

HAWAII ADMINISTRATIVE RULES
 TITLE 4 DEPARTMENT OF AGRICULTURE
 SUBTITLE 6 DIVISION OF PLANT INDUSTRY
 CHAPTER 68
 NOXIOUS WEED RULES

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Historical Note: This chapter is based substantially upon Regulation NW 10 entitled "Noxious Weeds", division of plant industry, of the department of agriculture. [Eff 2/28/51, am 1/27/56, am 12/19/57, am 7/25/58, am 8/18/58, am 9/21/58, am 6/29/59, am 11/30/59, am 5/30/78, R 7/13/81]

§4-68-1 Objectives. The objectives of this chapter are to implement the requirements of chapter

152, Hawaii Revised Statutes, and to establish criteria for designation, control, or eradication of noxious weeds. [Eff 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-3, 152-4, 152-5, 152-6)

§4-68-2 Definitions. As used in this part:
"Board" means the board of agriculture;
"Chairman" means the chairman of the board of agriculture;
"Cooperative agreement" means an agreement between the department and the landowner and land occupier for the control or eradication of a noxious weed infestation;
"Head" means the head of the division of plant industry, department of agriculture; and
"Land occupier" means a person who occupies, resides on, or utilizes land or real estate of a landowner. [Eff 7/13/81; am and comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §152-2)

§4-68-3 Criteria for the designation of noxious weeds for eradication or control projects by the department. Each plant species designated as a noxious weed for eradication and control projects by the department, shall meet all of the criteria in §4-68-4 through §4-68-8. [Eff 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-4)

§4-68-4 Designation; criteria based on plant reproduction. Reproductive characteristics of noxious weeds are:

- (1) A plant species that reproduces by seeds capable of being dispersed over wide areas; or
- (2) A plant species that reproduces by seeds capable of remaining dormant for two years or more; or
- (3) A plant species that reproduces by tubers, creeping roots, stolons, rhizomes, or other natural vegetative means. [Eff 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-4)

§4-68-5 Criteria based on growth characteristics. Growth characteristics of noxious weeds are:

- (1) A plant species that is capable of competing with cultivated crops for nutrients, water or sunlight; or
- (2) A plant species that becomes established and forms dense stands in pasture lands, forests, lawns, landscape gardens, and recreational areas and conservation districts and is capable of shading and crowding out forage plants, native plants, and other desirable plants. [Eff: 7/13/81; am and comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-4)

§4-68-6 Criteria based on detrimental effects. Detrimental effects of noxious weeds are:

- (1) A plant species that is causing or has the potential of causing severe production losses or increased control costs to the agricultural, horticultural, aquacultural, or livestock industries; or
- (2) A plant species that is or has the potential of endangering native flora and fauna by encroachment in forest and conservation areas; or
- (3) A plant species that is or has the potential of hampering the full utilization and enjoyment of recreational areas including forest and conservation areas; or
- (4) A plant species that is poisonous, injurious, or otherwise harmful to humans or animals. [Eff: 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-4)

§4-68-7 Criteria based on control. Control criteria of noxious weeds include:

- (1) A plant species that is not effectively controlled by present day technology or by available herbicides currently registered for use pursuant to chapter 149A, Hawaii Revised Statutes; or
- (2) A plant species that is effectively controlled only by extraordinary efforts such as repeated herbicidal applications at

- high dosage rates; or
- (3) A plant species that is effectively controlled only by additional effort over and beyond the normal weed maintenance effort required for the production or management of certain crops and pasture lands, recreational areas, forest lands, or conservation areas. [Eff 7/13/81; comp **AUG 22 1992**] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-6)

§4-68-8 Criteria based on distribution and spread. Distribution and spread criteria of noxious weeds are:

- (1) A plant species that is not known to occur in one or more islands of the State or
- (2) A plant species that is known to occur only in incipient stages on less than five acres on one or more islands of the State; or
- (3) A plant species that is known to occur on more than five acres but only in isolated or limited areas on one or more islands of the State. [Eff 7/13/81; comp **AUG 22 1992**] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-5)

