

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

May 8, 2026

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

SUBJECT: REQUEST FOR APPROVAL TO HOLD PUBLIC HEARINGS TO AMEND HAWAI'I ADMINISTRATIVE RULES CHAPTER 13-124, RULES FOR INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED WILDLIFE, INJURIOUS WILDLIFE, INTRODUCED WILD BIRDS, AND INTRODUCED WILDLIFE. THESE AMENDMENTS WOULD PROHIBIT TAKE, SIGNIFICANT HABITAT MODIFICATION, AND FEEDING OF INDIGENOUS WILDLIFE, THREATENED WILDLIFE, AND ENDANGERED WILDLIFE, EXCEPT BY PERMIT; PROHIBIT THE DISTRIBUTION OR SALE OF PLANTS, EQUIPMENT, OR OTHER GOODS WITH INJURIOUS WILDLIFE PRESENT; PROHIBIT THE FEEDING OR ABANDONMENT OF WILDLIFE AND DOMESTIC ANIMALS ON DEPARTMENT LANDS; UPDATE EXHIBITS; UPDATE PENALTIES; AND MAKE OTHER NONSUBSTANTIVE AMENDMENTS TO DEFINITIONS AND OTHER SECTIONS OF THE CHAPTER

AND

REQUEST FOR DELEGATION TO THE CHAIRPERSON OF THE AUTHORITY TO APPOINT HEARING OFFICERS TO CONDUCT PUBLIC HEARINGS

Submitted for your consideration and approval is a request to hold public hearings to amend Hawai'i Administrative Rules ("HAR") chapter 13-124 to: prohibit take, significant habitat modification, and feeding of indigenous wildlife, threatened wildlife, and endangered wildlife, except by permit; prohibit the distribution or sale within the State of plants, equipment, or other goods with injurious wildlife present; prohibit the feeding or abandonment of wildlife and domestic animals on Department lands; update penalty provisions; and make other non-substantive amendments to definitions and other sections of the chapter (Exhibits A and B). The Department also requests delegation to the Chairperson of the authority to appoint hearing officers to conduct these public hearings.

I. Overview of Proposed Amendments

Submitted for consideration and approval is a request to hold public hearings on proposed amendments to, and compilation of, Chapter 13-124, HAR, “Rules for Indigenous Wildlife, Endangered and Threatened Wildlife, Injurious Wildlife, Introduced Wild Birds, and Introduced Wildlife.” A detailed description of each proposed rule change is provided in Exhibit C. A summary of the proposed amendments is below.

A. Indigenous Wildlife

1. “Indigenous wildlife” would be redefined as wildlife deemed in need of conservation and would exclude aquatic life (for example, fish, limu, coral, and mollusks). Indigenous wildlife would be listed in Exhibit 1, Chapter 13-124, *Indigenous Wildlife of Hawai‘i*.
2. The proposed rules would prohibit:
 - a. the take of indigenous wildlife statewide. “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered wildlife, threatened wildlife, or indigenous wildlife, or to attempt to engage in any such conduct;
 - b. significant habitat modification or degradation that kills or injures indigenous wildlife; and
 - c. feeding or attempting to feed indigenous wildlife statewide.
3. Exceptions to these prohibited actions would be allowed by permit or when undertaken within the scope of the duties of an employee of the Department or the United States Fish and Wildlife Service.
4. At the request of DOCARE, and consistent with section 702-204, HRS, the proposed rules would add a mens rea requirement (intentionally, knowingly, recklessly, or negligently) to prohibited actions involving indigenous wildlife.

B. Introduced Wild Birds and Introduced Wildlife

1. “Introduced wildlife” would be redefined to exclude game birds, game mammals, and aquatic life.
2. Introduced wild birds would be listed in Exhibit 4, Chapter 13-124, *Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild*.
3. At the request of DOCARE, and consistent with section 702-204, HRS, the proposed rules would add a mens rea requirement (intentionally, knowingly, recklessly, or negligently) to prohibited actions involving introduced wild birds and introduced wildlife.
4. Exceptions to prohibited actions would be allowed by permit or when undertaken within the scope of the duties of an employee of the Department or the United States Fish and Wildlife Service.

C. Injurious Wildlife

1. “Injurious wildlife” would be redefined as a subset of introduced wildlife and would be listed in Exhibit 5, Chapter 13-124, *List of Species of Injurious Wildlife in Hawai‘i*. Injurious wildlife would not include aquatic life.
2. The proposed rules would prohibit the distribution or sale within the State of plants, equipment, or other goods that contain injurious wildlife.
3. Exceptions to prohibited actions would be allowed by permit or when undertaken within the scope of the duties of an employee of the Department or the United States Fish and Wildlife Service.
4. At the request of DOCARE, and consistent with section 702-204, HRS, the proposed rules would add a mens rea requirement (intentionally, knowingly, recklessly, or negligently) to prohibited actions involving injurious wildlife.

D. Department Lands Only

1. The proposed rules would add a new definition for “Department lands,” meaning public lands managed, administered, or controlled by the Department of Land and Natural Resources, as provided in section 171-3, HRS. Department lands would include state parks, historic sites, forest reserves, aquatic life sanctuaries, public fishing areas, boating and ocean recreation areas, coastal lands, wildlife sanctuaries, game management areas, public hunting areas, and natural area reserves. Department lands would not include lands leased by the Department to third parties.
2. The proposed rules would prohibit:
 - a. feeding any wildlife or domestic animal on Department lands unless the animal is crated, leashed, or otherwise contained;
 - b. abandoning wildlife, domestic animals, plants, or aquatic life on Department lands; and
 - c. riding horses on Department lands unless authorized by another law or rule.
3. The proposed rules would authorize the Department to impound or destroy domestic animals that are not crated, caged, contained, or leashed, consistent with rules applicable to other DOFAW-managed lands.
4. Exceptions would be allowed by permit.

E. Wildlife Control Permits

The proposed rules would revise portions of the wildlife control permit provisions to conform to current law by:

- a. changing the standard for issuing a permit from “substantial damage” to “damage or nuisance,” consistent with section 183D-61, HRS;
- b. clarifying permit description requirements and the need for an integrated animal damage control plan when restricted-use or general-use pesticides are used to control wildlife under such permit; and
- c. adding a provision that this section does not apply to aquatic life.

F. Penalties

The proposed penalty sections would be revised to allow for future changes if the enabling statutes are amended.

G. Threatened or Endangered Wildlife

1. “Threatened wildlife” would be redefined as any species of aquatic life, vertebrate, or invertebrate that appears likely, within the foreseeable future, to become endangered, to conform to the definition in section 195D-2, HRS. Threatened wildlife would be listed in Exhibit 3, Chapter 13-124, *List of Species of Threatened Wildlife in Hawai‘i*.
2. “Endangered wildlife” would be redefined as any species whose continued existence as a viable component of Hawai‘i’s indigenous fauna or flora is determined to be in jeopardy, to conform to the definition in section 195D-2, HRS. Endangered wildlife would be listed in Exhibit 2, Chapter 13-124, *List of Species of Endangered Wildlife in Hawai‘i*.
3. The proposed rules would prohibit:
 - a. significant habitat modification or degradation that kills or injures threatened or endangered wildlife; and
 - b. feeding or attempting to feed threatened or endangered wildlife statewide.
4. The proposed rules would revise scientific, propagation, and educational permits for threatened and endangered species to clarify the scope of authorized actions.
5. At the request of DOCARE, and consistent with section 702-204, HRS, the proposed rules would add a mens rea requirement (intentionally, knowingly, recklessly, or negligently) to prohibited actions involving threatened and endangered wildlife.

H. Updates to Exhibits

Exhibit 1 – List of Species of Indigenous Wildlife in Hawai‘i

1. The proposed rules would remove from Exhibit 1 the indigenous wildlife species that are also listed as threatened or endangered in Exhibits 3 and 2, respectively, to avoid confusion during enforcement.
2. The proposed rules would retain extinct forest bird species on the indigenous wildlife list.
3. The proposed rules would update Hawaiian names to use ‘ōlelo Hawai‘i.

Exhibit 2 – List of Species of Endangered Wildlife in Hawai‘i

1. The proposed rules would add the following species to Exhibit 2 because they are federally listed as endangered. Exhibit 2 would be updated pursuant to section 195D-4(a), HRS, as follows:
 - a. *Megalagrion xanthomelas*, Orangeblack Hawaiian Damselfly, or Pinao ‘ula;

- b. all *Hylaeus* spp., Hawaiian yellow-faced bees, or nalo meli maoli; and
- c. *Caretta caretta*, Loggerhead Sea Turtle.
- 2. Exhibit 2 would update Hawaiian names using ‘Ōlelo Hawai‘i.
- 3. Exhibit 2 would update scientific names, as necessary.

Exhibit 3 – List of Species of Threatened Wildlife in Hawai‘i

- 1. The proposed rules would move *Caretta caretta*, Loggerhead Sea Turtle, from Exhibit 3 to Exhibit 2 because it is federally listed as endangered.
- 2. The proposed rules would add *Mobula birostris*, Giant Oceanic Manta Ray, to Exhibit 3 because it is federally listed as threatened.

Exhibit 5 – List of Species of Injurious Wildlife in Hawai‘i

Table 1: Adding terrestrial invertebrate species to Exhibit 5

| Family, genus, or species | Common name | Reason for adding |
|--|--|---|
| <i>Acalolepta aesthetica</i> | Longhorned beetle | This species is not currently regulated by the Hawai‘i Department of Agriculture and Biosecurity. This species is not currently found in Hawai‘i and is listed on the Hawai‘i Prevention Priority List. It is a wood-boring insect that kills trees directly or indirectly by allowing other pests to infect or inhabit trees. It attacks a wide range of trees in more than 25 families and over 40 genera and is damaging to agriculture and broadleaved native trees. |
| <i>Anoplophora chinensis</i> | Citrus longhorned beetle | This species is not currently found in Hawai‘i and is listed on the Hawai‘i Prevention Priority List. |
| <i>Anoplophora glabripennis</i> | Asian longhorned beetle | This species is not currently found in Hawai‘i and is listed on the Hawai‘i Prevention Priority List. |
| All subspecies of <i>Apis mellifera</i> | Any subspecies of European honey bee not known to occur in Hawai‘i | All subspecies of <i>Apis mellifera</i> pose a threat to natural resources and human health in Hawai‘i. <i>Apis mellifera scutellata</i> is on the Hawai‘i Prevention Priority List. |
| <i>Arcte coerulea</i> | Ramie moth | This species is not currently regulated by the Hawai‘i Department of Agriculture and Biosecurity. |
| <i>Cornu aspersum</i> [formerly <i>Helix aspersa</i>] | Brown garden snail | This species is already listed and its scientific name is being updated. |
| All species in the genus <i>Euglandina</i> [formerly | Cannibal snails | This genus is widespread and cannot readily be distinguished without DNA |

| Family, genus, or species | Common name | Reason for adding |
|--|----------------------------|--|
| listed as <i>Euglandina rosea</i>] | | analysis. The list is expanded to include other members of the genus to prevent their release into native ecosystems. |
| All species in the family Formicidae | All ants | The proposed rules would add the entire family. |
| <i>Haplaxius crudus</i> | American palm cixid | This species is not currently found in Hawai'i and poses a potential threat to natural resources. |
| <i>Lycorma delicatula</i> | Spotted lanternfly | This species is not currently found in Hawai'i and is on the Hawai'i Prevention Priority List. It feeds on a wide variety of host plants, including fruit and ornamental trees, native trees, and cultivated crops, and could be harmful to agriculture and native plants. |
| <i>Lymantria dispar</i> (and all subspecies) | Spongy moth | This species is not currently found in Hawai'i and is on the Hawai'i Prevention Priority List. It is an insect pest of hundreds of tree and shrub species and is listed among the IUCN's 100 worst invasive alien species. It poses a threat to agriculture, horticulture, and native plant species. |
| <i>Popillia japonica</i> | Japanese beetle | This species is not currently found in Hawai'i and is on the Hawai'i Prevention Priority List. It is a highly invasive pest that feeds on more than 300 plants. Adults skeletonize foliage and feed on buds, flowers, and fruit, while larvae feed on roots in soil. It is damaging to agriculture, horticulture, and native plants. |
| <i>Rhynchophorus ferrugineus</i> | Red palm weevil | This species is not currently found in Hawai'i and is on the Hawai'i Prevention Priority List. It is a pest of certain palms; larvae feed on meristematic tissue and, in severe infestations, can kill palms. It is considered one of the most important palm pests in the world. |
| <i>Rhynchophorus palmarum</i> | South American palm weevil | This species is not currently found in Hawai'i and is on the Hawai'i Prevention Priority List. It attacks various palms and sugar cane. Adults also feed on ripe tropical fruits, making it a pest of |

| Family, genus, or species | Common name | Reason for adding |
|--|---------------------------|---|
| All species in the genera <i>Vespa</i> and <i>Vespaula</i> | Hornets and yellowjackets | <p>agriculture, horticulture, and potentially native palms. Adults can spread the plant-pathogenic nematode <i>Bursaphelenchus cocophilus</i>, which causes red ring disease in palms.</p> <p>No species in these genera are native to Hawai'i, and as a group they pose a threat to natural resources and public health. These genera are on the Hawai'i Prevention Priority List.</p> |

Table 2: Removing terrestrial invertebrate species from Exhibit 5

| Family, genus, or species | Common name | Reason for removing |
|-------------------------------|-----------------------|---|
| <i>Achatina fulica</i> | Giant African snail | This species is widespread in Hawai'i. |
| <i>Aethina tumida</i> | Small hive beetle | This species is a pest of honeybees and is not a threat to natural resources. |
| <i>Darna pallivitta</i> | Nettle caterpillar | This species has minimal impact on natural resources and is successfully controlled through biological methods. |
| <i>Hypothenemus hampei</i> | Coffee berry borer | This species is widespread on all major islands and is not a threat to natural resources. |
| <i>Solenopsis invicta</i> | Red imported fire ant | This species is proposed for removal because the entire family Formicidae would be added. |
| <i>Wasmannia auropunctata</i> | Little fire ant | This species is proposed for removal because the entire family Formicidae would be added. |
| <i>Varroa destructor</i> | Varroa mite | This species is widespread in Hawai'i. |

II. Discussion

The purpose of Chapter 13-124, HAR, is to conserve, manage, protect, and enhance indigenous wildlife and to manage introduced birds statewide. The Department proposes to amend that purpose to conserve, manage, protect, and enhance indigenous wildlife and to manage introduced wildlife statewide. This chapter was last amended on December 12, 2014, to address impacts from introduced wildlife on indigenous wildlife and their habitats.

