DRAFT RULES PENDING PUBLIC HEARING AND FINAL APPROVAL

Amendment and Compilation of Chapter 13-104
Hawaii Administrative Rules

(date)

1. Chapter 13-104, Hawaii Administrative Rules, entitled "Rules Regulating Activities Within Forest Reserves", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

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 Forestry, Department of Land and Natural Resources [R 9/28/81].

SUBCHAPTER 1

GENERAL PROVISIONS

[~~§13-104-1 Purpose and applicability.~~] **§13-104-1 Purpose and applicability.** (a) The purpose of [~~these rules~~] this chapter 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 and jurisdiction of a forest reserve. All persons shall observe and abide by officially posted signs within forest reserves. 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 [~~certains~~] certain inherent risks involved due to other users and the environment and should use caution at all times. [Eff 9/28/81; am and comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §§183-1.5, 183-2)

[~~§13-104-2 Definitions.~~] **§13-104-2 Definitions.** As used in [~~these rules,~~] this chapter, unless the context requires otherwise:

"Abandoned and unattended 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 forty-eight hours without the written permission of the board or its authorized representative.

"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" or "to camp" means [~~being in possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia,~~] a person's physical presence any time [~~after~~] one hour after sundown until sunrise in a forest reserve. Indicia of camping includes the use of a forest reserve one hour

after sundown until sunrise for living accommodation purposes, including, but not limited to: sleeping activities or making preparations to sleep (including the laying down of bedding for the purpose of sleeping); storing personal belongings; making any fire; the presence or use of any tents, temporary shelters, unauthorized structures or vehicles; or digging or breaking ground without proper authorization.

"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 or activity. Soliciting, demanding, or requesting gifts, money, or services shall be considered commercial activity. Commercial activities include activities [~~whose~~] with base of operations [~~are~~] outside the boundaries of the forest reserve, display of merchandise, or activities which provide transportation to or from the forest reserve.

"Commercial use" is any type of commercial activity which is considered compatible with the functions and purposes of each individual area, facility, or unit within a forest reserve.

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

[~~"Division" means the division of forestry and wildlife.~~]

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

"Division" means the division of forestry and wildlife.

"Forest product" means any natural material from a forest reserve, including but not limited to timber, seedlings, seeds, fruits, greenery, tree fern, cinder, lava rock, ti leaves, and bamboo.

"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.~~]

"Structure" means any object or improvement constructed, installed, or placed on state lands, including but not limited to buildings, sheds, lean-tos, picnic tables, memorials, hunting blinds, tree stands, mobile homes, campers, trailers; provided that tents, campers, vehicles, and other temporary objects related to authorized activities shall not be considered structures for the purposes of this definition; provided further that the objects are in compliance with rules and regulations governing those activities on state lands.

"Tree harvesting" means the removal of live trees from a forest reserve. [Eff 9/28/81; am and comp 10/15/93; am 12/9/02; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-3 Penalty.~~] **§13-104-3 Penalty.** (a) Any person violating any of the provisions of [~~these rules~~] this chapter shall be [~~guilty of a misdemeanor and shall be penalized~~] subject to penalty as provided by law. All revenues generated from fines or penalties imposed pursuant to this section shall be deposited into the forest stewardship fund. Any equipment, article, instrument, aircraft, vehicle, business record, or natural resource used or taken in violation of the provisions of this chapter may be seized and subject to forfeiture as provided by section 199-7, Hawaii Revised Statutes, and chapter 712A, Hawaii Revised Statutes.