§4-68-9 Criteria for the designation of noxious weeds for control projects by lessees as provided in pasture lease agreement of State lands. Each plant species designated as a noxious weed for control projects by lessees as provided in a pasture lease agreement of State lands shall meet the criteria of §4-68-3. [Eff 7/13/81; am and comp **AUG 22 1992**] (Auth: HRS §152-2) (Imp: HRS §§152-4, 152-6)

§4-68-10 Procedure for the designation of noxious weeds. (a) The head shall direct a continuous program of study and evaluation of potential noxious weed species.

(b) Study and evaluation of a specific plant species may be initiated by the head or upon request by other governmental agencies or private organizations.

(c) When sufficient data have been accumulated on a plant species, the head may submit to the board a request for designation of the plant species as a

noxious weed, pursuant to rule adoption.

(d) The plant species shall meet the criteria for designation as a noxious weed as provided in §4-68-3.

(e) The list of plant species designated as noxious weeds, adopted by the board on June 18, 1992, and located at the end of this chapter is made a part of this section.

(f) A plant species shall be designated as a noxious weed for an eradication or control project by the department or for a control project by lessees as provided in State pasture lease agreements upon approval by the board.

(g) When the head determines that a plant species officially designated as a noxious weed no longer meets the criteria for the designation of noxious weed, the head may submit to the board a request for approval to rescind the official designation for that plant species, pursuant to rule adoption. The request shall include a report with reasons to justify the re-designation.

(h) The official designation of a plant species as a noxious weed shall be rescinded upon approval by the board. [Eff 7/13/81; am and comp AUG 22 1992]
(Auth: HRS §152-2) (Imp: HRS §§152-2, 152-4)

§4-68-11 Designation of an area declared free or relatively free of a specific noxious weed. (a) The head may recommend to the board the designation of a certain locality, an island, a group of islands, or the entire State as being free or relatively free of a specific noxious weed when the head determines that:

- (1) Infestation of the specific noxious weed is not known to occur in the area being considered; or
- (2) Infestation of the specific noxious weed is known to occur in the area being considered only in an incipient stage that could be easily eradicated.

(b) The head may defer the recommendation for the designation of an area declared free or relatively free of a specific noxious weed pursuant to §4-68-11(a) when it is determined that:

- (1) The specific noxious weed is commercially cultivated as a crop for food, feed, or ornamental purposes, and
- (2) The likelihood of the specific noxious weed manifesting its detrimental effects in the

specific area would be remote or nil because of geographic barriers or ecological conditions.

(c) A locality, an island, a group of islands or the entire State shall be designated relatively free of a specific noxious weed upon a proposal of the board. [Eff 7/13/81; am and comp AUG 22 1992]
(Auth: HRS §152-2) (Imp: HRS §152-5)

§4-68-12 Forms of cooperative agreements. There shall be four forms of cooperative agreements as set forth in §4-68-13 to §4-68-16, for the purpose of initiating noxious weed control or eradication projects. [Eff 7/13/81; comp AUG 22 1992]
(Auth: HRS §152-2) (Imp: HRS §152-6)

§4-68-13 Form A cooperative agreement. This agreement shall include but not be limited to the following provisions:

- (1) The department shall provide necessary chemical herbicides, oil carriers, and surfactants;
- (2) The department shall provide consultative, instructional, and supervisory services and shall coordinate the project;
- (3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area;
- (4) The landowner or land occupier shall provide, for the purpose of herbicidal application, appropriate equipment and adequate personnel at a specified time after being given reasonable notice by the department; and
- (5) If the landowner or land occupier fails to provide the necessary personnel and equipment pursuant to the agreement after being given adequate notice in writing, the department shall provide necessary personnel by contracting other persons or firms and the landowner or land occupier shall be billed for these services by the department. [Eff 7/13/81; am and comp AUG 22 1992] (Auth: HRS §152-2)
Imp: HRS §152-6)