The proposed amendments build upon those prior changes by increasing protections for indigenous, threatened, and endangered wildlife and their habitats. The Department recognizes that indigenous wildlife is wildlife deemed in need of conservation and that

the Department has authority under section 195D-3, HRS, to adopt rules prohibiting the take of such wildlife. The proposed meaning of “wildlife deemed to be in need of conservation” is any species of wildlife that the Department determines requires protective measures to ensure its continued survival, including, but not limited to, indigenous, threatened, and endangered wildlife. The definition of “take” from section 195D-2, HRS, which would be applied to indigenous wildlife in this chapter, includes harming, harassing, pursuing, hunting, shooting, wounding, killing, trapping, capturing, possessing, or collecting such wildlife. This definition already applies to threatened and endangered wildlife in Chapter 13-124, HAR.

The Department also proposes increased habitat protections for indigenous, threatened, and endangered wildlife, given the potential removal of similar federal protections. On April 17, 2025, the United States Fish and Wildlife Service proposed rescinding the regulatory definition of “harm,” which includes certain habitat modification, for species listed as threatened or endangered under federal law. If adopted, that change could result in reduced habitat protections for federally listed threatened and endangered species. The Department therefore finds it necessary, through administrative rule, to strengthen habitat protections for State-listed threatened and endangered wildlife. The Department also proposes extending habitat protections to indigenous wildlife because such wildlife is deemed in need of conservation. These proposed rules use State-law authority to safeguard against significant habitat modification or degradation that results in the killing or injuring of indigenous, threatened, or endangered wildlife.

Injurious wildlife can be easily transported within the State on plant material, equipment, and other goods. Regulating such movement is important to protect indigenous wildlife and their habitats. The proposed rules would authorize the Department to regulate the movement within the State of injurious wildlife present on plant material, equipment, and other goods.

The Department also recognizes threats to the health and safety of indigenous, threatened, and endangered wildlife caused by feeding such wildlife or by feeding other animals in areas where protected wildlife occurs. The proposed rules would prohibit feeding indigenous, threatened, or endangered wildlife statewide and would prohibit feeding other wildlife and domestic animals on Department lands. In Hawai‘i, birds most attracted to feeding include injurious or invasive species such as pigeons, doves, mynas, and other nonnative birds. Regular feeding tends to unnaturally concentrate these species, creating unsanitary conditions, nuisance conflicts with neighboring properties, and potential disease reservoirs. Concentrations of nonnative birds also increase the risk of disease transmission to native birds and other wildlife. Feeding wildlife often creates the very wildlife management problems that agencies are then asked to address.

The Department also proposes updates to Exhibits 1 through 3 and Exhibit 5. See section I.H. for a summary of those proposed changes and the reasons for them.

III. Legal Authority

Section 183D-3(a), HRS, authorizes the Department to adopt, amend, or repeal rules for “protecting, conserving, monitoring, propagating, and harvesting wildlife” and for “imposing any other restriction or requirement as deemed necessary by the department to implement the purposes of this section.”

Section 195D-6, HRS, authorizes the Department to “adopt rules pursuant to chapter 91 necessary to carry out the purposes of [chapter 195D, HRS].”

Section 195D-3(b), HRS, authorizes the Department to adopt rules “relating to the taking, possession, transportation, transplantation, importation, exportation, processing, selling, offering for sale, or shipment of any species of aquatic life, wildlife, and land plant for purposes of conserving the same.” Section 195D-3(c), HRS, makes it unlawful for any person to take, possess, transport, transplant, export, process, sell, offer for sale, or ship any species of aquatic life, wildlife, or land plant deemed by the Department to need conservation pursuant to that section.

Section 195D-4(a), HRS, provides that species listed as threatened or endangered under federal law are also listed under State law.

IV. Ka Pa‘akai Analysis

On September 11, 2000, the Hawai‘i Supreme Court ruled in *Ka Pa‘akai O Ka ‘Āina v. Land Use Commission, State of Hawai‘i* that state and county agencies have an obligation to preserve and protect traditional and customary Native Hawaiian rights and that an appropriate analytical framework was needed to assess whether those rights were being unduly infringed. The Court developed a three-part framework, commonly referred to as the “Ka Pa‘akai analysis,” which is triggered when government agencies consider proposed uses of land and water resources that may affect the exercise of Native Hawaiian traditional and customary rights.

Although the Court stated that an agency’s constitutional obligation to reasonably protect Native Hawaiian traditional and customary practices applied broadly to agency actions, it did not expressly address whether the Ka Pa‘akai analysis applied outside contested case hearings. On March 15, 2023, however, the Court ruled in *Flores-Case ‘Ohana v. University of Hawai‘i* that the obligation described in *Ka Pa‘akai* applies not only to contested case hearings but also to rulemaking actions. In doing so, the Court provided a modified Ka Pa‘akai analysis for use in rulemaking. Under *Flores-Case ‘Ohana*, agencies must consider:

1. the identity and scope of Native Hawaiian traditional and customary rights affected by the rule, if any;
2. the extent to which those rights will be affected or impaired by the rule; and

3. whether the proposed rules reasonably protect Native Hawaiian traditional and customary rights, if they are found to exist, as balanced against the State's regulatory authority.

Accordingly, the Department provides the following draft analysis of the proposed amendments' effects on Native Hawaiian traditional and customary practices. A final analysis will be provided after public comments on the proposed amendments are received.

1. Identity and Scope of Native Hawaiian Traditional and Customary Rights Affected by the Rule, if Any

The proposed amendments to chapter 13-124, HAR, may affect certain traditional and customary gathering or hunting rights involving indigenous, threatened, and endangered wildlife. The Department proposes permit exceptions, as discussed below in sections 2 and 3.

Indigenous wildlife does not include aquatic life, game mammals, or game birds. Accordingly, fishing rights and limu gathering rights would not be affected by section 13-124-3.1. Likewise, gathering and hunting rights involving game mammals and game birds would not be affected by sections 13-124-3.1, which would prohibit take of indigenous wildlife, or 13-124-11.1, which would prohibit take of threatened or endangered wildlife. Aquatic life may, however, be listed as threatened or endangered wildlife in Exhibits 2 and 3 and regulated under section 13-124-11.1.

2. Extent to Which Native Hawaiian Traditional and Customary Rights Will Be Affected or Impaired by the Rule

Take

The proposed amendments may affect certain gathering or hunting rights involving indigenous wildlife. Section 13-124-3.1 would prohibit take of indigenous wildlife. The proposed definition of "take" means to harass, harm, pursue, hunt, shoot, kill, trap, capture, possess, or collect indigenous wildlife, or to attempt to engage in such conduct. Individuals seeking to take indigenous wildlife in the exercise of traditional and customary gathering rights may apply for a permit from the Board or the Department under section 13-124-3.5.

Taking of threatened or endangered wildlife is already prohibited under section 13-124-11.1. Persons seeking to take threatened wildlife in the exercise of traditional and customary gathering rights may apply for a permit from the Board or the Department under section 13-124-12. No change is proposed to that provision. Additional permits may also be required for certain species of aquatic life listed as threatened or endangered wildlife that are regulated by the Department under other laws or administrative rules.

Feed

The proposed amendments may affect the feeding of indigenous wildlife. "Feed" would mean to give, place, expose, deposit, distribute, or scatter any food or other edible material. Persons seeking to feed indigenous wildlife in the exercise of traditional and customary rights may apply for a permit from the Board or the Department under section 13-124-3.5.

3. Reasonable Protections for Native Hawaiian Traditional and Customary Rights, if They Are Found to Exist, as Balanced with the State's Own Regulatory Authority

The proposed amendments would increase protections for indigenous wildlife because those species are deemed to need conservation under section 195D-3(c), HRS. Allowing take by permit would enable the Department to monitor the nature and extent of take of indigenous wildlife to conserve those populations.

By definition, populations of species listed as threatened or endangered are low in number and at risk of extinction. Allowing take by permit would enable the Department to monitor the nature and extent of take involving threatened and endangered wildlife to help ensure the continued survival of those species.

RECOMMENDATIONS

That the Board:

1. Approve the Department's request to hold public hearings to amend chapter 13-124, HAR, "Rules for Indigenous Wildlife, Endangered and Threatened Wildlife, Injurious Wildlife, Introduced Wild Birds, and Introduced Wildlife"; and
2. Delegate to the Chairperson the authority to appoint hearing officers to conduct the public hearings.

Respectfully submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL



Ryan K.P. Kanaka'ole, Acting Chairperson
Board of Land & Natural Resources

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendment and Compilation of Chapter 13-124
Hawaii Administrative Rules

December 10, 2025

SUMMARY

1. Chapter 13-124, Hawaii Administrative Rules, entitled "Indigenous Wildlife, Endangered and Threatened Wildlife, Injurious Wildlife, Introduced Wild Birds, and Introduced Wildlife", 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 3

WILDLIFE

CHAPTER 124

RULES FOR INDIGENOUS WILDLIFE, ENDANGERED AND
THREATENED WILDLIFE, INJURIOUS WILDLIFE, INTRODUCED
WILD BIRDS, AND INTRODUCED WILDLIFE

Subchapter 1 General Provisions

| | |
|-------------|-----------------------|
| §13-124-1 | Purpose |
| §13-124-2 | Definitions |
| §13-124-2.1 | Revocation of permits |
| §13-124-2.2 | Compliance with laws |
| §13-124-2.3 | Exemption |
| §13-124-2.4 | Severability |

Subchapter 2 Indigenous, Injurious, Introduced Wild
Birds, and Introduced Wildlife

| | |
|-------------|--|
| §13-124-3 | Repealed |
| §13-124-3.1 | Indigenous wildlife, prohibited activities |
| §13-124-3.2 | Introduced wild birds, prohibited activities |
| §13-124-3.3 | Injurious wildlife, prohibited activities |
| §13-124-3.4 | Introduced wildlife, prohibited activities |
| §13-124-3.5 | Exceptions, prohibited activities |
| §13-124-3.6 | Prohibited activities on department lands |
| §13-124-4 | Scientific, propagation, and educational permits |
| §13-124-5 | Repealed |
| §13-124-6 | Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals |
| §13-124-7 | Crop damage, nuisance, and threat to human health and safety permits |
| §13-124-8 | Repealed |
| §13-124-8.1 | Penalty |

Subchapter 3 Endangered and Threatened Wildlife

| | |
|--------------|---|
| §13-124-11 | Repealed |
| §13-124-11.1 | Endangered wildlife or threatened wildlife, prohibited activities |
| §13-124-12 | Scientific, propagation, and educational permits |

§13-124-13 Repealed
§13-124-13.1 Penalty

Historical Note: Chapter 13-124, Hawaii Administrative Rules, is based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources. [Eff 8/10/53; am 10/10/55; am 3/28/58 and ren Regulation 6; am 9/8/73; R 3/22/82]

SUBCHAPTER 1

GENERAL PROVISIONS

§13-124-1 Purpose. The purpose of this chapter is to conserve, manage, protect, and enhance indigenous wildlife; and manage introduced ~~[wild birds.]~~ wildlife. These rules are not intended to diminish or abrogate the provisions of article 12, section 7 of the Hawaii State Constitution or section 7-1, Hawaii Revised Statutes, relating to certain traditional and customary Hawaiian practices. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; comp 2/27/2015; am and comp] (Auth: HRS §§183D-2, 183D-3, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-2, 183D-3, 195D-3, 195D-4, 195D-6)

§13-124-2 Definitions. As used in this chapter unless the context requires otherwise:

"Agriculture" means the production of crops ~~[which are]~~ planted, cultivated, and harvested for food, ornamental, grazing, cultural, medicinal, or forest purposes.

"Aquaculture" means the ~~[farming or ranching of aquatic life in a controlled salt, brackish, or fresh~~

~~water environment, provided that the farm or ranch is on or directly adjacent to land.]~~ propagation, cultivation, or farming of aquatic plants and animals in controlled or selected environments for research purposes, commercial purposes, or stocking purposes.

"Aquatic life" means any species of mammal, fish, mollusk, crustacean, arthropod, invertebrate, coral, or other vertebrate or invertebrate that inhabits the freshwater or marine environment, and includes any part, product, egg, or offspring thereof; or freshwater or marine plants or algae, including seeds, roots, spores, and other parts thereof.

"Board" means the board of land and natural resources.