(b) Restrictions and prohibitions imposed by this chapter shall not apply to state employees or their agents acting in the scope of their employment while within the forest reserve. Any penalty imposed may take into account emergency situations, such as fire or other disasters or where necessary to protect life or property. [Eff 9/28/81; am and comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §§183-4, 183-5, 183-16, 195D-8, 199-7)

SUBCHAPTER 2

PUBLIC USE

[~~§13-104-4 Preservation of public property and resources.~~] **§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~~] board or authorized representative or as provided by the rules of the [~~Board;~~] 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~~] a 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.~~] board; and

(10) To enter or remain within a forest [~~reserves when~~] reserve while under the influence of alcohol, narcotics, or drugs, to a degree that may [~~endanger oneself or~~] endanger or cause annoyance to other persons, or endanger oneself 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; am and comp] (Auth: HRS §183-2) (Imp: HRS §§183-2, 183-17)

[~~§13-104-5 Litter and sanitation.~~] **§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; am and comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-5.5 Abandoned and unattended property. No person shall abandon or leave personal property unattended within a forest reserve for any purpose not otherwise authorized or inconsistent with the purposes of the forest reserve. All such property may be seized, impounded, or otherwise confiscated by the board or any authorized representative.

(1) If unattended personal property, including but not limited to motor vehicles, interferes with the safe or orderly management of a forest reserve or is stored on the publicly-managed lands, the personal property may be seized or impounded by the board or its authorized representative. Any article or instrument that is dangerous, noxious, hazardous, or considered as contraband under the laws of the State of Hawaii, which could endanger the health, safety, or welfare of the public, or public property, may be immediately seized and disposed of by any authorized representative of the department if found abandoned or unattended in the forest reserve.

(2) All impounded vehicles shall be towed to a place of storage. Owners of towed vehicles shall contact the division or the division of conservation and resource enforcement branch office for information on towed vehicles. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, Hawaii Revised Statutes.

(3) All impounded or confiscated property, other than vehicles, shall be moved to a place of storage, and the owner shall be assessed moving, storage, and other related costs. Additionally, the owner of this property shall bear the responsibility for the risk of any loss or damage to their property.

(4) Abandoned vehicles may be sold at public auction pursuant to section 290-11, Hawaii Revised Statutes.

All other impounded or confiscated property shall be disposed of pursuant to section 171-31.5, Hawaii Revised Statutes. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §§171-31.5, 183-2, 290-11)

[~~§13-104-6 Report of injury or damage.~~] **§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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-7 Fire use restrictions.~~] **§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[~~;~~] not otherwise authorized by this section;

(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; and

(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; am and comp] (Auth: HRS §183-2) (Imp: HRS §§183-2, 185-7)

§13-104-7.5 Closing of areas. (a) The board, or its chairperson, may close or restrict the public use of all or any portion of a forest reserve in the event of an emergency or when deemed necessary for:

(1) The protection of the biological, geological, or cultural resources of the area;

(2) Health, safety, or welfare reasons;

(3) The protection of property; or

(4) Management activities,

by the posting of appropriate signs indicating the duration, extent, and scope of closure.

(b) The chairperson is authorized to effect a given closure or restriction under subsection (a) for a period of not more than ninety days. The board is authorized to effect a closure or restriction for any period as deemed necessary to accommodate the condition or conditions indicated under subsection (a). [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §§183-1.5, 183-2, 185-3)

[~~§13-104-8 Hunting and fishing.~~] **§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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-9 Firearms or other weapons.~~] **§13-104-9 Firearms or other weapons.** Firearms and other weapons, including those discharging projectiles by air or gas [~~operated,~~] operation; or 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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-10 Swimming and bathing.~~] **§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~~] prohibited waters and times shall be designated by posted signs. [Eff 9/28/81; am and comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-11 Vehicles and transportation.~~] **§13-104-11 Vehicles and transportation.** [~~(a)~~] The following acts are prohibited while under the jurisdiction of the state within a forest reserve:

(1) To drive, operate, or use any motorized or non-motorized land vehicle, glider, hang glider, aircraft, unmanned aircraft system, 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,~~] aircraft, gliders, helicopters, balloons, parachutes, or other similar means of transportation without a [~~special use~~] permit for that purpose 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[~~:~~], including areas requiring four-wheel drive only;

(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~~] land vehicle without a functioning street legal muffler, and without a valid vehicle license plate, registration and safety sticker if required by [~~each~~] the appropriate respective county[~~.~~]; and

(7) To launch, land, or operate any unmanned aircraft system without a permit for that purpose from the board or its authorized representative.