§4-68-14 Form B cooperative agreement. This agreement shall include, but not be limited to, the following provisions:

- (1) The department shall provide appropriate equipment, and adequate personnel for the purpose of herbicidal applications;
- (2) The department shall provide consultative services and shall coordinate the project;
- (3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area;
- (4) The landowner or land occupier shall provide necessary chemical herbicides, oil carriers, and surfactants at a specified date after being given reasonable notice by the department; and
- (5) If the landowner or land occupier fails to provide the necessary chemical herbicides, oil carriers, and surfactants pursuant to the agreement after being given adequate notice in writing, the department shall bill the landowner or land occupier for the cost of the chemical herbicides, oil carriers and surfactants used for the project by the department. [Eff 7/13/81; am and comp
AUG 22 1992] (Auth: HRS §152-2)
 (Imp: HRS §152-6)

§4-68-15 Form C cooperative agreement. This agreement shall include, but not be limited to, the following provisions:

- (1) The department and the landowner or land occupier shall jointly provide on a cost-sharing or pro-rata basis, necessary chemical herbicides, oil carriers, surfactants, equipment, and personnel for the project;
- (2) The department shall provide consultative services and shall coordinate the project;
- (3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area; and
- (4) If the landowner or land occupier fails to provide a share of any of the items mutually agreed upon pursuant to the agreement after being given adequate notice in writing, the department shall bill the landowner or land occupier for the actual costs of the items.

[Eff 7/13/81; comp AUG 22 1992] (Auth:
HRS §152-2) (Imp: HRS §152-6)

§4-68-1 Form D cooperative agreement. This agreement shall include, but not be limited to, the following provisions:

- (1) The department shall provide necessary chemical herbicides, oil carriers, surfactants, equipment and personnel for the project;
- (2) The department shall provide consultative services and shall coordinate the project; and
- (3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area. [Eff 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §152-6)

§4-68-17 Procedures for initiating a cooperative agreement. (a) For a cooperative noxious weed control or eradication project, the department shall initiate either a form A, form B, or form C cooperative agreement provided, however, that the department may initiate a form D cooperative agreement with a landowner or land occupier who shall not benefit materially or financially by the noxious weed control or eradication project.

(b) A form D cooperative agreement may also be initiated when authorized and funded by specific legislation.

(c) The agreement shall take effect after both parties mutually agree to abide by the provisions of the agreement and after indicating their mutual agreement by the signature of the chairman and the landowner or land occupier authorized by the landowner. [Eff 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-6)

§4-68-18 Eradication project. A noxious weed eradication project shall be limited to incipient noxious weed infestations located on an island or portion of an island designated by the department as relatively free of that species. A project shall be initiated by cooperative agreement. [Eff 7/13/81; comp AUG 22 1992] (Auth: HRS §152-2) (Imp: HRS §§152-2, 152-6)

§4-68-19 Control project. (a) Noxious weed control projects may be initiated upon widespread established noxious weed infestations and shall be limited to infestations on land used for or zoned for agriculture, horticulture, aquaculture, livestock production, forestry, recreational areas, or conservation districts and to the periphery of the land.

(b) Control projects shall be initiated by cooperative agreement only after the department receives written assurance that the landowner or land occupier shall maintain, for a period of not less than five years, the level of noxious weed control attained at the termination of the project.

(c) The control project shall be terminated upon determination by the head that the noxious weed infestation has been brought under control, or may be terminated with good cause upon mutual agreement by both parties. [Eff 7/13/81; comp AUG 22 1992]
(Auth: HRS §152-2) (Imp: HRS §§152-2, 152-6)

List of Plant Species Designated as
Noxious Weeds for Eradication or
Control Purposes by the Hawaii
Department of Agriculture