"Crops" means a plant [~~or animal~~], vertebrate, or invertebrate, or product thereof that can be grown and harvested for profit or subsistence.

"Cultural [~~use~~] activities" means use for traditional native Hawaiian practices.

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

"Department lands" means public lands managed, administered, or controlled by the Department of Land and Natural Resources, as in section 171-3, Hawaii Revised Statutes, except such lands leased by the department.

"Domestic animal" means any [~~of various animals which have been domesticated by humans in a condition mainly dependent on humans.]~~ domesticated vertebrate or invertebrate, whether reared in captivity or not, excluding aquatic life. Domestic animals do not include wildlife.

"Endangered wildlife" means any species [~~subspecies, or population of wildlife]~~ whose continued existence as a viable component of Hawaii's indigenous fauna or flora is determined to be in jeopardy, and that has either been officially listed by the federal government as endangered [and any species, subspecies, or population of indigenous wildlife.] or has been so designated pursuant to section 195D-4, Hawaii Revised Statutes. Endangered wildlife are listed in, but not

limited to, the exhibit entitled "Exhibit 2, Chapter 13-124, List of Species of Endangered Wildlife in [~~Hawaii 11/1/14~~] Hawai'i 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

"Export" means shipment to any point outside the State.

"Feed" means to give, place, expose, deposit, distribute, or scatter any food, or any edible material.

"Feral" means having escaped or been released from domestication and reverted to a wild, free-roaming state.

"Game birds" means those birds designated by [~~statute~~] law or rule for hunting[-] in chapter 183D, Hawaii Revised Statutes, or by administrative rule.

"Game mammals" means those mammals designated by [~~statute~~] law or rule for hunting[-] in chapter 183D, Hawaii Revised Statutes, or by administrative rule.

"Harass" means to pursue, torment, or annoy. Harass may include acts that create the likelihood of injury to such wildlife or has the potential to disturb such wildlife by disrupting normal behavior patterns, such as migration, breeding, feeding, or sheltering, even if it does not cause injury.

"Harm" means to cause injury or death to. Harm may include significant habitat modification or degradation where such modification or degradation kills or injures threatened wildlife, endangered wildlife, or indigenous wildlife.

"Haze" means the use of non-lethal methods to deter wildlife.

"Indigenous wildlife" means any species[~~, or subspecies~~] of [~~animal~~] wildlife deemed to be in need of conservation, including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of [~~Hawaii, 11/1/14~~] Hawai'i 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

Indigenous wildlife does not include game mammals, game birds, feral species of domesticated animals, introduced wildlife, or aquatic life.

"Injurious wildlife" means any species [~~or subspecies~~] of [~~animal~~] introduced wildlife which is known to be harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in [~~Hawaii, 11/1/14~~] Hawai'i 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

~~["Introduce" means an act of releasing wildlife into a habitat to which it is not indigenous.]~~

"Introduced wild birds" means any [~~non-domesticated~~] species of bird introduced or imported to Hawaii by humans and living in a wild and undomesticated state [~~other than~~] excluding game birds, [~~including~~] and listed in, but not limited to, [~~species listed in~~] the exhibit entitled "Exhibit 4, Chapter 13-124, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, [~~11/1/14~~] 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans[~~-~~], except game birds or game mammals.

"Native plant" means any member of the plant kingdom that is endemic or indigenous to Hawaii, excluding aquatic plants.

~~["Non-domesticated animal" means any of various animals that have not been domesticated by humans and that are in a condition mainly independent of humans.]~~

"Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

"Release" means to free an [~~animal~~] vertebrate or invertebrate from confinement or restraint[~~-~~] into the wild.

"Service animal" has the same meaning as defined in section 347-2.4, Hawaii Revised Statutes.

"Species" means and shall include any subspecies, subpopulation, or taxa of aquatic life or wildlife.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered wildlife, ~~[or]~~ threatened ~~[species of]~~ wildlife, or indigenous wildlife, or to attempt to engage in any such conduct.

"Threatened wildlife" means any species~~[,~~ subspecies, or population] of ~~[wildlife that]~~ aquatic life, vertebrate, or invertebrate which appears likely, within the foreseeable future, to become endangered and has been officially listed by the federal government as threatened ~~[and any species, subspecies, or population of indigenous wildlife.]~~ or has been so designated pursuant to section 195D-4, Hawaii Revised Statutes. Threatened wildlife are listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in ~~[Hawaii 11/1/14]~~ Hawai'i 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

"Wildlife" means any member of any non-domesticated species of ~~[the animal kingdom]~~ vertebrate or invertebrate, including reptiles and amphibians, a feral species of any domestic animal, ~~[and]~~ or game mammals and game birds living in a wild and ~~[nondomesticated]~~ unconfined state, whether reared in captivity or not, ~~[including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes]~~ including any part, product, egg, or offspring thereof, or the dead body or parts thereof. Aquatic life are not wildlife in this chapter, unless listed as threatened wildlife or endangered wildlife.

"Wildlife deemed to be in need of conservation" means any species of wildlife determined by the department to require protective measures to ensure its continued survival, which includes, but is not limited to, indigenous wildlife, threatened wildlife, and endangered wildlife. [Eff 3/22/82; am and comp

8/28/86; am and comp 3/2/98; am and comp 2/27/2015; am and comp] (Auth: HRS §§183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-2.1 Revocation of permits. Any permit issued pursuant to this chapter shall be revocable for good cause and shall be [~~nonassignable~~] non-assignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the [~~date of~~] revocation[.] date. [Eff and comp 2/27/2015; am and comp] (Auth: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6, 195D-8, 195D-9)

Historical note: §13-124-2.1 is based substantially upon §13-124-7.1. [Eff 3/2/98; R 2/27/2015]

§13-124-2.2 Compliance with laws. All persons applying for and receiving permits under this chapter shall comply with all federal, state, and county laws, rules, and required permits or licenses. [Eff and comp 2/27/2015; comp] (Auth: HRS §§183D-3, 183D6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-8, 195D-9)

Historical note: §13-124-2.2 is based substantially upon §13-124-7.2. [Eff 3/2/98; R 2/27/2015]

§13-124-2.3 Exemption. This chapter shall not apply to any activity involving indigenous, endangered, or threatened wildlife which was held in captivity, or in a controlled environment on May 10, 1975; provided that the purposes of the holding were not contrary to the purposes of chapter 195D, HRS, and that the wildlife were not held for sale or resale. [Eff and comp 2/27/2015; am and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6)

Historical note: §13-124-2.3 is based substantially upon §13-124-9. [Eff and comp 8/28/86; am and comp 3/2/98; R 2/27/2015]

§13-124-2.4 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected. [Eff and comp 2/27/2015; comp] (Auth: HRS §§183D-2, 183D-3, 195D6, 195D-10) (Imp: HRS §§183D-2, 183D-3, 195D-6, 195D-10)

Historical note: §13-124-2.4 is based substantially upon §13-124-10. [Eff 3/2/98; R 2/27/2015]

SUBCHAPTER 2

INDIGENOUS, INJURIOUS, INTRODUCED WILD BIRDS, AND
INTRODUCED WILDLIFE

~~§13-124-3 Prohibited activities.~~ (a) ~~With respect to indigenous wildlife and introduced wild birds, and except as provided in subsection (c) or as permitted by the department, no person shall, or attempt to:~~

- ~~(1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof; or~~
- ~~(2) Export any such species, or any young or egg, or the dead body or skin thereof from the State. The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.~~

~~(b) No person shall remove, damage, or disturb the nest of any indigenous wildlife except as provided in subsection (c) or as permitted by the department.~~

~~(c) With respect to injurious wildlife, except as provided in subsection (c), or as permitted by the department, no person shall, or attempt to:~~

- ~~(1) Release injurious wildlife into the wild;~~
- ~~(2) Transport live injurious wildlife to islands or locations within the State where they are not already established and living in a wild state; or~~
- ~~(3) Export any such species, or the dead body or parts thereof, from the State.~~

~~(d) With respect to introduced wildlife, except as provided in subsection (c) as permitted by the department, no person shall, or attempt to, release introduced wildlife.~~

~~(e) The prohibited activities in this section shall not apply to:~~

- ~~(1) Authorized employees of the department;~~
- ~~(2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or~~
- ~~(3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.] [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp FEB 27 2015 (Auth: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-6)~~

§13-124-3.1 Indigenous wildlife, prohibited activities. (a) With respect to indigenous wildlife, except as authorized in section 13-124-3.5, no person shall or attempt to, intentionally, knowingly, recklessly, or negligently:

- (1) Take, catch, possess, injure, kill, destroy, sell, offer for sale, harass, or transport any such species, or any young or egg, or the dead body, shell, or skin thereof;
- (2) Export any such species, any young or egg, or the dead body, shell, or skin thereof from the State; or
- (3) Significantly modify or degrade habitat such that it kills or injures indigenous wildlife.

(b) No person shall intentionally, knowingly, recklessly, or negligently remove, damage, or disturb an active nest of any indigenous wildlife, except as provided in section 13-124-3.5.

(c) With respect to indigenous wildlife, no person shall intentionally, knowingly, recklessly, or negligently feed, or attempt to, feed indigenous wildlife, except as provided in section 13-124-3.5.

[Eff _____] (Auth: HRS §§195D-3, 195D-6)
(Imp: HRS §§195D-3, 195D-6)

§13-124-3.2 Introduced wild birds, prohibited activities. With respect to introduced wild birds, except as authorized in section 13-124-3.5, no person shall or attempt to, intentionally, knowingly, recklessly, or negligently:

- (1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof. The prohibitions against the destruction of introduced wild birds shall not apply to those introduced wild birds listed as injurious wildlife; or
- (2) Export any such species, any young or egg, or the dead body or skin thereof from the State. [Eff _____] (Auth: HRS §§183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64) (Imp: HRS §§183D-2, 183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64)

§13-124-3.3 Injurious wildlife, prohibited activities. With respect to injurious wildlife, except as authorized in section 13-124-3.5, no person shall, or attempt to, intentionally, knowingly, recklessly, or negligently:

- (1) Release any such species into the wild;
- (2) Transport any such species within the State;
- (3) Export any such species, or the dead body or parts thereof, from the State; or
- (4) Distribute or sell plants, equipment, or other goods within the State with such species present. [Eff _____]
(Auth: HRS §§183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64) (Imp: HRS §§183D-2,

183D-3, 183D-8, 183D-61, 183D-62, 183D-63,
183D-64)

§13-124-3.4 Introduced wildlife, prohibited activities. With respect to introduced wildlife, except as authorized in section 13-124-3.5, no person shall, or attempt to, intentionally, knowingly, recklessly, or negligently release introduced wildlife. [Eff] (Auth: HRS §§183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64) (Imp: HRS §§183D-2, 183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64)

§13-124-3.5 Exceptions, prohibited activities. The prohibited activities in sections 13-124-3.1, 3.2, 3.3, and 3.4 do not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and biosecurity and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative. [Eff] (Auth: HRS §§183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64) (Imp: HRS §§183D-2, 183D-3, 183D-8, 183D-61, 183D-62, 183D-63, 183D-64)

§13-124-3.6 Prohibited activities on department lands. (a) No person shall intentionally, knowingly, recklessly, or negligently feed any wildlife or domestic animal on department lands, except where a domestic animal is crated, caged, contained, or leashed according to subsection (c).

(b) No person shall intentionally, knowingly, recklessly, or negligently introduce, place, abandon, or leave any wildlife, domestic animal, plant, or aquatic life on department lands.

(c) Domestic animals are not permitted on department lands, unless crated, caged, contained, or leashed. Any domestic animal or wildlife found running at large on department lands may be impounded or destroyed. This section shall not apply to dogs when authorized by the hunting rules of the department or service animals accompanying their handlers.

(d) No person shall intentionally, knowingly, recklessly, or negligently ride horses on department lands, except in areas designated for this purpose by the board or its authorized representative by other rules of the department.

(e) The board may issue permits for activities otherwise prohibited in this section. [Eff
] (Auth: HRS §§171-3, 183D-2, 183D-3, 183D-65)
(Imp: HRS §§183D-2, 183D-3, 183D-65)

§13-124-4 Scientific, propagation, and educational permits. Permits for collecting, possessing, killing, selling or offering for sale, and transporting indigenous wildlife, introduced wild birds, game birds, or game mammals may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp 2/27/2015; comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-5 REPEALED. [R 3/2/98]

§13-124-6 Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals. Permits may be issued by the board or its authorized representative to qualified persons who apply in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of ~~the~~ these animals. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp 2/27/2015; am and comp] (Auth: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-7 Crop damage, nuisance, and threat to human health and safety permits. (a) ~~[Provided that no such permit shall be required on private land for game mammals when otherwise in compliance with chapter 123 the]~~ The board or its authorized representative may issue permits to destroy or [otherwise control] kill game birds, game mammals, introduced wildlife, or introduced wild birds [causing substantial damage] causing damage or nuisance to agricultural or aquacultural crops, [indigenous] native plants, or indigenous wildlife, or pose a threat to human health and safety under the following conditions[+], provided that no such permit shall be required on private land for game mammals when otherwise in compliance with applicable federal, state, and county laws:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that ~~[substantial damage]~~ damage or nuisance has occurred or is likely to occur;
- (2) Permits shall state the species destroyed or taken and method of control and may specify the number of individuals of each species to be destroyed ~~[and the method of control to be used]~~. The permit may include other terms

and conditions as may seem proper and applicable;

- (3) [~~Permits for restricted use pesticides may be issued only after an~~] For the use of restricted-use pesticides and general use pesticides to destroy or take game birds, game mammals, introduced wildlife, or introduced wild birds, the department may require an integrated animal damage control plan [~~has been~~] be submitted to and approved by an authorized agent of the department; [~~or~~] and
- (4) When species of introduced wildlife are found to be generally [~~harmful or~~] destructive or otherwise harmful to agriculture or aquaculture, native plants, or indigenous wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of [~~the~~] such species in any area for a specified [~~time~~] period without requiring permits or reports.

