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DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
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February 12, 2018

Chairperson and Members
Natural Area Reserves System Commission
State of Hawai‘i
Honolulu, Hawai‘i

NARS Commission Members:

SUBJECT: REQUEST FOR DELEGATION OF AUTHORITY TO THE BRANCH MANAGERS OR THE ADMINISTRATOR OF THE DIVISION OF FORESTRY AND WILDLIFE TO ISSUE PERMITS FOR ACTIVITIES LISTED IN EXHIBIT 2 FOR HAWAII ADMINISTRATIVE RULES CHAPTER 13-209, RULES REGULATING NATURAL AREA RESERVES

BACKGROUND:

Section 13-209-5 of Hawaii Administrative Rules provides the board or its authorized representative, with the approval of the commission or its authorized representative, may issue permits to conduct activities otherwise prohibited by section 13-209-4 for research, education, management, or for any other purpose consistent with chapter 195, Hawaii Revised Statutes.

The Natural Area Reserves System Commission has delegated the Natural Area Reserves System Executive Secretary the ability to recommend approval of special use permits, after discussion and approval by Branch staff for various activities listed in Exhibit 1. The purpose of this delegation was to streamline the permitting process for minor activities that did not require full NARS Commission review, since it was impractical to schedule a Commission meeting for every permit application. About 70 NARS permits are issued annually.

Delegations should be occasionally revisited and updated. The activities listed in Exhibit 1 were finalized over a decade ago, and since then there have been rule changes and staffing changes.

The requested revisions to the delegations are as follows:

1. The delegations of authority should not go to the NARS Commission Executive Secretary. This position no longer exists, as the NARS has integrated as a standard program within DOFAW, overseen by a program manager and administratively supported by planners. The administrative support staff has grown to include not only botanists and ornithologists, but also an entomologist, and most recently, a wildlife biologist specializing in malacology. These

scientists review plant and wildlife permits, including permits to study or take T&E species. Instead of the NARS Commission Executive Secretary, the Branch Managers are appropriate signatories of the types of NARS permits seeking delegation, as they oversee the activities on their island and ensure consistency across the programs. If the applicant is also required to get a wildlife or threatened and endangered (T&E) species permit, or if the application is multi-island, the DOFAW Administrator is the appropriate signatory. In both the existing and proposed process, the NARS Specialists on each island also review the permits, and they will continue to have the main responsibility ensuring that the actions are consistent with the purpose of the NARS.

2. The existing list of activities delegated (Exhibit 1) needs revision because it is unwieldy and has major omissions (such as studies on invertebrates). The proposed list is shorter and simpler.

3. Additionally, the proposed list includes management activities that would benefit the NARS (with the requirement that they comply with the Management Policies). This would streamline permits for activities that support NARS management plans. Examples are community groups seeking to do litter pick-ups, or organizations like watershed partnerships conducting natural resource management.

4. Unlike the old list, the new list delegates authority to issue permits that involve T&E species. These activities also require a separate permit that is reviewed by the botanical or wildlife specialists in the administrative office. The DOFAW Administrator is delegated to sign off on these permits after specialist review. T&E permits are carefully regulated by §195D-4, Hawaii Revised Statutes, which can only be issued for scientific purposes or to enhance the propagation or survival of the affected species. Take for other activities is regulated by HRS §195D-4 (g) prescribing the process for a habitat conservation plan, which goes through the Endangered Species Recovery Committee and the Board of Land and Natural Resources. Federal permits and licenses are also required for these activities.

5. Research on threatened and endangered species has led to innovations in management methods that increase success of propagation and restoration of the species, as well as reduce threats. In many cases, researchers must conduct their research in Natural Area Reserves because that is the only remaining or accessible population of the species. Thus, this research is important not only for the species but for the ecological integrity of the NAR.

6. Another requested delegation is the authority to introduce biocontrol agents, as this is also a highly regulated process with considerable oversight from the Division of Forestry and Wildlife and the Department of Agriculture, including an environmental review process. This would streamline activities that hold great promise for benefitting the resources in the Reserves.

7. The existing delegation allows collection of soil and water samples, however a broader request to allow collection of small amounts of inorganic material is requested.

8.Another requested delegation is for entry into closed areas or outside of visiting hours. Reserves that are currently closed are Kahauale‘a, and portions of ‘Ahihi-Kīna‘u (which also has visiting hours for open sections of the Reserve). Staff require permittees to take special safety precautions and enter only during certain conditions.

Other edits have been made to consolidate and simplify the document.

Overall, the goals of this revision are to keep NARS Commission oversight on larger, long-term and significant activities that are more likely to pose potential threats to the natural condition of the Reserve. However, through time and experience, staff are recommending types of activities that are not likely to warrant full Commission review because they are less risky or because other experts are involved in the review process. Even with this delegation, DOFAW staff may always seek full Commission review on an item if there is uncertainty or if additional public and expert consultation is prudent.

RECOMMENDATION:

That the Commission delegate authority to the Branch Managers or the Administrator of the Division of Forestry and Wildlife to issue permits listed in Exhibit 2 for Hawaii Administrative Rules Chapter 13-209, Rules regulating Natural Area Reserves.

Respectfully submitted,

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Emma. K. Yuen, NEPM Program Manager
Division of Forestry and Wildlife

Attachments

Signature:

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