with written authorization from the board.
- (8) To distribute or post handbills, circulars, or other

notices.

- (9) To introduce any plant or animal except as approved by the Board.
- (10) To enter or remain within forest reserves when under the influence of alcohol, narcotics, or drugs, to a degree that may endanger oneself or endanger or cause annoyance to other persons or property. The use or possession of narcotics, drugs or alcohol within forest reserves is prohibited. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §§183-2, 183-17)

§13-104-5 Litter and sanitation. The following acts are prohibited within a forest reserve:

- (1) To drain, dump, or leave any litter, animal waste or remains, or any other material which pollutes or is likely to cause pollution in the forest reserve including streams and other water sources;
- (2) To deposit any body waste in areas without comfort stations without digging a hole and covering all signs of the waste;
- (3) To deposit any body waste within 150 feet of a spring, stream, lake, or reservoir; and
- (4) To leave or abandon a vehicle or any other large refuse such as refrigerators or stoves, household garbage or trash or other forms of waste or debris.
[Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2)
(Imp: HRS §183-2)

§13-104-6 Report of injury or damage. All incidents resulting in injury or death to persons or damage to property shall be reported by the person or persons involved as soon as possible to the board or its authorized representative. This report does not relieve persons from the responsibility of making any other accident reports which may be required under federal, state, or county statutes, ordinances, and rules.
[Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-7 Fire use restrictions. The following acts are prohibited within a forest reserve:

- (1) To build any fire on the ground or in any structure;
- (2) To build any fire without using a portable stove or other self-contained unit;
- (3) To leave a fire unattended without extinguishing all traces of heat;
- (4) To deposit or discard any potential fire-producing

- material such as embers, coals, or ashes that are too hot to touch;
- (5) To set on fire or cause to be set on fire any live or dead vegetation except for department fire control measures;
 - (6) To start a fire in windy conditions in a place or manner that is likely to cause live or dead vegetation to be set on fire; and
 - (7) To use any motor vehicle, motorized equipment, internal combustion engines, or electric motors unless equipped with efficiently operating fire or spark arresting equipment. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §§183-2, 185-1)

§13-104-8 Hunting and fishing. The hunting, fishing, trapping, or disturbing of any fish, animal, or bird is prohibited except as permitted by department hunting or fishing rules. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-9 Firearms or other weapons. Firearms including air or gas operated, bow and arrow and other weapons are prohibited except as permitted by department hunting rules and are subject to all applicable federal, state, and county statutes, ordinances, and rules [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-10 Swimming and bathing. Swimming and bathing in all waters within a forest reserve are permitted at an individual's own risk except in waters and at times where the activities are prohibited by the board or its authorized representative in the interest of public health and safety. The excepted waters and times shall be designated by posted signs. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-11 Vehicles and transportation. (a) The following acts are prohibited within a forest reserve:

- (1) To drive, operate, or use any motorized or non-motorized land vehicle, glider, hang glider, aircraft, balloon, or parachute carelessly and without due caution for the rights or safety of others and in a manner that endangers any person or property;
- (2) To launch or land airplanes, gliders, helicopters, balloons, parachutes, or other similar means of

transportation without a special use permit from the board or its authorized representative; provided, however, that landing is authorized without a permit in case of any emergency;

- (3) To drive, operate, or use any motorized vehicle in any area or trails not designated for that purpose;
- (4) To park any motorized or non-motorized vehicle or trailer except in designated areas;
- (5) To drive, lead or ride a horse, mule, other animal, or non-motorized land vehicle in areas and on roads or trails that are posted against such activity; and
- (6) To drive, operate, or use any motorized ground vehicle without a functioning street legal muffler, and without a valid vehicle license plate, registration and safety sticker if required by each respective county.

(b) Any vehicle or property left unattended within a forest reserve for longer than forty-eight hours without prior written permission from the board or its authorized representative shall be considered abandoned. Any abandoned vehicle or property may be impounded or towed away by the board or its authorized representative at the expense of the owner. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-12 Animals. (a) Dogs, cats, and other animals are prohibited within a forest reserve unless crated, caged, or on a leash, at all times except for hunting dogs when permitted by chapters 122 and 123, Administrative Rules.