June 18, 1992

<u>Scientific Name</u>	<u>Common Name</u>	<u>Islands Free or Relatively Free</u>
<u>Acacia mearnsii</u>	black wattle	Molokai
<u>Acaena novae-zelandiae</u>	New Zealand bur, piripiri	All islands
<u>Acroptilon repens</u>	Russian knapweed	All islands
<u>Aeschynomene indica</u>	Kat sola, Indian jointvetch	All islands
<u>Ageratina adenophora</u>	croftonweed Maui pamakani	Hawaii, Kauai
<u>Ageratina riparia</u>	creeping croftonweed, Hamakua pamakani	Kauai
<u>Allium vineale</u>	wild garlic	All islands
<u>Andropogon bicornis</u>	West Indian foxtail	Maui, Lanai, Molokai, Oahu, Kauai
<u>Andropogon virginicus</u>	broomsedge	Molokai, Lanai Oahu, Kauai
<u>Anredera cordifolia</u>	Madeira vine	Maui
<u>Ardisia elliptica</u>	shoebuttan ardisia	Maui, Molokai, Lanai, Oahu, Kauai
<u>Bocconia frutescens</u>	plume poppy	All islands
<u>Cardaria pubescens</u>	hairy whitetop	All islands

<u>Scientific Name</u>	<u>Common Name</u>	<u>Islands Free or Relatively Free</u>
<u>Cereus uruguayanus</u>	spiny tree cactus, Peruvian apple	All islands ^{Maui}
<u>Chromolaena odorata</u>	siamweed, bitterbush	All islands
<u>Cirsium arvense</u>	Canada thistle	All islands
<u>Clidemia hirta</u> var. <u>hirta</u>	Koster's curse, curse	Kauai, Lanai
<u>Coccinia grandis</u>	ivy gourd	Hawaii, Maui Molokai, Lanai, Kauai
<u>Convolvulus arvensis</u>	field bindweed	All islands
<u>Cortaderia jubata</u>		All islands
<u>Cymbopogon refractus</u>	barbwire grass	Lanai, Oahu
<u>Cyperus esculentus</u>	yellow nutsedge	Maui, Oahu, Lanai, Kauai, Molokai
<u>Cytisus monspessulanus</u>	French broom	All islands
<u>Cytisus scoparius</u>	Scotch broom	All islands
<u>Dichrostachys nutans</u>	marabu	All islands
<u>Elephantopus mollis</u>	elephantopus, elephant's foot	Maui, Oahu, Lanai
<u>Elytrigia repens</u>	quackgrass	All islands
<u>Emex spinosa</u>	spiny emex	Lanai, Kauai
<u>Eriocereus martinii</u>	moon cactus	All islands
<u>Euphorbia esula</u>	leafy spurge	All islands
<u>Grevillea banksii</u>	kahiliflower, Bank's grevillea	Lanai, Maui, Molokai

<u>Scientific Name</u>	<u>Common Name</u>	<u>Islands Free or Relatively Free</u>
<u>Halogeton glomeratus</u>	halogeton	All islands
<u>Hyptis pectinata</u>	comb hyptis	Kauai, Molokai, Lanai, Oahu
<u>Hyptis suaveolens</u>	wild spikenard	All islands
<u>Imperata cylindrica</u>	cogon	All islands
<u>Tagascea mollis</u>	acuate	All islands
<u>Lepidium latifolium</u>	perennial pepperweed	All islands
<u>Malachra alceifolia</u>	malachra	All islands
<u>Medinilla venosa</u>		Hawaii, Lanai, Molokai, Oahu, Kauai
<u>Melastoma spp.</u>	melastoma	All islands
<u>Miconia spp.</u>	miconia	All islands
<u>Mikania micrantha</u>	mile-a-minute	All islands
<u>Mikania scandens</u>	climbing hempweed	All islands
<u>Mimosa invisa</u>	giant sensitiveplant	All islands
<u>Mimosa pigra</u>	thorny sensitiveplant	All islands
<u>Miscanthus floridulus</u>	miscanthus, Japanese silvergrass	All islands
<u>Montanoa hibiscifolia</u>	tree daisy	Maui
<u>Myrica faya</u>	firetree, candleberry myrtle	Maui, Lanai, Molokai, Oahu
<u>Oxyspora paniculata</u>		Maui, Molokai, Lanai, Kauai

