

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

October 11, 2024

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: REQUEST FOR ADAPTIVE MANAGEMENT MEASURES BY FORMAL BOARD ACTION PURSUANT TO SECTION 183D-3(b), HAWAII REVISED STATUTES, TO TEMPORARILY AMEND HAWAII ADMINISTRATIVE RULES (HAR), TITLE 13 CHAPTER 123, RULES REGULATING GAME MAMMAL HUNTING, BY AMENDING EXHIBIT 9 AS REFERENCED IN HAR SECTIONS 13-123-3 (AUTHORIZED HUNTING), 12-123-4 (BAG LIMITS, OPEN SEASONS, AND HUNTING DAYS), FOR GAME MAMMALS TO BE TAKEN ON THE ISLAND OF MAUI, .

SUMMARY

The Department of Land and Natural Resources (“Department”) Division of Forestry and Wildlife (Division) requests the Board of Land and Natural Resources (“Board”) take formal board action to approve the adoption of a temporary administrative rule change to Chapter 13-123, Hawaii Administrative Rules (HAR), “Rules Regulating Game Mammal Hunting,” Exhibit 9, under the authority of HRS 183D-3(b). The amendment would increase bag limits for feral goats and feral pigs from two to no daily or season limit and open hunting periods and days for feral pigs from February through June on Saturdays, Sundays, and State holidays to year-round, daily except legal game bird hunting days within Unit C of the Kula Forest Reserve. The amendment would increase bag limits for feral pigs from two daily to no limit and allow the legal take of feral goats year-round, daily, with no limit within Unit E of the Kula Forest Reserve. For Unit D, Makawao Forest Reserve, the amendment would increase the bag limit on feral goats and feral pigs from two per hunter per day to no limit and modify the open hunting days from Saturdays, Sundays, and State Holidays to daily.

ADMINISTRATIVE RULEMAKING AUTHORITY

The Division, through the Department, is directed to manage and administer the wildlife resources of the State; enforce all laws relating to protecting, taking, hunting, killing, propagating, or increasing the wildlife within the State; regulate lands set apart as game management areas and public hunting areas; and preserve, protect, and promote public hunting. Per HRS § 183D-2, the Division regulates game mammal hunting statewide through Chapter 13-123, HAR, and gamebird hunting through Chapter 13-122, HAR.

In 2021, the Hawai'i Legislature, per HRS § 183D-3(b), authorized the Department to conduct adaptive management measures other than by Chapter 91 rulemaking if it

timely adopts, amends, or repeals any rule pertaining to bag limits, size limits, open or closed hunting seasons, or gear restrictions by formal board action at a publicly noticed meeting in necessary response to rapidly changing resource conditions. To do so, the Board must give notice of the rulemaking:

- 1) at least once statewide at least 30 days in advance of the public meeting,
- 2) include a statement of the topic of the proposed rule or a general description of the subjects involved,
- 3) include a statement that a copy of the proposed rule will be mailed to any interested person who requests a copy and pays the required fees for the copy and postage, if any, together with a description of where and how the requests may be made,
- 4) include a statement of when, where, and during what times the proposed rule may be reviewed,
- 5) include the date, time, and place where the public meeting will be held and where interested persons may be heard on the proposed rule, and
- 6) mail to all persons who have timely written requested advance notice of the Board's rulemaking proceedings.

If adopted, the new rule would be effective for an initial period of no longer than two years. At that time, it would be subject to legislative approval and renewal by the Board, provided that the renewal by the Board shall extend for up to one year at a time. If adopted, proposed rules become effective ten days after the board action unless a later date is specified in the proposed rule. Final regulations will be posted on the Division's website (at <https://dlnr.hawaii.gov/dofaw/rules/>) for validity. All rules adopted through the adaptive management process are subject to administrative penalties provided in HRS § 183D-12.

NOTICE

The Division posted public notice of this rulemaking on September 11, 2024, through the Star-Advertiser and StarAdvertiser.com, West Hawaii Today and Hawaii Tribune, Garden Isle, and thegardenisland.com.

BACKGROUND

From December 2020 through March 2022, the Kula Forest Reserve (Units C & E) was closed to public access due to storm-related damage that made access to the forest reserve a danger to public safety. With the temporary elimination of hunting and lack of harvest, the feral ungulate population within the Kula Forest Reserve increased to levels that exceeded the area's carrying capacity. This resulted in extensive damage to the ecosystem and caused increased erosion during heavy rainfall. Lifting bag limits and increasing hunting opportunities will help rebalance the feral-ungulate population with their environment over the next two years.