(b) All dogs used for hunting shall be crated, caged, or leashed or otherwise under restrictive control during transportation while in transit at all times, to and from hunting areas within the forest reserve.

(c) Dogs, cats, or other domestic animals, observed by an authorized representative of the board to be running at large or in the act of killing, injuring, or molesting humans, wildlife, or property, may be disposed of in the interest of public safety and the protection of the forest reserve. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-13 Audio devices and noise. Creating noise or sound within a forest reserve, either vocally or otherwise (i.e. public address systems, radios, television sets, musical instruments) or use of any noise producing devices (i.e. electric generating plants or other equipment driven by motors or engines) in a manner and at times which creates a nuisance is prohibited. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-14 Explosives. The use or possession of fireworks, firecrackers, or explosive devices within a forest reserve is prohibited. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-15 Disorderly conduct. Disorderly conduct, as defined in section 711-1101, Hawaii Revised Statutes, is prohibited within a forest reserve. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §§183-2, 711-1101)

§13-104-16 Residence on forest reserve lands. Residing within a forest reserve is prohibited except with written permission from the board. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-17 Compliance with laws. All persons entering the boundaries of a forest reserve shall comply with all federal, state, and county laws, ordinances, and rules. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

Subchapter 3 Permits

§13-104-18 General provisions for permits. (a) The board or its authorized representative may issue the following types of permits:

- (1) Camping;
 - (2) Special use;
 - (3) Collecting;
 - (4) Commercial harvest; and
 - (5) Access.
- (b) All permits are subject to the following provisions:
- (1) Permits are subject to denial, cancellation, or termination at any time by the board or its authorized representative upon violation of these rules or any conditions of the permit or any federal, state, or county statutes, ordinances, and rules or for danger to the public or because of natural causes.
 - (2) Permits shall not be transferable.
 - (3) Persons or organizations to whom permits are issued shall be held responsible for all conditions stipulated on the permit.
 - (4) All persons eighteen years of age or older shall be eligible to secure a permit and all minors shall be allowed use of the premises provided that they are

under the direct supervision of one adult for every ten minors.

- (5) The size of groups as well as the length of time any permit may be in effect may be limited by the board or its authorized representative.
- (6) The board or its authorized representative may require the permittee, at the permittee's own cost, to provide police protection in the interest of the public safety and welfare and for the protection of property when the number of persons using the forest reserve is one hundred or more.
- (7) Fees and charges as set by the board may be assessed when permits are granted for the exclusive use of areas or facilities, or when charges are necessary to defray the cost of special facilities, services, or supplies provided by the State, or as otherwise determined by the board or its authorized representative when necessary to carry out the provisions of chapter 183, Hawaii Revised Statutes. Charges may be waived by the board or its authorized representative if the waiver is in the public interest.
- (8) All permittees shall, upon request, show the permit to any law enforcement officer, the board, or its authorized representative. [Eff 9/28/81; comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-19 Camping permits. (a) All persons, groups, organizations, or associations wishing to camp within a forest reserve shall obtain a camping permit authorizing the use of the specific area and facilities for camping purposes.

(b) Camping permits shall be obtained from the district offices of the division during regular working hours of the department.

(c) Persons applying for a permit shall provide, if requested, identification for all persons included on a permit, satisfactory to the board or its authorized representative.

(d) Each permit will reserve the use of a designated area for the stated date or dates of use. Camping is permitted only in designated areas or sites.

(e) No person, group, organization, or association shall remain at any one specific camping site for longer than seven days; provided that the board or its authorized representative may extend the length of stay for good cause; provided further that the length of stay (including the extension as well as the permitted stay) shall not exceed fourteen days.

(f) After the expiration of a permit, a period of thirty days shall pass before another permit may be issued to the same person for the same designated area. This restriction shall apply to all persons named on the expired permit. The board or

its authorized representative may waive a portion of the thirty day period for good cause.