(b) The board or its authorized representative may issue permits to take or destroy or otherwise control indigenous wildlife, other than threatened and endangered [~~species~~] wildlife, causing [~~substantial damage~~] damage or nuisance to agricultural or aquacultural crops, indigenous plants or wildlife, or posing a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that [~~substantial damage~~] damage or nuisance has occurred or is likely to occur;
- (2) Permits shall state the species to be destroyed or taken[~~+~~], the method of control to be used[~~+~~], the maximum number of individuals of each species to be destroyed or taken[~~+~~], and the disposition of individuals destroyed or taken. The permit

shall include other terms and conditions as may seem proper and applicable; and

- (3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze ~~[or non-lethally deter the pest animals]~~ such species have been attempted and proved ineffective.

(c) Permittees shall submit monthly summary reports to the department, unless exempted under section 13-124-7(a) (4), on forms provided or facsimiles that include:

- (1) The common name of the target and nontarget wildlife taken;
- (2) The number of each wildlife species;
- (3) The disposition of the wildlife; and
- (4) Any other information required by the permit.

(d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.

(e) No permit issued pursuant to this section shall be issued or used ~~[for the destruction of]~~ to destroy any endangered or threatened ~~[species of]~~ wildlife.

(f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be attached to the permit.

(g) No permit is required merely to ~~[scare]~~ haze or herd depredating introduced wildlife. ~~[other than endangered or threatened species of wildlife.]~~

(h) This section does not replace rules of the board for destroying or controlling aquatic life.

(i) This section does not apply to injurious wildlife. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp 2/27/2015; am and comp] (Auth: HRS §§183D-21, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-21, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

~~[§13-124-8 Penalty. (a) Any person violating any part of this subchapter shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:~~

- ~~(1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;~~
- ~~(2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State; and~~
- ~~(3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State.~~

~~(b) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.~~

~~(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS section 183D-10.5.~~

~~(d) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative costs of the department or payment for damages or for the cost to correct damages resulting from a violation of HRS subtitle 4 of title 12 or any rule adopted thereunder. The administrative fines shall be as follows:~~

- ~~(1) For a first violation, by a fine of not more than \$10,000;~~

~~(2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and~~

~~(3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.~~

~~(c) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of [wildlife] indigenous wildlife or introduced wild bird, except those introduced wild birds listed as injurious wildlife in Exhibit 5 of this chapter, taken, killed, injured, or damaged in violation of HRS subtitle 4 of title 12 or any rule adopted thereunder.~~

~~(f) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.~~

~~(g) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 HRS section 199-7 and chapter 712A.] [Eff 3/22/82; am and comp 8/28/86; comp 3/2/98; am and comp 2/27/2015] (Auth: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6) (Imp: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199- 7, 712A-4, 712A-6)~~

§13-124-8.1 Penalty. (a) Any person who violates any provision of this subchapter or any condition or provision of a permit issued pursuant thereto may be subject to administrative, civil, and criminal penalties, pursuant to sections 195D-9 or

183D-5 and 183D-12, HRS, and as otherwise may be provided in chapter 183D, HRS.

(b) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.

(c) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 and chapter 712A, HRS. [Eff _____] (Auth: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 195D-6, 195D-9, 199-7, 712A-4, 712A-6) (Imp: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 195D-6, 195D-9, 199-7, 712A-4, 712A-6)

SUBCHAPTER 3

ENDANGERED AND THREATENED WILDLIFE

~~§13-124-11 Prohibited activities. (a) With respect to endangered and threatened species of wildlife except as provided in subsection (c) or [as permitted by the department, no person shall or attempt to:~~

- ~~(1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State; or~~
- ~~(2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.~~

~~—(b) No person shall remove, damage, or disturb the nest of any endangered or threatened species except as provided in subsection (c) or as permitted by the department.~~

~~—(c) The prohibited activities in this section shall not apply to:~~

- ~~(1) Authorized employees of the department;~~
- ~~(2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or~~
- ~~(3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.] [Eff and comp 2/27/2015] (Auth: HRS §§183D-8, 183D-61, 183D64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6)~~

§13-124-11.1 Endangered wildlife or threatened wildlife, prohibited activities. (a) With respect to endangered or threatened wildlife, no person shall or attempt to intentionally, knowingly, or recklessly:

- (1) Take, haze, possess, process, sell, offer for sale, feed, harass, or transport any such species, any young or egg, or the dead body, shell, or skin thereof, within the State;
- (2) Export any such species, or any young or egg, shell, or the dead body or parts thereof, from the State; or
- (3) Significantly modify or degrade habitat such that it kills or injures such species.

(b) No person shall negligently feed any endangered or threatened wildlife or any young.

(c) No person shall intentionally, knowingly, recklessly, or negligently remove, damage, or disturb the nest of any endangered or threatened wildlife.

(d) The prohibited activities in this section shall not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative. [Eff] (Auth: HRS §§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-12 Scientific, propagation, and educational permits. (a) Permits for taking, collecting, possessing, [killing,] selling or offering for sale, [and] transporting, or exporting threatened wildlife may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the propagation or survival of the wildlife species.

(b) Permits ~~[to] for [take, possess, process, sell or offer for sale, transport, or export]~~ taking, collecting, possessing, selling or offering for sale, transporting, or exporting any endangered ~~[species of]~~ wildlife may be issued only for scientific purposes or to enhance the propagation or survival of the wildlife species, except permits to possess legally obtained endangered ~~[species]~~ wildlife may be issued for educational purposes which enhance the survival of that species. [Eff and comp 2/27/2015; am and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-6, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

~~§13-124-13 Penalty.~~ (a) Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished as follows:

- ~~(1) For a first offense by a fine of not less than \$250 or by imprisonment of not more than one year, or both; and~~
- ~~(2) For a second or subsequent offense within five years of a previous conviction by a fine of not less than \$500 or by imprisonment of not more than one year, or both.~~

~~(b) In addition to the above penalties, except for violations under approved habitat conservation plans under section HRS 195D-21 or approved safe harbor agreements under section HRS 195D-22 as determined by the board, a fine of \$5,000 for each specimen of a threatened species and \$10,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.~~

~~(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS 183D-10.5.~~

~~(d) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys' fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter. The administrative fines shall be as follows:~~

- ~~(1) For a first violation, a fine of not more than \$2,500;~~
- ~~(2) For a second violation within five years of a previous violation, a fine of not more than \$5,000; and~~

~~(3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$10,000.~~

~~(c) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife or plant taken, killed, injured, or damaged in violation of this chapter.~~

~~(f) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.~~

~~(g) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 HRS section 199-7 and chapter 712A.] [Eff and comp 2/27/2015] (Auth: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6) (Imp: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6)~~

§13-124-13.1 Penalty. (a) Any person who violates any provision of this subchapter or any condition of provision of a permit issued pursuant thereto may be subject to administrative, civil, and criminal penalties, pursuant to section 195D-9, HRS, and as otherwise may be provided in chapter 195D, HRS.

(b) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter shall not be deemed to

preclude the State from pursuing any criminal action against that person.

(c) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 HRS section 199-7 and chapter 712A." [Eff] (Auth: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6) (Imp: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6)

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

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

4. These amendments to and compilation of chapter 13-124, 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 xxx, and filed with the Office of the Lieutenant Governor.

RYAN K.P. KANAKA'OLE
Acting Chairperson,
Department of Land and
Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General

EXHIBIT 1 - Chapter 13-124

12/11/25

List of Species of Indigenous Wildlife in Hawai'i

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

| | |
|-----------------|--------|
| SCIENTIFIC NAME | STATUS |
| COMMON NAME | |
| HAWAIIAN NAME | |

- * Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered extinct

Indigenous Reptiles

| | |
|--|----|
| Pelamis platurus Yellow-bellied Sea Snake | R+ |
|--|----|

Indigenous Birds

| | |
|---|-----|
| Acrocephalus familiaris familiaris Laysan Millerbird | * O |
| Anas acuta Northern Pintail Koloa māpu | M |
| Anas americana American Wigeon | M |
| Anas clypeata Northern Shoveler Koloa mohā | M |
| Anas platyrhynchos | M |

| | |
|--|--------------------------------|
| Mallard Duck * Note that mallards are both migratory and introduced. Status of an individual will be determined as the need arises. | |
| Anous minutus melanogenys Black (Hawaiian, White-capped) Noddy Noio | X |
| Anous stolidus pileatus Brown (Common) Noddy Noio kōhā | X |
| Arenaria interpres Ruddy Turnstone 'Akekeke | M |
| Asio flammeus sandwichensis Short-eared (Hawaiian) Owl Pueo | * X, endangered on O'ahu |
| Aythya affinis Lesser Scaup | M |
| Bulweria bulwerii Bulwer Petrel 'Ou | X |
| Calidris alba Sanderling Hunakai | M |
| Chaetoptila angustipluma Kioea | * O |
| Chasiempis sandwichensis Hawai'i 'Elepaio 'Elepaio | * X |
| Chasiempis sclateri Kaua'i 'Elepaio 'Elepaio | * X |
| Chloridops kona Kona (Grosbeak) Finch | * O |
| Ciridops anna 'Ula'aihāwane | * O |
| Diomedea immutabilis Laysan Albatross Mōlī | X |

| | |
|--|---------------------------|
| Diomedea nigripes Black footed Albatross Ka'upu | X |
| Drepanis funerea Black Mamo Hoa or 'Ō'ōnukuumu | * O |
| Drepanis pacifica Hawai'i Mamo | * O |
| Fregata minor palmerstoni Great Frigatebird 'Iwa | X |
| Gygis alba White (Fairy) Tern Manuokū | X, endangered on O'ahu |
| Hemignathus lanaiensis Lāna'i Akialoa 'Akialoa | * O |
| Hemignathus ellisianus O'ahu 'Akialoa 'Akialoa | * O |
| Hemignathus flavus O'ahu 'Amakihi 'Amakihi | * X |
| Hemignathus kauaiensis Kaua'i 'Amakihi 'Amakihi | * X |
| Hemignathus lucidus lucidus O'ahu Nuku pu'u Nuku pu'u | * O |
| Hemignathus obscurus Hawai'i 'Akialoa 'Akialoa | * O |
| Hemignathus parvus 'Anianiau (Lesser 'Amakihi) 'Anianiau | * X |
| Hemignathus sagittirostris Greater 'Amakihi | * O |
| Hemignathus stejnegeri Kauai 'Akialoa 'Akialoa | [* X] |
| Hemignathus virens virens | * X |

| | |
|---|-----|
| Hawai'i 'Amakihi 'Amakihi | |
| Heteroscelus incanus Wandering Tattler 'Ūlili | M |
| Himatione sanguinea 'Apapane | * X |
| Himatione sanguinea freethii Laysan Honeycreeper | * O |
| Loxops coccineus rufus O'ahu 'Ākepa 'Akepeu'ie | * O |
| Loxops mana Hawai'i Creeper | * X |
| Moho apicalis O'ahu 'Ō'ō 'Ō'ō | * O |
| Moho bishopi Moloka'i 'Ō'ō 'Ō'ō | * O |
| Moho nobilis Hawai'i 'Ō'ō 'Ō'ō | * O |
| Myadestes lanaiensis lanaiensis Lāna'i Thrush Oloma'o | * O |
| Myadestes oahuensis O'ahu Thrush 'Āmaui | * O |
| Myadestes obscurus Hawai'i Thrush 'Oma'o | * X |
| Numenius tahitiensis Bristle-thighed Curlew Kioea | M |
| Nycticorax nycticorax hoactli Black-crowned Night-heron 'Auku'u | X |
| Oceandroma tristrami Sooty (Tristram's) Storm-petrel 'Akihike'ehi'ale | X |

| | |
|--|-----|
| Paroreomyza montana montana Lāna‘i Creeper ‘Alauahio | * O |
| Paroreomyza montana newtoni Maui Creeper ‘Alauahio | * X |
| Phaethon lepturus dorotheae White-tailed Tropicbird Koa‘e kea | X |
| Phaethon rubricuada rothschildi Red-tailed Tropicbird Koa‘e ‘ula | X |
| Pluvialis dominica Lesser (Pacific, American) Golden Plover Kōlea | M |
| Pluvialis squatarola Black-bellied Plover | M |
| Porzana palmeri Laysan Rail | * O |
| Porzana sandwichensis Hawaiian Rail Moho | * O |
| Procelsterna cerulea saxatilis Blue-gray Noddy Manuohina | X |
| Pterodroma hypoleuca hypoleuca Bonin Petrel Nunulu | X |
| Puffinus nativitatis Christmas Shearwater ‘Ao‘ū | X |
| Puffinus pacificus chlororhynchus Wedge-tailed Shearwater ‘Ua‘u kani | X |
| Rhodacanthis flaviceps Lesser Koa Finch | * O |
| Rhodacanthis palmeri Greater Koa Finch Hōpue | * O |
| Sterna fuscata oahuensis | X |

| | |
|--|--|
| Sooty tern 'Ewa'ewa | |
| Sterna lunata Gray-backed Tern Pākalakala | X |
| Sula dactylatra personata Masked (Blue-faced) Booby 'Ā | X |
| Sula leucogaster plotus Brown Booby 'Ā | X |
| Sula sula rubripes Red-footed Booby 'Ā | X |
| Vestiaria coccinea 'I'iwi 'I'iwi | * X, endangered on O'ahu, Lāna'i, Moloka'i |