Makawao Forest Reserve (Unit D) is of significant conservation value. In the next round of rules revisions to Chapter 123, Rules Regulating Game Mammal Hunting, the wildlife program will propose expanding hunting opportunities and eliminating bag limits for feral pigs, feral goats, and axis deer within the Makawao Forest Reserve. To provide temporary relief between now

and the completion of any official rules change, adaptive management will temporarily expand bag limits for feral pigs and feral goats from two pigs and two feral goats per hunter per day to no limit and increase hunting days from Saturdays, Sundays, and State Holidays to daily until rules changes are made permanent.

PROJECT DESCRIPTION – Requirement of Adaptive Management Measures

DOFAW has determined that high populations of feral ungulates within the Kula Forest Reserve (Units C & E) require the implementation of adaptive management measures in response to rapidly changing conditions and request that the Board find amending Exhibit 9 is necessary because the number of feral ungulates in Unit C and E is a resource condition requiring a necessary temporary administrative rule change, using Board authority under HRS 183D-3(b). Because the Makawao Forest Reserve (Unit D) provides significant conservation value, The Division has determined that increasing bag limits and expanding hunting opportunities will serve a positive dual purpose: 1) reduce the number of feral ungulates within the Makawao Forest Reserve, leading to improved habitat conditions and 2) provide expanded hunting opportunities for the hunting public. Providing additional hunting days and increasing bag limits improves flexibility for hunters to remove feral ungulates. HAR sections 12-123-3, 13-123-4, 13-123-22, and 13-123-23 each reference Exhibit 9, means of take, bag limits, open hunting days, and special conditions and restrictions. Only bag limits, open hunting periods, and open hunting days will be changed. If approved, the proposed amendments would be effective for two years, beginning ten days after the date of the Board's approval.

The recommendation covers Units C and E within the Kula Forest Reserve and Unit D within the Makawao Forest Reserve, located within the District of Maui. Together, they cover 8,000 acres (Kula Forest, 6,000 acres, and Makawao Forest, 2,000 acres).

Please see "Attachment A" for current hunting maps and the proposed administrative rules tables showing changes for the island of Maui. The strikethrough text will be temporarily removed, and underlined regulations shall be incorporated in Exhibit 9 of Chapter 13-123, HAR. Proposed adaptive management rules will be posted on DOFAW's website (at <https://dlnr.hawaii.gov/dofaw/rules/>). Please see "Attachment B" for exhibit tables showing final temporary administrative rule changes, which will be posted on the Division's website.

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RECOMMENDATION

That the Board

1. Approve and temporarily amend Chapter 13-123, HAR, Rules Regulating Game Mammal Hunting, by amending Exhibit 9 for hunting in Units C, D, and E at the Kula Forest Reserve and Makawao Forest Reserve on Maui Island to increase recreational opportunities for feral goat and feral pig hunting from Saturday, Sundays and State Holidays to daily, less game bird hunting days within Unit C of the Kula Forest Reserve, and increase the bag limits to no daily or season limits by using authority in HRS 183D-3(b) to address the impacts of the rapidly changing populations of feral pigs and feral goats in the designated areas.