(g) Permits may be denied, canceled, or terminated for the following reasons:

- (1) When the size of the group exceeds the capacity of the existing site or facilities;
- (2) When there are inadequate facilities to meet the immediate needs of the camper or campers;
- (3) When repairs or improvements are being made at the campsite; or
- (4) When a state of emergency is declared by the board or its authorized representative [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-20 Special use permits. (a) Special uses are permitted within a forest reserve only by a permit issued by the board or its authorized representative. Special uses are all types of uses other than those provided for herein and which are considered compatible with the functions and purposes of each individual area, facility, or unit within a forest reserve. Special uses include but are not limited to activities such as meetings, weddings, concerts, shows, and other community events or activities and scientific collection of plants and animals.

(b) Applications for special use permits shall be received by the board or its authorized representative at least fifteen working days in advance of the date the permit is to be in effect, unless otherwise received and accepted by the board or its authorized representative.

(c) A request for a special use permit shall be considered on its own merits including its effect on the premises, facilities, and the public's use and enjoyment of the forest reserve. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-21 Collecting permits. (a) Persons wishing to collect forest items (e.g. ti leaves, bamboo) for personal use and at no charge shall obtain a collecting permit authorizing the collection in a specific area.

(b) Collecting permits shall be obtained from the district offices of the division during regular working hours of the department.

(c) Persons applying for a permit shall provide, their names and addresses and shall produce if requested, identification of all persons named on a permit, satisfactory to the board or its authorized representative.

(d) Collecting permits shall specify:

- (1) The date or dates of collection;
- (2) The quantities and items to be collected;

- (3) The areas of collection; and
- (4) Any other terms and conditions deemed necessary by the board or its authorized representative.
- (e) Permits shall not be issued for collecting items for sale.
- (f) No permits shall be issued for the collection of endangered or threatened wildlife or plants except as provided by chapter 124, Administrative Rules. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2).

§13-104-22 Commercial harvest permits. (a) The board or its authorized representative may issue permits for the purpose of purchasing, harvesting, and removing forest products (e.g., timber, seedlings, greenery, tree fern, cinder, and lava rock).

(b) Permits shall be obtained from the district offices of the division during regular working hours of the department.

(c) Each application for a harvest permit shall be considered on its own merits including its effect on the premises and the public's use and enjoyment of the forest reserve.

(d) Permits will not be issued for harvesting material for direct resale.

(e) The value of the raw material to be harvested shall not exceed \$10,000. The quantity to be harvested shall be decided by the board or its authorized representative.

(f) The time of entry for harvesting shall not exceed 14 days for permits with designated raw material value not in excess of \$1,000, or 30 days for permits with designated raw material the value of which exceeds \$1,000 but does not exceed \$10,000, except that the board or its authorized representative may extend this time for good cause.

(g) No more than one permit within a thirty day period or six permits within a calendar year may be issued to the same person, group, organization, or association for harvesting the same product.

(h) Each permit shall specify:

- (1) The products to be harvested;
- (2) The amount to be harvested;
- (3) The dollar value of the products;
- (4) The designated area to be harvested;
- (5) The date or dates the harvesting may take place; and
- (6) Any other terms or conditions deemed necessary by the board or its authorized representative.

[Eff 9/28/81; comp 10/15/93; am 10/4/05] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-23 Access permits. (a) Permits for access to or entry into forest reserves may be required by the board or its authorized representative for the following purpose:

- (1) To comply with the requirements of private landowners or lessees who permit access to forest reserves through their land;
 - (2) To control the number of people using a forest reserve or an area within a forest reserve in order to minimize the impact upon environmentally sensitive area;
 - (3) To control the types of uses of a forest reserve or an area within a forest reserve in order to minimize the dangers of incompatible uses in the same area (e.g. horseback riding and motorcycle riding); and
 - (4) To control periods of use of a forest reserve, especially during periods when fire danger levels are high.
 - (5) To collect plants or animals for scientific purposes.
- (b) Access permits shall be obtained from the district offices of the division during regular working hours of the department.
- (c) Persons applying for an access permit shall provide their names and addresses and shall produce identification satisfactory to the board or its authorized representative. The board or its authorized representative may require the names, addresses, and telephone numbers of all persons included on a permit. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-24 Commercial activities. No person shall engage in commercial activities of any kind in a forest reserve without a written permit from the board or its authorized representative. [Eff Dec 09 2002](Auth: §183-2) (Imp: §183-2)