

OFFICE OF THE GOVERNOR
STATE OF HAWAII

PROCLAMATION

By the authority vested in me by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

WHEREAS, Hawai'i, including the County of Maui (Maui County), has suffered under drought conditions since March, 2019;

WHEREAS, rainfall, stream flow, and ground water levels in Maui County, specifically on the islands of Maui, Molokai, and Lanai, have been and continue to be significantly below normal; and

WHEREAS, current forecasts indicate that drought conditions are likely to persist or intensify for Maui County; and

WHEREAS, in March 2020, the Secretary of the U.S. Department of Agriculture designated Maui County as a primary natural disaster area due to drought conditions. Since that designation, drought conditions have not changed, so Maui County continues as a designated primary natural disaster area; and

WHEREAS, due to these persistent drought conditions, ranches and farms operating in Maui County have reported loss of pasture forage for cattle, death of cattle, destruction of farms, and reduced crop yields, which have resulted in significant economic losses; and

WHEREAS, axis deer have propagated to numbers that cannot currently be sustained by the environment in Maui County; and

WHEREAS, the axis deer population in Maui County has not been sufficiently reduced through hunting efforts alone; and

WHEREAS, the large number of axis deer in Maui County have devastated pasture forage and most vegetation already scarce due to drought conditions; and

WHEREAS, the devastation of vegetation has forced wildlife, in particular axis

deer in Maui County, to migrate into agricultural and developed areas seeking food and water, which has resulted in the destruction of individual farms and has contributed to industry crop loss; and

WHEREAS, the increased numbers of axis deer foraging in urbanized areas and along roadways in Maui County have caused a number of traffic accidents that have resulted in injury and death to motorists; and

WHEREAS, the numbers and habitat patterns of axis deer on the island of Maui have driven the deer into the town of Kahului, where they are foraging around the fence line of the Kahului Airport, thereby potentially creating an unsafe condition for aircraft landing and taking off should the deer access the airport property and travel onto an active runway; and

WHEREAS, the combination of significantly increased wildlife numbers and severe reduction in food and water have led to the death of hundreds of axis deer due to starvation; and

WHEREAS, the axis deer are dying at such high rates that the deer carcasses cannot be disposed of in a timely manner; and

WHEREAS, the large number of unattended rotting axis deer carcasses on the island of Molokai has created a rotting flesh stench that is affecting air quality and the decomposing carcasses threaten to leach into the ocean from streams and runoff that could potentially contaminate the water and ocean reefs; and

WHEREAS, state and county officials, land owners, and the community have attempted to address the large number of unattended axis deer carcasses on Molokai through mass burials but have been unable to keep up with the rate at which the deer are dying; and

WHEREAS, immediate measures to appreciably reduce and control axis deer populations in Maui County through the culling of unhealthy axis deer to sustainable levels and to remove and dispose of carcasses in an expeditious manner are needed to protect the health and welfare of the community; and

WHEREAS, the current threat to the health, safety, and welfare of the people of Maui County caused from the axis deer overpopulation constitutes an emergency under section 127A-14, Hawaii Revised Statutes, and warrants preemptive and protective actions; and

NOW, THEREFORE, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby authorize and invoke the following emergency provisions if not already in effect upon this declaration of an emergency:

I. Invocation of Laws

Section 127A-12(b)(13), Hawaii Revised Statutes, requiring each public utility, or any person owning, controlling, or operating a critical infrastructure, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof, and provide for the protection and safeguarding of all critical infrastructure and key resources; provided that without prejudice to the generality of the foregoing two clauses, the protecting or safeguarding may include the regulation or prohibition of public entry thereon, or the permission of the entry upon terms and conditions as I may prescribe.

Section 127A-12(b)(16), HRS, directing all state agencies and officers to cooperate and extend their services, materials, and facilities as may be required to assist in emergency response efforts.

Section 127A-16, Hawaii Revised Statutes, by activating the Major Disaster Fund.

II. Deer Control

Pursuant to sections 127A-12 and 127A-13, Hawaii Revised Statutes, the county and state agencies are to provide emergency relief and engage in emergency management functions as defined in section 127A-2, Hawaii Revised Statutes, to enable the removal and disposal of axis deer carcasses, create buffers to keep the deer away from roadways, take action to immediately cull unhealthy axis deer, and reduce the herds of axis deer to sustainable numbers, so as to provide protection and relief from damages, losses, and suffering caused by the emergency.

III. Suspension of Laws

The following specific provisions of law are suspended, as allowed by federal law, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel:

Chapter 6E, Hawaii Revised Statutes, **historic preservation.**

Section 37-41, Hawaii Revised Statutes, **appropriations to revert to state treasury; exceptions.**

Section 37-74(d), Hawaii Revised Statutes, **program execution**, except for subsections 37-74(d)(2) and 37-74(d)(3), Hawaii Revised Statutes, and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements.

Section 40-66, Hawaii Revised Statutes, **lapsing of appropriations.**

Chapter 46, Hawaii Revised Statutes, **county organization and administration**, as any county ordinance, rule, regulation, law, or provision in any form applies to any county permitting, licensing, zoning, variance, processes, procedures, fees, or any other requirements that hinder, delay, or impede efforts to safely remove carcasses or cull axis deer under this Proclamation. These would include but not be limited to chapter 20.08, Maui County Code, **soil erosion and sedimentation control** and chapter 12-302, Rules for the Molokai Planning Commission, **special management area rules.**

Chapter 89, Hawaii Revised Statutes, **collective bargaining in public employment.**

Chapter 89C, Hawaii Revised Statutes, **public officers and employees excluded from collective bargaining.**

Section 103-2, Hawaii Revised Statutes, **general fund.**

Section 103-53, Hawaii Revised Statutes, **contracts with the State or counties; tax clearances, assignments.**

Section 103-55, Hawaii Revised Statutes, **wages, hours, and working conditions of employees of contractors performing services.**

Chapter 103D, Hawaii Revised Statutes, **hawaii public procurement code.**

Chapter 104, Hawaii Revised Statutes, **wages and hours of employees on public works.**

Sections 105-1 to 105-10, Hawaii Revised Statutes, **use of government vehicles, limitations.**

Chapter 205A, Part II, Hawaii Revised Statutes, **coastal zone management.**

Chapter 322, Hawaii Revised Statutes, **nuisances; sanitary regulations,** and chapter 11-26, **vector control,** Hawaii Administrative Rules.

Chapter 342D, Hawaii Revised Statutes, **water pollution,** and chapters 11-54, **water quality standards,** and 11-55, **water pollution control,** Hawaii Administrative Rules.

Chapter 342H, Hawaii Revised Statutes, **solid waste pollution,** and chapter 11-58.1, Hawaii Administrative Rules, **solid waste management control.**

Chapter 343, Hawaii Revised Statutes, **environmental impact statements,** and chapter 11-200.1, Hawaii Administrative Rules, **environmental impact statement rules.**

IV. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

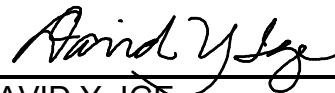
V. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the

Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that the disaster emergency relief period shall commence immediately and continue through March 28, 2021, unless terminated or superseded by separate proclamation, whichever shall occur first.

Done at the State Capitol, this
27th day of January, 2021.



DAVID Y. IGE,
Governor of Hawai'i

APPROVED:



Clare E. Connors
Attorney General
State of Hawai'i