SCIENTIFIC NAME
COMMON NAME
HAWAIIAN NAME

STATUS

- * Endemic to Hawaiian Islands
- X Breeding population
- R Regular migrant
- R+ Uncommon but regular sightings
- M Regular winter migrant
- O Considered extinct

Indigenous Mammals

| | |
|--|---|
| Balaenoptera acutorostrata Minke Whale | M |
| Feresa attenuata Pygmy Killer Whale Nu'ao | R |
| Globicephala macrorhynchus Pilot Whale Nu'ao | R |

| | |
|---|----|
| Kogia breviceps Pygmy Sperm Whale | R+ |
| Mesoplodon densirostris Densebeaked Whale | R+ |
| Orcinus orca Killer Whale Nu'ao | R+ |
| Peponocephala electra Melon-headed Whale Nu'ao | R |
| Stenella attenuate Spotted Dolphin Nai'a | X |
| Stenella coeruleoalba Striped Dolphin Nai'a | R+ |
| Stenella longirostris Spinner Dolphin Nai'a | X |
| Steno bredanensis Rough-toothed Dolphin Nai'a | X |
| Tursiops gilli Pacific Bottlenose Dolphin Nai'a | X |

EXHIBIT 2 - Chapter 13-124

12/11/25

List of Species of Endangered Wildlife in Hawai'i

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

SCIENTIFIC NAME
COMMON NAME
HAWAIIAN NAME

PORTION OF
RANGE

WHERE
ENDANGERED

Endangered Birds

| | |
|--|--------------|
| Acrocephalus familiaris kingi Nihoa Millerbird Ulūlu, Ulūlu Niau | Entire |
| Anas laysanensis Laysan Duck Koloa Pōhaka | Entire |
| Anas wyvilliana Hawaiian Duck Koloa Maoli | Entire |
| Asio flammeus sandwichensis Short-eared (Hawaiian) Owl Pueo | [Oahu] O'ahu |
| Branta sandvicensis Hawaiian Goose Nēnē | Entire |
| Buteo solitarius Hawaiian Hawk 'Io | Entire |
| Chasiempis sandwichensis ibidis O'ahu 'Elepaio | Entire |
| Corvus hawaiiensis Hawaiian Crow 'Alalā | Entire |
| Fulica alai Hawaiian Coot 'Alae ke'oke'o | Entire |
| Gallinula chloropus sandvicensis Common Moorhen (Hawaiian Gallinule) 'Alae'ula | Entire |
| Hemignathus lucidus Maui Nukupu'u Nukupu'u | Entire |
| Hemignathus lucidus | Entire |

| | |
|--|-------------------|
| Kaua'i Nukupu'u Nukupu'u | |
| Hemignathus wilsoni 'Akiapōlā'au | Entire |
| Akialoa stejnegeri Kaua'i 'Akialoa 'Akialoa | Entire |
| Hemignathus virens wilsoni Maui 'Amakihi 'Amakihi | [Lanai] Lāna'i |
| Himantopus mexicanus knudseni Black-necked (Hawaiian) Stilt 'Ae'o | Entire |
| Loxioides bailleui Palila Palila | Entire |
| Loxops caeruleirostris Kaua'i Akepa 'Akeke'e | Entire |
| Loxops coccineus coccineus Hawai'i 'Akēpa 'Akepeu'ie | Entire |
| Loxops coccineus ochraceus Maui 'Akēpa 'Akepeu'ie | Entire |
| Melamprosops phaeosoma Po'ouli Po'ouli | Entire |
| Moho braccatus Kaua'i 'Ō'ō 'Ō'ō 'a'a | Entire |
| Myadestes lanaiensis rutha Moloka'i Thrush Oloma'o | Entire |
| Myadestes myadestinus Kaua'i Thrush Kāma'o | Entire |
| Myadestes palmeri Small Kaua'i Thrush Puaiohi | Entire |

| | |
|---|--|
| Oceanodroma castro Band-rumped Storm-petrel 'Akē 'akē | Entire |
| Oreomystis bairdi Kaua'i Creeper 'Akikiki | Entire |
| Loxops mana Hawai'i Creeper 'Alawī | Entire |
| Palmeria dolei Crested Honeycreeper 'Ākohekohe | Entire |
| Paroreomyza flammea Moloka'i Creeper Kākāwahie | Entire |
| Paroreomyza maculata O'ahu Creeper 'Alauahio | Entire |
| Phoebastria albatrus Short-tailed Albatross Makalena, Ka'upu 'ākala | Entire |
| Pseudonestor xanthophrys Maui Parrotbill Kiwikiu | Entire |
| Psittirostra psittacea 'Ō'ū 'Ō'ū | Entire |
| Pterodroma sandwichensis Hawaiian Petrel 'Ua'u | Entire |
| Telespiza cantans Laysan Finch 'Ekupu'u | Entire |
| Telespiza ultima Nihoa Finch Palihoa | Entire |
| Vestiaria coccinea 'I'iwi 'I'iwi | [Oahu, Lanai, Molokai] O'ahu, Lāna'i, Moloka'i |

Endangered Mammals

| | |
|--|--------|
| Balaenoptera physalus Fin Whale | Entire |
| Lasiurus cinereus semotus Hawaiian (Hoary) Bat 'Ōpe'ape'a | Entire |
| Megaptera novaeangliae Humpback Whale Koholā | Entire |
| Neomonachus schauinslandi Hawaiian Monk Seal 'Īliaholoikauaua | Entire |
| Physeter macrocephalu Sperm Whale Palaoa, Koholā kepama | Entire |
| Pseudorca crassidens False Killer Whale (Main Hawaiian Islands Insular DPS) Nu'ao | Entire |

Endangered Reptiles

| | |
|---|--------|
| Dermochelys coriacea Pacific Leatherback Sea Turtle | Entire |
| Eretmochelys imbricata Pacific Hawksbill Turtle Honu'eā | Entire |
| Caretta caretta Loggerhead Sea Turtle | Entire |

Endangered Invertebrates

| | |
|------------------|--------|
| Achatinella spp. | Entire |
|------------------|--------|

| | |
|---|--------|
| O'ahu (Achatinella) Tree Snails Kāhuli, pūpu kanioe | |
| Adelocosa anops Kaua'i cave spider Pe'epe'e maka'ole | Entire |
| Drosophila aglaia Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila differens Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila digressa Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila hemipeza Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila heteroneura Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila montgomeryi Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila musaphilia Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila neoclavisetae Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila obatai Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila ochrobasis Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila sharpi Hawaiian picture-wing fly Pōnalo | Entire |
| Drosophila substenoptera Hawaiian picture-wing fly Pōnalo | Entire |

| | |
|--|--------|
| Drosophila tarphytrichia Hawaiian picture-wing fly Pōnalo | Entire |
| Hylaeus anthracinus Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Hylaeus assimulans Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Hylaeus facilis Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Hylaeus hilaris Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Hylaeus kuakea Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Hylaeus longiceps Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Hylaeus mana Hawaiian Yellow-faced bees Nalo meli maoli | Entire |
| Manduca blackburni Blackburn's sphinx moth 'Ōka'i | Entire |
| Megalagrion leptodemas Crimson Hawaiian Damselfly Pinapinao | Entire |
| Megalagrion nesiotes Flying Earwig Hawaiian Damselfly Pinapinao | Entire |
| Megalagrion nigrohamatum nigrolineatum Blackline Hawaiian Damselfly Pinapinao | Entire |
| Megalagrion oceanicum Oceanic Hawaiian Damselfly Pinapinao | Entire |

| | |
|--|--------|
| Megalagrion pacificum Pacific Hawaiian Damselfly Pinapinao | Entire |
| Megalagrion xanthomelas Orangeblack Hawaiian Damselfly Pinapinao | Entire |
| Newcombia cumingi Newcomb's tree snail Kāhuli | Entire |
| Partulina semicarinata Lāna'i tree snail Kāhuli | Entire |
| Partulina variabilis Lāna'i tree snail Kāhuli | Entire |
| Spelaeorchestia koloana Kaua'i Cave Amphipod | Entire |
| Vetericaris chaceorum Anchialine pool shrimp 'Ōpae | Entire |

EXHIBIT 3 - Chapter 13-124

12/11/25

List of Species of Threatened Wildlife in Hawai'i

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

| SCIENTIFIC NAME | PORTION OF RANGE |
|-----------------|------------------|
| COMMON NAME | WHERE THREATENED |
| HAWAIIAN NAME | |

Threatened Birds

| | |
|---|--------|
| Gygis alba White Tern Manuokū | O'ahu |
| Puffinus auricularis newelli Newell's Shearwater 'A'o | Entire |

Threatened Reptiles

| | |
|--|--------|
| Chelonia mydas Pacific Green Sea Turtle Honu | Entire |
| Lepidochelys olivacea Olive (Pacific) Ridley Sea Turtle | Entire |

Threatened Fish

| | |
|---|--------|
| Mobula birostris Oceanic Manta Ray (also giant oceanic manta ray) Hāhālua | Entire |
|---|--------|

Threatened Invertebrates

| | |
|---|--------|
| Erinna newcombi Newcomb's snail Kāhuli | Entire |
| Drosophila mulli Hawaiian picture-wing fly Pōnalo | Entire |

EXHIBIT 4 - Chapter 13-124

12/11/25

**Introduced Wild Birds Other than Game Birds Which Have
Become Established in the Wild**

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

| SCIENTIFIC NAME | COMMON NAME |
|--|--|
| ALAUDIDAE | LARKS |
| <i>Alauda arvensis</i> | Eurasian Skylark |
| ANATIDAE | GEESE, DUCKS |
| <i>Anas platyrhynchos</i> * Note that mallards are both migratory and introduced. Status of an individual will be determined as the need arises. | Mallard |
| ARDEIDAE | HERONS |
| <i>Bubulcus ibis</i> | Cattle egret |
| CARDINALIDAE | TANAGERS, GROSBEAKS, ETC. |
| <i>Cardinalis cardinalis</i> | Northern Cardinal, North American or Kentucky Cardinal |
| COLUMBIDAE | DOVES |
| <i>Columba livia</i> | Rock Dove, Common Pigeon, Domestic Pigeon |

| | |
|-------------------------------------|--|
| CETTIDAE, MUSCICAPIDAE & TIMALIIDAE | BUSH-WARBLERS, THRUSHES, ETC. |
| <i>Cettia diphone</i> | Japanese Bush-Warbler, Uguisu |
| <i>Copsychus malabaricus</i> | White-rumped Shama, Shama Thrush |
| <i>Garrulax pectoralis</i> | Greater Necklaced Laughing-thrush |
| <i>Garrulax caerulatus</i> | Gray-sided Laughing-thrush |
| <i>Garrulax canorus</i> | Melodius Laughing-thrush, Chinese Thrush, Hwamei |
| <i>Leiothrix lutea</i> | Red-billed Leiothrix, Pekin Nightingale, Japanese Hill-robin |

| | |
|-----------------------------|--|
| ESTRILDIDAE | WAXBILLS, MANNIKINS |
| <i>Uraeginthus bengalus</i> | Red-cheeked Cordonbleu |
| <i>Etrilda caerulescens</i> | Lavender Waxbill |
| <i>Etrilda melpoda</i> | Orange-cheeked Waxbill |
| <i>Etrilda troglodytes</i> | Black-rumped Waxbill, Red-eared Waxbill |
| <i>Etrilda astrild</i> | Common Waxbill |
| <i>Amandava amandava</i> | Red Avadavat, Strawberry Finch, Red Munia |
| <i>Lonchura cantans</i> | African Silverbill |
| <i>Lonchura punctulata</i> | Nutmeg Mannikin, Ricebird, Spotted Munia |
| <i>Lonchura malacca</i> | Chestnut Munia or Mannikin, Black-headed Mannikin or Munia |
| <i>Padda oryzivora</i> | Java Sparrow |

| | |
|-------------------------|------------------------|
| EMBERIZIDAE | SPARROWS, ETC. |
| <i>Tiaris olivaceus</i> | Yellow-faced Grassquit |
| <i>Sicalis flaveola</i> | Saffron Finch |

| | |
|--------------|---------|
| FRINGILLIDAE | FINCHES |
|--------------|---------|

| | |
|-----------------------|---|
| Haemorhous mexicanus | House Finch, Linnet |
| Serinus mozambicus | Yellow-fronted Canary, Green Singing-Finch |
| Serinus canaria | Island Canary, Common Canary |
| | |
| ICTERIDAE | MEADOWLARKS, ETC. |
| Sternella neglecta | Western Meadowlark |
| | |
| MIMIDAE | MOCKINGBIRDS |
| Mimus polyglottos | Northern Mockingbird |
| | |
| PASSERIDAE | OLD WORLD SPARROWS |
| Passer domesticus | House Sparrow, English Sparrow |
| | |
| PSITTACIDAE | PARAKEETS |
| Psittacula krameri | Rose-ringed Parakeet |
| Amazona viridigenalis | Red-crowned Amazon |
| Aratinga mitrata | Mitred Conure |
| Aratinga erythrogenys | Red-masked Conure |
| | |
| PYCNONOTIDAE | BULBULS |
| Pycnonotus cafer | Red-vented Bulbul |
| Pycnonotus jocosus | Red-whiskered Bulbul |
| | |
| STURNIDAE | STARLINGS, MYNAS |
| Acridotheres tristis | Common myna |
| | |
| THRAUPIDAE | CARDINALS, ETC. |
| Paroaria coronata | Red-crested Cardinal, Brazilian Cardinal |
| Paroaria capitata | Yellow-billed Cardinal |
| | |
| TYTONIDAE | BARN OWLS |
| Tyto alba | Barn Owl |
| | |
| ZOSTEROPIDAE | WHITE-EYES |

| | |
|---------------------|-------------------------------|
| Zosterops japonicus | Japanese White-eye, Mejiro |
|---------------------|-------------------------------|