[~~(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; am and comp] (Auth: HRS

§183-2) (Imp: HRS §§183-1.5, 183-2)

[~~§13-104-12 Animals.~~] **§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.~~] 13-122 and 13-123.

(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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-13 Audio devices and noise.~~] **§13-104-13 Audio devices and noise.** Creating noise or sound within a forest reserve, either vocally or otherwise ([~~i.e.~~] e.g., public address systems, radios, television sets, musical instruments) or use of any noise producing devices ([~~i.e.~~] e.g., 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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-14 Explosives.~~] **§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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-15 Disorderly conduct.~~] **§13-104-15 Disorderly conduct.** Disorderly conduct, as defined in section 711-1101, Hawaii Revised [~~Statues,~~] Statutes, is prohibited within a

forest reserve. [Eff 9/28/81; comp 10/15/93; am and comp] (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.~~] **§13-104-16 Camping.** No person shall camp, erect any tent, tarpaulin, or other structure, or use recreational trailers or other camper units within any forest reserve, except with the prior written authorization of the board or its authorized representative and as permitted by the rules of the department. [Eff 9/28/81; comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-17 Compliance with laws.~~] **§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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

SUBCHAPTER 3

PERMITS

[~~§13-104-18 General provisions for 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;~~] Commercial; 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. Persons

who have violated permit conditions or the rules may be ordered by the department to leave the forest reserve. Permittees who have violated permit conditions or the rules may be denied future permits for forest reserves or subject to the imposition of additional permit restrictions;

(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~~] Fees and charges contained in this chapter may be waived or reduced by the board or its authorized representative if the waiver or reduction is in the public interest[~~.~~];

(8) The board may set and approve a forest product price list. Charges may be assessed when permits are granted for forest products. The forest product price list shall reasonably reflect fair market value and be periodically updated by the board;

(9) All permittees [~~shall~~], upon request, shall show the permit to any law enforcement officer, the board, or its authorized representative[~~.~~];

(10) By signing the permit and entering into the forest reserve, all persons included on the permit agree to

comply with all the terms and conditions of the permit, as well as applicable laws and regulations; and consent to present the permit to a duly authorized representative of the department upon request; and

(11) 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. 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; comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §§183-1.5, 183-2)

[~~§13-104-19 Camping permits.~~] **§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[~~.~~] for the stated date or dates.

[~~(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)~~] (b) Each camping 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)~~] (c) 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)~~] (d) After [~~the expiration~~] issuance of a camping permit, a period of at least thirty days shall pass before another camping permit for the same designated area may be issued to [~~the same person for the same designated area.~~] any person listed on any previously valid or current camping permit. [~~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)~~] (e) [~~Permits~~] Camping permits may be denied, canceled, or terminated for the following reasons:

(1) When the size of the group will exceed or 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 or for other reasons involving the health, safety, and welfare of the applicants or permittees; [~~by the board or its authorized representative~~]

upon the declaration of the board or its authorized representative. [Eff 9/28/81; am and comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-20 Special use permits.~~] **§13-104-20 Special use permits.** (a) Special [~~uses are permitted within a forest reserve only by a permit~~] use permits are only issued by the board or its authorized representative. Special uses are [~~all types of uses other than~~] those provided for [~~herein~~] in this section 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 community activities, such as meetings, weddings, concerts, shows, and other community events; [~~or activities~~] and the 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.~~] however, the deadline may be waived by the board or its authorized representative upon a showing of good cause.

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

[~~§13-104-21 Collecting permits.~~] **§13-104-21 Collecting permits.** (a) Persons wishing to collect forest [~~items~~] products [~~(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)~~] (b) Each application for a collecting permit shall be considered on its own merits, including its potential effect on forest reserve resources and the public's use and enjoyment of the forest reserve.

