

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

February 24, 2017

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: REQUEST FOR DELEGATION OF AUTHORITY TO ISSUE PERMITS UNDER HAWAII ADMINISTRATIVE RULES CHAPTER 13-107, RULES REGULATING THREATENED AND ENDANGERED PLANTS, TO THE CHAIRPERSON OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES

AND

AUTHORIZE THE CHAIRPERSON 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 HAWAII ADMINISTRATIVE RULES CHAPTER 13-107, RULES REGULATING THREATENED AND ENDANGERED PLANTS

SCOPE: STATEWIDE

STATUTE: HAWAII REVISIED STATUTES ("HRS") CHAPTER 195D

SUMMARY

The Division of Forestry and Wildlife ("Division") requests Board of Land and Natural Resources ("Board") approval to adopt delegation of authority to issue permits pursuant to Hawaii Administrative Rule ("HAR") Chapter 13-107. This chapter regulates Threatened and Endangered Plants.

BACKGROUND & DISCUSSION

Authority to establish rules for conserving Hawaiian flora are given to the Department of Land and Natural Resources ("Department") by HRS Chapter 195D. Under this authority, HAR Chapter 13-107 was created to regulate certain aspects of Hawaiian flora. The Division, upon examination of its HARs, has made an effort to review the related permits and propose ways to improve the issuing process. HAR Chapter 13-107 has several permits that, "the Board or its authorized representative" are authorized to issue.

The Division requests that the Board delegate its authority to issue permits to the designated representative in Table 1. By delegating its authority, the Board will: 1) expedite the permits to the

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public by reducing turn-around time, 2) relieve the Board of a large quantity of routine paperwork, 3) reduce the amount of paperwork within the Department and the Division and 4) provide the framework for improvements in the Division's permit process.

DELEGATION

The Division is requesting approval to delegate certain authorities under HAR Chapter 13-107 from the Board to the Chairperson of the Department of Land and Natural Resources. 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 should review a permit request and determine whether it should be approved or denied. In those cases the request will be forwarded to the appropriate authority for decision. The recommendation is summarized in Table 1 below.

Table 1: Delegations under HAR Chapter 13-107

Section	Permit Activity	Delegation
HAR 13-107-4	Licenses	Chairperson

HRS CHAPTER 343

The Division requests that the Board authorize the Chairperson (authorized representative) 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 13-107, HAR.

Permit requests will be reviewed by the authorized representative for potential impacts resulting from the requested activities. The authorized representative 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 Department.

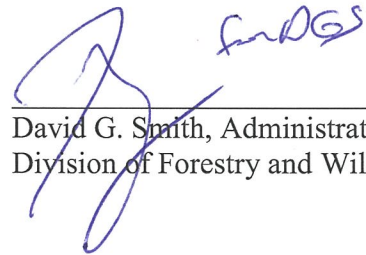
For projects that are eligible for a declaration of exemption, the authorized representative will consult with agencies and individuals having expertise before seeking a project exemption as required under Chapter 11-200, HAR. For projects that require the preparation of an environmental assessment,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

RECOMMENDATION

That the Board:

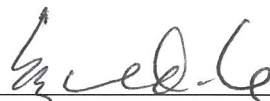
1. Delegate the authority to issue permits under Hawaii Administrative Rules Chapter 13-107 to the Chairperson of the Department of Land and Natural Resources as identified as Table 1.
2. Authorize the Chairperson to determine and approve Chapter 343, Hawaii Revised Statutes (HRS) environmental compliance requirements, including approval of declarations of exemptions, as applicable, for permits issued under Hawaii Administrative Rules Chapter 13-107, Rules Regulating Threatened and Endangered Plants.

Respectfully submitted,

 *for DGS*

David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



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