Respectfully submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL



Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

Attachment A
Attachment B

Figure 1: Chapter 13-123, Exhibit 10, p. 4 of 4 – Kula Forest Reserve

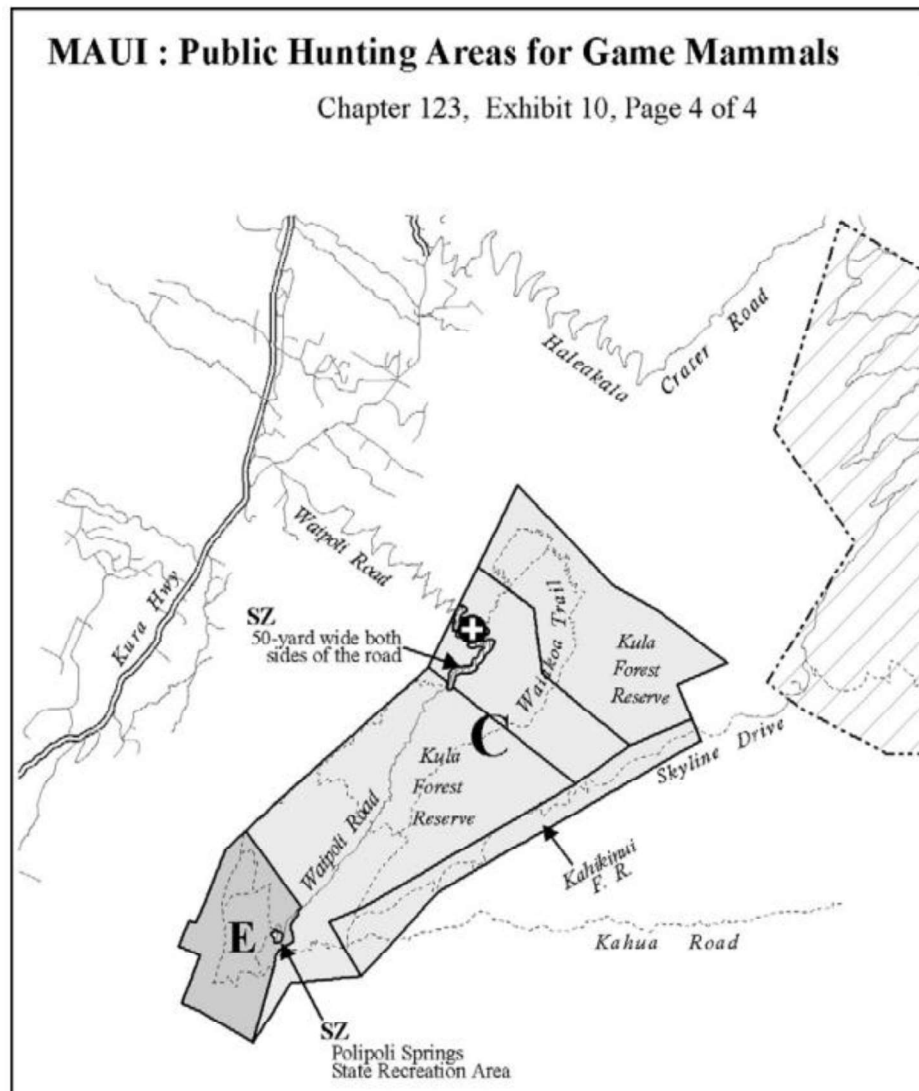


Figure 2: Chapter 13-123, Exhibit 10, p. 2 of 4 – Makawao Forest Reserve

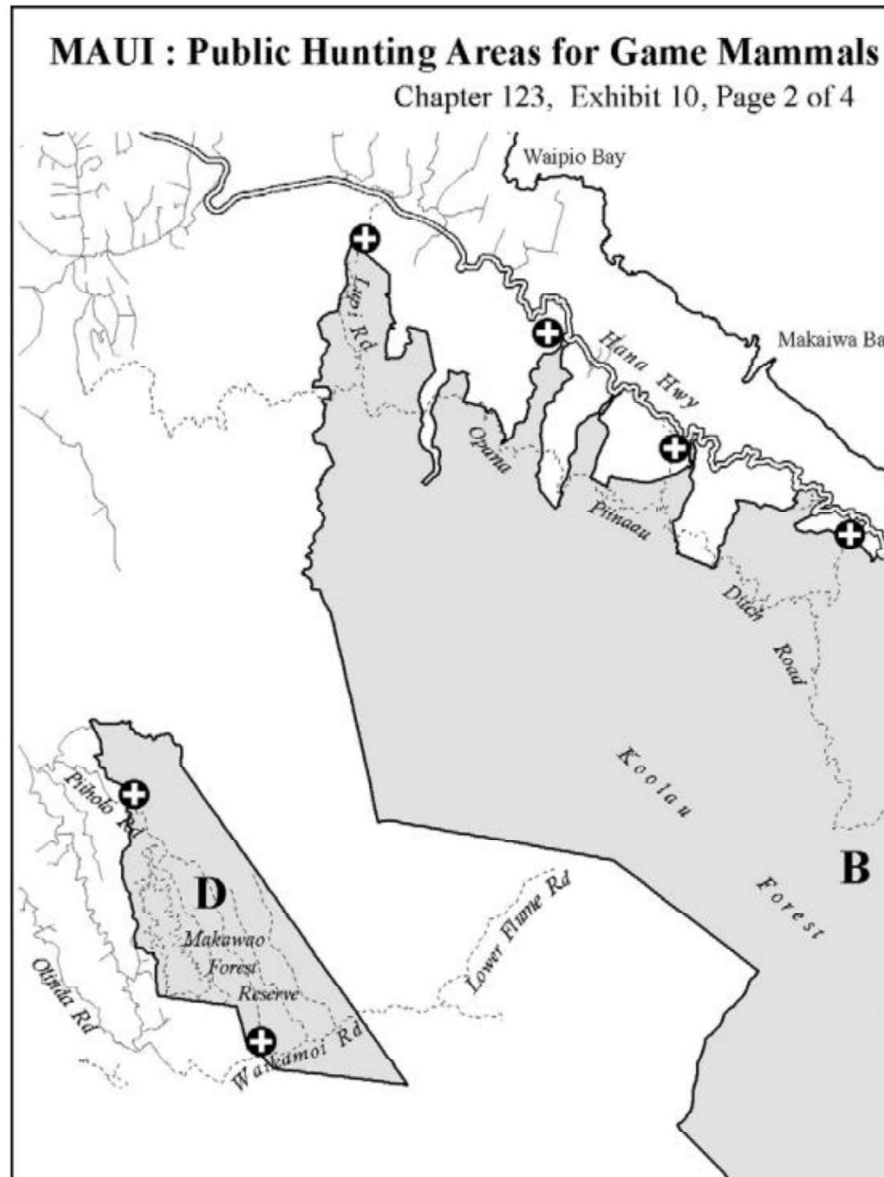


Table 1: Draft 13-123, Exhibit 9 administrative rules showing proposed changes for Units C and E in ~~strikethrough~~ and underlined text to be incorporated as deletions and additions, respectively. Units C and E include the Kula Forest Reserve, and Unit D consists of the Makawao Forest Reserve.

Hunting Unit*	Game Mammals To be Taken	Means of Take	Bag Limits Per Hunter	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
C <u>Kula Forest Reserve</u> and <u>Kahikinui Forest Reserve</u>	Feral goats	[Rifle, shotgun,] <u>Rifles, shotguns,</u> archery[-]. Dogs not permitted.	Two goats of either sex per day-No daily or season limit	Year-round	Daily, except on legal bird hunting days	<u>Evidence of species required.</u>
	Feral [Pigs] <u>pigs</u>	[Rifle, shotgun,] <u>Rifles, shotguns,</u> archery[-]. Dogs not permitted.	One pig of either sex per day-No daily or season limit	First full weekend in February through the last full weekend in June <u>Year-round</u>	[Saturday, Sunday,] <u>Saturdays, Sundays, and State Holidays</u> Daily, except on legal bird hunting days	
	<u>Axis deer</u>	<u>Rifles, muzzleloaders, shotguns, archery.</u>	<u>No daily or season limit.</u>	<u>Year-round</u>	<u>Daily except on legal game bird hunting days</u>	
D <u>Makawao Forest Reserve</u>	Feral pigs and feral goats	[Rifle, shotgun,] <u>Rifles, shotguns,</u> archery[-]. Dogs permitted. [**]	Two pigs and two goats of either sex per day <u>No daily or season limit</u>	Year-round	[Saturday, Sunday,] <u>Saturdays, Sundays, and State Holidays</u> Daily	[Handguns permitted for hunting pigs with or without dogs] [***] Reservations required for vehicular access into portions of the Forest Reserve.