(c) Collecting permits shall specify:

(1) The date or dates of collection;

(2) The quantities and [~~items~~] products 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)~~] (d) Permits shall not be issued for collecting [~~items~~] products for sale.

[~~(f)~~] (e) No permits shall be issued for the collection of endangered or threatened wildlife or plants except as provided by chapter [~~124, Administrative Rules.~~] 13-124.

(f) No more than one permit within a seven-day period may be issued to the same person or persons, group, organization, or association listed on the permit for collecting any of the same forest products. [Eff 9/28/81; am and comp 10/15/93; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-22 Commercial harvest permits.~~] **§13-104-22 Commercial permits.** (a) Commercial use permits. The board or its authorized representative may issue commercial use permits.

(1) Applications for commercial use permits shall be received by the board or its authorized representative at least thirty working days in advance of the date the permit is to be in effect; however, the deadline may be waived by the board or its authorized representative upon a showing of good cause.

(2) A request for a commercial use permit shall be considered on its own merits, including its potential effect on forest reserve resources and the public's use and enjoyment of the forest reserve.

(3) The value of the commercial activity shall be decided

by the board or its authorized representative and shall not exceed $10,000.

(4) The time of entry for the commercial activity shall not exceed thirty days, except that the board or its authorized representative may extend this time for good cause.

[~~(a)~~] (b) Commercial harvest permits. The board or its authorized representative may issue permits for the purpose of purchasing[~~,~~] and harvesting[~~, and removing~~] forest products from a forest reserve [~~(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)~~] (1) Each application for a commercial harvest permit shall be considered on its own merits, including its potential effect on [~~the premises~~] forest reserve resources and the public's use and enjoyment of the forest reserve[~~.~~]; provided further that tree harvesting shall be done in accordance with a management plan as required by section 183-16.5, Hawaii Revised Statutes.

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

~~(e)~~] (2) 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)~~] (3) The time of entry for harvesting shall not exceed [~~14~~] fourteen days for permits with designated raw material value not in excess of $1,000, or [~~30~~] thirty 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)~~] (4) 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)~~] (5) Each permit shall specify:

[~~(1)~~] (A) The products to be harvested;

[~~(2)~~] (B) The amount to be harvested;

[~~(3)~~] (C) The dollar value of the products;

[~~(4)~~] (D) The designated area to be harvested;

[~~(5)~~] (E) The date or dates the harvesting may take place; and

[~~(6)~~] (F) Any other terms or conditions deemed necessary by

the board or its authorized representative.

(c) Commercial salvage permits. The board or its authorized representative may issue commercial salvage permits for the purpose of purchasing and removing dead or hazardous trees.

(1) A request for a commercial salvage permit shall be considered on its own merits, including its potential effect on forest reserve resources and the public's use and enjoyment of the forest reserve.

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

(3) The time of entry for salvaging shall not exceed fourteen days for permits with designated raw material value not in excess of $1,000, or thirty 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. [Eff 9/28/81; comp 10/15/93; am 10/4/05; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-23 Access permits.~~] **§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:~~] purposes:

(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~~] any impact upon environmentally sensitive [~~area;~~] areas;

(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~~] uses of a forest reserve, [~~especially during periods when fire danger levels are high.~~] or any portion thereof, which may be under closure or otherwise restricted; and

(5) [~~To collect plants or animals for scientific purposes.~~] For scientific research activities that are otherwise prohibited by this chapter.

[~~(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; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

[~~§13-104-24 Commercial activities.~~] **§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 12/9/02; am and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

SUBCHAPTER 4

FEES AND CHARGES

§13-104-25 General statement. (a) This subchapter establishes user fees and charges for services, facilities, and activities for forestry and recreational purposes, where applicable under the jurisdiction of the division.

(b) The fees and charges are:

(1) Collected to offset the expenses of operating, maintaining, and managing the facilities and services;

(2) Fixed with due regard to the primary purposes of providing public outdoor recreational facilities and promoting an appreciation and connection with Hawaii's forests; and

(3) Set by categories.