EXHIBIT 5 - Chapter 13-124

12/11/25

List of Species of Injurious Wildlife in Hawai'i

SCIENTIFIC NAME

COMMON NAME

BIRDS

| | |
|--|--|
| Bubulcus ibis | Cattle egret |
| All species in the family CETTIIDAE and associated allies | Warblers |
| All species in the family COLUMBIDAE. Except the domesticated races of pigeons listed in HAR section 4-71-2, Columba domestica and Columba livia | Doves and pigeons |
| Lonchura malacca | Mannikin or Munia, Black-headed (Chestnut Mannikin) |
| All species in the family MUSCICAPIDAE | Old World Flycatchers |
| Padda oryzivora | Sparrow, Java (Java Rice Finch) |
| All species in the family PSITTACIDAE | Parrots |
| All species in the family PYCNONOTIDAE | Bulbuls |
| All species in the family STURNIDAE | Starlings |
| All species in the family TIMALIIDAE | Old World Babblers |

| | |
|---|------------|
| Tyto alba | Barn Owl |
| All species in the family ZOSTEROPIDAE | White eyes |

AMPHIBIANS/REPTILES

| | |
|--|---|
| All species in Family Agamidae | Agamid Lizards |
| All species in Family Anguidae | Anguid Lizards |
| All species in the genus Anolis | Lizards, Anole |
| All species in the Order Anura | Frogs |
| All species in the Family Chamaeleonidae | Chameleons |
| Gekko gekko | Gecko, Tokay |
| All species in the Family Iguanidae | Iguana, Green |
| All species in the genus Phelsuma | Gecko, Day |
| All Species in Family Scincidae | Skinks |
| All species in the suborder Serpentes, except Ramphotyphlops braminus and Pelamis platurus | All snakes |
| All species in Family Teiidae | Whiptails and Tegus |
| All species in the Order Testudines | All freshwater turtles and tortoises |
| All species in the subfamily VARANOIDEA | Monitor lizards and Gila monsters |

INVERTEBRATES

| | |
|--|---|
| <i>Acalolepta aesthetica</i> | Longhorned beetle |
| <i>Anoplophora chinensis</i> | Citrus longhorned beetle |
| <i>Anoplophora glabripennis</i> | Asian longhorned beetle |
| <i>Apis cerana</i> | Asian honey bee |
| All subspecies of <i>Apis mellifera</i> | Any subspecies of European honey bees not known to occur in Hawai'i |
| <i>Apis mellifera scutellata</i> | Africanized honey bee |
| <i>Arcte coerulea</i> | Ramie moth |
| <i>Corbicula fluminea</i> | Clam, Asiatic |
| <i>Cornu aspersum</i> | Snail, brown garden |
| All species in the genus <i>Euglandia</i> | Snails, Cannibal |
| All species in the family Formicidae | All ants |
| <i>Gonaxis kibweziensis</i> | (no common name) |
| <i>Haplaxius crudus</i> | American palm cixid |
| <i>Lycorma delicatula</i> | Spotted lanternfly |
| <i>Lymantria dispar</i> (and all subspecies) | Spongy moths |
| <i>Oryctes rhinoceros</i> | Coconut Rhinoceros Beetle |
| <i>Popillia japonica</i> | Japanese beetle |
| All species in the genera: <i>Pomacea</i> , <i>Pila</i> , and <i>Cipangopaludina</i> | Snails, Apple |
| <i>Rhynchophorus ferrugineus</i> | Red palm weevil |
| <i>Rhynchophorus palmarum</i> | South American palm weevil |
| All species in the genera <i>Vespa</i> and <i>Vespula</i> | Hornets and yellowjackets |

MAMMALS

| | |
|--|---|
| Small Indian Mongoose | <i>Herpestes javanicus</i> |
| Even-toed ungulates, except for game mammals | All species in the order ARTIODACTYLA (with paraxonic feet) |

Proposed Changes to HAR Chapter 13-124

This document outlines each proposed change to HAR Chapter 13-124 by providing the current rule, the proposed rule in Ramseyer format, and the reason for the proposed rule change. Text proposed to be deleted is bracketed and stricken. Text proposed to be added is underlined.

Purpose

Current

The purpose of this chapter is to conserve, manage, protect, and enhance indigenous wildlife; and manage introduced wild birds.

Proposed

The purpose of this chapter is to conserve, manage, protect, and enhance indigenous wildlife; and manage introduce ~~[wild birds.]~~ wildlife. These rules are not intended to diminish or abrogate the provisions of article 12, section 7 of the Hawaii State Constitution or section 7-1, Hawaii Revised Statutes, relating to certain traditional and customary Hawaiian practices.

Reason for change

Expand the scope of the purpose to include management of introduced wildlife, as defined in the rule chapter. Provide a statement that the purpose of these rules is not to diminish or abrogate certain traditional and customary Native Hawaiian right afforded through State law.

Definitions

Current

"Agriculture" means the production of crops which are planted, cultivated, and harvested for food ornamental, grazing, cultural, medicinal, or forest purposes.

Proposed

"Agriculture" means the production of crops ~~[which are]~~ planted, cultivated, and harvested for food ornamental, grazing, cultural, medicinal, or forest purposes.

Reason for change

Clean up grammar.

Current

"Aquaculture" means the farming or ranching of aquatic life in a controlled salt, brackish, or fresh water environment, provided that the farm or ranch is on or directly adjacent to land.

Proposed

"Aquaculture" means the ~~farming or ranching of aquatic life in a controlled salt, brackish, or fresh water environment, provided that the farm or ranch is on or directly adjacent to land.]~~ propagation, cultivation, or farming of aquatic plants and animals in controlled or

selected environments for research purposes, commercial purposes, or stocking purposes.

Reason for change

Proposed definition matches definition provided in Section 183D-1, HRS.

Current

No current rule

Proposed

"Aquatic life" means any species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other vertebrate or invertebrate that inhabits the freshwater or marine environment, and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, and other parts thereof.

Reason for change

Currently, there is no definition of "Aquatic life" in rules. The proposed definition matches the definition of "Aquatic life" in Sections 183D-1 and 195D-2, HRS.

Current

"Crops" means a plant or animal or product thereof that can be grown and harvested for profit or subsistence.

Proposed

"Crops" means a plant [~~or animal~~], vertebrate, or invertebrate, or product thereof that can be grown and harvested for profit or subsistence.

Reason for change

Replacing "animal" with "vertebrate or invertebrate."

Current

"Cultural use" means use for traditional native Hawaiian practices.

Proposed

"Cultural [~~use~~] activities" means use for traditional native Hawaiian practices.

Reason for change

"Cultural use" is not used in the rule chapter. Revising to "Cultural activities" to be consistent with phrase used in this rule chapter.

Current

No current rule

Proposed

"Department lands" means public lands managed, administered, or controlled by the Department of Land and Natural Resources, as in section 171-3, Hawaii Revised Statutes except such lands leased by the department.

Reason for change

Currently, there is no definition of "Department Lands" in the rule chapter. Adding this definition for use in Section 13-124-3.6.

Current

"Domestic animal" means any of various animals which have been domesticated by humans in a condition mainly dependent on humans.

Proposed

"Domestic animal" means any ~~[of various animals which have been domesticated by humans in a condition mainly dependent on humans.]~~ domesticated vertebrate or invertebrate, whether reared in captivity or not, excluding aquatic life. Domestic animals do not include wildlife.

Reason for change

Revising to clarify definition.

Current

"Endangered wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as endangered and any species, subspecies, or population of indigenous wildlife listed in, but not limited to the exhibit entitled "Exhibit 2, Chapter 13-124, List of Species of Endangered Wildlife in Hawaii 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

Proposed

"Endangered wildlife" means any species ~~[, subspecies, or population of wildlife]~~ whose continued existence as a viable component of Hawaii's indigenous fauna or flora is determined to be in jeopardy, and that has either been officially listed by the federal government as endangered [and any species, subspecies, or population of indigenous wildlife]] or has been so designated pursuant to section 195D-4, Hawaii Revised Statutes. Endangered wildlife are listed in, but not limited to, the exhibit entitled "Exhibit 2, Chapter 13-124, List of Species of Endangered Wildlife in Hawaii [11/1/14] 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

Reason for change

Revising definition to be use the same criteria as the definition for "Endangered species" in Section 195D-2, HRS. Revising to remove subspecies or population of wildlife and replacing with "Species" where "Species" is now defined as a separate term in the rule chapter.

Current

No current rule

Proposed

"Feed" means to give, place, expose, deposit, distribute, or scatter any food, or any edible material.

Reason for change

Adding this definition to apply to Sections 13-124-3.1, 13-124-3.6, and 13-124-11.1.

Current

"Feral" means having escaped or been released from domestication and reverted to a wild state.

Proposed

"Feral" means having escaped or been released from domestication and reverted to a wild, free-roaming state.

Reason for change

Revising to clarify definition of "Feral" to include being wild and free-roaming.

Current

"Game birds" means those birds designated by statute or rule for hunting.

Propose

"Game birds" means those birds designated by [statute] law or rule for hunting[-] in chapter 183D, Hawaii Revised Statutes, or by administrative rule.

Reason for change

Revising to make definition consistent with Section 183D-1, HRS.

Current

"Game mammals" means those mammals designated by statute or rule for hunting.

Proposed

"Game mammals" means those mammals designated by [statute] law or rule for hunting[-] in chapter 183D, Hawaii Revised Statutes, or by administrative rule.

Reason for change

Revising to make definition consistent with Section 183D-1, HRS.

Current

No current rule

Proposed

"Harass" means to pursue, torment, or annoy. Harass may include acts that create the likelihood of injury to such wildlife or has the potential to disturb such wildlife by disrupting normal behavior patterns, such as migration, breeding, feeding, or sheltering, even if it does not cause injury.

Reason for change

"Harass" is a type of "Take," as defined in Section 195D-2, HRS. Adding definition to apply to Sections 13-124-3.1 and 13-124-11.1.

Current

No current rule.

Proposed

"Harm" means to cause injury or death to. Harm may include significant habitat modification or degradation where such modification or degradation kills or injures threatened wildlife, endangered wildlife, or indigenous wildlife.

Reason for change

"Harm" is a type of "Take," as defined in Section 195D-2, HRS. Adding definition to apply to Sections 13-124-3.1 and 13-124-11.1.

Current

No current rule

Proposed

"Haze" means the use of non-lethal methods to deter wildlife or domestic animals.

Reason for change

Adding definition for Sections 13-124-7 and 13-124-11.1.

Current

"Indigenous wildlife" means any species, or subspecies of animal including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

Proposed

"Indigenous wildlife" means any species~~[, or subspecies]~~ of ~~[animal]~~ wildlife deemed to be in need of conservation, including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawaii, [11/1/14] 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference. Indigenous wildlife does not include game mammals, game birds, feral species of domesticated animals, introduced wildlife, or aquatic life.

Reason for change

Revising definition to clarify that "Indigenous wildlife" are "Wildlife Deemed to be in Need of Conservation" also defined in this rule chapter. Clarified definition to ensure that "Indigenous wildlife" does not include game mammals, game birds, feral species of domestic animals, introduced wildlife, or aquatic life.

Current

"Injurious wildlife" means any species or subspecies of animal which is known to be harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

Proposed

"Injurious wildlife" means any species ~~[or subspecies]~~ of ~~[animal]~~ introduced wildlife which is known to be harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in Hawaii, [11/1/14] 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

Reason for change

Revising definition to clarify that "Injurious wildlife" are "Introduced wildlife."

Current

"Introduce" means an act of releasing wildlife into a habitat to which it is not indigenous.

Proposed

Remove definition.

Reason for change

Removed definition to reduce confusion with “Introduced wild birds” and “Introduced wildlife.”

Current

"Introduced wild birds" means any non-domesticated species of bird introduced or imported to Hawaii by humans and living in a wild state other than game birds, including, but not limited to, species listed in the exhibit entitled "Exhibit 4, Chapter 13-124, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

Proposed

"Introduced wild birds" means any [~~non-domesticated~~] species of bird introduced or imported to Hawaii by humans and living in a wild and undomesticated state [~~other than~~] excluding game birds, [~~including~~] and listed in, but not limited to, [~~species listed in~~] the exhibit entitled "Exhibit 4, Chapter 13-124, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, [~~11/1/14~~] 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

Reason for change

Revising to be consistent with the definition of “Wild birds” in Section 183D-1, HRS.

Current

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans.

Proposed

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans~~[-]~~, except game birds or game mammals.

Reason for change

Revising to clarify definition excludes game birds and game mammals.

Current

No current rule

Proposed

"Native plant" means any member of the plant kingdom that is endemic or indigenous to Hawaii, excluding aquatic plants.