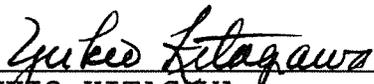
<u>Scientific Name</u>	<u>Common Name</u>	<u>Islands Free or Relatively Free</u>
<u>Panicum repens</u>	torpedograss	Maui, Molokai, Lanai, Oahu, Kauai
<u>Passiflora mollissima</u>	banana passionfruit, banana poka	Maui, Molokai, Lanai, Oahu
<u>Passiflora pulchella</u>	wingleaf passionfruit	All islands
<u>Pennisetum setaceum</u>	fountaingrass	Maui, Molokai, Lanai, Oahu, Kauai
<u>Piper aduncum</u>	spiked pepper	All islands
<u>Pittosporum undulatum</u>	Victorian box	Maui, Oahu, Lanai, Kauai, Molokai
<u>Prosopis juliflora</u>		All islands
<u>Pueraria phaseoloides</u>	tropical kudzu	All islands
<u>Rhodomyrtus tomentosa</u>	downy rosemyrtle	Maui, Molokai, Lanai, Oahu
<u>Rubus argutus</u>	prickly Florida blackberry	Lanai, Molokai
<u>Rubus ellipticus</u> var. <u>obcordatus</u>	yellow Himalayan raspberry	Maui, Molokai, Lanai, Oahu, Kauai
<u>Rubus niveus</u>	hill raspberry	Molokai, Lanai, Oahu, Kauai
<u>Rubus sieboldii</u>	Molucca raspberry	All islands
<u>Salsola kali</u>	Russian thistle	All islands
<u>Senecio</u> <u>madagascariensis</u>	fireweed	All islands

<u>Scientific Name</u>	<u>Common Name</u>	<u>Islands Free or Relatively Free</u>
<u>Solanum carolinense</u>	horsenettle	All islands
<u>Solanum elaeagnifolium</u>	silverleaf nightshade	All islands
<u>Solanum robustum</u>		All islands
<u>Solanum torvum</u>	turkeyberry, terongan	All islands
<u>Sonchus arvensis</u>	perennial sowthistle	All islands
<u>Spartium junceum</u>	Spanish broom	All islands
<u>Stipa trichotoma</u>	nasella tussock	All islands
<u>Striga</u> spp.	witchweeds	All islands
<u>Themeda villosa</u>	Lyon's grass	Maui, Molokai, Lanai, Oahu, Kauai
<u>Tibouchina</u> spp.	tibouchina	Maui, Molokai, Lanai, Oahu, Kauai
<u>Triumfetta rhomboidea</u>	paroquet bur	Kauai, Maui
<u>Triumfetta semitriloba</u>	Sacramento bur	Lanai, Oahu, Molokai, Kauai
<u>Ulex europaeus</u>	gorse	Hawaii, Oahu, Lanai, Kauai, Molokai, Maui
<u>Urena lobata</u>	caesarweed	Hawaii, Maui, Molokai, Lanai, Kauai
<u>Verbascum thapsus</u>	mullein	Maui, Molokai, Lanai, Oahu, Kauai

DEPARTMENT OF AGRICULTURE

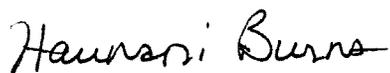
Amendments to and compilation of chapter 4-68, Hawaii Administrative Rules, on the Summary Page dated June 18, 1992, were adopted on June 18, 1992, following public hearings held on March 23, 25, April 6, 8, 15, and 20, 1992, after notice was given in the Honolulu Advertiser, Honolulu Star Bulletin, Hawaii Tribune Herald, West Hawaii Today, Maui News, The Garden Island, and Molokai Dispatch on February 19, 1992.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.



YUKIO KITAGAWA
Chairperson
Board of Agriculture

APPROVED AS TO FORM



Deputy Attorney General



JOHN WAIHEE
Governor
State of Hawaii

Date: AUG 12 1992

 AUG 12 1992

Filed