

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**SUPPLEMENTAL PROCLAMATION  
RELATED TO THE AXIS DEER**

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**, pursuant to Chapter 127A, Hawaii Revised Statutes (HRS), emergency powers are conferred on the Governor of the State of Hawai'i to respond to disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare; and

**WHEREAS**, on November 9, 2021, I issued my Proclamation declaring an emergency as a result of emergency conditions created by the overpopulation of axis deer in Maui County; and

**WHEREAS**, emergency weather conditions, as well as unexpected delays with obtaining and shipping critical mitigation materials continue to impact negatively and delay performing work to implement deer management strategies including actions to prevent the axis deer from encroaching onto Kahului Airport property including active runways and current axis deer numbers remain at levels that cannot be sustained by the environment in Maui County; and

**NOW, THEREFORE**, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, continues in the County of Maui, State of Hawai'i, and hereby incorporate the provisions of my Proclamation of November 9, 2021, which shall remain in full force and effect and are included in the provisions of this proclamation unless amended herein, to the extent necessary for those engaged in emergency management functions to enable implementation of deer management strategies, including, but not limited to, creating buffers and to erect, reinforce, or repair fence lines to keep the deer away from roadways, airports, and runways, taking action immediately to cull axis deer, and reducing the herds of axis deer to sustainable numbers, so as to provide protection and

relief from damages, losses, and suffering caused by the emergency, and authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

**I. Suspension of Laws**

The following specific provisions of law are suspended, as allowed by federal law, pursuant to sections 127A-12(b)(8) and 127A-13(a)(3), HRS, 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 to the extent necessary for county and state agencies to implement deer management strategies contemplated herein:

Chapter 6E, HRS, **historic preservation**, to the extent that compliance requires additional time detrimental to the expeditious and efficient execution of emergency repairs or work.

Section 37-41, HRS, **appropriations to revert to state treasury; exceptions**, to the extent that appropriations lapse at the end of the fiscal year prior to completion of the emergency repairs or work.

Section 37-74(d), HRS, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), HRS, 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, to the extent that legislative authorization would likely delay appropriation transfers or changes between programs to provide necessary funding to complete the emergency repairs or work.

Section 40-66, HRS, **lapsing of appropriations**, to the extent that the timing of the procurement of the construction of the emergency permanent repairs may occur the fiscal year following the original emergency proclamation.

Chapter 46, HRS, **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 implement deer management

strategies, including, but not limited to clearing vegetation from fence lines to create a buffer against the axis deer under this Proclamation, to the extent that compliance results in any delays involved in securing County permits. These would include but are not limited to chapter 20.08, Maui County Code, **soil erosion and sedimentation control**, chapter 12-302, Rules for the Molokai Planning Commission, **special management area rules**, and chapter 12-202, Rules of the Maui Planning Commission, **special management area rules**.

Chapter 89, HRS, **collective bargaining in public employment**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency work.

Chapter 89C, HRS, **public officers and employees excluded from collective bargaining**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency work.

Section 103-2, HRS, **general fund**, to the extent that compliance results in any additional delays.

Section 103-53, HRS, **contracts with the State or counties; tax clearances, assignments**, only to the extent necessary to waive the Internal Revenue Service tax clearance requirement.

Section 103-55, HRS, **wages, hours, and working conditions of employees of contractors performing services**, to the extent that compliance results in any additional delays.

Chapter 103D, HRS, **Hawaii public procurement code**, to the extent that compliance results in any additional delays involved in meeting procurement requirements for selecting contractors in a timely manner to respond to emergency situations or perform emergency work.

Chapter 104, HRS, **wages and hours of employees on public works**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency work.

Sections 105-1 to 105-10, HRS, **use of government vehicles, limitations**, to the extent that compliance with this chapter requires additional time detrimental to the expeditious and efficient execution of emergency work.

Section 127A-30, HRS, **rental or sale of essential commodities during a state of emergency; prohibition against price increases**, for the reason that the automatic invocation of this provision during an emergency is not needed for this emergency.

Chapter 183D, HRS, **wildlife**, and chapter 13-124, Hawaii Administrative Rules (HAR), **indigenous wildlife, endangered and threatened wildlife and introduced wild birds**, to the extent that compliance results in any delays involved in implementation of axis deer management activities or requires additional time detrimental to the expeditious and efficient execution of emergency work.

Chapter 205A, Part II, HRS, **coastal zone management**, to the extent that compliance results in any additional delays involved with securing approvals from the counties or the Department of Land and Natural Resources for work within the special management area.

Chapter 343, HRS, **environmental impact statements**, and chapter 11-200.1, HAR, **environmental impact statement rules**, to the extent that compliance results in any additional delays involved with the environmental review process.

#### **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 continue through March 7, 2022, unless terminated or superseded by separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of the proclamations relating to this emergency shall continue in full force and effect.

Done in Honolulu, Hawai'i, this  
6<sup>th</sup> day of January, 2022.



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DAVID Y. IGE,  
Governor of Hawai'i

APPROVED:



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HOLLY T. SHIKADA  
Attorney General  
State of Hawai'i