Reason for change

Adding definition for Section 13-124-7.

Current

"Non-domesticated animal" means any of various animals that have not been domesticated by humans and that are in a condition mainly independent of humans.

Propose

Remove definition.

Reason for change

Proposing to remove definition because term not used in rule chapter.

Current

"Release" means to free an animal from confinement or restraint.

Proposed

"Release" means to free an ~~[animal]~~ vertebrate or invertebrate from confinement or restraint[.] into the wild.

Reason for change

Revising to clarify definition.

Current

No current definition.

Proposed

"Service animal" has the same meaning as defined in section 347-2.4, Hawaii Revised Statutes.

Reason for change

Adding definition to match definition of "Service animal" in Section 347-2.4, HRS.

Current

No current rule.

Proposed

"Species" means and shall include any subspecies, subpopulation, or taxa of aquatic life or wildlife.

Reason for change

Adding definition to match Section 195D-2, HRS. Replacing use of "species, subpopulation, or taxa" from definitions of threatened wildlife, endangered wildlife, injurious wildlife, indigenous wildlife, introduced wild birds, wildlife, and aquatic life.

Current

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered or threatened species of wildlife, or to attempt to engage in any such conduct.

Proposed

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered wildlife, ~~[or]~~ threatened ~~[species of]~~ wildlife, or indigenous wildlife, or to attempt to engage in any such conduct.

Reason for change

Revising definition to clarify it applies to endangered wildlife, threatened wildlife, and indigenous wildlife.

Current

"Threatened wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as threatened and any species, subspecies, or population of indigenous wildlife listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

Proposed

"Threatened wildlife" means any species~~[-subspecies, or population]~~ of ~~[wildlife that]~~ aquatic life, vertebrate, or invertebrate which appears likely, within the foreseeable

future, to become endangered and has been officially listed by the federal government as threatened [~~and any species, subspecies, or population of indigenous wildlife.~~] or has been so designated pursuant to section 195D-4, Hawaii Revised Statutes. Threatened wildlife are listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in Hawaii, [4/1/14] 12/11/25" and as updated, which is located at the end of this chapter and incorporated by reference.

Reason for change

Revising definition to be use the same criteria as the definition for "Threatened species" in Section 195D-2, HRS. Revising to remove subspecies or population of wildlife and replacing with "Species" where "Species" is now defined as a separate term in the rule chapter.

Current

"Wildlife" means any member of any non-domesticated species of the animal kingdom, and game mammals and game birds living in the wild and non-domesticated state, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

Proposed

"Wildlife" means any member of any non-domesticated species of [~~the animal kingdom~~] vertebrate or invertebrate except aquatic life, a feral species of any domestic animal, [and] or game mammals and game birds living in a wild and [nondomesticated] unconfined state, whether reared in captivity or not, [including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes] including any part, product, egg, or offspring thereof, or the dead body or parts thereof.

Reason for change

Adding definition be match Sections 183D-1 and 195D-2, HRS. Vertebrate or invertebrate is used to clarify "Wildlife" includes insects. Exception for aquatic life is used to follow statutory authority in HRS §183D-1.

Current

No current definition

Proposed

"Wildlife deemed to be in need of conservation" means any species of wildlife determined by the department to require protective measures to ensure its continued survival, which includes, but is not limited to, indigenous wildlife, threatened wildlife, and endangered wildlife.

Reason for change

Adding definition to define phrase used in Section 195D-3, HRS. "Indigenous Wildlife" are "Wildlife deemed to be in need of conservation."

Section 13-124-2.1 - Revocation of permits.

Current

Any permit issued pursuant to this chapter shall be revocable for good cause and shall be nonassignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the date of revocation.

Proposed

Any permit issued pursuant to this chapter shall be revocable for good cause and shall be ~~nonassignable~~ non-assignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the ~~[date of]~~ revocation~~[-]~~ date.

Reason for change

Revising with non-substantive changes.

Section 13-124-3 – Prohibited activities.

Current

(a) With respect to indigenous wildlife and introduced wild birds, and except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to:

(1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof; or

(2) Export any such species, or any young or egg, or the dead body or skin thereof from the State. The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.

(b) No person shall remove, damage, or disturb the nest of any indigenous wildlife except as provided in subsection (e) or as permitted by the department.

(c) With respect to injurious wildlife, except as provided in subsection (e), or as permitted by the department, no person shall, or attempt to:

(1) Release injurious wildlife into the wild;

(2) Transport live injurious wildlife to islands or locations within the State where they are not already established and living in a wild state; or

(3) Export any such species, or the dead body or parts thereof, from the State.

(d) With respect to introduced wildlife, except as provided in subsection (e) as permitted by the department, no person shall, or attempt to, release introduced wildlife.

(e) The prohibited activities in this section shall not apply to:

(1) Authorized employees of the department;

(2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or

(3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.

Proposed

Removed rule section.

Reasons for change

Propose removing this section and adding four new sections for indigenous wildlife, introduced wild birds, injurious wildlife, and introduced wildlife.

Section 13-124-3.1 - Indigenous wildlife, prohibited activities.

Current

Currently part of Section 13-124-3.

Proposed

(a) With respect to indigenous wildlife, except as authorized in section 13-124-3.5, no person shall or attempt to, intentionally, knowingly, recklessly, or negligently:

(1) Take, catch, possess, injure, kill, destroy, sell, offer for sale, harass, or transport any such species, or any young or egg, or the dead body, shell, or skin thereof;

(2) Export any such species, any young or egg, or the dead body, shell, or skin thereof from the State; or

(3) Significantly modify or degrade habitat such that it kills or injures indigenous wildlife.

(b) No person shall intentionally, knowingly, recklessly, or negligently remove, damage, or disturb an active nest of any indigenous wildlife, except as provided in section 13-124-3.5.

(c) With respect to indigenous wildlife, no person shall intentionally, knowingly, recklessly, or negligently feed, or attempt to, feed indigenous wildlife, except as provided in section 13-124-3.5.

Reasons for change

Adding new section for indigenous wildlife. These proposed changes increase protections for indigenous wildlife determined by the Department to be “wildlife deemed to be in need of conservation.” Currently, there are no federal protections prohibiting take or significant modification or degradation of habitat that kills or injures indigenous wildlife. The Department interprets State law to extend take and habitat protections to indigenous wildlife to protect their continued survival. Prohibiting feeding of indigenous wildlife protects the health and safety of indigenous wildlife.

Section 13-124-3.2 - Introduced wild birds, prohibited activities.

Current

Currently part of Section 13-124-3.

Proposed

With respect to introduced wild birds, except as authorized in section 13-124-3.5, no person shall or attempt to, intentionally, knowingly, recklessly, or negligently:

(1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof. The prohibitions against the destruction of introduced wild birds shall not apply to those introduced wild birds listed as injurious wildlife; or

(2) Export any such species, any young or egg, or the dead body or skin thereof from the State.

Reasons for change

Adding new section for introduced wild birds. This section would: Add mens rea (intentionally, knowingly, recklessly, or negligently) to prohibited actions against introduced wild birds and introduced wildlife at request of DOCARE following Section 702.204, HRS; and provide exceptions to prohibited actions by permit or within the scope of the duties of an employee of the Department or United States Fish and Wildlife Service.

Section 13-124-3.3 - Injurious wildlife, prohibited activities.

Current

Currently part of Section 13-124-3.

Proposed

With respect to injurious wildlife, except as authorized in section 13-124-3.5, no person shall, or attempt to, intentionally, knowingly, recklessly, or negligently:

- (1) Release any such species into the wild;
- (2) Transport any such species within the State;
- (3) Export any such species, or the dead body or parts thereof, from the State; or
- (4) Distribute or sell plants, equipment, or other goods within the State with such species present.

Reasons for change

Add new section for injurious wildlife. These proposed changes increase protections for indigenous, threatened, and endangered wildlife and their habitats by addressing a vector for moving injurious wildlife into the wild.

Section 13-124-3.4 - Introduced wildlife, prohibited activities.

Current

Currently part of Section 13-124-3.

Proposed

With respect to introduced wildlife, except as authorized in section 13-124-3.5, no person shall, or attempt to, intentionally, knowingly, recklessly, or negligently release introduced wildlife.

Reasons for change

Add new section for introduced wildlife. This new section would add mens rea (intentionally, knowingly, recklessly, or negligently) to prohibited actions against introduced wild birds and introduced wildlife at request of DOCARE following Section 702.204, HRS.

Section 13-124-3.5 - Exceptions, prohibited activities.

Current

Currently part of Section 13-124-3.

Proposed

The prohibited activities in sections 13-124-3.1, 3.2, 3.3, and 3.4 do not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and biosecurity and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative.

Reason for change

Add new section for exceptions to Sections 13-124-3.1, 3.2, 3.3, and 3.4. Exceptions to prohibited actions remain the same as current rule in Section 13-124-3.

Section 13-124-3.6 - Prohibited activities on department lands.

Current

No current rule.

Proposed

- (a) No person shall intentionally, knowingly, recklessly, or negligently feed any wildlife or domestic animal on department lands, except where a domestic animal is crated, caged, contained, or leashed according to subsection (c).
- (b) No person shall intentionally, knowingly, recklessly, or negligently introduce, place, abandon, or leave any wildlife, domestic animal, plant, or aquatic life on department lands.
- (c) Domestic animals are not permitted on department lands, unless crated, caged, contained, or leashed. Any domestic animal or wildlife found running at large on department lands may be impounded or destroyed. This section shall not apply to dogs when authorized by the hunting rules of the department or service animals accompanying their handlers.
- (d) No person shall intentionally, knowingly, recklessly, or negligently ride horses on department lands, except in areas designated for this purpose by the board or its authorized representative by other rules of the department.
- (e) The board may issue permits for activities otherwise prohibited in this section.

Reason for change

Add new section for prohibited action on department lands. These proposed changes help create safe areas for indigenous, threatened, and endangered wildlife to thrive. Feeding and abandoning of wildlife and domestic animals pose health and safety issues for indigenous, threatened, and endangered wildlife affecting their continued survival. Department lands are managed for purposes of protecting the unique natural environment of Hawai'i including indigenous, threatened, and endangered wildlife living on these lands. The provision does not apply to lands leased by the Department.

Section 13-124-6 - Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals.

Current

Permits may be issued by the board or its authorized representative to qualified persons who apply in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of the animals.

Proposed

Permits may be issued by the board or its authorized representative to qualified persons who apply in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of ~~the~~ these animals.

Reason for change

Revising with non-substantive changes.

Section 13-124-7 - Crop damage, nuisance, and threat to human health and safety permits.

Current

(a) Provided that no such permit shall be required on private land for game mammals when otherwise in compliance with chapter 123 the board or its authorized representative may issue permits to destroy or otherwise control game birds, game mammals, introduced wildlife, or introduced wild birds causing substantial damage to agricultural or aquacultural crops, indigenous plants, or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
- (2) Permits shall state the species and may specify the number to be destroyed and the method of control to be used. The permit may include other terms and conditions as may seem proper and applicable;
- (3) Permits for restricted use pesticides may be issued only after an integrated animal damage control plan has been submitted to and approved by an authorized agent of the department; or
- (4) When species of introduced wildlife are found to be generally harmful or destructive to agriculture or aquaculture, native plants, or wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports.

- (b) The board or its authorized representative may issue permits to destroy or otherwise control indigenous wildlife, other than threatened and endangered species, causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or posing a threat to human health and safety under the following conditions:
- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
 - (2) Permits shall state the species to be destroyed or taken; the method of control to be used; the maximum number of individuals of each species to be destroyed or taken; and the disposition of individuals destroyed or taken. The permit shall include other terms and conditions as may seem proper and applicable; and
 - (3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze or non-lethally deter the pest animals have been attempted and proved ineffective.
- (c) Permittees shall submit monthly summary reports to the department, on forms provided or facsimiles that include:
- (1) The common name of the target and nontarget wildlife taken;
 - (2) The number of each wildlife species;
 - (3) The disposition of the wildlife; and
 - (4) Any other information required by the permit.
- (d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.
- (e) No permit shall be issued or used for the destruction of any endangered or threatened species of wildlife.
- (f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be attached to the permit.
- (g) No permit is required merely to scare or herd depredating wildlife other than endangered or threatened species of wildlife.

Proposed

- (a) ~~[Provided that no such permit shall be required on private land for game mammals when otherwise in compliance with chapter 123 the]~~ The board or its authorized representative may issue permits to destroy or [otherwise control] take game birds, game mammals, introduced wildlife, or introduced wild birds [causing substantial damage] causing damage or nuisance to agricultural or aquacultural crops, [indigenous] native plants, or indigenous wildlife, or pose a threat to human health and safety under the following conditions[-], provided that no such permit shall be required on private land for game mammals when otherwise in compliance with applicable federal, state, and county laws:
- (1) An authorized agent of the department has investigated the complaint and is satisfied that ~~[substantial damage]~~ damage or nuisance has occurred or is likely to occur;
 - (2) Permits shall state the species destroyed or taken and method of control and may specify the number of individuals of each species to be destroyed ~~[and the method of control to be used]~~. The permit may include other terms and conditions as may seem proper and applicable;

(3) ~~[Permits for restricted use pesticides may be issued only after an]~~ For the use of restricted-use pesticides and general use pesticides to destroy or take game birds, game mammals, introduced wildlife, or introduced wild birds, the department may require an integrated animal damage control plan ~~[has been]~~ be submitted to and approved by an authorized agent of the department; ~~[or]~~ and

(4) When species of introduced wildlife are found to be generally ~~[harmful or]~~ destructive or otherwise harmful to agriculture or aquaculture, native plants, or indigenous wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of ~~[the]~~ such species in any area for a specified ~~[time]~~ period without requiring permits or reports.

