

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

April 13, 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 LICENSES UNDER HAWAII ADMINISTRATIVE RULES CHAPTER 13-107, RULES REGULATING THREATENED AND ENDANGERED PLANTS, TO THE ADMINISTRATOR OF THE DIVISION OF FORESTRY AND WILDLIFE, DEPARTMENT OF LAND AND NATURAL RESOURCES.

AND

AUTHORIZE THE FORESTRY AND WILDLIFE ADMINISTRATOR TO DETERMINE AND APPROVE CHAPTER 343, HAWAII REVISED STATUTES (HRS) ENVIRONMENTAL COMPLIANCE REQUIREMENTS, INCLUDING APPROVAL OF DECLARATIONS OF EXEMPTIONS, AS APPLICABLE, FOR LICENSES ISSUED UNDER HAWAII ADMINISTRATIVE RULES CHAPTER 13-107, RULES REGULATING THREATENED AND ENDANGERED PLANTS.

SCOPE: STATEWIDE

STATUTE: HAWAI'I REVISED 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 the Forestry and Wildlife Administrator to issue licenses 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 licenses and propose ways to improve the issuing process. HAR Chapter 13-107-4 authorizes, "the Board or its authorized representative" to issue "licenses for collecting, processing, transporting, propagating, and outplanting threatened or endangered species of plants for propagation, education, scientific purposes, cultural purposes, or to

enhance the survival of the species.”

The Division requests that the Board delegate its authority to issue licenses to the designated representative in Table 1. By delegating its authority, the Board will: 1) expedite the licenses to the public by reducing turn-around time, 2) relieve the Board of a large quantity of routine paperwork, and 3) reduce the amount of paperwork within the Department and the Division.

The Division is requesting approval to delegate certain authorities under HAR Chapter 13-107 from the Board to the Administrator of the Division of Forestry and Wildlife. The Division notes that the delegation of authority to issue licenses as identified in Table 1 (below) represent potential procedures that may be followed based on a case-by-case review of license 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 license request and determine whether it should be approved or denied. In those cases the request will be forwarded to the Chairperson or the Board 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	Administrator

HRS CHAPTER 343

The Division requests that the Board authorize the Forestry and Wildlife Administrator 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 licenses issued pursuant to Chapter 13-107, HAR.

License requests will be reviewed by the staff and by the Administrator for potential impacts resulting from the requested activities. The Administrator, as 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.

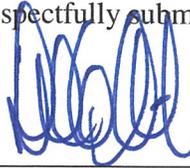
For projects that are eligible for a declaration of exemption, the Division will consult with agencies and individuals having expertise before seeking a project exemption as required under Chapter 11-200, HAR. For projects that require the preparation of an Environmental Assessment, and Environmental Assessment for the project will be developed and published. Publication of an Environmental Assessment follows Chapter 11-200 HAR and includes a public review and comment period on a draft environmental assessment, as well as a declaration by the agency of a Finding of No Significant Impact. All documents are published in The Environmental Notice by the Office of Environmental Quality Control. If a significant environmental impact is anticipated, the project will undergo an Environmental Impact Statement under Chapter 11-200, HAR, which also includes publication of draft and final documents and recommendations in The Environmental Notice and opportunities for public comment.

RECOMMENDATION

That the Board:

1. Delegate the authority to issue licenses under Hawaii Administrative Rules Chapter 13-107 to the Administrator of the Division of Forestry and Wildlife as identified as Table 1.
2. Authorize the Forestry and Wildlife Administrator to determine and approve Chapter 343, Hawaii Revised Statutes (HRS) environmental compliance requirements, including approval of declarations of exemptions, as applicable, for licenses issued under Hawaii Administrative Rules Chapter 13-107-4, Rules Regulating Threatened and Endangered Plants.

Respectfully submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



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