	<u>Axis deer</u>	<u>Rifles, handguns, muzzleloaders, shotguns, archery.</u>	<u>No daily limit or season limit.</u>	<u>Year-round</u>	Saturdays, Sundays, and State Holidays <u>Daily</u>	<u>Reservations required for vehicular access into portions of the Forest Reserve.</u>
E <u>Portions of Kula Forest Reserve</u>	Feral [Pigs] <u>pigs</u> and feral goats	Archery [Only]. Dogs not permitted.	Two pigs of either sex per day. No daily or season limit	Year-round	Daily	Area is a state recreational area, so firearms are not [allowed] <u>permitted</u> for safety reasons.
	<u>Axis deer</u>	<u>Archery.</u> <u>Dogs not permitted.</u>	<u>No daily or season limit.</u>	<u>Year-round</u>	<u>Daily</u>	<u>Area is a state recreational area, so firearms are not permitted for safety reasons.</u>

Attachment B:

Proposed revised Exhibit 9:

Hunting Unit*	Game Mammals To be Taken	Means of Take	Bag Limits Per Hunter	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
C Kula Forest Reserve and Kahikinui Forest Reserve	Feral goats	Rifles, shotguns, archery. Dogs not permitted.	No daily or season limit	Year-round	Daily, except on legal bird hunting days	
	Feral pigs	Rifles, shotguns, archery. Dogs not permitted.	No daily or season limit	Year-round	Daily, except on legal bird hunting days	
	Axis deer	Rifles, muzzleloaders, shotguns, archery.	No daily or season limit.	Year-round	Daily except on legal game bird hunting days	
D Makawao Forest Reserve	Feral pigs and feral goats	Rifles, shotguns, archery. Dogs permitted.**	No daily or season limit	Year-round	Daily	*** Reservations required for vehicular access into portions of the Forest Reserve.
	Axis deer	Rifles, handguns, muzzleloaders, shotguns, archery.	No daily limit or season limit.	Year-round	Daily	Reservations required for vehicular access into portions of the Forest Reserve.
E Portions of Kula Forest Reserve	Feral pigs and feral goats	Archery Dogs not permitted.	No daily or season limit	Year-round	Daily	Area is a state recreational area, so firearms are not permitted for safety reasons.
	Axis deer	Archery. Dogs not permitted.	No daily or season limit.	Year-round	Daily	Area is a state recreational area, so firearms are not permitted for safety reasons.