(b) The board or its authorized representative may issue permits to destroy or otherwise control indigenous wildlife, other than threatened and endangered ~~[species]~~ wildlife, causing ~~[substantial damage]~~ damage or nuisance to agricultural or aquacultural crops, indigenous plants or wildlife, or posing a threat to human health and safety under the following conditions:

(1) An authorized agent of the department has investigated the complaint and is satisfied that ~~[substantial damage]~~ damage or nuisance has occurred or is likely to occur;

(2) Permits shall state the species to be destroyed or taken~~[:];~~, the method of control to be used~~[:];~~, the maximum number of individuals of each species to be destroyed or taken~~[:];~~, and the disposition of individuals destroyed or taken. The permit shall include other terms and conditions as may seem proper and applicable; and

(3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze or non-lethally deter ~~[the pest animals]~~ such species have been attempted and proved ineffective.

(c) Permittees shall submit monthly summary reports to the department, unless exempted under section 13-124-7(a)(4), on forms provided or facsimiles that include:

(1) The common name of the target and nontarget wildlife taken;

(2) The number of each wildlife species;

(3) The disposition of the wildlife; and

(4) Any other information required by the permit.

(d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.

(e) No permit issued pursuant to this section shall be issued or used ~~[for the destruction of]~~ to destroy any endangered or threatened ~~[species of]~~ wildlife.

(f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be attached to the permit.

(g) No permit is required merely to ~~[scare]~~ haze or herd depredating wildlife other than endangered or threatened ~~[species of]~~ wildlife.

(h) This section does not replace rules of the board for destroying or controlling aquatic life.

Reasons for change

Proposed revisions would: Change the standard for issuing a permit from “substantial damage” to “damage or nuisance” to match authority in HRS §183D-61; clarify sections on permit description and need for integrated animal damage control plan when using

restricted use and general use pesticides to control wildlife under such permit; and ensure this section does not apply to aquatic life.

Section 13-124-8 - Penalty.

Current

(a) Any person violating any part of this subchapter shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

(1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;

(2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State; and

(3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS section 183D-10.5.

(d) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative costs of the department or payment for damages or for the cost to correct damages resulting from a violation of HRS subtitle 4 of title 12 or any rule adopted thereunder. The administrative fines shall be as follows:

(1) For a first violation, by a fine of not more than \$10,000;

(2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and

(3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of [wildlife] indigenous wildlife or introduced wild bird, except those introduced wild birds listed as injurious wildlife in Exhibit 5 of this chapter, taken, killed, injured, or damaged in violation of HRS subtitle 4 of title 12 or any rule adopted thereunder.

(f) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 HRS section 199-7 and chapter 712A.

Proposed

Remove section.

Reasons for change

Remove section and add new penalty section.

Section 13-124-8.1 - Penalty.

Current

Replacing Section 13-124-8.

Proposed

(a) Any person who violates any provision of this subchapter or any condition or provision of a permit issued pursuant thereto may be subject to administrative, civil, and criminal penalties, pursuant to sections 195D-9 or 183D-5 and 183D-12, HRS, and as otherwise may be provided in chapter 183D, HRS.

(b) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.

(c) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 and chapter 712A, HRS.

Reason for change

Revising penalty section to allow for change if the enabling statute is changed.

Section 13-124-11 - Prohibited activities.

Current

(a) With respect to endangered and threatened species of wildlife except as provided in subsection (c) or [as permitted by the department, no person shall or attempt to:

(1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State; or

(2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.

(b) No person shall remove, damage, or disturb the nest of any endangered or threatened species except as provided in subsection (c) or as permitted by the department.

(c) The prohibited activities in this section shall not apply to:

(1) Authorized employees of the department;

(2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or

(3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.

Proposed

Remove section.

Reason for change

Remove section and replace with new section.

Section 13-124-11.1 - Endangered wildlife or threatened wildlife, prohibited activities.

Current

Replacing Section 13-124-11.

Proposed

(a) With respect to endangered or threatened wildlife, no person shall or attempt to intentionally, knowingly, or recklessly:

(1) Take, haze, possess, process, sell, offer for sale, feed, harass, or transport any such species, any young or egg, or the dead body, shell, or skin thereof, within the State;

(2) Export any such species, or any young or egg, shell, or the dead body or parts thereof, from the State; or

(3) Significantly modify or degrade habitat such that it kills or injures such species.

(b) No person shall negligently feed any endangered or threatened wildlife or any young.

(c) No person shall intentionally, knowingly, recklessly, or negligently remove, damage, or disturb the nest of any endangered or threatened wildlife.

(d) The prohibited activities in this section shall not apply to:

(1) Authorized employees of the department;

(2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or

(3) Persons authorized by the board or its authorized representative.

Reasons for change

Add new section for threatened or endangered wildlife. These changes increase protections for threatened and endangered wildlife determined by the Department to be "wildlife deemed to be in need of conservation." The federal government proposed regulations to remove protections prohibiting significant modification or degradation of habitat that kills or injures threatened or endangered wildlife. The Department interprets State law to extend certain habitat protections to threatened or endangered wildlife to protect their continued survival. Prohibiting feeding of threatened and endangered wildlife protects the health and safety of threatened and endangered wildlife.

Section 13-124-13 – Penalty.

Current

(a) Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished as follows:

(1) For a first offense by a fine of not less than \$250 or by imprisonment of not more than one year, or both; and

(2) For a second or subsequent offense within five years of a previous conviction by a fine of not less than \$500 or by imprisonment of not more than one year, or both.

(b) In addition to the above penalties, except for violations under approved habitat conservation plans under section HRS 195D-21 or approved safe harbor agreements under section HRS 195D-22 as determined by the board, a fine of \$5,000 for each specimen of a threatened species and \$10,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS 183D-10.5.

(d) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys' fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter.

The administrative fines shall be as follows:

(1) For a first violation, a fine of not more than \$2,500;

(2) For a second violation within five years of a previous violation, a fine of not more than \$5,000; and

(3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$10,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of [wildlife or plant] threatened or endangered species taken, killed, injured, or damaged in violation of this chapter.

(f) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 HRS section 199-7 and chapter 712A.

Proposed

Remove Section and replace with Section 13-124-13.1.

Reasons for change

Revising penalty section to allow for change if the enabling statute is changed.

Section 13-124-13.1 - Penalty.

Current

Replacing Section 13-124-13.

Proposed

(a) Any person who violates any provision of this subchapter or any condition of provision of a permit issued pursuant thereto may be subject to administrative, civil, and criminal penalties, pursuant to section 195D-9, HRS, and as otherwise may be provided in chapter 195D, HRS.

(b) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

(c) Any equipment, article, instrument, aircraft, vehicle, vessel, 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 HRS section 199-7 and chapter 712A.

Reason for change

Revising penalty section to allow for change if the enabling statute is changed.

Exhibits

Exhibit 1 - List of Species of Indigenous Wildlife in Hawai'i

1. The proposed rules remove indigenous wildlife from Exhibit 1 that are also listed as the endangered wildlife or threatened wildlife (Exhibits 2 and 3, respectively) to avoid confusion in what rule to apply for enforcement.
2. The proposed rules keep extinct forest bird species on the indigenous list.
3. The proposed rules update Hawaiian names using 'Ōlelo Hawai'i.

Exhibit 2 - List of Species of Endangered Wildlife in Hawai'i

1. The proposed rules add the following species to Exhibit 2 because these species are federally-listed as endangered. Exhibit 2 is updated pursuant to authority in Section 195D-4(a), HRS, as follows:
 - a. *Megalagrion xanthomelas*, Orangeblack Hawaiian Damselfly or Pinapinao
 - b. All *Hylaeus* spp., Hawaiian Yellow-faced bees or Nalo meli maoli
 - c. *Caretta caretta*, Loggerhead Sea Turtle
2. Exhibit 2 updates Hawaiian names using 'Ōlelo Hawai'i.
3. Exhibit 2 updates scientific names as necessary.

Exhibit 3 - List of Species of Threatened Wildlife in Hawai'i

1. The proposed rules move *Caretta caretta*, Loggerhead Sea Turtle to Exhibit 2 because it is federally-listed as endangered.
2. The proposed rules add *Mobula birostris*, Giant oceanic manta ray, to Exhibit 3 because this species is federally-listed as threatened.

Exhibit 5 - List of Species of Injurious Wildlife in Hawai'i

Table 1: Adding terrestrial invertebrate species.

| Family, genera, or species | Common name | Reason for adding |
|---|---|---|
| Acalolepta aesthetica | Longhorned beetle | Not currently regulated by the Hawai'i Department of Agriculture and Biosecurity. |
| Anoplophora chinensis | Citrus longhorned beetle | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. ^[1] Wood boring insect that kills trees directly or indirectly by allowing other pests to infect or inhabit tree. This species attacks a wide range of trees in more than 25 different families and over 40 different genera. Damaging to agriculture and broadleaved native trees. |
| Anoplophora glabripennis | Asian longhorned beetle | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. |
| All subspecies of Apis mellifera | Any subspecies of European honey bees not known to occur in Hawai'i | Subspecies of Apis mellifera are a threat to natural resources and human health in Hawai'i. <i>Apis mellifera scutellata</i> on Hawai'i Prevention Priority List. |
| Arcte coerula | Ramie moth | Not currently regulated by the Hawai'i Department of Agriculture and Biosecurity. |
| [Helix aspersa] <u>Cornu aspersum</u> | Snail, [European] <u>brown garden</u> | Already listed. Scientific name updated. |
| [Euglandina rosea] <u>All species in the genus Euglandia</u> | [Snail,] <u>Snails,</u> Cannibal | They are widespread and cannot be separated readily without DNA analysis. We should keep them listed because we do not want anyone releasing them into native ecosystems |
| All species in the family Formicidae | All ants | Adding entire family. |
| Haplaxius crudus | American palm cixid | Not currently found in Hawai'i, potential threat to natural resources |

| | | |
|---------------------------------------|----------------------------|--|
| Lycorma delicatula | Spotted lanternfly | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. Feeds on a wide variety of host plants (recorded to utilize over 103 plant species across 33 families) including fruit and ornamental trees, native trees (in North America) and other cultivated crops. This pest could be harmful to agriculture and native plants. |
| Lymantria dispar (and all subspecies) | Spongy moths | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. Insect pest of hundreds of tree and shrub species and is listed among IUCN's world's 100 worst invasive alien species. It poses a threat to agriculture, horticulture, and native plant species. |
| Popillia japonica | Japanese beetle | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. Highly invasive pest that voraciously feeds on more than 300 plants. The adult beetles damage plants by skeletonizing the foliage. Adults also feed on plant buds, flowers and fruit. Japanese beetle larvae, also called grubs, burrow underground and feed on roots. They are primarily found feeding on grass roots or in the soil near host plants. Damaging to agriculture, horticulture, and native plants. |
| Rhynchophorus ferrugineus | Red palm weevil | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. Pest of certain palms. Larval stage feed on meristematic tissue which, when severe enough, can kill palms. It is considered to be one of the most important palm pests in the world. |
| Rhynchophorus palmarum | South American palm weevil | Not currently found in Hawai'i. On Hawai'i Prevention Priority List. Notorious palm pest recorded to attack various palms and sugar cane. Adults will also feed on ripe tropical fruits, making this a pest of agriculture, horticulture, and potentially native palms. Adults can spread a plant pathogenic nematode, <i>Bursaphelenchus cocophilus</i> , commonly known as red ring nematode |

| | | |
|---|---------------------------|---|
| | | (RRN), the causative agent of red ring disease in palms. |
| All species in the genera <i>Vespa</i> and <i>Vespula</i> | Hornets and yellowjackets | There are no native species in these genera in Hawai'i and are a threat to natural resources as a group and public health. On Hawai'i Prevention Priority List. |

Table 2: Removing terrestrial invertebrate species.

| Family, genera, or species | Common name | Reason for removing |
|-----------------------------------|-----------------------|--|
| <i>Achatina fulica</i> | Snail, Giant African | Widespread. |
| <i>Aethina tumida</i> | Small hive beetle | Pest to honey bees, not a threat to natural resources. |
| <i>Darna pallivitta</i> | Nettle caterpillar | Minimal impact on natural resources; successfully controlled through biological methods. |
| <i>Hypothenemus hampei</i> | Coffee berry borer | widespread on all major islands, not a threat to natural resources. |
| <i>Solenopsis invicta</i> | Red imported fire ant | Remove species because propose to add the entire family Formicidae. |
| <i>Wasmannia auropunctata</i> | Little fire ant | Remove species because propose to add the entire family Formicidae. |
| <i>Varroa destructor</i> | Varroa mite | Widespread. |

^[1] Hawaii Invasive Species Council and Coordinating Group on Alien Pest Species. 2022. [Hawai'i Prevention Priority List](https://dlnr.hawaii.gov/hisc/files/2024/09/Hawai%E2%80%98i-Prevention-Priority-Species-List-APRIL-2024.pdf). *HISC & CGAPS 2025 Joint Strategy: In Support of the Hawai'i Interagency Biosecurity Plan*. <https://dlnr.hawaii.gov/hisc/files/2024/09/Hawai%E2%80%98i-Prevention-Priority-Species-List-APRIL-2024.pdf>