(c) The acceptance of payment or billings shall not waive the nature of trespass or ratify or permit illegal camping.

[Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-26 Payment. (a) Method of payment of fees and charges shall be online by credit card or by business check,

cashier's check, money order, or cash at division branch offices or the administration office.

(b) All fees shall be paid in advance of issuance of a permit, except as specified by chapter 13-104. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-27 Camping and cabin rental fees. The camping and cabin rental fees shall be set according to the amounts in Schedule A - Camping and Cabin Rental Fees - 12/28/16. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

Schedule A
Camping and Cabin Rental Fees
12/28/16

	Maximum No. Campsites	**Maximum No. Persons per campsite**	**Resident Fee ($/night/ campsite)**	**Nonresident Fee ($/night/ campsite)**
Category 1	Up to 5	Up to 15	$12*	$18**
Unimproved campsite or improved campsite with minimal amenities (i.e., trailside camping or a campsite with picnic table and shelter and clivus toilet)				
Category 2	1 Cabin	Up to 6	$30/night per cabin ***	$50/night per cabin ***
Improved campsite or small cabin that houses no more than 6 persons				
Category 3	1 Cabin	Up to 20	$60/night per cabin ***	$90/night per cabin ***
Improved campsite or large cabin that houses 7 or more persons				

* A resident camping permit for up to 6 persons is $12. Additional persons will cost $2 per person.
** A nonresident camping permit for up to 6 persons is $18. Additional persons will cost $3 per person.
***Fee reflects total cost for cabin rental regardless of number of persons staying overnight.

§13-104-28 Commercial use permit fees. Commercial use permit fees are listed in Schedule B - Commercial Use Permit Fees - 12/28/16 and shall apply depending on the applicable commercial activity or activities; provided that the requested recreational facility is approved for commercial use by the forestry and wildlife manager. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

Schedule B Commercial Use Permit Fees 12/28/16	
Base commercial use permit processing fee	$10
Price per pedestrian	$5
Price per non-motorized bicycle or horseback rider	$7
Price per motorized vehicle up to 5 people	$25
Price per motorized vehicle up to 8 people	$50
Price per motorized vehicle up to 12 people	$75
Price per motorized vehicle up to 15+ people	$100
Price per operator and/or passenger of aerial craft launching from and/or landing in a forest reserve	$5
Price per campsite, facility, or cabin per day	$100
Price per commercial film permit	$100
Price per item/activity (miscellaneous)	$20

§13-104-29 Kiln fees. Kiln fees are listed in Schedule C - Kiln Fees - 12/28/16 and shall be paid no later than fifteen days after kiln services are rendered. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

Schedule C Kiln Fees 12/28/16	
Unit	**Unit Cost**
1 - 900 Board Feet	$0.70 each
901 - 1000 Board Feet	$0.60 each
1001 - 1500 Board Feet	$0.50 each
1501 and up Board Feet	$0.40 each

§13-104-30 Permit processing fees. The fee for the processing of an access permit for scientific research purposes shall be $50. The fee for processing any other permit shall be $10. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-31 Parking and entrance fees. The fee for parking a vehicle may be assessed at $5 per vehicle, per day. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

§13-104-32 Fee for copies of rules. The fee per copy of these rules shall be 10 cents per page. No fee shall be charged for copies furnished to federal, state, or local governmental agencies. The fee may be waived in other instances at the discretion of the administrator or the administrator's authorized representative when a waiver is in the public interest. [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §§91-2.5, 183-2)

§13-104-33 Negotiable instruments; service charge. The service charge for any dishonored check, draft, certificate of deposit, or other negotiable instrument is $10." [Eff and comp] (Auth: HRS §183-2) (Imp: HRS §183-2)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 13-104, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

Suzanne D. Case
Chairperson, Board of Land
and Natural Resources

APPROVED FOR PUBLIC HEARING:

/s/ Colin J. Lau
DEPUTY ATTORNEY GENERAL